



# NOTICE OF COUNCIL MEETING

## TELECONFERENCE/ELECTRONIC PARTICIPATION PROCEDURES

***Members of the Aurora City Council will participate in the December 7, 2020 Executive Session, Aurora Urban Renewal Authority, Study Session and Regular Meeting by teleconference due to concerns surrounding the COVID-19 (coronavirus) outbreak. To keep the members of our community, employees and leaders safe, there will be no public presence at the meeting. Members of the public and media will be able to participate remotely through the options listed below:***

### **View or listen live to the Study Session and/or Council Meeting**

- Live streamed at [www.auroraTV.org](http://www.auroraTV.org)
- Cable Channels 8 and 880 in Aurora
- Call: 855.695.3475

### **Provide comment during Public Invited to Be Heard, or to speak on a specific agenda item on the regular agenda**

- Call the live public comment line at 855.695.3475 and once connected press \*3 to reach the operator.
- The operator will ask which item the caller would like to speak on and place you in the queue for that item.
- The public comment call-in line will open at 7:00 p.m. the day of the Council Meeting.

### **Public Comment Call-In Deadlines**

- Public Invited to Be Heard is at 7:30 p.m. Callers wishing to speak during the Public Invited to be Heard portion of the agenda must call in and be in the queue by 7:30 p.m.
- Comment on specific agenda items and public hearings must call in after 7:00pm and before the City Clerk reads the title of the item they wish to speak on. Once the Clerk reads the title, no additional calls for that item will be accepted.

### **Translation/Accessibility**

The City will provide closed captioning services on Cable Channels 8 and 880. If you need any other accommodation, please contact the Office of the City Clerk at (303) 739-7094. If you are in need of an interpreter, please contact the Office of International and Immigrant Affairs at 303-739-7521 by Monday, December 7, 2020 at 9:00 a.m. (Si necesita un intérprete, comuníquese con la oficina de asuntos internacionales e inmigrantes en 303-739-7521 por el viernes anterior a la reunión del lunes.)

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For other information regarding public meetings, please contact the Office of the City Clerk at (303) 739-7094 or by email at [CityClerk@auroragov.org](mailto:CityClerk@auroragov.org), or visit [www.auroragov.org](http://www.auroragov.org).



City of Aurora, Colorado  
MONDAY, DECEMBER 7, 2020

EXECUTIVE SESSION

*(Closed to the Public)*

TELECONFERENCE

3:00 p.m. – 3:35 p.m.

AURORA URBAN RENEWAL AUTHORITY

(Open to the Public)

TELECONFERENCE

3:40 p.m. – 3:55 p.m.

STUDY SESSION

(Open to the Public)

TELECONFERENCE

4:00 p.m. - 7:15 p.m.

REGULAR MEETING OF THE AURORA CITY COUNCIL

(Open to the Public)

TELECONFERENCE

7:30 p.m.





## AGENDA

### Regular Meeting of the Aurora City Council

Monday, December 7, 2020

7:30 p.m.

TELECONFERENCE

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Pages

1. CALL TO ORDER
2. ROLL CALL
3. INVOCATION/MOMENT OF SILENCE
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF MINUTES
  - 5.a. October 19, 2020 Minutes 9
  - 5.b. November 2, 2020 Minutes 29
6. PROCLAMATIONS OR CEREMONIES
7. PUBLIC INVITED TO BE HEARD  
(non-agenda related issues only)
8. ADOPTION OF THE AGENDA
  - 8.a. RECONSIDERATION FO RESOLUTION R2020-24 - to Suspend Certain Council Rules  
  
Staff Source: Susan Barkman, Interim City Clerk  
  
Staff Attorney: Dan Brotzman, City Attorney

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. **Consideration to APPROVE A PROFESSIONAL SERVICES AGREEMENT IN THE AMOUNT OF \$112,000 IN 2021 between the city of Aurora, and Aurora Sister Cities International** 55

**Presenter:** Ricardo Gambetta, Manager of the Office of International and Immigrant Affairs

**Attorney:** David Lathers, Senior Assistant City Attorney

- 9.b. **Consideration to AWARD A SOLE SOURCE CONTRACT to Motorola Inc., Westminster, CO in the amount of \$714,282.30 to provide annual support for the P25 Trunked Radio System used by Public Safety and Public Works personnel through December 2021.** 71

**Presenter:** Scott Newman, Chief Information Officer

**Attorney:** Dave Lathers Senior Assistant City Attorney

- 9.c. **Consideration to award 2nd year purchase order with Badger Meter, Inc., Centennial, Colorado in the amount of \$5,721,254.00 for the citywide Advanced Metering Infrastructure (AMI) System to include meters for replacement and anticipated growth.** 76

**Presenter:** Marena Lertch, Manager of Water Service Operations

**Attorney:** Dave Lathers, Senior Assistant City Attorney

- 9.d. **Consideration to AUTHORIZE the Risk Manager to purchase the City of Aurora's commercial insurance policies and surety bond due on January 1, 2021, paid through the insurance broker, IMA, Inc. in an amount not-to-exceed \$2,700,000.00.** 89

**Presenter:** Renee Pettinato Mosley, Risk Management

**Attorney:** David Lathers, Senior Assistant City Attorney

- 9.e. **Consideration to AWARD CHANGE ORDER #2 TO A SINGLE SOURCE CONTRACT to H&E Equipment Services, Henderson, Colorado, in the amount of \$112,979.40 for the purchase of five (5) Emergency One fire trucks.** 93

**Presenter:** Ron Forrest – Fleet Manager

**Attorney:** Dave Lathers – Senior Assistant City Attorney

- 9.f. **Consideration to APPROVE AN AGREEMENT between the city of Aurora, Colorado and the Fraternal Order of Police for the years 2021-2022** 99

**Presenter:** Jason Batchelor, Deputy City Manager

**Attorney:** Rachel Allen, Client Group Manager

- 9.g. **Consideration to AWARD A SOLE SOURCE CONTRACT to Radix Metasystems, Aurora, Colorado in the amount of \$126,000.00 to provide Nighthawk software subscription services to Aurora Police through December 31, 2023.** 125

**Presenter:** Vanessa Wilson, Police Chief

**Attorney:** Dave Lathers – Senior Assistant City Attorney

- 9.h. **Consideration to AMEND AN OPENLY SOLICITED CONTRACT with Dewberry Engineers, Inc., Denver, Colorado in the amount of \$286,792.00 to provide additional design phase services and services during construction for the Piney Creek Lift Station Repairs Project.** 128

**Presenter:** Elizabeth Carter – Principal Engineer – Aurora Water

**Attorney:** Dave Lathers – Senior Assistant City Attorney

## 10. RESOLUTIONS

- 10.a. **ADONEA Metropolitan District** 139

**R2020-158 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2nd AMENDMENT TO THE UTILITY COST REIMBURSEMENT AGREEMENT BETWEEN LENNAR COLORADO, LLC, ADONEA METROPOLITAN DISTRICT, A QUASI-MUNICIPAL CORPORATION, AND THE CITY OF AURORA, ACTING BY AND THROUGH ITS UTILITY ENTERPRISE**

**Presenter:** Young, Sarah – Deputy Director Planning and Engineering

**Attorney:** McKenney, Christine – Client Group Manager

- 10.b. Management of Additional Augmentation Water for Trout Creek Pond In South Park** 172
- R2020-159** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT COLORADO STATE OFFICE AND THE CITY OF AURORA, COLORADO, ACTING BY AND THROUGH ITS UTILITY ENTERPRISE, FOR PROVISION OF AND MANAGEMENT OF ADDITIONAL AUGMENTATION WATER FOR TROUT CREEK POND IN SOUTH PARK
- Presenter:** Alex Davis, D/D Water Resources, Aurora Water
- Attorney:** Stephanie Neitzel, Assistant City Attorney
- 10.c. Joint Professional Firefighter Certification** 205
- R2020-160** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, TO APPROVE THE RESTATED INTERGOVERNMENTAL AGREEMENT FOR JOINT PROFESSIONAL FIREFIGHTER CERTIFICATION
- Presenter:** Deputy Chief Cindy Andersen, Fire
- Attorney:** Evans, Isabelle, Assistant City Attorney
- 10.d. The State’s Sales and Use Tax Simplification Software System** 224
- R2020-161** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, AND THE STATE OF COLORADO DEPARTMENT OF REVENUE, FOR THE USE OF THE STATE’S SALES AND USE TAX SIMPLIFICATION SOFTWARE SYSTEM
- Presenter:** Trevor Vaughn, Manager of Tax and Licensing
- Attorney:** Hans Hernandez Perez, Assistant City Attorney

10.e.	<b>Funding Recommendation for Second Chance Center, INC.’s Providence at the Heights Apartment</b>	240
	<p><b>R2020-162</b> A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL’S SUPPORT OF THE AFFORDABLE HOUSING GAP FINANCING PROGRAM 2020 FUNDING RECOMMENDATION FOR SECOND CHANCE CENTER, INC.’S PROVIDENCE AT THE HEIGHTS APARTMENTS</p> <p><b>Presenter:</b> Liz Fuselier, Community Development Planner</p> <p><b>Attorney:</b> Tim Joyce, Assistant City Attorney</p>	
10.f.	<b>Montview Boulevard Design</b>	262
	<p><b>R2020-163</b> A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AIMCO PROPERTIES, LLC, THE FITZSIMONS REDEVELOPMENT AUTHORITY, THE COLOARDO SCIENCE AND TECHNOLOGY PARK METRO DISTRICTS NOS. 1, 2 AND 3, AND THE REGENTS OF THE UNIVERSITY OF COLORADO FOR AND ON BEHALD OF THE UNIVERSITY OF COLOARDO ANSCHUTZ MEDICAL CAMPUS APPROVING A ROADWAY REDESIGN COST REIMBURSEMENT AGREEMENT</p> <p><b>Presenter:</b> Nancy Freed, Deputy City Manager</p> <p><b>Attorney:</b> Brian Rulla Assistant City Attorney</p>	
11.	<b>PUBLIC HEARING WITH RELATED ORDINANCE</b>	
12.	<b>PUBLIC HEARING WITHOUT RELATED ORDINANCE</b>	
13.	<b>INTRODUCTION OF ORDINANCES</b>	
13.a.	<b>2020 Fall Supplemental Ordinance</b>	277
	<p><b>2020-68</b> AN ORDINANCE OF THE CITY OF AURORA, COLORADO APPROPRIATING SUMS OF MONEY IN ADDITION TO THOSE APPROPRIATED IN ORDINANCE NOS. 2019-82, AND 2020-44 FOR THE 2020 FISCAL YEAR</p> <p><b>Presenter:</b> Kerstin Claspell, Lead Financial Analyst</p> <p><b>Attorney:</b> Hans Hernandez Perez, Assistant City Attorney</p>	

**13.b. Adoption of Economic Nexus** 305

**2020-69** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING VARIOUS SECTIONS OF CHAPTER 130 OF THE CITY CODE RELATED TO ECOMONIC NEXUS

**Presenter:** Trevor Vaughn, Manager Of Tax And Licensing

**Attorney:** Hans Hernandez Perez, Assistant City Attorney

**13.c. Marijuana Delivery Within the City** 316

**2020-65** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 6 OF THE CITY CODE PERTAINING TO BACKGROUND QUALIFICATIONS FOR MARIJUANA BUSINESS OWNERS AND EMPLOYEES AND TO ADD A SECTION TO ALLOW MARIJUANA DELIVERY WITHIN THE CITY

**Presenter:** Robin Peterson, Manager Marijuana Enforcement

**Attorney:** Money, Daniel, Senior Assistant City Attorney

**14. FINALIZING OF ORDINANCES**

**15. PLANNING MATTERS**

**16. ANNEXATIONS**

**16.a. Vista Creek Initial Zoning** 344

**2020-67** PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ZONING 9.99 ACRES OF LAND, MORE OR LESS, GENERALLY LOCATED WEST OF GUN CLUB ROAD BETWEEN THE EAST 5TH AND EAST 6TH AVENUE ALIGNMENTS, WITHIN THE COUNTY OF ARAPAHOE, STATE OF COLORADO, TO MIXED-USE REGIONAL DISTRICT AND AMENDING THE ZONING MAP ACCORDINGLY (VISTA CREEK INITIAL ZONING)

**Presenter:** Heather Lamboy, Planning Supervisor

**Attorney:** Dan Money, Assistant City Attorney

**16.b. Vista Creek Annexation Ordinance**

363

**2020-66** CONSIDERATION OF AN ORDINANCE FOR ADOPTION, ANNEXING A PARCEL OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M., AND IN THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 4 SOUTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF ARAPAHOE, STATE OF COLORADO (Vista Creek) 9.99 ACRES

**Staff Presenter:** Jacob Cox, Senior Development Project Manager

**Staff Attorney:** Brian Rulla, Assistant City Attorney

**16.c. ANNEXATION AGREEMENT BETWEEN THE CITY OF AURORA AND GAIL M. HARTLEY**

377

CONSIDERATION OF AN ANNEXATION AGREEMENT BETWEEN THE CITY OF AURORA AND GAIL M. HARTLEY EXEMPT MARITAL TRUST FOR A CERTAIN PARCEL OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M., AND IN THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 4 SOUTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF ARAPAHOE, STATE OF COLORADO (Vista Creek) 9.99 ACRES

**Presenter:** Jacob Cox, Senior Development Project Manager

**Attorney:** Brian Rulla, Assistant City Attorney

**17. RECONSIDERATIONS AND CALL UPS**

**17.a. RECONSIDERATION OF RESOLUTION 2020-22 – Review of the powers granted to the City Manager by Resolution 2020-22.**

396

RECONSIDERATION OF RESOLUTION 2020-22 – Review of the powers granted to the City Manager by Resolution 2020-22. The powers granted to the City Manager which are set forth in the Disaster Declaration shall remain in place until a majority of Council votes to end the Declaration.

**Attorney:** Evans, Isabelle, Assistant City Attorney

**18. GENERAL BUSINESS**

- 18.a. **Mayor Pro Tem Selection** 400  
**Presenter:** Susan Barkman, Interim City Clerk  
**Attorney:** Dave Lathers, Assistant City Attorney
- 18.b. **Judicial Vacancy-Appointment of New Associate Judge & Relief Judges, Re-Appointment of Current Judges** 404  
Judge Shawn Day/Angela Garcia

19. **REPORTS**

19.a. **Report by the Mayor**

19.b. **Reports by the Council**

20. **PUBLIC INVITED TO BE HEARD**

(non-agenda related issues only)

21. **ADJOURNMENT**



DRAFT

**MINUTES**

**Regular Meeting – Aurora City Council  
Monday, October 19, 2020**

CALL TO ORDER – REGULAR MEETING

Mayor Coffman convened the regular meeting of City Council at 3:15 p.m.  
ROLL CALL

PRESIDING: Mayor Coffman

COUNCIL MEMBERS PRESENT: Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano

COUNCIL MEMBERS ABSENT: Bergan, Murillo

OFFICIALS PRESENT: City Manager Twombly, City Attorney Brotzman, City Clerk Barkman, Judge Shawn Day, and Zelda DeBoyes, Court Administrator.

COUNCIL MEMBERS ARRIVING AFTER ROLL CALL: None

City Clerk Barkman announced the proposed items for discussion at executive session.

CONSIDERATION TO RECESS FOR EXECUTIVE SESSION

Motion by Council Member Marcano, second by Hiltz, to recess for executive session.

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

Abstaining: None

1. **RECONVENE REGULAR MEETING OF OCTOBER 19, 2020 AND CALL TO ORDER**

Mayor Coffman reconvened the regular meeting of City Council at 7:30 p.m.

2. **ROLL CALL** Susan Barkman, Interim City Clerk

COUNCIL MEMBERS PRESENT: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano, Murillo

3. **INVOCATION**

Mayor Coffman called for a moment of silence for all those who have been lost to COVID-19.

4. **PLEDGE OF ALLEGIANCE TO THE FLAG** (all standing)

5. **APPROVAL OF THE MINUTES OF THE MEETING OF SEPTEMBER 21, 2020**

Motion by Berzins, second by Marcano, to approve the minutes of the meeting of September 21, 2020 as amended.

♦ *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 Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marciano, Murillo

6. **CEREMONY**

No ceremony.

7. **PUBLIC INVITED TO BE HEARD (non-agenda related issues only)**

Susan Barkman, Interim City Clerk, stated residents interested in addressing the City Council in Public Invited to be Heard should call 855-695-3475 and press \*3 to speak with an operator who would place them in the queue. She stated those calling for Public Invited to be Heard who called before 7:30 p.m. would be placed in the first Public Invited to be Heard section on the agenda and those who called for Public Invited to be Heard after 7:30 p.m. would be placed in the Public Invited to be Heard section at the end of the meeting. She noted anyone who wanted to speak on a specific agenda item should alert the operator so they could be placed in the queue for that item. She stated all speakers were limited to three minutes. She introduced the speakers in the queue for the first section.

8. **ADOPTION OF THE AGENDA**

- a. RECONSIDERATION OF RESOLUTION R2020-24 - to Suspend Certain Council Rules.  
**Staff Source:** Susan Barkman, Interim City Clerk/Dan Brotzman, City Attorney

Motion by Marciano, second by Berzins, to approve item 8a.

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

Motion by Marciano, second by Hiltz, to adopt the agenda.

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

9. **CONSENT CALENDAR**

**Final Ordinances** - - Final ordinances may be placed on the Consent Calendar and moved with one motion with unanimous support on the first reading.

- ◆ a. **2020-41** Consideration of AN ORDINANCE FOR ADOPTION of the City of Aurora, Colorado, extending the Current Ten-Month Moratorium on New Cultivations of Industrial Hemp within the City  
**Presenter:** Peterson, Robin - Mgr Of Marijuana Enforcement  
**Attorney:** Money, Daniel, Senior Asst City Attorney
- ◆ b. **2020-44** Consideration of AN ORDINANCE FOR ADOPTION of the City of Aurora, Colorado, appropriating sums of money in addition to those appropriated in ordinance no. 2019-82 for the 2020 fiscal year  
**Presenter:** Hays, Greg - Budget Officer – Finance/ Hernandez Perez, Hans, Assistant City Attorney II Civil

***For purposes of considering the following items 9c-h the City Council will be acting ex officio as the Board of Directors of the General Improvement Districts 1-2007, 1-2008, 3-2008, Pier Point 7 2-2009 and Aurora Conference Center 2-2011, Cobblewood 1-2016 respectively***

- ◆ ***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.***

- ◆ c. **2020-45** Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, 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, 2021, and ending December 31, 2021.  
**Presenter:** Nancy Wishmeyer, Controller, Finance  
**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil
- ◆ d. **2020-46** Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, 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, 2021, and ending December 31, 2021.  
**Presenter:** Nancy Wishmeyer, Controller, Finance  
**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil
- ◆ e. **2020-47** Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, 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, 2021, and ending December 31, 2021.  
**Presenter:** Nancy Wishmeyer, Controller, Finance  
**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil
- ◆ f. **2020-48** Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, 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, 2021, and ending December 31, 2021.  
**Presenter:** Nancy Wishmeyer, Controller, Finance  
**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil
- ◆ g. **2020-49** Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, of General Improvement District 2-2011 (Aurora Conference Center) 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, 2021, and ending December 31, 2021.  
**Presenter:** Nancy Wishmeyer, Controller, Finance  
**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil
- ◆ h. **2020-50** Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, of Cobblewood General Improvement District 1-2016 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, 2021, and ending December 31, 2021.  
**Presenter:** Nancy Wishmeyer, Controller, Finance  
**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil

***The following items 9i-l are 2021 Budget related Ordinances***

Motion by Gruber, second by Berzins, to approve items 9a and 9h.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, 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.***

- ◆ i. **2020-51** Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, adopting an operating and capital improvements projects budget for the fiscal year beginning January 1, 2021, and ending December 31, 2021. **Presenter:** Greg Hays, Budget Officer, Finance  
**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil

Motion by Coombs, second by Marcano, to approve items 9i.

Council Member Coombs requested a brief staff presentation for the benefit of the public.

Greg Hays, Budget Officer, Finance, did so.

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

- ◆ j. **2020-52** Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, 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, 2021, and ending December 31, 2021.  
**Presenter:** Greg Hays, Budget Officer, Finance  
**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil

- ◆ k. **2020-53** Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, appropriating sums of money to defray expenses and liabilities for the fiscal year beginning January 1, 2021 and ending December 31, 2021.  
**Presenter:** Greg Hays, Budget Officer, Finance  
**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil

- ◆ l. **2020-54** Consideration of AN ORDINANCE FOR ADOPTION of the City of Aurora, Colorado, amending certain sections of Chapter 138 of the City Code of the City of Aurora, Colorado, relating to services for the provision of water  
**Presenter:** Giddings, Jo Ann - D/D Water Financial Admin, Aurora Water  
**Attorney:** McKenney, Christine, Client Group Manager

Motion by Gruber, second by Berzins, to approve items 9j and 9l.

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

## 10. RESOLUTIONS

- ◆ a. **R2020-114** Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, expressing the Aurora City Council's approval of the redesigned Dawn Fountain Sculpture ***(This item also appears on the October 19, 2020 Study Session) (Due to this item being dual listed, the backup is included in item 3b of the Study Session Packet.)(Staff Requests a Waiver of Reconsideration) (This item was moved from the 10/5 which made it late requiring dual listing)***  
**Presenter:** Bloom, Roberta - Program Supervisor/Joyce, Tim, Assistant City Attorney II Civil

Motion by Marcano, second by Lawson, to approve item 10a with a waiver of reconsideration.

Voting Aye: Bergan, Berzins, Coombs, Gruber, Hiltz, Johnston, 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.***

Voting Nay: Gardner

11. **ORDINANCES FOR INTRODUCTION**

- ◆ a. **2020-55**  
Consideration of AN ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, amending Chapter 14 of the City code pertaining to animals and the Aurora Animal Services Division  
**Presenter:** Youngblood, Anthony - Manager of Animal Care/Joyce, Tim, Assistant City Attorney II Civil

Motion by Coombs, second by Marcano, to introduce item 11a.

Council Member Bergan expressed appreciation to staff for their efforts in putting the memo on barking dogs together and stated her support of the item.

Council Member Berzins stated her support of the item and noted her issue in this regard related to keeping residents safe.

Council Member Gruber stated he would not support the item. He felt it was much improved and he liked the changes that were made however, he was not in favor of the additional of allowing 'community cats' to exist. He felt this was a major mistake and a severe problem for Colorado.

Council Member Hiltz stated her support of the item and expressed appreciation to staff for their efforts in this regard.

Council Member Coombs stated she was being alerted there were those who were calling in to speak to Council that were being hung up on rather than reaching the operator when they pushed \*3.

Susan Barkman, Interim City Clerk, restated the phone number and call-in instructions.

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

Voting Nay: Gruber

- ◆ b. **2020-56**  
Consideration of AN ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, amending Section 2-672 of the City code pertaining to authority to request procurements from certain State and Federal Programs  
**Presenter:** Rodgers, Nancy - Deputy City Attorney  
**Sponsor:** Councilmember Gardner

Motion by Gardner, second by Marcano, to introduce item 11b.

Council Member Gruber pointed out the item would eliminate or at least delay the City's ability to request equipment that was in excess of the federal government requirements. He further discussed recent incidents where the equipment was necessary and he felt putting Council in the middle of it was more oversight than was need and he would not support the item.

Council Member Gardner stated the item was not related to whether or not the City needed or used them items but rather the issue was bringing Council into the decision-making process and putting the same requirement in the City that the federal government had in place.

- ◆ ***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 Bergan asked if it was needed currently to approve those items. Council Member Gardner answered no, noting the federal government currently required city councils to give their approval. Council Member Bergan asked if the current process went from the Chief to the City Manager for approval through the budget. Council Member Gardner answered no, noting city councils were required to weigh in. Council Member Bergan asked if it was that Council had not had any to approve in the past considering it was not currently in place. Council Member Gardner stated it has been several years since the City has procured in the manner referenced by Council Member Gruber and any previous procurements were before this was put in place.

Mayor Pro Tem Johnston expressed appreciation to Council Member Gardner for bringing the item forward. She noted it was important that Council not get off track, noting the item was not about Council making a decision about procurement but was rather about more transparency and accountability with the City's Police Department. She stated her support for the item.

Council Member Berzins pointed out the item related to City departments and asked staff to speak to whether this related to more departments than just police.

Nancy Rodgers, Deputy City Attorney, stated it would apply to all City department procurements for anything that would be procured with seized assets forfeiture funds.

Council Member Berzins asked if the City was in violation from the federal government since they have not done this before. Ms. Rodgers noted that applied specifically to the 1033 Program. Council Member Berzins asked what the requirements were under the current administration. Ms. Rodgers stated she needed to double-check that information. Council Member Berzins stated Council might be voting on something that was not necessary.

Ms. Rodgers reiterated it only applied to the 1033 Program and it also depended on who was in the federal administration.

Council Member Berzins stated she did not view this as a transparency situation but more a legal issue of whether the City Manager could approve it without coming to Council.

Council Member Bergan stated it was redundant and unnecessary because it was not required and could slow down the process.

Ms. Rodgers pointed out the requirement related to the 1033 Program but Council Member Bergan was correct that this would add an additional step for the other areas because the item would require the other areas to come to Council when previously they did not.

Council Member Bergan stated she would not support the item.

Voting Aye: Johnston, Coombs, Gardner, Hiltz, Lawson, Marcano, Murillo

Voting Nay: Bergan, Berzins, Gruber

- ◆ c. **2020-57**  
Consideration of AN ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, amending Section 2-667(f) of the City code pertaining to Disqualified Vendors or Contractors  
**Presenter:** Bryn Fillinger, Manager of Purchasing Services/Lathers, David, Senior Asst 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.*

Motion by Coombs, second by Lawson, to introduce item 11c.

Council Member Coombs requested a brief staff presentation for the benefit of the public.

Bryn Fillinger, Manager of Purchasing Services, did so.

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

d. **2020-58**

Consideration of AN ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, repealing and replacing Section 54-2 and Sections 54-101 to 54-110 of the City code related to the Financing of Electoral Campaigns

**Presenter:** Venegas, Roberto - Deputy City Manager – General Management

**Attorney:** Lathers, David, Senior Asst City Attorney

**Sponsor:** Mayor Pro Tem Johnston and Council Member Marcano

Mayor Coffman deferred to Council Member Lawson, as the senior At-Large Council Member, to manage discussion on items 11d and 11e.

Council Member Gruber corrected an inaccurate statement made by a caller.

Susan Barkman, Interim City Clerk, introduced speakers who called in to speak to City Council.

*ORIGINAL MOTION*

Motion by Johnston, second by Marcano, to introduce item 11d.

Council Member Hiltz stated her support of the item. She noted any discussion in this regard would be remiss without honoring the efforts of Duane Senn who worked very hard on the issue.

Council Member Coombs discussed the importance of the ordinance, noting it ensured these issues were adjudicated by entities that were not serving at the pleasure of Council.

*AMENDMENT I*

Motion by Mayor Coffman, second by Gruber, to amend item 11d to change the contribution limits from \$800 to \$1000 for the Mayor and At-Large candidates per election cycle and from \$400 to \$500 for Ward candidates per election cycle.

Mayor Coffman stated the numbers were more realistic and made more sense.

Council Member Bergan asked staff to speak to Citizens United in terms of money being free speech and protected by the First Amendment.

Daniel Brotzman, City Attorney, did so, noting the Citizens United stated their perspective of the ruling was that money equaled speech. He pointed out the Buckley v. Vallejo case had the more definite take on the issue stating that as a First Amendment issue, the fact that one was allowed to contribute was considered speech. He stated limits were approved on that because it was decided that the speech was the support and the amount was irrelevant.

- ◆ ***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 Bergan stated her understanding that an individual had the freedom to make their own money and but not the freedom to give money away as they saw fit.

Mr. Brotzman concurred, noting the Supreme Court stated that but not in totality. He stated there were limits on certain aspects of speech and not others so supporting the candidate answered a yes or no question and the amount of the contribution was not a First Amendment issue.

Council Member Bergan asked if she could contribute to an Individual Expenditure Committee as an individual. Mr. Brotzman answered affirmatively. Council Member Bergan expressed concerns that people would find a way to give money and she thought the item would drive more dark money where it would be unknown where it came from. She asked why a council would not be able to prohibit out-of-state contributions on a local city government election when they would not have any interest in the city. Mr. Brotzman stated that was a matter of political opinion rather than a legal opinion. Council Member Bergan asked if she could make an amendment to not allow out-of-state contributions because in her opinion, they did not have anything to do with the local community. Mr. Brotzman answered affirmatively and noted it would however be up to the sponsors to accept it or not.

Council Member Marcano addressed Council Member Bergan and confirmed that while he supported that notion, he had that discussion with the legal experts and they were certain it would get challenged and perhaps even cause the entire item to be struck down. He expressed appreciation for her perspective however.

Council Member Bergan asked if she could still make an amendment with the sponsors' support. Mayor Pro Tem Johnston answered no, speaking for herself, noting they were very conscientious about all of the legalities and everything that went into the ordinance so that it would not be legally challenged.

Council Member Marcano stated that while he appreciated Council Member Bergan's perspective, the advice provided was that it would be challenged and struck down.

Mr. Brotzman discussed the potential for definitional problems.

Council Member Bergan state those definitional problems made her point because both ordinances did not allow contributions from corporations, LLC partnerships and businesses that resided in Aurora and therefore had an interest in City policy.

Council Member Lawson requested procedural direction from staff. Mr. Brotzman did so.

Council Member Berzins pointed out there was an amendment on the floor which had not been discussed.

Council Member Lawson stated Council Member Bergan's comments related to expenditures.

Mayor Pro Tem Johnston stated as a ward council member and cosponsor of the item, she would not support Mayor Coffman's amendment and expressed appreciation to Council Member Lawson for her efforts in this regard.

Council Member Coombs asked if the amendments would impact the small donor committee totals. Council Member Marcano answered no.

#### *VOTE ON AMENDMENT I*

- ◆ ***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 Aye: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Voting Nay: Coombs, Hiltz, Johnston, Lawson, Marcano, Murillo

*AMENDMENT II*

Motion by Bergan, second by Gruber, to amend item 11d to *not allow out-of-state contributions.*

Council Member Coombs stated she supported the amendment in principle but felt in practicality it was a 'poison pill amendment' that would essentially be legally challenged therefore she would not support it.

Council Member Gruber addressed the phrasing and recommended the amendment state '*a candidate could not accept out-of-state money for their campaign.*'

Council Member Bergan concurred. She restated her amendment to state 'to not allow candidates to accept out-of-state contributions.'

Council Member Coombs asked where the amendment would go in the ordinance. Council Member Bergan stated 54-101C.

Council Member Hiltz stated she supported the amendment in theory but not in practicality because there were people who lived outside of Aurora that have a vested interest in the policymakers in the City. She pointed out it was however worthy of further conversations.

Council Member Bergan asked if it was okay to exclude receiving money from actual businesses in Aurora, and also okay to receive monies from an out-of-state contributor. Council Member Hiltz stated a business was not a person and individuals in a business could donate personally. She reiterated this was a really good conversation to have but she was not at a point where she could support it. Council Member Bergan pointed out two people who owned businesses or had a partnership as an LLC were people and businesses could not contribute under the current ordinance whether they were out-of-state or not.

Council Member Marcano concurred, noting the owners of the LLC could contribute as individuals because the LLC was an artificial person and not a natural person, which was the underlying intent of the ordinance.

Council Member Berzins stated allowing out-of-state contributions meant it was okay for out-of-state groups such as Planned Parenthood, Sally's List and others to send checks to Aurora. She stated she had a small business and she was a real person. She discussed the research she has done on this issue which identified Owen Perkins', Secretary of the Denver Democrats, involvement. She stated Mr. Perkins was fundraising from the ordinance that he wrote and she found that disgusting. She questioned where this was all coming from. She agreed the rules should be updated but not in the manner in which it was being done.

Mayor Pro Tem Johnston discussed the concerns surrounding LLCs in this instance and how they related to the most recent Mayoral race in Denver. She stated they were excluded from contributing because of all of the progress Aurora was making to eliminate dark money.

Council Member Hiltz pointed out some of the organizations such as Planned Parenthood that were discounted by Council Member Berzins directly represented women and women's health and

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considering there were women in Aurora and healthcare access was an issue for women across the country, they were relevant.

Council Member Murillo stated her appreciation for the intent but expressed concerns related to how it would be implemented. She discussed the high cost of living in Aurora and how people moved in and out of the state accordingly. She had additional concerns related to the timing of the amendment because she did not want to add anything to the ordinance that could create a legal challenge especially considering the monumental amount of time and effort it took the cosponsors to get the item to the floor.

Council Member Bergan expressed appreciation for all of the comments. She stated it was a simple amendment to prohibit out-of-state contributions because she did not see a place for out-of-state money. She stated Planned Parenthood was related to healthcare and had nothing to do with City government and noted while the item might cause legal issues, making the change to prohibit LLCs from contributing might also.

#### *VOTE ON AMENDMENT II*

Voting Aye: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Voting Nay: Coombs, Hiltz, Johnston, Lawson, Marcano, Murillo

#### *AMENDMENT III*

Motion by Lawson, second by Mayor Coffman, to amend item 11d to state '*During an election cycle, a person or political committee, other than a small donor committee, may not aggregate contributions to a candidate committee or recall defense committee in excess of \$400 to any one candidate in any one Ward race or \$1000 to any one candidate in any At-Large race or Mayoral race.*'

Council Member Lawson explained her reasoning behind the amendment.

Council Member Bergan discussed her experience running a campaign as a ward council member where her constituents were very active as voters. She suggested the differences in voting numbers from Ward I to Ward VI were drastically different. She stated therefore \$400 was really not enough and she stated her preference that the amount be unlimited because wards still had the same costs for websites and social media to get the message out.

Council Member Berzins took issue with an At-Large Council Member wanting \$1000 for At-Large and only \$400 for a Ward Council Member. She agreed with Council Member Bergan that the cost of social media was the same regardless and the disparagement was not equitable.

Mayor Pro Tem Johnston stated there was a CPI and adjustment that would go up in perpetuity with inflation. She stated it was incumbent on candidates to get more donations to be able to run even if it was in smaller amounts. She noted the City's best practices were based on what the state system was doing and this would provide consistency in that regard.

Council Member Marcano echoed Mayor Pro Tem Johnston's comments, noting this was best in terms of transparency, accessibility for residents to throw their hats in the ring and run themselves and this will make Aurora a better City for having done so.

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Council Member Hiltz stated her support of the item and discussed the various way the math could be done in a positive direction. She stated this was a good compromise because it mirrored neighboring cities. She stated this was fair and more accessible and she expressed appreciation to all those who worked so hard on the item.

Mayor Coffman asked if this included all City races included the mayor. Council Member Lawson answered affirmatively. Mayor Coffman pointed out using state races was not a good metric because 90 percent of those campaigns were run by outside groups.

Council Member Coombs stated she would support the item in the spirit of compromise. She pointed out all of the City's At-Large and Mayoral seats came from the wealthier parts of the City therefore she had concerns related to the inequity created in terms of representation by having inequity in the amount of money that candidates could accept. She reiterated however that she would support the item so as not to allow the perfect to be the enemy of the good.

Council Member Lawson stated she ran a campaign on a shoestring budget and this was in line with Denver. She stated At-Large had to cover more ground therefore she was requesting consideration to raise the limit to \$1000. She expressed appreciation to the sponsors' compromise and those council members who agreed with this consideration.

Council Member Berzins stated she was uncertain where the compromise was because the Mayoral and At-Large were raised and the Ward Council Member remained the same.

Council Member Lawson stated the compromise was the At-Large candidates needed more money because of the significant amount of outreach.

Council Member Bergan asked if this related to in-kind contributions. Council Member Marcano answered affirmatively.

Council Member Berzins stated she was termed out and could not run again and she felt this was insane. She stated it was a travesty to raise the At-Large rates by \$200 and leave the Ward Council Members at \$400. She did not feel it was a compromise and suggested those Ward Council Members who planned to run next year to really think about what they were doing.

Council Member Lawson reiterated this was a compromise and stated she relayed the information to the sponsors and a compromise was reached. She pointed out this was in line with Denver as it should be considering Aurora was the third largest city in the state.

Council Member Berzins asked Council Member Lawson who she spoke with. Council Member Lawson stated Council Member Marcano and Mayor Pro Tem Johnston as the sponsors of the item. Council Member Berzins stated her understand they told Council Member Lawson what she could and could not do.

Council Member Lawson disagreed. She stated she proposed a few options and worked with the sponsors to reach a compromise and pointed out crossing the line and working together was what Council should be doing.

Mayor Pro Tem Johnston concurred. She reiterated the CPI adjustments would take place and the sponsors were Ward Council Members themselves and as such felt comfortable with giving a little on the other end for the additional mailing and extended outreach. She stated this was not a negative thing because they communicated in a good, civil manner and she would support the item.

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Council Member Bergan asked if any consideration was given to matching the state representatives at a flat \$400. Council Member Marcano answered affirmatively, but noted the At-Large Council Members negotiated a higher amount. Council Member Bergan asked who was involved in the negotiations. Council Member Marcano stated the sponsors who were Ward Council Members and the At-Large Council Members. Council Member Bergan asked if they spoke with all of the At-Large Council Members.

Mayor Pro Tem Johnston pointed out the sponsors offered to speak to all council members to answer any questions in this regard and they also sent the backup information prior to the item being heard at the study session.

Council Member Hiltz concurred and stated she responded to a request from the sponsors to have a conversation about her concerns and noted this was actually not her biggest concern. She expressed concerns to the sponsors that they addressed in other sections.

Council Member Gruber pointed out he did not see an outreach from Council Member Lawson on the increase.

Council Member Lawson stated her outreach was to the sponsors directly and also to the other At-Large Council Members. She apologized for not being clear in that regard and pointed out council members could reach out to the sponsors as well.

#### *VOTE ON AMENDMENT III*

Voting Aye: Mayor Coffman, Coombs, Gardner, Hiltz, Johnston, Lawson, Marcano, Murillo

Voting Nay: Bergan, Berzins, Gruber

#### *AMENDMENT IV*

Motion by Marcano, second by Johnston, to amend item 11d to change section 54-105(b) to state *'During an election cycle, a small donor committee may not make an aggregate contribution to a candidate, committee or recall defense committee in excess of ten times the amount for a Ward candidate as specified in Section 54-105(a) or anymore than ten times the amount to any one candidate in an At-Large or Mayoral race as specified in Section 54-105(a).*

Council Member Marcano explained his reasoning behind the amendment.

Mayor Pro Tem Johnston concurred. She stated her support for the item and noted this amendment would make it consistent and would make adjustments for the limit amendment just approved.

Council Member Gruber questioned the need for a small donor committee at all.

Council Member Marcano stated small donor committees were currently limited and the sponsors felt ten times was an appropriate amount.

Council Member Bergan echoed Council Member Gruber's question regarding the need for small donor committees. She stated a union was not a person and having individuals make contributions would be more transparent.

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Council Member Coombs explained how this helped address the dark money issue.

Mayor Pro Tem Johnston concurred, noting the sponsors were consistent and the rules were the same for unions and corporations.

Mayor Coffman asked if there was a disclosure provision for the candidate report when a small donor committee made a donation. Mayor Pro Tem Johnston answered affirmatively.

Council Member Marcano concurred.

Mayor Coffman stated his understanding of the disclosure for those who contributed \$50.

Council Member Marcano concurred.

Council Member Bergan stated her understanding it was ten times the \$400 for Ward Council Members and ten times the \$1000 for At-Large Council Members.

Council Member Marcano concurred.

Council Member Berzins asked where the information related to the amount labor unions could donate was located in the ordinance. Council Member Marcano stated in the same section that restricted what amount was allowed to give. Council Member Berzins asked if there were regulations on how much a union could give. Council Member Marcano answered affirmatively. Council Member Berzins asked if the amount was times ten. Council Member Marcano answered no, noting that related to small donor committees and not unions. Council Member Berzins asked if unions could donate. Council Member Marcano answered no. Council Member Berzins listed various donors and asked if they could contribute. Council Member Marcano answered no. Council Member Berzins stated her understanding that any group could get their members to donate.

Council Member Marcano concurred.

Council Member Berzins stated her husband belonged to IBW 68 union and asked if electricians from other states could send him checks. Council Member Marcano answered affirmatively.

#### *VOTE ON AMENDMENT IV*

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

Council Member Gardner recognized Mayor Pro Tem Johnston specifically for her help in working on these issues and for her willingness to compromise on a lot of key points. He stated his support for the item because it brought about increased transparency. He discussed concerns he had related to self-funders becoming much more important under this model because that would continue to be a trend because the City could not limit self-funding. He felt this would drive more money towards IECs. He expressed concerns related to the ordinance helping incumbents because it would allow incumbents to have a much greater advantage. He reiterated that while he did have these concerns, at the end of the day, this was an important step towards transparency with the residents of Aurora.

Council Member Lawson expressed appreciation to the sponsors for bringing the item forward. She expressed concerns related to making sure enough information was provided to train new

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candidates on this law and she expressed her hope that the sponsors would be open to possible amendment or changes that might need to be made in that regard as the item progressed.

Mayor Coffman stated he would not support the item and expressed appreciation for the limits and the similarities in this and his proposal. He felt it had two constitutional flaws that violated the First Amendment that were not identified earlier and he would be working on two amendments for those two provisions.

Council Member Bergan expressed appreciation for the effort that went into the item, noting there were two Campaign Finance Reform ordinances with similar terms that Council would vote on. She stated she did not like the \$400 Ward contribution because she felt it was a slap in the face to a Ward Council Member that worked very hard and represented 70k residents. She expressed concerns related to the burden this would put on the City Clerk's Office as the cost analysis added a few full-time employees (FTEs) to handle the additional reporting duties and IT changes. She pointed out some council members did not have large campaigns and they did everything themselves so the continued changes to reporting did not change the contributions because voters could still see what was contributed but noted it did put more of a burden on reporting. She stated all contributions were reported and there was full disclosure and therefore it stifled people's freedom to support candidates in terms of what amounts could be contributed. She stated this would lead to much more dark money because it prevented avenues of full disclosure. She stated she would not support the item but would support Mayor Coffman's Campaign Finance Reform ordinance.

Council Member Gruber stated he would not support the item and pointed out the Election Commission spoke strongly against the initial draft of this ordinance but they did support the Mayor's draft so that was the one he would support. He believed the ordinance was too complex and would end up putting candidates into a trap. He concurred with Council Member Bergan regarding the item's impact on City staff when the City already had limited funds. He pointed out while this was written by a local man, it was nearly identical to the ones introduced in Lakewood and Denver. He noted this was obviously led by the Democratic Party and extensively modified by Owen Perkins therefore stating it was an Aurora bill was inaccurate. He stated it was supported by various Democratic organizations and noted the money for it came from Act Blue, which was the fundraising arm of the Democratic Party. He stated the item also encouraged out-of-state money but only from some organizations. He discussed situations where a council member identified a number of out-of-state groups who collected smaller amount checks and funneled them into Aurora even though the person signing the checks had no relationship with the person in Aurora and that out-of-state money would have a major impact on Aurora elections. He also discussed his concern that the small donor committees were not killed as was discussed.

Council Member Marcano stated Council Member Gruber's comments were one falsehood after another which made it difficult to respond. He clarified Act Blue was not a Democratic donor arm but was instead a payment processor and one had to be a registered Democrat to benefit from it. He noted there were both Democrats and Republicans on the Council. He clarified the author of the item was Dale Nichols and the reason it was similar to Lakewood or Denver was because they were attempting to go as far as possible within the bounds of established law to push for low limits and transparency. He pointed out the sponsors did their due diligence by reaching out to legal experts and those who could help them craft an ordinance that represented the values of the City and that would be a model for other cities to follow.

Council Member Hiltz agreed Mr. Nichols put a lot of effort into the item and her intent in honoring Mr. Senn's memory was due to him being a longtime supporter of campaign finance reform. She

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stated that while she was not surprised, she was disappointed to hear her colleague politicize that work and she expressed her hope that was not the intent in doing so.

Mayor Pro Tem Johnston pointed out Aurora was using the same model as Lakewood and Denver which was the Secretary of State's version. She noted she presented this item to the Election Commission three times and pointed out they were not election experts or trained attorneys. She agreed the sponsors disagreed with the Election Commission and they did not unanimously support this or Mayor Coffman's ordinance. She asked staff if the future staff person called out to address election and campaign issues would be working on the ordinance only or would that just be a portion of their duties.

Roberto Venegas, Deputy City Manager, clarified one position was added in the fiscal notes in the backup material. He stated the position would be devoted to either elections administrator or a deputy position that would have this as a part of their responsibilities.

Mayor Pro Tem Johnston asked if the City Manager would pursue that position in the City regardless of which ordinance passed. Mr. Venegas answered affirmatively.

Council Member Bergan referenced p. 215 and read the backup material on the position aloud. She pointed out it referenced the creation of two positions.

Mr. Venegas disagreed and clarified the reference was to staff recommending two potential options.

Council Member Bergan asked if it would be one or the other. Mr. Venegas answered affirmatively. Council Member Bergan asked if the hearings would be an added cost. Mr. Venegas answered affirmatively.

Council Member Berzins stated Duane Senn was her friend and colleague and while she agreed he wanted transparency; she took issue with someone invoking his name in this regard. She stated this was not dissimilar to how Steve Hogan's name was used over and over when the Council was discussing the PATH building. She stated she knew both men and how they felt about these issues and she felt it was in poor taste to invoke a nice man's name to get the item passed.

Council Member Hiltz reiterated her comments were not about this specific proposal or whether it passed or not but rather was about someone who spent a lot of time working on the issue of finance reform, generally speaking. She stated her comments were to honor that work. She stated everyone had fond memories of Mr. Senn and she addressed Council Member Berzins, stating she was sorry she felt that way. She stated Mr. Senn's work and comments have influenced some of those who worked on the item and whether it was something he would have supported was not for her to say. She reiterated it was important to recognize the work of someone who worked diligently on this issue particularly when they did not get to see it come to fruition. She stated it was her view and hope that acknowledgment should be done for anyone who worked diligently in the City including this Council. She stated that was her intent from her heart and she was disappointed that it would be turned into anything else.

Council Member Bergan asked if meals, gas expenses or conferences could be included. Council Member Marcano stated to the best of his recollection, that the only thing that was added was childcare and everything that was allowed such as paying for volunteer meals remained. Council Member Bergan stated she had no problem with paying for volunteer meals but she noted reports where there were those who paid for their personal meal.

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Council Member Marcano stated that was a violation.

*VOTE ON ORIGINAL MOTION*

Voting Aye: Coombs, Gardner, Hiltz, Johnston, Lawson, Marcano, Murillo

Voting Nay: Bergan, Berzins, Gruber

*City Council took a ten-minute break.*

- ◆ e. **2020-59**  
Consideration of AN ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, amending Sections 54-2, 54-6, 54-101, 54-105, 54-107, 54-108, & 54-109 of the City code pertaining to Elections and Campaign Finance  
**Presenter:** Venegas, Roberto - Deputy City Manager - General Management/Lathers, David, Senior Asst City Attorney  
**Sponsor:** Mayor Coffman

Motion by Coffman, second by Gruber, to introduce item 11e.

Mayor Coffman stated he asked Stephen Ruger, the previous City Clerk, what the components of campaign finance reform ought to be and Mr. Ruger stated it should be simple without everything being all in one proposal. He noted he followed that advice with this proposal, noting it was not something an election lawyer was needed to navigate and it was the only proposal supported by the majority of the Election Commission. He stated it limited contributions to \$1000k and that included contributions in-kind for an election cycle for Mayor and At-Large and \$500 for Ward candidates only for natural persons and banned corporations, labor unions and political action committees, limited liability corporations, and limited liability partnerships from giving. He stated the City Clerk vetted complaints and if the City Clerk felt there was adequate information then they forwarded it to the Election Commission for a vote. He requested Council's support.

Council Member Coombs reiterated the Election Commission was an entity that served at the pleasure of Council and to treat them as independent was something Council should be cautious not to do. She noted Mayor Coffman has brought up former City Clerk Ruger multiple times and it was her opinion that if Mr. Ruger wanted to lobby Council on this item, he would have done so.

Mayor Coffman clarified he asked Mr. Ruger as he was leaving the City prior to the Mayor drafting the proposal. He was aware at that time of the direction of the Marcano and Johnston's proposal and felt it was going in the opposite direction and that was when he began the drafting process.

Voting Aye: Bergan, Gruber

Voting Nay: Coombs, Gardner, Hiltz, Johnston, Lawson, Marcano, Murillo

12. **ORDINANCES FOR FINAL**

- ◆ a. **2020-42** Consideration of AN ORDINANCE FOR ADOPTION of the City of Aurora, Colorado, adopting Section 2-234(b) of the City Code pertaining to the prohibition of no-knock warrants by law enforcement **Ordinance 2020-42, Introduced 7-3 (Bergan, Berzins, Gruber voting no) at the October 5, 2020 Council meeting.**  
**Presenter:** Rodgers, Nancy - Deputy City Attorney - City Attorney  
**Sponsor:** Councilmember Lawson

Motion by Lawson, second by Marcano, to approve item 12a.

- ◆ ***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 urged Council to not support the item based on the Chief of Police's testimony that banning no-knock search warrants could put members of the police force at higher risk.

Voting Aye: Coombs, Gardner, Hiltz, Johnston, Lawson, Marcano, Murillo

Voting Nay: Bergan, Berzins, Gruber

- ◆ b. **2020-43** Consideration of AN ORDINANCE FOR ADOPTION of the City of Aurora, Colorado, amending article VIII of Chapter 2 of the City Code to add a new Division 6 establishing a new Civic Engagement Commission **Ordinance 2020-43, Introduced 7-3 (Bergan, Berzins, Gruber voting no) at the October 5, 2020 Council meeting.**  
**Presenter:** Barkman, Susan - Interim City Clerk/Lathers, David, Senior Asst City Attorney

Motion by Coombs, second by Marcano, to approve item 12b.

Council Member Coombs stated this was a step forward in increasing civic engagement in the City, to raising people's awareness of what was happening on Council and enabling another avenue for them to provide Council with input and ideas about what Council could do better. She stated her hope that her colleagues would support it.

Council Member Berzins clarified her comments that were called into question from a resident related to the item. She stated it was the Council's job to get information out to citizens and that was why some of them opposed the Civic Engagement Commission. She reiterated getting information out was Council's job. She noted this was why she held two Ward meetings per month and sent out HOA letters and attended meetings.

Council Member Bergan stated she would not support the item because she agreed civic engagement was Council's job. She believed the commission was basically a 'get-out-the-vote' commission whether or not it was called voter engagement, which made it political and it was her opinion it did not have a place with City Council.

Council Member Coombs clarified it was not a 'get-out-the-vote' effort and reminded Council that she only raised the topic of voter statistics to illustrate that the City could do better with respect to engagement.

Council Member Bergan addressed Council Member Coombs, stating she was not referring to Council Member Coombs but rather to the other colleagues who stated it was fine for it to be a 'get-out-the-vote' or voter engagement effort.

Council Member Hiltz agreed with Council Member Coombs' statement that this was not a 'get-out-the-vote' organization. She stated her belief that more people should vote and noted she found it scary when elected representatives did not. She addressed Council Member Bergan and stated she was uncertain if that was Council Member Bergan's intent but confirmed that was what she heard.

Council Member Bergan thanked Council Member Hiltz for the clarification, noting that was not what she meant to say. She stated she would love to have everybody voting. She clarified she did not think there should be a committee that has that responsibility because that made it very political. She stated Council's job was to make sure voters know what the issues were, what was going on in the City Council including the budget and that was done by holding Town Halls and

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engaging on social media and other forums. She stated Council got out the information they should be getting out.

Council Member Gruber agreed everybody needed to vote and he did not want anything to hinder that. He expressed concerns related to the committee becoming a political organization where the majority of Council would direct them to get out the vote on specific political issues. He pointed out there was a difference in stating 'people should vote' and 'people should vote and support these issues.' He stated that made it political and he would not support it. He noted there were many organizations within the City and this organization was not clearly defined and would therefore roll over a few of the others that were similarly trying to gather and provide feedback and foster a sense of neighborhood to compete for the same type of thing and that would cause confusion and animosity between these different groups. He expressed additional concerns related to creating a committee during a major economic crisis, noting this was not the right time. He noted if it were not political, if there were clearly defined goals and the City was not furloughing employees at this time then he would support it.

Council Member Coombs clarified Barbara Dahl who was previously in charge of the City's boards and commissions, stated at the presentation of the item, that each of the City's boards and commissions served a unique function. She stated during the time she was working on the ordinance with Ms. Dahl, Council Member Lawson and other community and board members, no one felt that this one would usurp any of the others because it had a unique place that would provide an opportunity for partnership rather than pushing others out.

Council Member Gruber stated he had many discussions with City employees and people within the community who agreed with him. He addressed Council Member Coombs and stated her people agreed with her but noted not everyone did including him.

Voting Aye: Coombs, Gardner, Hiltz, Johnston, Lawson, Marcano, Murillo

Voting Nay: Bergan, Berzins, Gruber

13. **RECONSIDERATIONS AND CALL-UPS**

- a. RECONSIDERATION OF RESOLUTION R2020-22 – Concerning the Continuation of the City Manager's Disaster Declaration.  
Staff Source: Jim Twombly, City Manager  
**Presenters:** Matt Chapman, Fire Battalion Chief/Nancy Rodgers, Deputy City Attorney

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

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

14. **GENERAL BUSINESS**

- a. Consideration to reappoint one member to the Judicial Performance Commission  
**Presenter:** Barkman, Susan - Interim City Clerk/Lathers, David, Senior Asst City Attorney

Motion by Marcano, second by Johnston, to reappoint Debbie Stafford to the Judicial Performance Commission.

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

15. **REPORTS**

a. Report by the Mayor

Mayor Coffman discussed his attendance at the Gold Star Families Memorial Dedication Ceremony that took place recently at the Colorado Freedom Memorial. He reminded council members to let him know when they attended an event so that he could acknowledge them in the audience. He announced the negotiations with various entities to fund the design work for the improvement of Montview Boulevard running through the Anschutz campus. He stated he has been working with the mayors of Colorado Springs and Denver and the Colorado Hotel and Lodging Association to petition the governor to change from a cap at the Gaylord, Broadmoor and Denver Convention Center hotels to a percentage while still allowing for social distancing and other public health safety factors. He noted the numbers were rising and therefore the proposal was put on hold until those numbers stabilized.

b. Reports by Council

Mayor Pro Tem Johnston encouraged everyone to visit the Colorado Freedom Memorial and discussed her attendance at the recent Gold Star Families memorial ceremony. She expressed appreciation to Rick and Diane Crandall for their efforts in that regard. She referenced Council Member Hiltz's comments regarding Duane Senn and noted Council Member Hiltz was very clear that her intent was to honor Mr. Senn because campaign finance reform was an important issue to him regardless of whether the ordinance passed or not. She stated she did not think invoking his name was politicizing anything because Council should be able to honor people and recognize them for the work. She referenced her many discussions with Mr. Senn and noted one of the reasons he supported her was because of her position and commitment to working on that issue. She gave a shout-out to Council Member Lawson for her efforts in chairing the meeting on those two items and stated she did a great job.

Council Member Lawson expressed appreciation to those who raised the topic of the Gold Star memorial event, noting it was a wonderful event that honored veterans and also to Rick and Diane Crandall for being great leaders in the community. She stated the next session of the Civic Engagement Academy would begin on Monday, October 28, 2020 and expressed her hope that the participants who were currently in class would continue to come and learn more about what was going on in Aurora.

Council Member Hiltz stated her wish that she could have attended the memorial and expressed her appreciation to Rick and Diane Crandall for their commitment to supporting the City's veteran community. She discussed a Zoom meeting she attended with the Colorado State Faith Communities United to End Gun Violence, which was an interfaith coalition of metro communities working to build consensus and support to help end deaths and injuries in Colorado caused by the improper use of firearms. She expressed appreciation to the sponsors for inviting the Council and for hosting the event.

Council Member Murillo announced the next Ward I Town Hall was scheduled for Thursday, October 22, 2020 at 6:00 p.m.

Council Member Berzins expressed appreciation to Rick and Diane Crandall for their service to veterans and current military in the community. She announced the Ward III meeting was

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scheduled for Thursday, October 22, 2020 at 7:30 a.m. on Webex. She stated more information could be found on the City website and on her City Facebook page.

Council Member Gruber expressed appreciation to Rick Crandall for doing a wonderful job and discussed the impressiveness of the memorial and the Gold Star Memorial for the fallen. He discussed the success of the recent Aurora Chamber of Commerce fundraiser and expressed appreciation to Leadership Aurora for their efforts in that regard.

Council Member Marcano expressed appreciation to the Crandalls for their efforts on behalf of veterans and discussed his hope to visit the memorial in the morning to see the sunrise through the silhouette of the saluting soldier. He announced the Ward IV meeting was scheduled for Monday, November 19, 2020 at 6:30 p.m. where Nine Mile, Economic Development and the Housing First program would be discussed.

Council Member Coombs echoed everyone's appreciation to Rick and Diane Crandall and agreed the Gold Star Memorial Dedication was wonderful and the memorial itself was beautiful. She announced the Ward V Town Hall meeting was scheduled for Tuesday, October 20, 2020 on Webex and Facebook Live at 6:30 p.m., where resources in varying City departments could be accessed would be discussed and updates from police and fire would be provided. She expressed appreciation to her colleagues for supporting the Civic Engagement Commission and noted she looked forward to working with community members in that regard.

Council Member Bergan discussed her attendance at the Gold Star Families Memorial and the beauty of the structure itself and expressed her gratitude to those who sacrificed their lives for America's freedom.

Council Member Gardner discussed his attendance at the Gold Star Memorial as well and shared a specific story that was conveyed during the ceremony. He announced the upcoming Boos Cruise event hosted by Aurora Parks and Open Space was scheduled for October 30, 2020 from 3:00 p.m. to 7:00 p.m. at the Aurora Sports Park.

16. **PUBLIC INVITED TO BE HEARD**

None

17. **ADJOURNMENT**

Mayor Coffman adjourned the regular meeting of City Council at 10:54 p.m.

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MIKE COFFMAN, MAYOR

ATTEST:

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DRAFT

**MINUTES**

**Regular Meeting – Aurora City Council  
Monday, November 2, 2020**

CALL TO ORDER – REGULAR MEETING

Mayor Coffman convened the regular meeting of City Council at 5:15 p.m.  
ROLL CALL

PRESIDING: Mayor Coffman

COUNCIL MEMBERS PRESENT: Berzins, Bergan, Coombs, Gardner, Gruber, Hiltz, Johnston, Marcano, Murillo

COUNCIL MEMBERS ABSENT: Lawson

OFFICIALS PRESENT: City Manager Twombly, City Attorney Brotzman, City Clerk Barkman

COUNCIL MEMBERS ARRIVING AFTER ROLL CALL: None

City Clerk Barkman announced the proposed items for discussion at executive session.

CONSIDERATION TO RECESS FOR EXECUTIVE SESSION

Motion by Council Member Berzins, second by Marcano, to recess for executive session.

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

Abstaining: None

1. **RECONVENE REGULAR MEETING OF NOVEMBER 2, 2020 AND CALL TO ORDER**

Mayor Coffman reconvened the regular meeting of City Council at 7:30 p.m.

2. **ROLL CALL** Susan Barkman, Interim City Clerk

COUNCIL MEMBERS PRESENT: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, Lawson, Marcano, Murillo

3. **INVOCATION** Mayor Coffman called for a moment of silence for those who have lost their lives due to COVID-19.

4. **PLEDGE OF ALLEGIANCE TO THE FLAG** (all standing)

5. **APPROVAL OF THE MINUTES OF THE MEETING OF SEPTEMBER 21, 2020**

No minutes were available for review.

6. **CEREMONY**

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No ceremony.

7. **PUBLIC INVITED TO BE HEARD (non-agenda related issues only)**

Susan Barkman, Interim City Clerk, stated members of the public who wished to speak as a part of the Public Invited to Be Heard or for a specific agenda item on the regular agenda should call the live public comment line at 855-695-3475 and press \*3 to reach the operator who would place them in the queue. She stated those calling prior to the meeting starting would be placed for non-agenda items and at the first Public Invited to Be Heard and those callers calling for Public Invited to Be Heard after 7:30 p.m. would be placed in Public Invited to be Heard at the end of the meeting. She stated those callers wishing to speak on an agenda item may do so and only need to call in before the Clerk reads the title of the item and no additional calls for that item would be accepted once the title has been read. She confirmed the website problem was identified and corrected and she introduced the speakers.

Council Member Gardner asked if the time period under which people could call in had been extended because he had several constituents that wanted to speak on agenda specific items who went to the public website where it was listed incorrectly.

Mayor Coffman asked staff if the time could be adjusted. Ms. Barkman answered affirmatively. Mayor Coffman asked if there was any objection to extending the time and hearing none, asked staff to do so. Ms. Barkman asked for clarification of what time it should be extended to, noting the calls were typically taken until the item was called.

Mayor Pro Tem Johnston stated the 7:30 p.m. cutoff time was for non-agenda items, but agenda item speakers were allowed to call right up until that time on the agenda.

Council Member Gardner stated it was fine as long as it went until the item was called.

Council Member Gruber noted he was receiving texts from business owners who were having trouble accessing the queue after many attempts, noting these were speakers for specific items.

Mayor Coffman noted there was not any objection to extending the time so the time would be extended.

Council Member Bergan asked if the agenda or non-agenda time was being extended. Mayor Coffman stated agenda items. Council Member Bergan asked if comments would be allowed after the item was introduced. Mayor Coffman answered affirmatively.

Council Member Marciano asked if it was determined what agenda items the speakers wanted to speak to. Ms. Barkman stated currently it was for agenda item 13b.

8. **ADOPTION OF THE AGENDA**

Motion by Gruber, second by Coombs, to adopt the agenda.

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

- a. RECONSIDERATION OF RESOLUTION R2020-24 - to Suspend Certain Council Rules.  
**Staff Source:** Susan Barkman, Interim City Clerk/Dan Brotzman, City Attorney

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Motion by Berzins, second by Gruber, to approve item 8a.

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

9. **CONSENT CALENDAR**

**Final Ordinances** - Final ordinances may be placed on the Consent Calendar and moved with one motion with unanimous support on the first reading.

- ◆ a. **Rectangular Rapid Flashing Beacons**  
Consideration to AWARD A COMPETITIVELY BID CONTRACT to Gades Sales Co., Inc Thornton, Colorado in the amount of %50,677.00 for the purchase of twenty (20) Rectangular Rapid Flashing Beacons and Mounting Accessories. (B-4531)  
**Presenter:** Campuzano, Carlie - Traffic Manager  
**Attorney:** Lathers, David, Senior Asst City Attorney
- ◆ b. **Evoqua Water Technologies equipment, parts, and certified technical services**  
Consideration to AWARD A SINGLE SOURCE CONTRACT to Municipal Treatment Equipment Inc., Golden, Colorado in the not-to-exceed amount of \$90,200.00 for Evoqua Water Technologies equipment, parts, and certified technical services for the annual upkeep of chlorine, chlorine dioxide, and ammonia systems at the Griswold, Wemlinger, and Binney Water Purification Facilities as from December 1, 2020 through November 30, 2021.  
**Presenter:** Bobby Oligo – Manager of Water Treatment  
**Attorney:** David Lathers – Senior Assistant City Attorney
- ◆ c. **Annual Maintenance Desktop PC security infrastructure**  
Consideration to AWARD A SINGLE SOURCE CONTRACT to LogRhythm Inc., Boulder, CO in the amount of \$103,842.06 for annual maintenance required on the desktop PC security infrastructure through November 2023.  
**Presenter:** Scott Newman, Chief Information Officer  
**Attorney:** David Lathers, Sr. Assistant City Attorney
- ◆ d. **State of Colorado Police Accident Form Software**  
Consideration to AWARD A SOLE SOURCE CONTRACT to Versaterm Systems, Scottsdale, Arizona in the amount of \$89,166.00 to install software on the Police Information Management System for the State of Colorado Accident Form.  
**Presenter:** Ratcliff, Michelle, SR Procurement Agent  
**Attorney:** David Lathers, Sr. Assistant City Attorney

Motion by Gruber, second by Berzins, to approve items 9a – 9d.

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

10. **RESOLUTIONS**

- ◆ a. **Aurora-Denver Youth Empowerment Compact R2020-116** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, ACTING BY AND THROUGH ITS UTILITY ENTERPRISE AND THE PITKIN  
**Presenter:** Jason Batchelor, Deputy City Manager  
**Attorney:** Nancy Rodgers, Deputy City Attorney

Motion by Lawson, second by Marcano, to approve item 10a.

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

♦ b. **Aurora and Pitkin County IGA & BOR MOU**

**R2020-115** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S STRONG SUPPORT OF THE AURORA/DENVER YOUTH EMPOWERMENT COMPACT COUNTY BOARD OF COMMISSIONERS FOR STORAGE IN REUDI RESERVOIR.

**Presenter:** Alexandra Davis, Deputy Director Water Resource

**Attorney:** Christine McKenney, Assistant City Attorney

Motion by Berzins, second by Coombs, to approve item 10b.

Alexandra Davis, Deputy Director Water Resource, provided a brief summary of the item.

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

♦ c. **Police Pension Plan Contributions**

**R2020-117** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING A CONTINUATION OF THE INCREASE IN CONTRIBUTIONS BY THE CITY AND THE EMPLOYEES TO THE AURORA POLICE PENSION PLAN.

**Presenter:** Velasquez, Terri - Director of Finance

**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil

Motion by Berzins, second by Gruber, to approve item 10c.

Council Member Coombs requested staff provide a brief presentation on the item for the benefit of the public.

Terri Velasquez, Director of Finance, did so.

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

Susan Barkman, Interim City Clerk, made an announcement related to the public speaker call-in queue instructions.

Mayor Pro Tem Johnston requested the announcement be made throughout the meeting.

Mayor Coffman concurred.

♦ d. **IGA with RTD Regarding Pilot Wayfinding System**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA AND THE REGIONAL TRANSPORTATION DISTRICT WAYFINDING SYSTEM LOCAL AGENCY CONTRIBUTION.

**Presenter:** Worker-Braddock, Tom - Senior Planner

**Attorney:** Gardner, Michelle, Senior Asst City Attorney

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Motion by Marcano, second by Lawson, to approve item 10d.

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

- ◆ e.1 **RFP Resolutions for Homeless Services**  
**Emergency Solutions Grant ESG (Regular) Mile High Behavioral Healthcare and Comitis Crisis Center, Inc. Subrecipient Agreement Emergency Shelter R2020-118** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR MILE HIGH BEHAVIORAL HEALTH, LLC. DBA COMITIS CRISIS CENTER, INC EMERGENCY SERVICES GRANT.  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
  
- ◆ e.2 **Funding Agreement between The City of Aurora, Colorado**  
**R2020-119** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR AURORA WARMS THE NIGHT, INC., AND JESUS ON COLFAX MINISTRIES MARIJUANA SALES TAX FUND GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
  
- ◆ e.3 **Funding Agreement between The City of Aurora, Colorado and Aurora Comprehensive Community**  
**R2020-120** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICE'S RFP REVIEW COMMITTEE'S GRANT RECOMMENDATION FOR AURORA COMPREHENSIVE COMMUNITY MENTAL HEALTH CENTER, INC.'S HOMELESSNESS PREVENTION PROGRAM.  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
  
- ◆ e.4 **Emergency Solutions Grant ESG (Regular)- East Metro Detox and Recovery Services (AuMHC) Subrecipient Agreement Emergency Shelter**  
**R2020-121** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE HOMELESS SERVICES RFP 2020 FUNDING RECOMMENDATION FOR AURORA COMPREHENSIVE COMMUNITY MENTAL HEALTH CENTER INC.'S EMERGENCY SERVICES GRANT.  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
  
- ◆ e.5 **Emergency Solutions Grant ESG-CV Mile High Behavioral Healthcare and Comitis Crisis Center Subrecipient Agreement Emergency Shelter**  
**R2020-122** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR MILE HIGH
  
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BEHAVIORAL HEALTH MILE HIGH BEHAVIORAL HEALTH, LLC. DBA COMITIS CRISIS CENTER, INC. GENERAL FUNDS GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II

- ◆ e.6 **Emergency Solutions Grant ESG-CV Mile High Behavioral Healthcare Inc., Subrecipient Agreement Street Outreach Program R2020-123** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR MILE HIGH BEHAVIORAL HEALTH, LLC. STREET OUTREACH PROGRAM CARES EMERGENCY SOLUTIONS GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
  
- ◆ e.7 **Emergency Solutions Grant ESG-CV Mile High Behavioral Healthcare, Aurora Day Resource Center Subrecipient Agreement Aurora Day Resource Center for Homeless R2020-55 R2020-124** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR MILE HIGH BEHAVIORAL HEALTH LLC., DBA AURORA DAY RESOURCE CENTER CARES EMERGENCY SERVICES GRANT.  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
  
- ◆ e.8 **Emergency Solutions Grant ESG-CV Housing Authority of the City of Aurora R2020-125** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR HOUSING AUTHORITY OF THE CITY OF AURORA, DBA AURORA HOUSING AUTHORITY'S AURORA@HOME CARES EMERGENCY SERVICES GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
  
- ◆ e.9 **Funding Agreement between The City of Aurora, Colorado, and Mile High Behavioral Healthcare LLC to Operate Comititis Crisis Center, INC. R2020-126** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR MILE HIGH BEHAVIORAL HEALTH, LLC. DBA COMITIS CRISIS CENTER, INC. GENERAL FUNDS GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
  
- ◆ e.10 **Aurora Mental Health PATH Program Street Outreach Program R2020-128** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR AURORA COMPREHENSIVE COMMUNITY MENTAL HEALTH CENTER, INC.'S HOMELESSNESS PREVENTION PROGRAM.  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II

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- ◆ e.11 **Funding Agreement between The City of Aurora, Colorado and Bridge House for Ready to Work Aurora**  
**R2020-129** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR BRIDGE HOUSE FOR READY TO WORK AURORA MARIJUANA SALES TAX FUND GRANT.  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
- ◆ e.12 **Funding Agreement between the City of Aurora, Colorado and Gateway Domestic Violence Services DBA Aurora/Arapahoe Battered Women's Shelter, Inc.**  
**R2020-130** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR GATEWAY DOMESTIC VIOLENCE SERVICES DBA AURORA/ARAPAHOE BATTERED WOMEN'S SHELTER, INC MARIJUANA SALES TAX FUND GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
- ◆ e.13 **Funding Agreement between the City of Aurora, Colorado, and Mile High Behavioral Healthcare, LLC to Operate Colfax Community Network, INC.**  
**R2020-131** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR MILE HIGH BEHAVIORAL HEALTH LLC., DBA CCOLFAX COMMUNITY NETWORK, INC. MARIJUANA SALES TAX FUND GRANT.  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
- ◆ e.14 **Funding Agreement between the City of Aurora, Colorado, and Mile High Behavioral Healthcare, LLC to Operate The Street Outreach Program**  
**R2020-132** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR MILE HIGH BEHAVIORAL HEALTH, LLC. STREET OUTREACH PROGRAM CARES EMERGENCY SOLUTIONS GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
- ◆ e.15 **Funding Agreement between The City of Aurora, Colorado and Second Chance Center for the Providence at the Heights Apartments**  
**R2020-133** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR SECOND CHANCE CENTER INC. FOR THE PROVIDENCE AT THE HEIGHTS APARTMENTS MARIJUANA SALES TAX FUND GRANT.  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
- ◆ e.16 **Funding Agreement between The City of Aurora Colorado and The Housing Authority of the City of Aurora**  
**R2020-134** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020
- ◆ *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.*

HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR HOUSING AUTHORITY FOR THE CITY OF AURORA DBA AURORA HOUSING AUTHORITY'S AURORA@HOME MARIJUANA SALES TAX FUND GRANT

**Presenter:** Jessica Prosser, Manager of Community Development

**Attorney:** Tim Joyce, Assistant City Attorney II

- ◆ e.17 **Emergency Solutions Grant ESG (Regular) Gateway Domestic Violence Services Subrecipient Agreement Emergency Shelter**  
**R2020-135** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR GATEWAY DOMESTIC VIOLENCE SERVICES DBA AURORA/ARAPAHOE BATTERED WOMEN'S SHELTER, INC. EMERGENCY SERVICES GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
- ◆ e.18 **Emergency Solutions Grant ESG-CV – Gateway Domestic Violence Services Subrecipient Agreement Emergency Shelter**  
**R2020-136** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR GATEWAY DOMESTIC VIOLENCE SERVICES DBA AURORA/ARAPAHOE BATTERED WOMEN'S SHELTER, INC. EMERGENCY SERVICES GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
- ◆ e.19 **Home Tenant Based Rental Assistance Investment Partnerships Program- Housing Authority of the City of Aurora, Aurora @ Home Project Subrecipient Agreement – Rapid Re-Housing/Homelessness Prevention**  
**R2020-137** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR HOUSING AUTHORITY OF THE CITY OF AURORA, DBA AURORA HOUSING AUTHORITY'S AURORA@HOME HOME TENANT BASED RENTAL ASSISTANCE GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
- ◆ e.20 **Second Chance Center, INC., Subrecipient Agreement Homeless Resource Center**  
**R2020-138** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR SECOND CHANCE CENTER INC., FOR THE PROVIDENCE AT THE HEIGHTS APARTMENTS CARES EMERGENCY SERVICES GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
- ◆ e.21 **The Salvation Army, Aurora Corps Subrecipient Agreement, Rapid Re-Housing/ Homelessness Prevention**  
**R2020-139** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR THE SALVATION ARMY, AURORA CORPS. CARES EMERGENCY SERVICES GRANT
- ◆ *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.*

**Presenter:** Jessica Prosser, Manager of Community Development

**Attorney:** Tim Joyce, Assistant City Attorney II

- ◆ e.22 **The Salvation Army, Aurora Corps Subrecipient Agreement Rapid Re-Housing/Homelessness Prevention**  
**R2020-140** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR THE SALVATION ARMY, AURORA CORPS. EMERGENCY SERVICES GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
  
- ◆ e.23 **Funding Agreement between The City of Aurora, Colorado and Mosaic Church of Aurora, for the Dayton Street Outreach Center, LLC**  
**R2020-141** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR MOSAIC CHURCH OF AURORA DBA DAYTON STREET OPPORTUNITY CENTER, LLC. MARIJUANA SALES TAX FUND GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II
  
- ◆ e.24 **Funding Agreement between The City of Aurora, Colorado and Mosaic Church of Aurora for Rental Assistance**  
**R2020-142** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT FOR THE 2020 HOMELESS SERVICES RFP REVIEW COMMITTEE RECOMMENDATION FOR MOSAIC CHURCH OF AURORA RENTAL ASSISTANCE MARIJUANA SALES TAX FUND GRANT  
**Presenter:** Jessica Prosser, Manager of Community Development  
**Attorney:** Tim Joyce, Assistant City Attorney II

Motion by Johnston, second by Hiltz, to approve items 10e1 - 24.

Council Member Bergan noted the cost for these items was \$3.8M, which was a lot of money and asked if budgets were available for each of the organizations.

Jessica Prosser, Manager of Community Development, explained some of the budgets were not specific to the exact type of activity, but confirmed there was a total amount that would be allowable for that organization that should be on that budget and not-to-exceed amount.

Council Member Bergan stated she did not feel this was a good process of due diligence because there was not any backup on what was being spent on what, which was tantamount to giving away a blank check. She stated she would support the item but reiterated it was not a good process.

Mayor Pro Tem Johnston asked if this was a case where that information was provided as a part of the scoring in the rating system and this was just an overview. Ms. Prosser answered affirmatively, and further discussed the application process. She pointed out this was a new process and staff would take these adjustments into consideration moving forward.

Council Member Bergan stated she requested copies of the budgets and was not given them. She stated she was attempting to do her due diligence.

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Council Member Gruber requested an overview of the process and money breakdown. Ms. Prosser did so, noting this was a compilation of funding agreements for the next year 2021.

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

11. **PUBLIC HEARING WITH RELATED ORDINANCE**

None

12. **PUBLIC HEARING WITHOUT RELATED ORDINANCE**

None

13. **INTRODUCTION OF ORDINANCES**

- ◆ a. **Funding Overview and Proposal**  
**2020-60** 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 AURORA COLORADO, RELATING TO MUNICIPAL COURT SURCHARGES, PROVIDING FUNDING COMMUNITY SERVICE AGENCIES AND PROGRAMS, AND OTHER RELATED MATTERS.  
**Presenter:** Jason Batchelor, Deputy City Manager  
**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil

Motion by Lawson, second by Coombs, to introduce item 13a.

Council Member Bergan requested staff provide a brief presentation on the item for the benefit of the public.

Jason Batchelor, Deputy City Manager, did so.

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

- ◆ b. **Proposed Ordinance to Amend the Executive Retirement Plan**  
**2020-61** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA AMENDING CHAPTER 102 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, RELATING TO THE MONEY PURCHASE PLAN FOR EXECUTIVE PERSONNEL  
**Presenter:** Velasquez, Terri - Director of Finance  
**Attorney:** Hernandez Perez, Hans, Assistant City Attorney II Civil

Motion by Grube, second by Johnston, to introduce item 13b.

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

- c. **56th Avenue Right-of-Way Vacation**  
**2020-62** INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO VACATING THREE SECTIONS OF THE PUBLIC RIGHT-OF-WAY FOR EAST 56YTH AVENUE, LOCATED BETWEEN THE TIBET ROAD AND HARVEST ROAD ALIGNMENTS, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO (56<sup>TH</sup> AVENUE ROW VACATIONS)  
**Presenter:** Bickmire, Deborah - Senior Planner  
**Attorney:** Money, Daniel, Senior Asst City Attorney

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Motion by Johnston, second by Gruber, to introduce item 13c.

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

- ◆ d. **Minimum Wage Ordinance**  
**2020-63** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ENACTING A NEW CHAPTER OF THE CITY CODE PERTAINING TO ESTABLISHING A MINIMUM WAGE IN AURORA ABOVE THE STATE MINIMUM WAGE AND PROVIDING REMEDIES FOR VIOLATIONS  
**Sponsor:** Council Member Coombs  
**Attorney:** Rachel Allen, City Attorney's Office

Council Member Coombs noted callers were being dropped out of the queue.

*ORIGINAL MOTION*

Motion by Coombs, second by Marcano, to introduce item 13d.

Susan Barkman, Interim City Clerk, restated the public speaker call-in instructions.

Council Member Gardner asked staff to speak to the screening process. Ms. Barkman did so.

Council Member Bergan asked if others were moving forward in the queue as other callers were being heard. Ms. Barkman answered affirmatively. She introduced the callers in the queue.

Council Member Marcano suggested Council move forward on the agenda until the call-in issue could be addressed.

Mayor Coffman asked if there was an objection to doing so.

Council Member Gruber disagreed with having debate on an item without hearing public comment as that was a large part of Council transparency.

Council Member Marcano clarified he requested Council move forward on the agenda and then return to the item once the technical issues were addressed.

Ms. Barkman stated the issues were resolved.

Lisa Horton, Records Manager, introduced the callers in the queue.

Mayor Coffman called for a seven-minute recess.

*COUNCIL TOOK A BRIEF RECESS*

Ms. Horton continued to introduce callers in the queue.

Council Member Coombs clarified this item did not make the minimum wage \$17 in 2021 but rather increased it by \$.60 in 2021, which was \$.28 more than the statewide increase that was already planned. She pointed out the gradual increase allowed businesses to adjust. She addressed the topic of Medicaid reimbursement rates and clarified the item included funds for nursing homes subject to appropriation as well as a requirement that the Colorado Department of

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Public Health and Environment (CDPHE) Director provide a yearly report based on how many municipalities have increased their local wage and provide recommendations with respect to increasing those Medicaid provider rates. She addressed comments related to businesses going to Denver and pointed out Denver had a higher minimum wage than Aurora. She pointed out other changes besides going down to \$17 from \$20, which were a lower number for cost of enforcement that could be reviewed in the initial year, a program manager and a part-time support staff for the purpose of determining the structure and dealing with complaints and lastly, directing the department to put small businesses in touch with resources.

Council Member Gardner mentioned there continued to be those in the queue who have not been called on.

Mayor Pro Tem Johnston requested staff repeat the public call-in information and that Council then take a five-minute break so staff could catch up with callers.

Mayor Coffman concurred, and asked Ms. Barkman for an update on the status of the callers. Ms. Barkman stated all of the speakers in the queue for the item have spoken, noting it would be up to Council to hear additional public comments. Mayor Coffman asked if there was any objection to taking additional public comments and seeing none, called for a seven-minute break before hearing more callers.

Ms. Barkman repeated the public call-in number and instructions.

*COUNCIL TOOK A BRIEF RECESS*

Ms. Horton introduced speakers on the item.

Mayor Pro Tem Johnston asked staff if they were certain there was no one left in the queue. Ms. Barkman stated only those who wished to speak on other agenda items.

Council Member Bergan expressed appreciation to all those who called in to speak to Council. She addressed those who spoke in support of the item for the workers' sake and discussed her own experiences working minimum wage jobs. She stated she empathized with them, noting those jobs were usually a starting point. She pointed out minimum wage workers received a state-mandated raise of \$.90 in 2019, which made the rate \$11.10/hr. and then it was raised again in 2020 to \$12.00/hr., noting there were cost-of-living adjustments that went along with that every year. She noted restaurants and small retail stores in Aurora operated on a margin of less than five percent and they also incurred payroll, rent, utilities and other added costs. She noted there were comments that this was just for the wealthy who did not care about the poor, which was untrue. She pointed out there was a lot of testimony from business owners who were struggling to make it during the pandemic who were already struggling pre-pandemic with the state-mandated minimum wage increase. She noted in addition to all of those concerns; winter was coming and that would impact outdoor seating which would put restaurants in an even more precarious position. She stated the only remedies for these businesses were raising their revenue or cutting their costs. She pointed out the increase would create competition from other jurisdictions and she has heard business owners talk about relocating outside of Aurora because of it. She stated that was not what Council wanted. She confirmed they wanted to help workers but she did not feel this was the right solution. She suggested an alternative would be to look at improving economic development because that would bring good paying jobs and opportunity to the City. She noted the City could work with other counties job centers as well. She felt it was Council's responsibility to not lose jobs therefore she would not support the item.

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*ALTERNATE MOTION*

Motion by Mayor Coffman to delay a vote on item 13d until residents could testify in person.

Mayor Coffman discussed his reasoning behind the motion.

Council Member Bergan stated Council has heard from hundreds of speakers that this would be detrimental to businesses therefore it would not matter if the item was heard early next year. She pointed out businesses would still be suffering at that time and noted the City had a \$31M deficit as well. She asked how that would be made up when businesses were still not operating at their full profit. She stated she did not support the alternate motion.

Mayor Coffman's motion died for lack of a second.

Council Member Gardner noted staff provided an estimate needed for enforcement of approximately \$330k/yr. but Council Member Coombs decided only one Full Time Employee (FTE) was needed. He asked staff if they agreed with their original estimate of three staff members for a total of \$330k/yr.

Terri Velasquez, Director of Finance, answered affirmatively, noting the three FTEs were a minimum for the enforcement effort. She noted that did not include purchasing contract review so additional resources might be needed.

Council Member Gardner read out the costs to the City associated with the item, noting it was clear that the cost to the City would be significant. He noted Council has approved the 2021 budget and asked staff if an analysis on how that deficit would be made up has been done. Ms. Velasquez stated it would be reviewed to determine if either further expenditure reductions or revenue increases would be required because these would be ongoing costs.

Mayor Coffman stated his understanding that nursing homes were treated differently than home healthcare agencies as it related to Medicaid reimbursements and the minimum wage increase.

Council Member Coombs agreed that was how the bill was written and stated there was a specific nursing home fund but also a separate section that required the CDPHE Director to make recommendations for increased rates for home healthcare providers. She stated there were provisions in the item for both.

Mayor Coffman asked if it was just a suggestion since the City could not mandate CDPHE to take action. Council Member Coombs confirmed CDPHE was mandated to take action in the state bill that allowed this to happen.

Council Member Gruber expressed concerns that the ordinance was a done deal because Council Member Coombs worked with the Colorado's People Alliance in this regard and announced her intention to reintroduce the item on her social media where she stated she already had the votes for it to pass. He stated he had no reason to not take her at her word. He pointed out if that was the case then all of the speakers wasted their time as their voices were not heard. He stated the item could not have been approved in a less transparent manner. He stated none of the business community arguments were included in the backup material. He stated the City made a grave error in not representing Aurora's businesses in the read-ahead materials. He stated only a few of the council members knew the item was coming back as the Council was told it would not. He read an email aloud that was sent to a business group from Council Member Coombs regarding the decision to not move ahead with the minimum wage increase for the City of Aurora and the

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reasons why. He reiterated in detail the lack of transparency with the item, the item's negative impact on businesses and City finances and wage compression which multiplied the impact on businesses. He discussed third party lawsuits and their negative impact on organization's like the City of Aurora. He pointed out another issue was the fact that the companies involved in a third-party lawsuit could not be shared. He noted City Council has heard from a lot of businesses who expressed concerns that this item would pass in the middle of a pandemic and he discussed their reasoning and results. He discussed the impact the item would have on assisted living homes catering to elderly Medicare systems which would leave closing those homes and abandoning elderly citizens as the only way forward. He pointed out the only encouraging news he could provide related to the item was that the Council elected in 2019 could not bind the Council elected in 2021 or beyond so even though the item included a five-year increase, the current Council could only put in the increase for 2021. He pointed out the Council would vote on the Campaign Finance Reform ordinance which would make it illegal for businesses to contribute to council member campaigns. He noted doing so made it appear as though the majority of Council wanted to ensure they would not face the consequences from the business community who would be damaged by this poor decision.

Council Member Gardner noted there was a speaker in the queue.

Mayor Coffman asked staff to reopen the public comment line. Ms. Barkman agreed to do so and introduced the speaker.

Council Member Coombs stated there was another speaker in the queue. Ms. Barkman stated she would reach out to the caller and suggested Council continue the discussion and staff would attempt to wrap up any other calls prior to the vote.

Council Member Bergan noted as a point of order that while the public call-in system has been a mess and some people have not been able to speak, Council discussion had already started and it was not the right process to take more calls.

Council Member Coombs pointed out that was just done.

Council Member Bergan pointed out Council was in discussion and more people were making public comment.

Council Member Lawson stated her support for a minimum wage and stated she did not have the proposal in front of her when she spoke with Council Member Coombs recently. She stated she has learned things since that time that have caused her to have problems with the process such as the lack of discussions with the business community. She further discussed those concerns, noting she promoted civic engagement and noted she learned from business leaders in the community that the item was not going forward but then suddenly it did. She stated she did not think this was right. She stated her understanding that Council Member Coombs got pressure from the community but she felt strongly that collaboration with the business community could be realized. She stated she could not support the item for those reasons. She noted there was a narrative from some of the speakers that those with businesses were wealthy and she disagreed with that.

Council Member Berzins expressed appreciation to all those who spoke on the item. She stated the public call-in system was a terrible process that needed to be fixed because it made City Council look really bad in the community's eyes. She stated some of the testimony moved her and discussed her husband's experience coming to America as an immigrant, noting he did not expect it to be easy but rather expected to work hard and he did. She disagreed with those who

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stated anyone with a business was rich. She stated she was unsure who was behind all of these ordinances but thanked all those who wanted a higher wage, noting she understood their concerns as she and her husband both have worked low-paying jobs. She noted she also saw the business side of the issue. She suggested Council Members Coombs and Marcano and those council members who supported the item should realize that there were unintended consequences when passing these items such as people losing their jobs because businesses went under which also resulted in them losing their health insurance so they lost more than their jobs. She stated instead Council needed to help businesses any way possible to get through COVID and to stay in business. She stated she questioned some things in the item and noted working minimum wage was a tough way to make a living but it was not a lifetime job but rather was a steppingstone to something else.

Council Member Marcano expressed appreciation to everyone who called in to speak on the item. He stated it was important for policymakers to not just consider the data which supported the measure but also the realistic experiences of people who were ignored, taken advantage of, dismissed and betrayed on a regular basis. He expressed appreciation to those workers who organized, called in and put pressure on Council particularly given the economic circumstances. He addressed his colleagues, noting empathy did not pay the bills and pointed out Council had the opportunity to help 30k people, and it sounded like that was not going to happen. He echoed Council Member Gruber's comments that there was an election next year and people could make sure that did not happen again.

Mayor Pro Tem Johnston pointed that while there were strong opinions on timing, the fact is Council Member Coombs worked really hard to address many of the concerns that arose including her own. She confirmed the item was different than the first proposal and stated her support for a minimum wage increase. She noted that might not be what it took to pass it but she wanted to be sure and share that information.

Council Member Hiltz agreed there was misinformation related to the item and that everyone was somewhat frustrated with the process overall but noted that was separate from Council doing what was needed to help workers. She discussed her previous hesitation on the item, noting it related to the need for further information on the \$17/hr. amendment. She stated her support for the item.

Council Member Murillo stated she had a heavy heart and was disappointed because she felt the item would not pass. She expressed appreciation to everyone who called in to speak whether they were in support or not because it was important for Council to hear testimony. She stated there was a lot of relief and aid coming forward as a response to the hardships caused by COVID but she did not feel that workers were prioritized. She stated she often saw the minimum wage workers bear the brunt of impacts when it came to big changes such as this and she was disappointed that Council has gotten away from the value of people and workers who deserved a livable wage. She stated she was frustrated to hear the posturing around supporting wages for police and fire departments because they were not high enough compared to Denver but doing so for working wage earners was not the same. She stated that was lopsided and disappointing. She stated it was interesting that she has not heard any proposed amendments in the conversation and there was a narrative that was embedded with false information around how quickly the minimum wage would be increased and that was a classic tactic that has been seen on Council before. She stated people spread misinformation to confuse people when an item was controversial, which led to the inability to have a conversation around merit and in the end, it was the community that lost out. She stated she has known Council Member Coombs to be a staunch advocate but not unreasonable and she knew Council Member Coombs has been working with groups in this regard. She stated she was able to gain additional colleague support because of her

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pursuit and process and she would have loved to see the item move forward. She stated the third round of small business grants would be discussed and noted it was narrow to think that this alone was the only way to support the economy and it did not take in the full scope of possibilities on how to support small businesses while providing balanced relief to the community.

Council Member Coombs stated her disappointment that the City's working people would have to wait a full year before they could realize any relief when the City's businesses would not. She noted the City had a program that would give City businesses relief and there was a new one Council was considering that would provide more. She stated the result would be more homelessness and suggested everyone be prepared to receive more calls about encampments and people living in their cars and RVs because they would not have another choice. She noted Council talked about wanting to give people a hand up rather than a handout and that was what real meaningful wages were; a hand up. She stated her disappointment that Council did not think workers should have a hand up now and should wait until the pandemic was over. She pointed out meanwhile, Council addressed other issues that were not controversial but workers had to wait.

Council Member Murillo stated there was someone in the queue who wanted to speak to Council.

Mayor Coffman asked staff if there was someone in the queue. Ms. Barkman answered no.

Council Member Bergan pointed out Council was doing a lot to help vulnerable residents, noting they just approved a \$3.8M grant package that would help many different organizations. She noted grants were also provided earlier in the year.

*VOTE ON ORIGINAL MOTION*

Voting Aye: Coombs, Hiltz, Johnston, Marcano, Murillo

Voting Nay: Mayor Coffman, Bergan, Berzins, Gardner, Gruber, Lawson

- ◆ e. **Temporary Cap on Third Party Food Delivery Fees**  
**2020-64** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 26 ADDING ARTICLE III REFERRED TO AS TEMPORARY CAPS ON FEES FOR FOOD DELIVERY AND OTHER RELATED MATTER (***This item also appears on the 11/2 Regular Meeting***)  
**Presenter:** Vaughn, Trevor - Manager Of Tax And Licensing

Motion by Gardner, second by Lawson, to introduce item 13e.

Susan Barkman, Interim City Clerk, introduced a speaker from the call-in line.

Council Member Bergan stated she would not typically be in favor of interfering with the free market however given the pandemic capacity restrictions set forth by Tri-County Health and the governor, she would support the item because it had an expiration timeframe.

Council Member Marcano stated there was a lot he liked about the item, noting one of those related to helping the City's lower volume businesses be on a more equal footing to those that had larger representations and relationships with the delivery services. He further noted the abject hypocrisy of using the government to help small businesses but not workers. He stated that hypocrisy would not prohibit him from supporting the item because he felt it was important for

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Council to help businesses and workers. He stated that, while he was disappointed with how the previous vote went, he wanted to demonstrate that Council could actually do both in the City.

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

14. **FINALIZING OF ORDINANCES**

◆ a. **Proposed Dangerous Dog Ordinance and Revisions to Chapter 14 of the Aurora Municipal Code**

**2020-55** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 14 OF THE CITY CODE PERTAINING TO ANIMAL THE AURORA ANIMAL SERVICES DIVISION

**Presenter:** Anthony Youngblood, Manager of Animal Services

**Attorney:** Tim Joyce, Assistant City Attorney

Motion by Hiltz, second by Coombs, to approve item 14a.

Council Member Gruber stated he would not support the item. He stated that while it was far improved from the initial proposal, he did not think it was a good idea to have an extra set of predators such as the 'community cats' working in a Colorado environment.

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

Voting Nay: Gruber

◆ b. **Requiring Permission on Procurements from Certain State and Federal Programs**

**2020-56** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTION 2-72 OF THE CITY CODE PERTAINING TO AUTHO TO REQUEST PROCUREMENTS FROM CERTAIN STATE AND FEDERAL PROGRAMS.

**Presenter:** Venegas, Roberto - Deputy City Manager – General Management

**Attorney:** Nancy Rodgers, Deputy City Attorney

**Sponsor:** Council Member Gardner

Motion by Gruber, second by Bergan, to approve item 14b.

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

c. **Introduction of an ordinance to change Sec. 2-667(f) Disqualified vendor or contractor**

**2020-57** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTION 2-667(f) OF THE CITY CODE PERTAINING TO DISQUALIFIED VENDORS OR CONTRACTORS.

**Presenter:** Fillinger, Bryn - Mgr Of Purchasing & Contracts

**Attorney:** Lathers, David, Senior Asst City Attorney

Motion by Bergan, second by Berzins, to approve item 14c.

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

d. **FINANCING OF ELECTORAL CAMPAIGNS**

**2020-58** Consideration of AN ORDINANCE FOR INTRODUCTION of the City of Aurora, Colorado, repealing and replacing Section 54-2 and Sections 54-101 to 54-110 of the City code related to the Financing of Electoral Campaigns.

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**Sponsor:** Mayor Pro Tem Johnston and Council Member Marcano  
**Attorney:** Lathers, David, Senior Asst City Attorney

Motion by Marcano, second by Johnston, to approve item 14d.

Mayor Coffman deferred to Council Member Lawson to manage discussion on item 14d. He then addressed Council Member Marcano, noting his claim in study session that the disclosure provisions were consistent with that in federal law was incorrect. He read the law aloud from the Election Commission website and asked Council Member Marcano why he thought it was consistent with federal law. Council Member Marcano agreed he misspoke, noting Boulder had that provision on their literature and digital ads, not federal law. He apologized for getting that part wrong and noted it was consistent with something that was already done in the state. Mayor Coffman reiterated Council Member Marcano's comments that it was consistent with state and federal laws were inaccurate. He pointed out a compelling speech was just as much a First Amendment problem as censoring it because it was one thing to require people to disclose their donors but another to compel them to broadcast their donors' names on every single communication and ad. He referenced National Association for the Advancement of Colored People (NAACP) v. Alabama and asked Council Member Marcano if he was concerned with the harassment those five names might take on a controversial issue and if the intent was to intimidate them. Council Member Marcano stated if the concern was someone might sue over this, he agreed that might happen and pointed out this was not something that went above and beyond what was already in place. He stated the original drafter of the item, along with the partners brought in, did their best to pull best practice this from the state and other localities throughout the country who helped craft the finer details therefore he rejected that comparison and pointed out there was someone in the queue to speak.

Council Member Lawson asked Susan Barkman, Interim City Clerk, to introduce the speakers. Ms. Barkman did so.

Mayor Pro Tem Johnston echoed Council Member Marcano's sentiments and addressed the comments that they were not recognizing non-people or corporations as people or donors. She noted many business owners who were residents and voters who participated in the political process were welcome to donate or not as there was nothing to preclude them from doing so.

Council Member Gruber stated the overall bill had problems and discussed a few such as the violation of Citizens United and that the bill was advertised as an Aurora bill when it was a progressive bill that was sponsored by organizations outside of Aurora. He listed the outside organizations that promoted the bill and noted it was funded by Act Blue. He stated it was absurd to state this was a nonpartisan bill for a nonpartisan council in a nonpartisan city and he would not support it.

Council Member Marcano pointed out Council Member Gruber's comments were another example of a 'Gish Gallop,' which was a string of uninterrupted arguments that were almost impossible to rebut. He confirmed Act Blue was like PayPal. He stated they processed payments therefore to state they were funding the item was preposterous. He confirmed Dale Nichols wrote the bill, noting the Secretary of State was exceptionally well-versed in this topic as it was a passion of his. He addressed Council Member Gruber and stated he needed to stop lying at some point.

Mayor Pro Tem Johnston stated this was initiated by an Aurora constituent and those organizations that supported the item were statewide with members in Aurora. She stated the item was non-

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partisan and not political. She stated neither was it a progressive thing, noting there were people from all different political outlooks wanting this reform.

Council Member Gruber reiterated this was a partisan bill and those organizations who supported it were Democratic and progressive-leaning organizations. He agreed Act Blue was a payment system but noted the difference between it and PayPal was that anyone could use PayPal and Act Blue was only used by those whose items were approved by Act Blue. He noted they used dark money and were purely Democratic.

Council Member Gardner stated his biggest concern with the item was that the drafters picked and chose what they liked at the state and federal level and now there appeared to be a requirement of the top five donors on every advertisement. He stated they have created something that was much more complicated at a state level than a federal level. He stated he would support the item in the interest of transparency but noted he was grateful he did not have to run next year and figure out how to add the names of his top five donors to every single advertisement because that was ridiculous. He expressed his hope that a new council in the future would clean this up.

Council Member Marcano stated one of the groups called out by Council Member Gruber was actually founded by Republicans.

#### *AMENDMENT I*

Motion by Mayor Coffman, second by Gruber, to strike the provision in item 14d related to the top five donor disclosure requirement.

Mayor Coffman stated it was an onerous requirement that was done solely for the purpose of having a chilling effect on speech.

Council Member Bergan asked if listing requirement for the five top donors included unions. Council Member Marcano answered affirmatively.

Mayor Coffman stated it was five individuals.

Council Member Coombs asked if the small donor committees were required to have a list of all their donors therefore an individual would still have to be listed. Mayor Coffman stated this was a disclosure requirement that had to go on every single communication and not simply on the report that was filed with the Clerk.

Council Member Marcano reiterated the requirement was not new, noting he saw a digital Facebook ad out of Boulder that displayed the candidate's name, what they were running for and who paid for the ad. He stated it was not a difficult thing to do.

Mayor Pro Tem Johnston added One Aurora did a hit piece on several council members and the public deserved to know where that came from therefore the intent was transparency. She pointed out most council members did not have the privilege of knowing that it ran into a commercial because they were unable to have tv commercials.

Council Member Bergan stated her understanding that five individual donors had to be listed on any ad whether it was a commercial, direct mail or radio.

Mayor Coffman concurred.

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Council Member Bergan stated she was uncertain how that would fit on a page, noting it was difficult enough to get anything on a direct mail piece as it was so that meant candidates would have to get larger pieces which cost more money. She pointed out donors have been disclosed so anyone could look up who has donated to which campaign especially considering the increased number of reporting dates that have been added. She stated she did not understand why it had to be disclosed on the ad as well as the report.

Council Member Hiltz stated she did not understand the controversy around people sharing where the money came from during a campaign, noting it should not be such a big secret. She stated this was why people hated politics because people lie and did not want to tell people where their money came from. She stated it was not just transparency to the voters but providing that information just seemed so easy as it was basic common sense. She agreed it was inconvenient and not fun but she did not understand why five things could not be added to a mailer.

Council Member Berzins asked if the requirement included yard signs and how she should choose five out of a hundred donors. Council Member Marcano stated the requirement was five so based off the language a candidate would choose five.

Mayor Pro Tem Johnston referenced p. 980, Section 54-104.5, which stated the five-person rule was connected to independent expenditures or election communication.

Council Member Bergan echoed Council Member Berzins question related to how the donors would be put on the advertisement for a candidate being topped out at \$400 when there could be 20 people who donated the same amount. Council Member Marcano pointed out that was not for candidate committees. Council Member Bergan stated she supported campaign finance reform, noting her support of Mayor Coffman's item that failed. She stated this item was very complicated and complex with too many pages for a candidate to figure out the rules in the hope of not getting fined. She addressed a statement made earlier about quid pro quo when businesses made donations, noting she received a lot of donations from businesses because they probably saw her as a pro-small businessperson and it was all disclosed on her reports. She pointed out that was their right to do so and she did not owe them a thing. She stated she has never gotten a favor for a donation or sold her soul for a vote.

Mayor Pro Tem Johnston maintained these were conservative business owners that she spoke with, noting she too has accepted donations from business owners. She addressed Council Member Bergan and stated she knew Council Member Bergan had integrity. She pointed out the business owners told her they felt they had to give a lot of money in the Aurora races to be relevant. She stated she was repeating their sentiment and certainly not stating that it applied to Council Member Bergan. She confirmed the requirement applied to independent expenditure committees and while it took a while to find an answer in the ordinance, the answer was in there.

#### *VOTE ON AMENDMENT I*

Voting Aye: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Voting Nay: Coombs, Hiltz, Johnston, Lawson, Marcano, Murillo

#### *AMENDMENT II*

Motion by Marcano, second by Johnston, to amend item 14d in Section b, 1 and 2, to change five 'persons' to five 'donors' so that it would capture artificial persons as well.

- ◆ ***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 Johnston asked staff if the Mayor could vote on amendments to an ordinance.

Daniel Brotzman, City Attorney, answered affirmatively, noting the Mayor could vote on procedural motions such as an amendment.

Council Member Berzins stated she did not understand and asked if the ad could list five different companies. Council Member Marcano answered affirmatively. He stated it could be a person if they were big donors so changing 'persons' to 'donors' would capture whoever gave whether it was a natural or artificial person.

Council Member Coombs stated the City could not prevent individual expenditure committees from taking monies from companies because the City could not regulate that.

Council Member Berzins stated they would be the ones printing and placing the ads so that was on them because the candidates would not know what they were doing.

Mayor Coffman offered a friendly amendment to reduce the number from five to three which was in the original draft.

Council Member Marcano stated his preference to keep it to five because providing information more readily for people was the intention.

#### *VOTE ON AMENDMENT II*

Voting Aye: Coombs, Hiltz, Johnston, Lawson, Marcano, Murillo

Voting Nay: Bergan, Berzins, Gardner, Gruber

#### *AMENDMENT III*

Motion by Mayor Coffman, second by Gruber, to amend item 14d to reduce the number of donors to be disclosed for independent expenditures from five to three.

Mayor Coffman felt five was for the purposes of having a chilling effect on the First Amendment.

Mayor Pro Tem Johnston pointed out this related to independent expenditures and if there was a concern of transparency and noted, while there might be a chilling effect, it was a problem when people did not want others to know what they were doing. She reiterated this was in every single type of advertisement that the candidate did and noted many times, it was not three but was five groups or more who were pooling their resources in an attempt to make a big impact on a campaign and she believed the public needed to know who they were.

#### *VOTE ON AMENDMENT III*

Voting Aye: Mayor Coffman, Bergan, Berzins, Gruber

Voting Nay: Coombs, Gardner, Hiltz, Johnston, Lawson, Marcano, Murillo

#### *AMENDMENT IV*

- ◆ ***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.***

Motion by Mayor Coffman, second by Gruber, to amend item 14d to strike the provision that a candidate could not be involved in other campaigns or committees.

Mayor Coffman stated that was a First Amendment violation.

Council Member Marcano pointed out the intention was to avoid the appearance of impropriety and to make it more difficult to coordinate in violation of laws therefore it was not a chilling effect on the First Amendment. He stated there were those who worked on this that were very experienced and if it were a violation then they would have flagged it so he felt confident that it was not.

Council Member Gruber asked if it was the City's attorneys or progressive attorneys with the underlying sponsors of the bill who were the experts in this regard. Council Member Marcano stated it was the attorneys hired by the conservative outfit that was attempting to chase corruption out of elections nationwide. Council Member Gruber pointed out just because Council Member Marcano stated something was conservative did not make it true.

Mayor Pro Tem Johnston stated both the City Attorney's Office and Common Cause were used, noting they both had the subject matter expertise and both were consistent.

Mayor Coffman asked what other jurisdiction had this provision.

Council Member Marcano and Mayor Pro Tem Johnston were uncertain at this time.

Mayor Coffman stated his belief that it was unique to this particular campaign finance reform and that it targeted him directly and was written for that purpose.

Mayor Pro Tem Johnston clarified this was a best practice and she did not think it was right for candidates to have their hands in many different areas with issue committees, especially independent expenditure committees, running races. She reiterated this was the strongest in the state of Colorado and probably one of the strongest in the country so there would be areas that were really being tightened down.

Mayor Coffman noted such as the First Amendment.

Mayor Pro Tem Johnston stated the real root of it was the chilling effect on dark money.

Mayor Coffman stated the provision stated he could not be involved in an issue committee for something that was going to be before the voters even in a year that he was not running simply because he had an active campaign account.

Mayor Pro Tem Johnston stated it was inappropriate to have coordination between campaigns and this was an attempt to simplify what the candidates were doing for the voters.

Mayor Coffman stated his understanding that it was about speech they liked versus speech they did not and he believed that was a direct assault on the First Amendment. He stated his understanding that did not matter to the sponsors.

Council Member Bergan stated one could not be a treasurer on someone else's political campaign and asked if that meant ever or just when they were running in the same cycle. Mayor Pro Tem Johnston stated same cycle.

Mayor Coffman pointed out that was not the way it was written.

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Mayor Pro Tem Johnston stated she was looking up the information.

Council Member Gruber concurred with Mayor Coffman.

Council Member Berzins stated her understanding that those with a campaign account or who were a candidate could not participate in anything that was on the ballot and asked how far the item went. Council Member Marcano stated a candidate or council member with a campaign account could not participate in two simultaneous municipal campaigns. He addressed Council Member Bergan's question and answered no, noting serving on two different campaign committees was prohibited under the same clause.

Council Member Bergan asked if that were so during the same exact election cycle.

Council Member Marcano asked staff to speak to that question.

Dave Lathers, Senior Assistant City Attorney, referenced Section 54-103, p. 12 of the ordinance and p. 975 of the backup material and asked if the discussion was directed at the operative clause in subsection 8, which stated 'a candidate may not organize, maintain, or control or serve as an officer or treasurer of a political committee or issue committee.'

Council Member Bergan answered affirmatively, noting it stated, 'at any time.'

Mr. Lather confirmed it did state 'more than one candidate committee at any time' which read 'inclusive of all issues if there was a current candidate committee.' He noted it was open to interpretation and could be clarified potentially.

Council Member Gruber asked staff if there was any language in the provision that related to participating in a municipal, state, or federal election. Mr. Lathers answered no. Council Member Gruber stated that was because it was an encompassing statement rather than a limiting statement, noting it implied that it was not restricted to a municipal election because there was not any restrictive language.

Mr. Lather agreed it was broadly inclusive as it was currently written.

Mayor Pro Tem Johnston pointed out it was stated in the beginning of the ordinance that this applied to City of Aurora municipal elections.

Mr. Lathers agreed that was the presumption throughout the drafting of the item but stated it could be made clearer.

Mayor Pro Tem Johnston expressed concerns that if municipal were added to this section then it would have to be added throughout the bill and she stated her preference that it state City of Aurora Municipal Elections Code at the beginning without the reminders throughout.

Mr. Lathers pointed out the discussion on the issue helped clarify the intent for when one was reviewing the legislative history of the item in an attempt to interpret it.

Council Member Berzins stated what the discussion showed her was there was just too much stuff in the ordinance if the sponsors and City Attorney's office struggled with finding answers. She noted since a candidate or council member with a campaign account could not help another campaign that meant they could not help a candidate either.

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Council Member Marcano disagreed.

Council Member Berzins stated she was hearing that it was.

Mayor Pro Tem Johnston pointed out Council Member Marcano literally read about how they could not be a treasurer or officer but that they still had their First Amendment rights so it was very clearly stated.

Council Member Berzins disagreed.

Council Member Bergan asked whether resources could be combined for distribution of literature on different campaigns. Council Member Marcano stated that was protected in part of the ordinance where it was stated that nothing could be interpreted to basically kill freedom of speech, opinions or advocacy because it was framed around campaign finance.

*VOTE ON AMENDMENT IV*

Voting Aye: Mayor Coffman, Bergan, Berzins, Gardner, Gruber

Voting Nay: Coombs, Hiltz, Johnston, Lawson, Marcano, Murillo

*VOTE ON ORIGINAL MOTION AS AMENDED*

Voting Aye: Coombs, Gardner, Hiltz, Johnston, Lawson, Marcano, Murillo

Voting Nay: Bergan, Berzins, Gruber

Council Member Murillo requested the speaker in the queue be allowed to speak.

Mayor Coffman stated hearing no objections, he requested Ms. Barkman introduce the speaker. Ms. Barkman did do.

15. **PLANNING MATTERS**

None

16. **ANNEXATIONS**

None

17. **RECONSIDERATIONS AND CALL UPS**

- a. **RECONSIDERATION OF RESOLUTION 2020-22 – Review of the powers granted to the City Manager by Resolution 2020-22.** The powers granted to the City Manager which are set forth in the Disaster Declaration shall remain in place until a majority of Council votes to end the Declaration.

**Attorney:** Evans, Isabelle, Assistant City Attorney II Civil

Motion by Gruber, second by Murillo, to approve item 17a.

Voting Aye: Mayor Coffman, Bergan, Berzins, Coombs, Gardner, Gruber, Hiltz, Johnston, 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.*

18. **GENERAL BUSINESS**

- a. **Appoint one (1) member to Aurora Fox Arts Center Board.**  
Consideration to appoint one (1) member to the Aurora Fox Arts Center Board  
**Presenter:** Barkman, Susan - Interim City Clerk  
**Attorney:** Lathers, David, Senior Asst City Attorney

Motion by Marcano, second by Coombs, to appoint Thomas Tharpening III, to the Aurora Fox Arts Center Board.

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

- b. **Consideration to appoint one (1) member and to reappoint two (2) members to the Public Defenders Commission**  
Consideration to appoint one (1) member and to reappoint two (2) members to the Public Defenders Commission  
**Presenter:** Barkman, Susan - Interim City Clerk  
**Attorney:** Lathers, David, Senior Asst City Attorney

Motion by Bergan, second by Berzins, to appoint Sarah Hillabrandt and reappoint Tom Ashburn and Tom Tobiassen to the Public Defenders Commission.

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

19. **REPORTS**

- a. Report by the Mayor

No report.

- b. Reports by Council

Council Member Murillo reminded everyone it was election day, provided voting details and encouraged everyone to vote.

Mayor Pro Tem Johnston announced the upcoming Metro District Town Hall hosted by the City scheduled for Thursday, November 4, 2020 at 6:30 p.m.

Council Member Coombs reminded everyone to vote and expressed her hope that someone would be elected who would do something for the working poor.

Council Member Bergan announced the appointment of Danielle Jerinski to the Citizens Advisory Budget Committee and noted the Ward VI Town Hall was scheduled for November 18, 2020 from 6:00 p.m. to 8:00 p.m. where a Public Works presentation on roads would be provided.

20. **PUBLIC INVITED TO BE HEARD**

None

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21. **ADJOURNMENT**

Mayor Coffman adjourned the regular meeting of City Council at 1:29 a.m.

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MIKE COFFMAN, MAYOR

ATTEST:

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♦ *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.*



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Consideration to APPROVE A PROFESSIONAL SERVICES AGREEMENT IN THE AMOUNT OF \$112,000 IN 2021 between the city of Aurora, and Aurora Sister Cities International

**Item Initiator:** Minsoo Song, Administrative Specialist

**Staff Source:** Ricardo Gambetta, Manager of the Office of International and Immigrant Affairs

**Legal Source:** Daniel Brotzman, City Attorney

**Outside Speaker:** Karlyn Shorb, Executive Director, Aurora Sister Cities International

**Council Goal:** 2012: 2.0--Serve as leaders and partners with other governments and jurisdictions

### COUNCIL MEETING DATES:

**Study Session:** 11/16/2020

**Regular Meeting:** 11/16/2020

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

- |  |  |
|--|--|
| <input type="checkbox"/> Approve Item as proposed at Study Session                   | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item as proposed at Regular Meeting                 | <input type="checkbox"/> Information Only                            |

### 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          |

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

In the spring of 2013, the city established an Aurora Sister Cities Advisory Board to make recommendations to the city regarding the reestablishment of a sister cities program. In September of 2013, the Advisory Board recommended that an independent, non-profit corporation be reestablished for the purpose of operating a sister cities program for the benefit of the city. In accordance with that recommendation, Aurora Sister Cities International was reestablished in March, 2014, as a tax exempt, non-profit organization with an executive director and the support and participation of various community partners.

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

Aurora Sister Cities International is an independent, non-profit dedicated to developing and promoting global partnerships for the city, including increased opportunities for international collaboration, educational exchange, community partnerships, and cooperation among the government, business, and citizenship of Aurora, Colorado. As part of the attached Agreement, the city will make a contribution of \$112,000 in 2021 to assist in furthering the international efforts of Aurora Sister Cities International. The city's 2021 Professional Services Agreement Draft with Aurora Sister Cities is attached as a reference.

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**QUESTIONS FOR COUNCIL**

Does City Council approve the 2021 Professional Services Agreement between the city of Aurora and Aurora Sister Cities International?

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**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 (City Code § 2-674(10)). (Lathers)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** The city has included \$112,000 in the 2021 budget for Aurora Sister Cities International. The budget is located in General Management, within the Office of International & Immigrant Affairs.

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** n/a





**TO:** City of Aurora City Council & City of Aurora Management

**FROM:** Karlyn K. Shorb, Aurora Sister Cities International

**DATE:** July 15, 2020

**RE:** 2020 First & Second Quarter Report

### **First Quarter (January 1-March 30) 2020**

- In January, the ASCI Board voted on strategic goals for 2020 and determined to continue focusing on strengthening the City Committees and recruiting new board members, as well as to continue growing fundraising efforts and successes. An additional goal of improving ASCI's community visibility was also added to the Board's goals for 2020. From January to mid-March, ASCI staff and Board met their stated goals, achieving a record first quarter of fundraising and outreach. ASCI increased its institutional membership dollars from \$15,000 to \$20,000 and also more than doubled proceeds from the Annual Winter Fundraiser. Committee outreach and recruitment also significantly increased, as well as planned Committee fundraisers.
- ASCI hosted its second annual Winter Celebration and Fundraiser on February 28, 2020. Net proceeds from the event totaled over \$14,515.00. Value of in-kind donations totaled \$8,148.00 and included food donations, beverage donations (alcohol including wine, sake and soju), decorating services, hotel stays, airport parking, global wines, restaurant gift certificates, sports apparel, Nuggets tickets with free parking, books, soaps, lotions and other beauty products, car washes, electronics, and membership to the Denver Botanic Gardens. 25 volunteers gave 95.5 hours of their time to support the event and their contributions included event set-up and break-down, bartending, check-in and registration, pre-event logistics help, re-stocking, and A/V assistance. Each hour of a volunteer's time is calculated at a rate of \$27.20 per hour based on studies conducted by Independent Sector, a nonprofit policy organization. As such, volunteers committed \$2,597.60 in time to support ASCI's Winter Celebration and Fundraiser. (Source: <https://independentsector.org/resource/the-value-of-volunteer-time/>).
- Since January 2020, ASCI has received the following grants in support of its general operating expenses and *Global Youth Leaders* program: \$3,500 from the Aurora Rotary Foundation; \$500 from the Gilbert Fund; and \$250 from Wal-Mart. ASCI is also registered with Facebook's nonprofit giving site, Network for Good, AmazonSmile, the city of Aurora employee giving campaign, Community Shares of Colorado, JustGiving, and King Soopers Community Rewards. ASCI applied, but was turned down for an additional 4 grants and awaits responses for two additional grants submitted to the Denver Foundation and the IMA Foundation. ASCI received a \$3,000 grant pledge for 2020 from the Korean Seniors Association to support student travel scholarships to Korea, as well as a \$5,000 grant pledge from the Takeda-Tinker Trust to be paid upon securement of a sister city relationship in Japan.
- Since January 2020, ASCI has recruited 2 new board members. Paul Rosenthal and Katrice Traylor have both joined the Board in 2020. Their bios can be found on our website at: <https://aurorasistercities.org/contact-us/>. ASCI's board has also nominated the following new Committee Chairs: Yemane Woldesilassie, Ethiopia Committee Chair.

- In January and February of 2020, CEO Karlyn Shorb also worked with Committee Chairs to schedule regular monthly meetings and the Board voted in a 2020 City Committee Chair for the Adama Committee. All city committees are now staffed by volunteer City Committee Chairs and hold regularly scheduled meetings (either on a monthly or quarterly basis) and all meetings are posted online on ASCI's website. The Board has also created new and more explicit guidelines for Committee Chairs to follow to help maintain communication standards with the Board, as well as continuing to honor ASCI's role as a community-based, nonpartisan and peacebuilding organization.
- **Central America (Jaco & Antigua Cuscatlán) Committee:** Between January and March of 2020, the Central America Committee worked on planning and fundraising for our youth trip to Costa Rica and our Mayor/ Council trip to Costa Rica to sign a renewed friendship agreement with our sister city of Jaco. 14 Costa Rica trip youth participants began attending monthly Saturday preparation and acculturation workshops. The students also participated in a number of fundraising drives to raise money for their trips, including Coffee4ACause, a collaboration between ASCI and Logan House Coffee. <https://aurorasistercities.org/coffee/>. Planning continued for the Mayor/ Council trip and Mayor Coffman and Council Member Marcano confirmed their participation in the 4-day trip and signing ceremony. Unfortunately, due to the COVID-19 crisis, all ASCI travel activities have been halted in 2020. All meetings have been moved to virtual. However, student fundraising activities are continuing as we move the Costa Rica trip to 2021.
- **Ethiopia (Adama) Committee:** Between January and March of 2020, a new Committee Chair was nominated and elected. Previous Committee Chair (2014-2018) Yemane Woldesilassie was re-instated after a 2-year pause. Mr. Woldesilassie began hosting regular committee meetings and also recruited a number of new and previous committee members. Unfortunately, due to the COVID-19 crisis, the committee has halted meetings since May. However, a major accomplishment of the committee since January is creation of the Aurora-Adama COVID-19 Relief Fund which has raised nearly \$1,000 so far to support our sister city in Ethiopia as they too struggle through the pandemic. <https://charity.gofundme.com/o/en/campaign/adama-ethiopia-covid-19-relief-fund>. Virtual meetings are being planned so that the Committee can continue its work.
- **Japan Committee:** Between January and March of 2020, the Japan Committee proceeded with planning for a youth cultural immersion trip to Japan, as well as to host a number of business visitors from Japan (relationships that resulted from the Fall 2019 trade mission). Unfortunately, due to the COVID-19 crisis, all ASCI travel activities have been halted in 2020. The Japan Committee, therefore, has moved all committee meetings to virtual and will focus on fundraising and event and trip planning for 2021. The Japan committee is incredibly active and motivated and have a number of cultural and fundraising activities planned, including a Mochi-pounding class, VIP events, a membership drive and rescheduling of the long-anticipated Luau fundraiser. The committee aims to send another small group to Tsuruoka City (the committee's proposed sister city) in 2021 to include our Mayor and perhaps City Council members.
- **Korea (Seongnam) Committee:** Planning in the new year began with the intent of inviting members of the Seongnam City Trade & Exchange team to Aurora for Global Fest and also with the intent of sending a small delegation to Seongnam City, specifically to introduce our new Mayor to the Mayor of Seongnam City. Unfortunately, due to the COVID-19 crisis, all ASCI travel activities have been halted in 2020. All meetings have been moved to virtual and the K-Committee has focused its efforts on supporting our local community, as well as to maintain active and ongoing

communication with our Korean partners in the virtual realm. Thanks to the efforts of the Korea Committee, ASCI was able to launch the Food Kitchen Collective (FKC), a program aimed at supporting small businesses while giving back to individuals and families in need. See [www.foodkitchencollective.com](http://www.foodkitchencollective.com). The initiative began when a group of committee members collaborated with two Korean-owned grocers, H-Mart and M-Mart, and received a large amount of food and PPE donations. The effort grew into the FKC and on July 15<sup>th</sup>, ASCI successfully launched a kick-off food drive, giving away more than 1000 bags/ boxes of culturally appropriate food to over 600 families in need. See more below. Planning for 2021 activities continues.

- **Global Youth Leaders:** From January to February 2020, 13 youth participated in 65 hours of community service.

#### **April 1-July 15, 2020 (Second Quarter)**

- Unfortunately, by second quarter, the COVID-19 crisis hit and all travel activities, as well as in-person events and fundraisers, have been postponed indefinitely and until the organization can ensure the safety of youth and adult participants. In a time of “stay-at-home” and “safer-at-home” guidelines, the organization has had to pivot in a way that could best help our local community while also staying true to our mission, vision and values. The Board has approved new budget projections for the remainder of the 2020 fiscal year to account for all canceled travel activities, as well as potential loss of funds (and funders). The Board is working on its 2021 budget which anticipates funding cuts from a number of major contributors.
- **Global Youth Leaders:** In our fight against COVID-19, we have offered students 1 virtual service project with 28 students participating and 25 hours of service work. Additionally, 22 ASCI youth and 5 extended family members have committed 123.25 hours of community service in support of local food banks between May 1 and June 30, 2020. From January to February 2020, 13 youth committed an additional 65 hours of service, which totals 188.25 hours of youth community service hours so far in 2020. That values over \$5,000 toward in-kind service to the community! <https://independentsector.org/resource/the-value-of-volunteer-time/>. All summer youth programming was redeveloped into an online program and two cohorts were successfully completed by 23 new Aurora and Centennial youth. Course administrators and our course instructor invested in better virtual technology and created a curriculum to better suit an online learning platform and taking into consideration students’ expressed “virtual burnout.” All travel activities have been canceled for the remainder of 2020, but student fundraising activities continue in support of 2021 exchanges to Costa Rica, Japan and Korea. Resource and program referrals continue and are researched and executed by program staff. So far, staff have contributed almost 50 hours of time toward student resource and program referrals which are generally emailed and texted to our network of over 120 Global Youth Leaders and their families. <https://www.youtube.com/watch?v=cHvT5yRktO0&feature=youtu.be>.
- **Central America (Jaco & Antiguo Cuscatlán) Committee:** Unfortunately, due to the COVID-19 crisis, all ASCI travel activities have been halted in 2020. All meetings have been moved to virtual but planning for rescheduled 2021 travel continues for both adult and youth delegations. However, student fundraising activities are continuing as we move the Costa Rica trip to 2021. <https://aurorasistercities.org/coffee/>.

- **Ethiopia (Adama) Committee:** Unfortunately, due to the COVID-19 crisis, the committee has halted meetings since May. However, a major accomplishment of the committee since January is creation of the Aurora-Adama COVID-19 Relief Fund which has raised nearly \$1,000 so far to support our sister city in Ethiopia as they too struggle through the pandemic.
- **Japan Committee:** Unfortunately, due to the COVID-19 crisis, all ASCI travel activities have been halted in 2020. The Japan Committee, therefore, has moved all committee meetings to virtual and will focus on fundraising and event and trip planning for 2021. The Japan committee is incredibly active and motivated and have a number of cultural and fundraising activities planned, including a Mochi-pounding class, VIP events, a membership drive and rescheduling of the long-anticipated Luau fundraiser. The committee aims to send another small group to Tsuruoka City (the committee’s proposed sister city) in 2021 to include our Mayor and perhaps City Council members.
- **Korea (Seongnam) Committee:** Since March, all K-committee meetings have been moved to virtual and the K-Committee has focused its efforts on supporting our local community, as well as to maintain active and ongoing communication with our Korean partners in the virtual realm. Thanks to the efforts of the Korea Committee, ASCi was able to launch the Food Kitchen Collective (FKC), a program aimed at supporting small businesses while giving back to individuals and families in need. See [www.foodkitchencollective.com](http://www.foodkitchencollective.com). The initiative began when a group of committee members collaborated with two Korean-owned grocers, H-Mart and M-Mart, and received a large amount of food and PPE donations. The effort grew into the FKC and on July 15<sup>th</sup>, ASCI successfully launched a kick-off food drive, giving away more than 1000 bags/ boxes of culturally appropriate food to over 600 families in need. See more below. Planning for 2021 activities continues.
- **Food Kitchen Collective:** Food Kitchen Collective is an initiative to purchase high quality food directly from local small business owners “On Havana Street” and donating it to local families and individuals in need. By doing so, we help our local small businesses thrive; support our friends, families and neighbors in need; and bring needed dollars back into our local economy to grow our community. To kick off this new cooperative, Aurora restaurants, nonprofits, community members and other local small businesses contributed over 1000 bags of food, toiletries and PPE that were distributed to needy individuals and families on July 15 2020 at the Stampede parking lot at 2430 South Havana St., Aurora, CO 80014. The event was a huge success, serving over 600 individuals/ families in just 3 hours. Fundraising and investment dollars are currently being sought to support the new collective. The aim is to purchase meals from small restaurants at a profit and then work with area nonprofits to deliver culturally-appropriate meals directly to families.

### **2020 Leadership Activities**

CEO Karlyn Shorb sits on the following boards and/ or commissions: the Aurora Chamber Diversity and Inclusion Council and the Visit Aurora Board. CEO Karlyn Shorb also participates in the Aurora Rotary Club (Wednesdays at 12:00pm).

### **Additional Information**

- The ASCI Board meets the second Wednesday of every month in the 5<sup>th</sup> floor City Manager’s Office of the Aurora Municipal Center. However, until further notice, meeting will be held via Zoom. For more information contact Board Chair Chris Ward at [chris.ward@ccaaurora.edu](mailto:chris.ward@ccaaurora.edu).
- The Japan Committee meets the first Tuesday of every month and until further notice, meetings will be held via Zoom. All Zoom conferencing information can be found online at ASCI’s website ([www.AuroraSisterCities.org](http://www.AuroraSisterCities.org)). For more information contact Committee Chair Lawton Shinsato at [lshinsato@msn.com](mailto:lshinsato@msn.com).
- The Central America Committee meets the second Monday of every month and until further notice, meetings will be held via Zoom. All Zoom conferencing information can be found online at ASCI’s website ([www.AuroraSisterCities.org](http://www.AuroraSisterCities.org)). For information on the next meeting contact Lorie Beth Jewell at [loriebethjewell@gmail.com](mailto:loriebethjewell@gmail.com).
- The Korea Committee meets the third Thursday of every month at the Law Office of Lee, Myers & O’Connell. However, until further notice, meetings will be held via Zoom. All Zoom conferencing information can be found online at ASCI’s website ([www.AuroraSisterCities.org](http://www.AuroraSisterCities.org)). For information on committee participation and activities, please contact Becky Hogan at [bhedgeconsulting@yahoo.com](mailto:bhedgeconsulting@yahoo.com).

### **List of Our Active Programs**

- City Committees
  - Local Cultural and Educational Events
  - International Sister Cities Exchange Activities
  - Local Community Support during COVID crisis
- Global Youth Leaders
  - Summer Leadership Program
  - Quarterly Service and Career/ College Readiness Workshops
  - Travel/ Exchange Programs to Costa Rica, Japan, Korea
- Student Scholarship Incentives Program
  - Scholarships for Student Travel
- Young Artists, Authors and Filmmakers Showcase
- Adult Best Practices & Business Exchanges
  - Trade Delegations
  - Mayoral Best Practices
  - Employee and Community Best Practices
  - Cultural Immersion Travel to Aurora’s Sister Cities
- Community Calendar
  - Calendar of culturally-relevant events and programs around Aurora
    - <https://aurorasistercities.org/calendar/>



**TO:** City of Aurora City Council & City of Aurora Management

**FROM:** Karlyn K. Shorb, Aurora Sister Cities International

**DATE:** October 7, 2020

**RE:** Third Quarter Report

**First through Third Quarter (January 1-September 30, 2020)**

- Since January 2020, ASCI has received the following grants in support of its general operating expenses and *Global Youth Leaders* program: \$3,500 from the Aurora Rotary Foundation; \$500 from the Gilbert Fund; \$1,250 from Wal-Mart; and \$15,000 from the CoA's AER Grant program. ASCI is also registered with Facebook's nonprofit giving site, Network for Good, AmazonSmile, the city of Aurora employee giving campaign, Community Shares of Colorado, JustGiving, PayPal Giving Fund, and King Soopers Community Rewards. ASCI applied, but was turned down for an additional 5 grants and awaits responses for a grant submitted to the Denver Foundation and a travel grant submitted to SYTA (Student Youth Travel Association). In July, ASCI received a \$3,000 donation from the Korean Seniors Association to support student travel scholarships to Korea. Additionally, ASCI has received a \$5,000 grant pledge from the Takeda-Tinker Trust to be paid upon securement of a sister city relationship in Japan and a \$29,900 PPP loan which we hope will convert to a grant in 2021.
- Before the COVID-19 shut down, ASCI hosted its second annual Winter Celebration and Fundraiser on February 28, 2020. Net proceeds from the event totaled over \$15,000.00. Value of in-kind donations totaled \$8,148.00 and included food donations, beverage donations (alcohol including wine, sake and soju), decorating services, hotel stays, airport parking, global wines, restaurant gift certificates, sports apparel, Nuggets tickets with free parking, books, soaps, lotions and other beauty products, car washes, electronics, and membership to the Denver Botanic Gardens. 25 volunteers gave 95.5 hours of their time to support the event and their contributions included event set-up and break-down, bartending, check-in and registration, pre-event logistics help, restocking, and A/V assistance. Each hour of a volunteer's time is calculated at a rate of \$27.20 per hour based on studies conducted by Independent Sector, a nonprofit policy organization. As such, volunteers committed \$2,597.60 in time to support ASCI's Winter Celebration and Fundraiser. (Source: <https://independentsector.org/resource/the-value-of-volunteer-time/>).
- Individual giving has remained relatively flat in 2020, but during the first Quarter of 2020, ASCI increased its contributions from corporate/ institutional partners from \$15,000 annual to \$20,000 annual. A decrease of this amount is anticipated in 2021 due to the COVID-19 recession.
- **Central America (Jaco & Antiguo Cuscatlán) Committee:** Between January and March of 2020, the Central America Committee worked on planning and fundraising for our youth trip to Costa Rica and our Mayor/ Council trip to Costa Rica to sign a renewed friendship agreement with our sister city of Jaco. 14 Costa Rica trip youth participants began attending monthly Saturday preparation and acculturation workshops. The students also participated in a number of fundraising drives to raise money for their trips, including Coffee4ACause, a collaboration between ASCI and Logan House Coffee. <https://aurorasistercities.org/coffee/>. Planning continued for the Mayor/ Council trip and Mayor Coffman and Council Member Marcano confirmed their participation in the 4-day



trip and signing ceremony. Unfortunately, due to the COVID-19 crisis, all ASCI travel activities have been halted in 2020. All meetings have been moved to virtual. However, student fundraising activities are continuing as we move the Costa Rica trip to 2021. Since July, ASCI has hosted two fundraisers to support student travel to Costa Rica in 2021: a car wash fundraiser and in October we will host an “Around the World in Aurora” drive around scavenger hunt. Additionally, staff have supported students in the preparation and submission of individual scholarship applications and through submission of a group travel grant application. We are still selling our Coffee4ACause- buy coffee at this link and we’ll deliver it to your home or office: <https://aurorasistercities.org/coffee/>.

- **Ethiopia (Adama) Committee:** Between January and March of 2020, a new Committee Chair was nominated and elected. Previous Committee Chair (2014-2018) Yemane Woldesilassie was re-instated after a 2-year pause. Mr. Woldesilassie began hosting regular committee meetings and also recruited a number of new and previous committee members. The Adama Committee partnered with the Denver Sister Cities International Denver-Axum Committee to plan the rescheduled trip to Ethiopia. Unfortunately, due to the COVID-19 crisis, the committee has halted all travel and all meetings since May. However, a major accomplishment of the committee since January is creation of the Aurora-Adama COVID-19 Relief Fund which has raised nearly \$1,000 so far to support our sister city in Ethiopia as they too struggle through the pandemic. <https://charity.gofundme.com/o/en/campaign/adama-ethiopia-covid-19-relief-fund>. Additionally, virtual meetings have begun and the Committee is in the process of creating a strategic plan for 2021 and beyond. Goals include raising funds to build a community resource center in Adama, as well as facilitating learning opportunities for City of Adama professionals.
- **Japan Committee:** Between January and March of 2020, the Japan Committee proceeded with planning for a youth cultural immersion trip to Japan, as well as to host a number of business visitors from Japan (relationships that resulted from the Fall 2019 trade mission). Unfortunately, due to the COVID-19 crisis, all ASCI travel activities have been halted in 2020. The Japan Committee, therefore, has moved all committee meetings to virtual and will focus on fundraising and event and trip planning for 2021. The Japan committee is incredibly active and motivated and have a number of cultural and fundraising activities planned, including a Mochi-pounding class, VIP events, a membership drive and rescheduling of the long-anticipated Luau fundraiser. The committee aims to send another small group to Tsuruoka City (the committee’s proposed sister city) in 2021 to include our Mayor and perhaps City Council members.
- **Korea (Seongnam) Committee:** Planning in the new year began with the intent of inviting members of the Seongnam City Trade & Exchange team to Aurora for Global Fest and also with the intent of sending a small delegation to Seongnam City, specifically to introduce our new Mayor to the Mayor of Seongnam City. Unfortunately, due to the COVID-19 crisis, all ASCI travel activities have been halted in 2020. All meetings have been moved to virtual and the K-Committee has focused its efforts on supporting our local community, as well as to maintain active and ongoing communication with our Korean partners in the virtual realm. Thanks to the efforts of the Korea Committee, ASCI was able to launch the Food Kitchen Collective (FKC), a program aimed at supporting small businesses while giving back to individuals and families in need. See [www.foodkitchencollective.com](http://www.foodkitchencollective.com). The initiative began when a group of committee members collaborated with two Korean-owned grocers, H-Mart and M-Mart, and received a large amount of food and PPE donations. The effort grew into the FKC and on July 15<sup>th</sup>, ASCI successfully launched a kick-off food drive, giving away more than 1000 bags/ boxes of culturally appropriate food to over

600 families in need. See more below. Planning for 2021 activities continues and during the fourth quarter of 2020 the K-Committee aims to support grassroots efforts focused on branding Aurora Korean businesses as “Korea Town Aurora.”

- **Food Kitchen Collective:** Food Kitchen Collective is an initiative to purchase high quality food directly from local small business owners “On Havana Street” and donating it to local families and individuals in need. By doing so, we help our local small businesses thrive; support our friends, families and neighbors in need; and bring needed dollars back into our local economy to grow our community. To kick off this new cooperative, Aurora restaurants, nonprofits, community members and other local small businesses contributed over 1000 bags of food, toiletries and PPE that were distributed to needy individuals and families on July 15 2020 at the Stampede parking lot at 2430 South Havana St., Aurora, CO 80014. The event was a huge success, serving over 600 individuals/ families in just 3 hours. Fundraising and investment dollars are currently being sought to support the new collective. The aim is to purchase meals from small restaurants at a profit and then work with area nonprofits to deliver culturally-appropriate meals directly to families.
  
- **Global Youth Leaders:**
  - From January to February 2020, 13 youth participated in 65 hours of community service. In our fight against COVID-19, we have offered students 1 virtual service project with 28 students participating and 25 hours of service work. Additionally, ASCI youth, extended family members and other volunteers have committed 503.5 additional hours of ASCI-led community service in support of local food banks, PPE drives and the Food Kitchen Collective Food Drive between May 1 and September 30, 2020. This totals 593.5 hours of volunteer hours so far in 2020. That values over \$16,300 toward in-kind service to the community! <https://independentsector.org/resource/the-value-of-volunteer-time/>.
  - All summer youth programming was redeveloped into an online program and two cohorts were successfully completed by 23 new Aurora and Centennial youth. Course administrators and our course instructor invested in better virtual technology and created a curriculum to better suit an online learning platform and taking into consideration students’ expressed “virtual burnout.”
  - All travel activities have been canceled for the remainder of 2020, but student fundraising activities continue in support of 2021 exchanges to Costa Rica, Japan and Korea.
  - Resource and program referrals continue and are researched and executed by program staff. So far, staff have contributed over 50 100 hours of time toward student resource and program referrals which are generally emailed and texted to our network of over 120 Global Youth Leaders and their families.
  - In October, *Global Youth Leaders* will launch a virtual college student exchange, connecting Aurora college students with Seongnam City college students. More will be reported in our year-end Annual Report.
  - Check out this amazing PSA produced by AuroraTV about our *Global Youth Leaders* program: <https://www.youtube.com/watch?v=cHvT5yRktO0&feature=youtu.be>



## **2020 Leadership Activities**

CEO Karlyn Shorb sits on the following boards and/ or commissions: the Aurora Chamber Diversity and Inclusion Council and the Visit Aurora Board. CEO Karlyn Shorb also participates in the Aurora Rotary Club (Wednesdays at 12:00pm).

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- The Seongnam, Korea Committee meets the third Thursday of every month at the Law Office of Lee, Myers & O’Connell. However, until further notice, meetings will be held via Zoom. All Zoom conferencing information can be found online at ASCI’s website ([www.AuroraSisterCities.org](http://www.AuroraSisterCities.org)). For information on committee participation and activities, please contact Becky Hogan at [bhedgeconsulting@yahoo.com](mailto:bhedgeconsulting@yahoo.com).
- The Adama, Ethiopia Committee meet on an ad hoc basis, but work is being done to set regular meeting times.

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  - Quarterly Service Opportunities and Career/ College Readiness Workshops
  - Travel/ Exchange Programs to Costa Rica, Japan, Korea
  - NEW: Aurora-Seongnam Virtual College Student Exchange
- Student Scholarship Incentives Program
  - Scholarships for Student Travel
- Young Artists, Authors and Filmmakers Showcase
- Adult Best Practices & Business Exchanges
  - Trade Delegations
  - Mayoral Best Practices
  - Employee and Community Best Practices

AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF AURORA,  
COLORADO AND AURORA SISTER CITIES INTERNATIONAL

THIS AGREEMENT is made and entered into as of \_\_\_\_\_ 2020, by and between the City of Aurora, a municipal corporation of the counties of Adams, Arapahoe, and Douglas, State of Colorado (the "City"), and Aurora Sister Cities International, a tax exempt, non-profit corporation of the State of Colorado (the "Sister Cities"). City and Sister Cities may hereinafter be referred to individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, in Spring 2013, the City established an Aurora Sister Cities Advisory Board (the "Advisory Board") to make recommendations to the City regarding the reestablishment of a sister cities program for Aurora, Colorado; and

WHEREAS, in September, 2013, the Advisory Board recommended that an independent, non-profit corporation be reestablished for the purpose of operating a sister cities program for the benefit of the City; and

WHEREAS, the Advisory Board further recommended that in order to help ensure the long-term success and viability of the re-kindled sister cities program, the City provide financial contribution and in-kind services to the newly established nonprofit Aurora Sister Cities International; and

WHEREAS, in accordance with this recommendation, Aurora Sister Cities International was reestablished in March, 2014, as a tax exempt, nonprofit organization with an executive director and the support and participation of various community partners; and

WHEREAS, the City finds and determines that it is in the best interests of the City and its residents to enter into an agreement with Aurora Sister Cities International to perform professional services as hereinafter provided (the "Agreement").

NOW, THEREFORE, the City and Sister Cities, for the consideration set forth herein, agree as follows:

1. Sister Cities is a non-profit corporation and a qualified 501(c)(3) charitable organization under the Internal Revenue Code, operating independent of the City.
2. The official address of the City is 15151 E. Alameda Parkway, Aurora, Colorado
3. The official address of Sister Cities is 15151 E. Alameda Pkwy, Aurora, CO 80012.
4. Each party shall promptly notify the other of any changes in its address.

5. The term of this Agreement shall be from January 1, 2021, through and including December 31, 2021.

The City agrees to pay Sister Cities the sum of \$112,000 to assist in the funding of Sister Cities' activities during the term of this Agreement.

1. This sum shall be distributed to Sister Cities in four equal payments to be made at the beginning of each calendar quarter.
2. This Agreement is subject to annual appropriation by the City Council.
3. If sufficient funds are not appropriated to make the payments provided for by this Agreement, then the City may terminate this Agreement by providing written notice of such termination to Sister Cities no later than 30 days prior to the end of the then current fiscal year.

During the term of this Agreement the City agrees to provide the following in-kind services to Sister Cities to assist in its operation:

1. office space (includes computer, telephone and printer/ scanner, free City meeting room use, Information Technology use and assistance);
2. event support for City-related Sister Cities functions (logistics and scheduling coordination to be provided by the Office of International & Immigrant Affairs);
3. mail/postage services (for non-media/ communications-related mailings; see section 4. for media and communications);
4. assistance with media and communications for City-related Sister Cities functions (graphics, press releases, media relations, Channel 8; small print needs up to 200 items can be done on the copy machine or via Graphics request, and larger or special needs will be contracted);
5. legal assistance/support from the City Attorney's Office, in relation to matters pertaining to Aurora Sister Cities;
6. participation in the City of Aurora's health benefits.
  - a. The tax status of AURORA SISTER CITIES INTERNATIONAL is 501(c)(3), a nonprofit association formed and designed to advance the city of Aurora's international efforts.
  - b. As such, SISTER CITIES may participate in City of Aurora benefits as an affiliated agency.

- c. CITY benefit contracts with providers in 2018 permit SISTER CITIES to participate in health, dental and vision plans.
- d. These provisions simply grant access to the city's group medical, dental, and vision plans.
- e. The CITY will not be responsible for any associated costs. SISTER CITIES employees will be responsible for paying all associated costs including premiums, copays, etc.
- f. Additionally, SISTER CITIES must follow all City of Aurora plan terms including; open enrollment period, employee eligibility, dependent eligibility, IRS regulations in regards to mid-year qualified event changes, cost sharing structure of premiums between SISTER CITIES as employer, and an employee of SISTER CITIES.
- g. The city of Aurora is not responsible for transmitting, communicating, or ensuring any compliance in relation to the Affordable Care Act, this includes providing employees of SISTER CITIES the Health Insurance Marketplace Coverage Notice.
- h. It should also be noted that SISTER CITIES is not permitted to use or participate in any wellness program organized by the City of Aurora.

In consideration of the payments made by the City to Sister Cities hereunder, Sister Cities agrees to provide the following services to and on behalf of the City in accordance with the following terms and conditions:

1. Sister Cities shall retain an executive director to administer its policies and conduct its business. The executive director shall devote all of her or his working time to the affairs of Sister Cities and shall be supervised by the Sister Cities Board of Directors. Sister Cities may also employ additional employees as it deems necessary to carry out the activities of Sister Cities.
2. Sister Cities shall use its best efforts to develop and promote global partnerships for the City as part of the International Sister Cities Program.
3. Sister Cities shall help bring increased opportunities for international collaboration, educational exchange, community partnerships and cooperation among the government, business community, and residents of Aurora, Colorado.
4. Sister Cities shall work closely with the designated Contract Manager of the City (Deputy City Manager Roberto Venegas or his designee) and provide to him reports, records and other documentation as requested, and which relate to Aurora Sister Cities International's finances, global partnerships and community activities.

5. Financial reports shall be submitted in a format mutually agreed upon by the parties, but shall, at a minimum, include quarterly expenditures and revenues.
6. Sister Cities shall submit quarterly performance reports to the City's Contract Manager detailing all activities related to the involvement of the City in the Sister Cities International Program.
7. Sister Cities shall concern itself with all other non-specific tasks that comprise a successful sister cities program for the City.
8. Sister Cities shall indemnify, defend, and hold harmless the City, its officers, agents, and employees, from and against any and all claims, damages, liabilities, and court awards, including costs, expenses, and attorney fees to the extent caused by any negligent or willful and wanton act, error, or omission of Sister Cities, its officers, agents, and employees.
  - a. Sister Cities acknowledges and agrees that all work performed by it pursuant to this Agreement is that of an independent contractor that the City does not supervise, govern, or operate. As such:
9. Neither Sister Cities, nor any employee, contractor, or agent of Sister Cities shall be or shall be deemed to be an employee, agent, or contractor of the City by virtue of this Agreement.
10. Sister Cities shall pay, when due, all required employment taxes and income tax and local occupational privilege taxes on any monies paid pursuant to this Agreement.
11. Sister Cities acknowledges that Sister Cities and its employees are not entitled to unemployment insurance benefits unless the Sister Cities provides such coverage and that the City does not pay for or otherwise provide such coverage. Sister Cities shall not have authorization, express or implied, to bind the City to any agreements, liability, or understanding except as expressly set forth herein. Sister Cities shall provide and keep in force workers compensation (and show proof of such insurance) and unemployment compensation insurance in the amounts required by law and shall be solely responsible for its acts of its employees, contractors, and agents.
11. The City may terminate this Agreement at any time, with or without cause, by providing 30 days' written notice to Sister Cities specifying the date upon which such termination shall take effect. Such termination shall be without any recourse or liability to the City; provided that Sister Cities shall be compensated in accordance with this Agreement for all work performed up to the effective date of termination.
12. The City and Sister Cities may amend this Agreement at any time by written agreement; provided that any material change or changes to the Agreement (e.g., amount and/or

timing of quarterly payments, in-kind services provided by the City to Sister Cities; services provided by Sister Cities to the City) shall be subject to the approval of the City Council.

(Signature Page Follows) IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the [DATE]



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Consideration to AWARD A SOLE SOURCE CONTRACT to Motorola Inc., Westminster, CO in the amount of \$714,282.30 to provide annual support for the P25 Trunked Radio System used by Public Safety and Public Works personnel through December 2021.

**Item Initiator:** Michelle Ratcliff

**Staff Source/Legal Source:** Scott Newman, CIO

**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:** 12/7/2020

Dual Listed Why is this item dual listed?[Click or tap here to enter text.](#)

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

Approve Item as proposed at Study Session  Information Only

Approve Item and Move Forward to Regular Meeting

Approve Item as proposed at Regular Meeting

Approve Item with Waiver of Reconsideration

Why is a waiver needed?[Click or tap here to enter text.](#)

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

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

Recommends Approval

Does Not Recommend Approval

Forwarded Without Recommendation

Recommendation Report Attached

Minutes Attached

Minutes Not Available

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

City Council approved the annual support award to Motorola in the total amount of \$702,224.10 on November 18, 2019, Agenda Item #9d.

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

The Information Technology Department has an annual requirement for software and hardware support services for the P25 Trunked Radio System used by Public Safety and Public Works personnel. This represents the fourth year of a seven year agreement.

Motorola was the firm selected for the P25 Radio System as a result of a competitive bid conducted in 2014. The annual (post warranty) support proposal for 2021 is \$714,282.30 to maintain and support (including required upgrades) the P25 System. This amount includes a 10% reduction for the City committing to a seven year support term (through 2024). In addition, Motorola has offered discounted (14%) firm pricing for years 2019 through 2024 maintenance, resulting in annual cost increases of only 1.7%. Therefore, it is determined that the pricing proposed by Motorola is fair and reasonable.

This proposed award is being requested as a sole source award because it meets the criteria in the City Code as being the only authorized source to exist for this specific service. As the manufacturer of the P25 System, Motorola has chosen not to authorize any other firms to provide this service.

Based on the above information, staff recommends proceeding with an award of a sole source contract to Motorola Inc., Westminster, CO in the amount of \$714,282.30 to provide 2021 annual support for the P25 Trunked Radio System.

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**QUESTIONS FOR COUNCIL**

Does City Council approve the award of the sole source contract to Motorola in the amount of \$714,282.30 for annual support of the Public Safety P25 Radio System?

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**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 (City Code § 2-674(10)). (Lathers)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** The contract cost is budgeted in the 2021 General Fund, IT Dept. and will be paid from: Organization 37021 (Radio E911) and Acct 64540 (R&M: Equipment Other).

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:**





- a. Consideration to approve a Professional Agreement in the amount of \$112,000 in 2020 between the city of Aurora, and Aurora Sister Cities International  
**Outside Speaker:** Karlyn K. Shorb, CEO Aurora Sister Cities International
- b. Consideration to APPROVE A PROFESSIONAL SERVICES AGREEMENT IN THE AMOUNT OF \$1,867,675.00 in 2020 between the City of Aurora and Visit Aurora, Inc. Destination Marketing Organization.  
**Presenter:** Michael Bryant, Lead Communications Specialist, Communications
- c. Consideration to AWARD A SINGLE SOURCE Contract to the Aurora Economic Development Council (AEDC), Aurora, Colorado in an amount not to exceed \$550,000 for services to retain, expand, and attract companies and employment within the City of Aurora.  
**Presenter:** Chad Argentar, Project Manager, Planning & Development Services
- d. Consideration to AWARD A SOLE SOURCE CONTRACT to Motorola Inc., Westminster, CO in the amount of \$702,224.10 to provide annual support for the P25 Trunked Radio System used by Public Safety and Public Works personnel through December 2020.  
**Presenter:** Aleta Jeffress, Chief Info & Digital Officer, Information Technology
- e. Consideration to AWARD A SINGLE SOURCE CONTRACT to TSI Legal, Incorporated, Tampa, Florida in the amount not-to-exceed \$90,000.00 for subpoena process service through November 30, 2020.  
**Presenter:** Julie Heckman, Deputy City Attorney, City Attorney
- f. Consideration to AWARD A SOLE SOURCE CONTRACT to the 18th Judicial District Juvenile Assessment Center, Centennial, Colorado in the amount of \$210,186.00 to provide services to delinquent and at risk juveniles through December 31, 2020.  
**Presenter:** Julie Heckman, Deputy City Attorney, City Attorney
- g. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Garney Companies, Inc., Littleton, Colorado in the amount of \$6,370,000.00 for the 24 Inch and 36 Inch E. 56th Ave. Pipeline from Picadilly Rd. to Harvest Rd., Project No. 5745A.  
**Presenter:** Steven Fiori, Project Delivery Svcs Mgr, Aurora Water
- h. Consideration to AWARD A COMPETITIVELY BID CONTRACT to W. L. Contractors, Inc., Arvada, Colorado in the amount of \$288,349.00 for the Heather Gardens Way Pedestrian Crossing, Project #18035.  
**Presenter:** Matthew Kozakowski, Transp Proj Delivery Mgr, Public Works
- i. Consideration to AWARD A SINGLE SOURCE CONTRACT to Ferguson Waterworks, Aurora, Colorado in the amount of \$165,658.00 for the purchase of four (4) 36" Victaulic® butterfly valves with electric actuators for installation as part of the Griswold Water Purification Facility (WPF) Finished Water Reservoir Repairs and Clearwell Valve Replacement Project.  
**Presenter:** Elizabeth Carter, Principal Engineer, Aurora Water
- j. Consideration to AWARD A COMPETITIVELY BID CONTRACT to SNR Technologies, Katy, Texas in the amount of \$163,445.35 for the purchase of anthracite and sand filtration media for two filters at Griswold WPF and two filters at the Wemlinger WPF Project, Project No. B-4474.  
**Presenter:** Elizabeth Carter, Principal Engineer, Aurora Water

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- k. Consideration to AWARD AN OPENLY SOLICITED CONTRACT to Loomis, Aurora, Colorado in the amount not-to-exceed \$60,000.00 for armored car services, RFP R-1972.  
**Presenter:** Nancy Wishmeyer, Controller, Finance
- l. Consideration to Increase in funding to a SINGLE SOURCE CONTRACT in the amount of \$159,265.00 for additional environmental investigations at and around the previously closed landfill near Highway 30 and Mississippi Avenue. **(Staff Requests a Waiver of Reconsideration)**  
**Presenter:** Karen Hancock, Planning Supervisor, Planning & Development Services
- m. Consideration of the Agreement to Undertake and Pay Costs of Severance Study (For Streetlight Acquisition)  
**Presenter:** Michael Lawson, Manager of Community Development, Finance

Motion by Watson, second by Roth, to approve items 9a – 9m with a waiver of reconsideration of item 9l.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

**Final Ordinances**

- ◆ n. **2019-87**  
Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, approving the Second Amendment to the Annexation Agreement between the City and Freund Investments, a partnership, dated August 28, 1973, in book 1893 at page 166 of the records of Adams County, Colorado as amended by the First Amendment to Annexation Agreements by and between the City and Aurora Business Center, a Colorado Limited Partnership, dated August 11, 1980 and recorded October 14, 1980 in book 2499 at page 493 of the records of Adams County, Colorado.  
**Presenter:** Vinessa Irvin, Manager of Development Assistance, General Management

Motion by Roth, second by Bergan, to approve item 9n.

Voting Aye: Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

- ◆ o. **2019-88**  
Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, declaring a moratorium on all New Cultivations of Industrial Hemp for a period of ten months.  
**Presenter:** Robin Peterson, Mgr of Marijuana Enforcement, Finance

Motion by Roth, second by Berzins, to approve item 9o.

Council Member Johnston stated her support of the item because the state was finalizing the difference between cannabis and hemp and security and a moratorium was a responsible way to address policies as those issues were sorted out.

Voting Aye: Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

- ◆ ***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.***



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Extend an openly solicited contract with Badger Meter, Inc., Centennial, Colorado in the amount of \$5,721,254.00 for the citywide Advanced Metering Infrastructure (AMI) System to include meters for replacement and anticipated growth. R-1893

**Item Initiator:** Bryn Fillinger, Manager of Purchasing Services

**Staff Source/Legal Source:** Marena Lertch, Manager of Water Service Operations/Dave Lathers

**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:** 12/7/2020

Dual Listed Why is this item dual listed?[Click or tap here to enter text.](#)

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

Approve Item as proposed at Study Session  Information Only

Approve Item and Move Forward to Regular Meeting

Approve Item as proposed at Regular Meeting

Approve Item with Waiver of Reconsideration  
Why is a waiver needed?[Click or tap here to enter text.](#)

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

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

Recommends Approval

Does Not Recommend Approval

Forwarded Without Recommendation

Recommendation Report Attached

Minutes Attached

Minutes Not Available

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**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 original award to Badger Meter on January 7, 2019 in the amount of \$4,141,330.00, Agenda Item 9d.

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

Aurora Water is committed to ensuring reliable and accurate billing to the citizens of Aurora. As part of that commitment, Aurora Water is asking for the procurement of \$5,721,254.00 for the purchase of Badger water meters.

To date, 13,951 Automated Meter Reading (AMR) system meters have been upgraded to Automated Metering Infrastructure (AMI) meters by Badger Meter, Inc. This request is for the 2021 purchase of AMI water meters and associated equipment for the second year of a 48 month deployment to install the cellular AMI meter reading solution. \$5,112,946.00 of this request will be used to install the new AMI meters by our installation contractor, Badger Meter Inc. The remaining \$608,308.00 will be used by the City of Aurora for new meter installations and replacement of meters that have failed, meter parts, hosting fees and time and material allocation to handle defective hardware. Badger Meter Inc. was selected as the result of an openly solicited Request for Proposal (R-1893) for an AMI System in 2018. This procurement is allocating monies for the following areas:

- Capital Water Meter System Replacement; meters, registers and endpoints, labor and professional services.
- Meters, registers and endpoints for new meter installations required for development and new growth demands.
- Non-Warranty meter replacements (e.g., intentional or non-intentional damage of the meter and/or endpoint).
- Badger Water Meter parts for large meter repairs.
- Hosting Fees (cellular charges).

Meter pricing and installation is fixed through the 48 month deployment project. Cost of meters and equipment after the 48 month installation period may be increased in proportion to the increase in the Producer Price Index for Totalizing fluid meters and counting devices as reported by the U.S. Department of Labor.

In summary, this purchase request is for Capital Water Meter System Replacement including meters, registers, endpoints, labor and professional services. It will also include hosting fees, new meter installations, non-warranty replacement meters, registers, endpoints and meter parts. This procurement will allow Aurora Water to meet growth demands for new residential and commercial water meter installations and for non-warranty product replacement due to damage or vandalism.

Based on the above, staff recommends extending the openly solicited contract with with Badger Meter, Inc., Centennial, Colorado in the amount of \$5,721,254.00 for the citywide Advanced Metering Infrastructure (AMI) System to include meters for replacement and anticipated growth. R-1893

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**QUESTIONS FOR COUNCIL**

Does Council approve the extension of the openly solicited contract with Badger Meter, Inc. in the amount of \$5,721,254.00?

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**LEGAL COMMENTS**

Purchase orders or contracts in any amount may be awarded without benefit of formal competitive bidding when a vendor offers to extend an existing contract under the same conditions and at the same or lower price (adjusted for inflation), and such extension is in the best interests of the City (City Code § 2-674(2), and City Code Section 2-672(a)(4)). Purchase orders and contracts worth \$50,000 or more not awarded pursuant to formal competitive bidding require City Council approval (City Code § 2-672(a)(3)(b)). (Lathers)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Funding for this contract in the amount of \$5,721,254.00 will be from the Water and Wastewater Fund Operating and Capital budgets.

**ORG USED:** Meter Replacement Program (52768), Field Service – Water (52024), Field Service - Sewer (52093)

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** N/A

**MINUTES**

**Regular Meeting – Aurora City Council  
Monday, January 7, 2019**

**CALL TO ORDER – REGULAR MEETING**

Mayor LeGare convened the regular meeting of City Council at 4:02 p.m.

**ROLL CALL**

PRESIDING:	Mayor LeGare
COUNCIL MEMBERS PRESENT:	Bergan, Berzins, Gruber, Murillo, Richardson, Watson
COUNCIL MEMBERS ABSENT:	Roth
OFFICIALS PRESENT:	City Manager Twombly, Interim City Attorney Brotzman, Interim City Clerk Lawson
COUNCIL MEMBERS ARRIVING AFTER ROLL CALL:	Hiltz, Johnston, Lawson

Interim City Clerk Lawson announced the proposed items for discussion at executive session.

**CONSIDERATION TO RECESS FOR EXECUTIVE SESSION**

Motion by Bergan, second by Watson, to recess for executive session.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Murillo, Richardson, Watson

Abstaining: None

The executive session was recorded pursuant to the requirements of state law.

1. **RECONVENE REGULAR MEETING OF JANUARY 7, 2019 AND CALL TO ORDER**

Mayor LeGare reconvened the regular meeting of City Council at 7:34 p.m.

2. **ROLL CALL** Michael Lawson, Interim City Clerk

COUNCIL MEMBERS PRESENT: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz,  
Johnston, Lawson, Murillo, Richardson, Watson

COUNCIL MEMBERS ABSENT: Mayor Pro Tem Roth

3. **INVOCATION** Pastor Mark Spence, Mississippi Avenue Baptist Church

4. **PLEDGE OF ALLEGIANCE TO THE FLAG** (all standing)

5. **APPROVAL OF THE MINUTES OF THE MEETING OF DECEMBER 17, 2018**

Motion by Gruber, second by Bergan, to approve the minutes of the meeting of December 17, 2018, as amended.

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Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

Abstaining: None

6. **CEREMONY**

- a. Swearing in of newly appointed Assistant City Attorneys – Presiding Judge Shawn Day

Judge Shawn Day administered the oath of office to the newly appointed Assistant City Attorneys. City Council congratulated the attorneys and thanked them for their service to Aurora.

Brian Garrity  
Alyssa Rhodes  
Andy Kemmer

- b. Swearing in of reappointed Relief Judges – Presiding Judge Shawn Day

Judge Shawn Day administered the oath of office to the reappointed Relief Judges. City Council congratulated the Judges and thanked them for their service to Aurora.

James Anderson  
Peter Frigo  
Loretta Huffine  
Andrea Koppenhofer  
Alan Stine

- c. Swearing in of newly appointed Boards and Commission members – Presiding Judge Shawn Day

Judge Shawn Day administered the oath of office to the newly appointed board and commission members. City Council congratulated the members and thanked them for their service to Aurora.

<u>Name</u>	<u>Board or Commission</u>
Maureen Maycheco	Cultural Affairs Commission
Watik Aleem	Veterans Affairs Commission

- d. Proclamation in support of Radon Action Month – Mayor Bob LeGare

Mayor LeGare invited Mike Dyer, Blackstone Home Inspections; Mike Barnhill, National Property Inspections, Tom Gould, Win Home Inspection Aurora; and Rob Knepshield, RBS&K Building Inspectors, to come forward. He read the proclamation in support of Radon Action Month and shared information on the City's Radon Mitigation Program.

7. **PUBLIC INVITED TO BE HEARD (non-agenda related issues only)**

Carlee Cellar, Highland Park East, Aurora, Colorado, stated her opposition to fracking in Aurora and discussed the danger and need for traffic calming devices at the Peoria and Del Mar Circle intersection.

Michael Terry, Aurora, Colorado, discussed his personal situation with City ordinance 1475, restricted breed, and his American Bully dogs. He asked that Breed Specific Legislation

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(BSL) be included in the current ordinance revisions or that the issue be added to a future City Council agenda for further discussion.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR - 9a-h**

**General Business**

- a. Consideration to AWARD WORK PACKAGE NO. 2 of the Fire Station 5 Project to Mark Young Construction, Inc., Longmont, Colorado in the amount of \$8,135,242.00 R-5637A. STAFF SOURCE: Elly Watson, Manager of Business Services, Public Works

Motion by Bergan, second by Watson, to approve item 9a.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- b. Consideration to AWARD A COMPETITIVELY BID CONTRACT to McDade-Woodcock, Inc., Albuquerque, New Mexico in the amount of \$1,573,087.40 for the construction of Wemlinger WPF PLC Upgrades, Project No. 5651A. ***(Staff Requests a Waiver of Reconsideration)*** STAFF SOURCE: Kelley Neumann, Deputy Director Water Planning/Engineering, Aurora Water

Council Member Watson expressed concerns related to the lack of use of Aurora companies for these contracts, noting not doing so sent the money outside of the City.

Council Member Bergan stated her understanding that the original contractor could no longer manufacture the processors and modules and that was why the City used a new company.

Marshall Brown, Director, Water, concurred, noting the original equipment was no longer available and therefore had to be upgraded. He pointed out the contract went out to bid and he was unaware of any Aurora companies who could provide the equipment.

Motion by Watson, second by Bergan, to approve item 9b with a waiver of reconsideration.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- c. Consideration to AWARD A SINGLE SOURCE CONTRACT to Bridge House, Aurora, Colorado, in the not-to-exceed amount of \$205,000.00 for supply work crews to complete park, open space, reservoir and recreation projects as required through December 31, 2019. STAFF SOURCE: John Wesolowski, Manager of Parks & Forestry, Parks, Recreation & Open Space

Council Member Bergan asked if the worker from Bridge House were bonded.

Jason Batchelor, Deputy City Manager, stated they met the insurance requirements but he was unsure if they were bonded.

Council Member Bergan expressed concerns related to employees that might have previous convictions. She asked staff to review that question. She asked if the workers from Bridge House were subject to the same drug testing and background check requirements as all City applicants were.

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John Wesolowski, Manager of Parks & Forestry, Parks, Recreation & Open Space, stated the Bridge House provided their own background checks and testing.

Council Member Bergan noted all applicants for City jobs were required to be background checked and drug tested and asked if the City required the same of these workers. Mr. Batchelor answered no, noting these were not City employees. He confirmed the City was contracting with Bridge House as a service provider. Council Member Bergan asked if the contract amount was separate than what was budgeted for labor for Parks.

Mr. Wesolowski answered no.

Motion by Bergan, second by Richardson, to approve item 9c.

Council Member Watson discussed his recent visit to the Bridge House and expressed his support of the work being done there and of their partnership with the City.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- d. Consideration to award AN OPENLY SOLICITED CONTRACT to Badger Meter, Inc./dba National Meter and Automation, Centennial, Colorado in the amount of \$4,141,330 for the new citywide Advanced Metering Infrastructure (AMI) System to include meters for replacement and anticipated growth. R-1893 STAFF SOURCE: Dan Mikesell, Deputy Director Water Operations/Environmental Program, Aurora Water
- e. Consideration to EXTEND AN OPENLY SOLICITED CONTRACT to Air Conditioning Associates Inc. (ACA), Englewood, CO in the not to exceed amount of \$229,300.00 to perform scheduled maintenance and on call repair services for HVAC systems in the Aurora Water facilities through December 31, 2019. (R1797) STAFF SOURCE: Steven Sciba, Manager of Water Operations and Maintenance, Aurora Water
- f. Consideration to AWARD A SINGLE SOURCE CONTRACT to EnvisionWare Inc., Duluth, Georgia in the amount of \$127,386.25 to provide an Automated Library Materials Sorting System for Aurora Central Library. STAFF SOURCE: Patti Bateman, Director, Library & Cultural Services
- g. Consideration to AWARD CHANGE ORDER No. 2 to a competitively bid contract with Musco Sports Lighting, LLC, Oskaloosa, Iowa in the amount of \$71,654.00 for the Olympic Park Lights Project, Project Number 5656A. STAFF SOURCE: Tracy Young, PROS Planning, Design & Construction, Parks, Recreation, and Open Space

Motion by Bergan, second by Watson, to approve Items 9d – 9g.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

### **Final Ordinances**

- ♦ h. **2018-67**  
Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, amending Chapter 102 of the City Code of the City of Aurora, Colorado, relating to the General Employees' Retirement Plan. STAFF SOURCE: Terri Velasquez, Director, Finance

Motion by Gruber, second by Berzins, to approve item 9h.

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Voting Aye: Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

10. **RESOLUTIONS**

- ◆ a. **R2019-01**  
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving the Restaurant Program Grant Agreement and Letter of Understanding between the City of Aurora, Colorado, and S&J LIMITED, LLC (San Marcos Building) STAFF SOURCE: Tim Gonerka, Senior Retail Project Manager, Development Services

Motion by Murillo, second by Gruber, to approve item 10a.

Council Member Bergan asked if the contingency amount of 33 percent was a typical amount in an incentive program.

Tim Gonerka, Senior Retail Project Manager, Development Services, stated the 33 percent allowed enough room if the construction costs were higher considering the budget had not yet been set.

Council Member Bergan asked if any provisions were in place should the program not work once the City invested the money. Mr. Gonerka answered no, noting this was a typical City incentive and the payback would be through the sales tax from the tenants that took over the kitchens.

Voting Aye: Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- ◆ b. **R2019-02**  
Consideration to APPROVE A RESOLUTION of the City Council of Aurora, Colorado, authorizing the Historic Preservation Commission of Aurora, Colorado, to act as a reviewing entity for the State Income Tax credit program for clarifying rehabilitation projects pursuant to C.R.S. § 39-22-514.5, as amended. STAFF SOURCE: Gary Margolis, Manager of Cultural Services, Library & Cultural Services

Motion by Berzins, second by Bergan, to approve item 10b.

Voting Aye: Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

11. **PUBLIC HEARING WITHOUT RELATED ORDINANCE**

- a. Consideration to AFFIRM or MODIFY the Planning Director's administrative decision to approve an Oil and Gas Well Permit for a multi-well (16) pad site on 14.2 acres known as Jamaso, generally located in the Southeast area of Powhaton and Colfax. (DA-2138-00; CN 2018-6022-00) STAFF SOURCE: Stephen Rodriguez, Planning Supervisor, Planning and Development Services

Mayor LeGare opened the public hearing on the item and discussed the public hearing process.

Christine McKenney, Senior Assistant City Attorney, clarified the City's jurisdiction was only on land use regulations which related to such items as fencing, lighting and sound barriers and did not cover items in the state's Oil and Gas Commission's jurisdiction such as operations underground and environmental issues.

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Mindy Parnes, Manager, Planning, gave a presentation on the item.

David Schnabel, Project Manager, Access Exploration Corp. LLC, and Extraction Oil & Gas, representing the applicant, gave a presentation on the item.

Council Member Gruber pointed out many of the citizen comments related to safety, well pad operations and impact on property values, which was an issue the City was responsible for, noting the active drilling was what created impact. He asked the timeframe from putting up the walls to taking them down. Mr. Schnabel estimated the range of operations would be six to nine months. Council Member Gruber stated the extraction processes used tank-less well sites and asked what the land would look like once the derricks were removed. Mr. Schnabel clarified it would begin as a tanked facility which would turn into a tank-less design sometime in the future. Council Member Gruber asked Mr. Schnabel to speak to the environmental safety issues evaluated by the state. Mr. Schnabel did so. Council Member Gruber referenced citizen comments related to safety issues and asked for a discussion on the identification and mitigation of those issues by the state.

Josh Carlisle, Health, Safety Regulatory (EHSR) Manager, Extraction Oil & Gas, Environmental, did so.

Mayor LeGare asked for a definition of the acronyms COGCC and CDPHE referenced by Mr. Carlisle and Mr. Schnabel. Mr. Carlisle stated Colorado Oil & Gas Conservation Commission (COGCC) and Colorado Department of Public Health and Environment.(CDPHE)

Council Member Johnston referenced the leak detection and repair camera (LDAR) and asked where the monthly monitoring was called out in the agreement. Mr. Carlisle stated it was a part of CDPHE regulation 7. Council Member Johnston asked if it was called out in the specific application with the City. Mr. Carlisle reiterated it was a state rule that required that type of monitoring for every facility, noting he did not believe it was specifically called out in the USR application. Council Member Johnston asked the standard repair mitigation timeframe if a leak was detected. Mr. Carlisle stated the state required five calendar days. He discussed Extraction Oil & Gas' standards and site operations process that dealt with leaks, noting there was a miniscule percentage of leaks that required a specialized crew.

Council Member Bergan pointed out the permit was approved by the COGCC. She noted land use was in the purview of City Council and the application met all of the City's requirements in terms of setbacks, road maintenance, water agreements, and noise barriers and sound walls. She asked Mr. Carlisle to speak to the use of the closed loop system. Mr. Carlisle did so, noting that was a part of the state regulated portion of the business. Council Member Bergan noted the applicant canvassed the Fox Ridge Farms community door-to-door and asked if any objections were raised. Mr. Carlisle answered no, noting only general questions and concerns were raised.

Council Member Hiltz asked if tank-less meant truly tank-less or if that meant moving the tanks offsite to a different location. Mr. Schnabel stated all of the tanks would be moved to a central location, noting a tank would always be located on the site for spill or contamination prevention. Council Member Hiltz stated it was therefore not tank-less but tank-elsewhere.

Mr. Schnabel concurred.

Council Member Watson asked what would be visible on the site after two years. Mr. Schnabel stated those who were familiar with oil and gas wells might recognize the sites but given the topography, only tan fuzzy plats could be seen from a distance.

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Mr. Carlisle noted given the fencing agreement with the City, it was likely a passerby would only see a fenced piece of land. He further discussed their efforts with the Front Range Emergency Resource Co-op.

Council Member Watson asked if working with first responders for safety was an ongoing process. Mr. Carlisle answered affirmatively.

Council Member Johnston referenced the Emergency Preparedness Plan, noting she had concerns related to how stretched first responders were already without emergencies and asked if the applicant was willing to take the next step beyond training and would agree to provide and fund an adequate supply of aqueous foam. Mr. Carlisle stated that issue related to a broader agreement rather than on a pad-by-pad basis. Council Member Johnston stated she was interested in a plan beyond training that had more detailed evacuation routes and health facilities to be used, and asked if the applicant was willing to provide more of that detailed plan and reimbursement should Aurora Fire Rescue be required to respond to an emergency. Mr. Carlisle agreed they would work with City staff and first responders for that use by special review commitment to provide reimbursement for those services for this agreement or a broader one.

Edith Henke; Jon Barber; Sarah Brockway; Paul Dykema; Aimee Potter; Georgiana Inskeep; Victoria Jimenez; Susan McClain; Misty Salazar; Sonia Skakich-Scrima; Westin Wilson; Phil Doe; Tom Kraus; Kyle Larson; Brandy Noriega; Larry Quirk; Dr. Linda Servey; Yasmine Mohamed; Dianna VanderDoes; and Barbara Mills Bria spoke in opposition to the item.

*MAYOR LEGARE CALLED FOR A TEN MINUTE BREAK*

Sandra Toland, Jason Harrison; Amy Shippey; Maria Orms; Margaret Sobey; Alison Coombs; Sarah Oliver; Mitchell Vizroaino; and Randee Webb, spoke in opposition of the item.

Mr. Schnabel addressed Mr. Quirk's questions related to sour gas (H<sub>2</sub>S), salt formations, oil based additives or mud, mud disposal, the number of anticipated wells, drilling out remaining inventory, project schedule, orientation of the horizontal wells, artificial lifts, and City zoning and fire regulations.

Ms. Parnes confirmed the applicant met all current code requirements.

Council Member Gruber noted a consistent theme in citizen concerns was air quality and asked for a discussion of those requirements and specifically how citizens would be protected. Mr. Schnabel did so.

Mr. Carlisle noted he was an Aurora resident who was invested in the community. He continued the air quality mitigation discussion.

Council Member Lawson asked how the smell would be contained because smell could be an asthma trigger. Mr. Carlisle discussed managing odors rather than emissions.

Council Member Johnston discussed her experience when the Colorado School of Public Health, University of Colorado-Anschutz provided their findings to the Oil & Gas Advisory committee. She stated the CDPHE Executive Director was present at the presentation, noting his role was a politically appointed position. She pointed out that while both the school and the executive director agreed more research was necessary, she stated she trusted the science of a neighbor such as the school over a political appointee's opinion. She asked if the applicant's position for the application has been reevaluated based on what the community has requested.

Eric Jacobson, Senior Vice President, Extraction & Access, expressed appreciation for all of the comments and requested the application be approved on its merits as it was presented.

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Mayor LeGare raised the topic of sound barriers and asked if a sound barrier was proposed for the north side of the site. Mr. Carlisle answered affirmatively. Mayor LeGare noted the sound barrier on the west appeared to be more robust than the sound barrier on the north and asked if all of the sound barriers were the same. Mr. Carlisle answered affirmatively. Mayor LeGare asked if a sound barrier was proposed for the south side of the site. Mr. Carlisle answered no. Mayor LeGare asked why that was so. Mr. Carlisle stated that was due to a sound analysis that was done at the time of the application.

Council Member Bergan asked if the 32' wall was required or was it done in mitigation with staff. Mr. Carlisle stated neither, noting it was the standard design of the sound wall.

Mayor LeGare closed the public hearing on the item.

Motion by Gruber, second by Bergan, to affirm item 11a.

Council Member Johnston expressed appreciation to all those who spoke at and attended the meeting, noting she would not support the motion. She encouraged the citizens in attendance to not give up because times were changing and having everyone come together was what democracy was all about. She stated she was available to talk about next steps of what could be done in this regard.

Council Member Hiltz echoed Council Member Johnston's comments. She noted the recent situation where another oil and gas company worked extensively with the City to ensure steps were taken to work with the residents. She pointed out conversely, the applicant initially stated they did not see the Aurora City Council as an authority which was reaffirmed after the resident testimony when they were asked if they wanted to reconsider any of the options on the table and they replied no. She stated she was initially open to having those conversations but noted as it was very clear that was not the applicant's intent, she would not support the motion.

Council Member Watson expressed appreciation to all those who came out to the meeting, noting the meeting began with the discussion of the Council's purview. He noted there was a lot of discussion about what was going on in Broomfield in terms of oil and gas development. He contended some of the same things were also going on in Aurora. He pointed out that while City Council followed the state guidelines, they were not making decisions based solely on what the state was saying. He noted City staff did a good job of mitigating citizen concerns. He stated his support of the motion because the applicant has followed many of the guidelines. He pointed out the applicant continued to work with first responders which was a critical part of the situation because many of the concerns raised related to the 'what ifs' that could happen in this instance. He noted that was a developing process. He stated he considered all of Aurora to be his neighborhood, noting Aurora was becoming more stringent as to how they worked with the oil industry. He agreed with some of Council Member Johnston's comments related to changes in the state that might impact the City's decision-making on the matter.

Mayor LeGare addressed Mr. Quirk's previous question regarding why the Mayor and several council members did not vote to call-up the item. He stated the reason he did not support the call-up was because the application had met every City requirement. He pointed out City staff reviewed the application and found it to be in compliance. He stated his concern that bringing the item back allowed the City Council to potentially oppose it which in turn would cause a lawsuit that the City would lose and all of that cost the taxpayers' money. He suggested all of the passion and opposition generated by this issue could be redirected to the state legislature to work towards changing the rules that the COGGC worked under. He

- ◆ ***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.***

clarified he was not telling people that was what they should do; he was saying the current legislative environment with the Senate, House and Governor was there for them to do it. He stated he would support the motion.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Lawson, Richardson, Watson

Voting Nay: Hiltz, Johnston, Murillo

12. **RECONSIDERATIONS AND CALL-UPS**

None

13. **GENERAL BUSINESS**

- a. Consideration to appoint (11) eleven members to the Independent Review Board (IRB). STAFF SOURCE: Shari Franklin, Senior Human Resource Analyst, Human Resources

Motion by Berzins, second by Richardson, to appoint Lynne Bittel, Lisa Clark, Almer Combs, Thomas Frickell, Michelle Limbaugh, Thomas Mayes, Joshua Reddell, Jason Schneider, Marcia Todd, Sonny Rosario Trujillo, and Garrett Walls to the Independent Review Board.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- b. Consideration to appoint two (2) adult members and one (1) youth member to the Aurora Youth Commission. STAFF SOURCE: Jenna Katsaros, Superintendent, Parks, Recreation & Open Space

Motion by Berzins, second by Hiltz, to appoint Kristina Lance, Joseph Soto and Kevin Kim to the Aurora Youth Commission.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

- c. Consideration of the reappointment of (1) Associate Judge. STAFF SOURCE: Shawn Day, Presiding Judge, Judicial

Motion by Gruber, second by Watson, to reappoint Judge Dana Spade as Associate Judge.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Watson

15. **REPORTS**

- a. Report by the Mayor

No report.

- b. Reports by Council

Council Member Murillo announced the Ward I Town Hall meeting was scheduled for Thursday, January 24, 2019 at the Moorehead Recreation Center at 6:00 p.m.

♦ *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 Bergan announced the Ward VI Town Hall meeting was scheduled for Wednesday, January 16, 2019 at 6:00 p.m. at the Tallyn's Reach library where general updates and a presentation by Anna Bunce, Manger, Traffic, would be provided.

Council Member Berzins discussed the recent meeting between Mayor LeGare, several council members and state legislators where they discussed the legislators' priorities for 2019. She announced the next Ward III meeting would be held in February, noting she planned to add a third meeting each month and to mail out postcards listing the meeting dates for the remainder of the year.

Council Member Lawson announced the appointment of Don Seven to the Citizens' Advisory Budget Committee.

Council Member Johnston announced the Ward II Town Hall meeting was scheduled for Thursday, January 24, 2019 at the Beck Recreation Center at 6:30 p.m., where oil and gas issues in Ward II would be discussed.

14. **PUBLIC INVITED TO BE HEARD**

None

15. **ADJOURNMENT**

Mayor LeGare adjourned the regular meeting of City Council at 11:10 p.m.



BOB LEGARE, MAYOR

ATTEST:



Michael Lawson, Interim 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.*





# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Consideration to AUTHORIZE the Risk Manager to expend funds for the City of Aurora’s property and liability insurance policies and surety bond due on January 1, 2021, paid through the insurance broker, IMA, Inc., Denver, Colorado in the amount not-to-exce

**Item Initiator:** Renee Pettinato Mosley

**Staff Source/Legal Source:** Renee Pettinato Mosley

**Outside Speaker:** None

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

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 12/7/2020

Dual Listed Why is this item dual listed? [Click or tap here to enter text.](#)

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

Approve Item as proposed at Study Session  Information Only

Approve Item and Move Forward to Regular Meeting

Approve Item as proposed at Regular Meeting

Approve Item with Waiver of Reconsideration

Why is a waiver needed? The insurance coverage must be bound before year end, so time is of the essence.

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Use dropdown menu to select committee from list.

**Policy Committee Date:** N/A

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

Recommends Approval

Does Not Recommend Approval

Forwarded Without Recommendation

Recommendation Report Attached

Minutes Attached

Minutes Not Available

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

The City of Aurora has carried a large self-insured retention since 1976. This essentially means that the City is self-insured for the first \$500,000 of every general liability and workers' compensation claim. The City has a \$100,000 deductible for property and auto physical damage. However, it still relies on commercial insurance to provide protection over and above the City's self-insured retention. As a result, the City's Risk Management Division has an annual requirement for property, vehicle, fiduciary, crime and public entity liability insurance, a surety bond and insurance broker services.

In 2019, the Council approved the 2020 insurance renewal premiums in an amount not to exceed amount \$2,100,000; the premiums paid at renewal on January 1, 2020 were \$2,033,335, inclusive of the bond premium.

The City has received the following indications to date (preliminary quotes) for premiums on renewal:

<u>Line of Coverage:</u>	<u>Indications</u>	<u>2020 Premiums</u>
Workers' Compensation	\$512,818	\$461,346
Property:	\$TBD	\$925,000
Auto Physical Damage:	\$TBD	\$ 65,972
Public Entity Liability	\$TBD	\$399,509
Equipment Breakdown:	\$ 34,948	\$ 29,170
Commercial Crime:	\$ 25,000	\$ 25,000
Fiduciary:	\$ 9,000	\$ 9,000
Fine Arts:	\$ 3,331	\$ 3,331
Cyber Liability:	\$103,772	\$ 75,177

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

The City had to market its Public Entity Liability policy this year. The incumbent carrier, Argonaut sold its public entity arm, Trident Public Risk Solutions to Paragon Insurance Holdings. Paragon has indicated that it will "non-renew" the City of Aurora due to our police liability risk and the passage of SB-217 which, in their analysis, increased exposure for the City by allowing a cause of action in State District Court. There are markets for the public entity policy which IMA has used for other clients, so there are options for the City. Our brokers indicated that the insurers are unwilling to underwrite \$10,000,000 in limits; insurers will underwrite \$5,000,000 in limits. As such, the City will need to purchase an additional excess insurance policy to maintain its existing \$10,000,000 in limits, which will require additional premium; that premium has not been accounted for in the numbers above. Additionally, given the current insurance, the self-insured retention for all liability claims will likely increase from the current \$500,000 to \$1,000,000 per claim (Note: Police already has a \$1,000,000 self-insured retention). The overall projection for public entity liability is a 40-50% increase in premiums, inclusive of the additional excess insurance policy.

The Hartford, the City's carrier for property insurance, continues to show interest in retaining the City's business. The premium increase for the property insurance program is being driven by its reinsurers and the claims stemming from natural disasters nationwide. The property insurance carrier is looking at exclusions and/or limitations to the "riot and civil commotion" coverage due to damages incurred in the nationwide protests. The City's claims experience with Hartford is good; while the City has put Hartford on notice of some damages to property, Hartford did not pay any losses as the damages reported were under the deductible of \$100,000. IMA will also approach Travelers for a quote to see if we can leverage the two quotes before renewal. The original indication of a premium increase of 30% for the property insurance remains valid.

The catastrophic automobile physical damage insurance coverage under the Hartford property policy is being revisited by the underwriter. While Hartford dropped the City's over the road coverage for its high dollar vehicles, they kept coverage for those vehicles while they were parked at a City location. The City purchased a stand-alone policy

from Hanover for the high dollar vehicles to cover over the road exposures for physical damage and we anticipate continuing this coverage in 2021. No premium indications have been provided to date.

Worker's Compensation continues to have modest increases, but the City's incumbent carrier, Safety National, has increased the City's self-insured retention from \$500,000 to \$750,000 for police and fire and \$1,000,000 for wild land fire injuries. All other employees will continue to have a \$500,000 self-insured retention. The carriers are also looking at limiting coverage for communicable diseases in light of Covid 19. The premium increase of 5% indicated in June on our budget analysis should be adjusted up to 11% given the number of states which passed legislation to include Covid 19 as an occupational disease or, more explicitly, created a presumption that certain categories of workers contracted Covid 19 at work, thus making them eligible for workers' compensation benefits.

With respect to Cyber liability insurance, Covid has created more opportunities for bad actors to infiltrate corporate and government IT systems as more people work remotely. Attacks against the City alone are up exponentially due to Covid 19 per Tim McCain the City's Chief Information Security Officer. The insurance market is responding by increasing premiums between 15% and 30% across industries. The indication received will likely decrease once additional information is provided to the carrier regarding the City's financial controls.

The financial professional coverages such as crime and fiduciary insurance premiums should remain flat as should the fine arts coverage for our museum collections.

In addition to the coverages indicated above, the City is required to provide a surety bond to the Division of Workers' Compensation guaranteeing that the City will be able to meet its obligations to pay claims as a self-insured entity. Since the City carries a high self-insured retention, (SIR) of \$500,000 per claim, we have to post a bond in the amount of \$5,279,738. The bond premium for 2021 is estimated to be flat at paid \$35,754.

IMA's team has worked hard in the last year to improve the premiums and coverage terms for the City with our incumbent insurance carriers. The indications received from all lines of coverage do not require the City to increase its existing self-insured retentions or deductibles. If any deviations from the existing SIRs or deductibles are requested at the last minute, they will be communicated to City Council along with an analysis of the reasons behind the increases.

Given staff has some of the renewal information but not all, we worked with the Budget Office and determined an appropriate amount to request is \$2,700,000, which provides enough funding for total anticipated premium costs and the addition of any buildings under construction which will be added to the insurance during 2021.

The premiums will be paid through the City's broker, IMA of Colorado. Broker fees are not included in this amount; they will be paid separately.

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## QUESTIONS FOR COUNCIL

Will Council authorize the City Risk Manager to purchase insurance and surety bonds through the City's broker, IMA, for an amount not-to-exceed \$2,700,000.00?

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**LEGAL COMMENTS** Every award of a purchase order or contract worth \$2,000,000.00 or more requires City Council approval (City Code § 2-672(5)). (Lathers)

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## PUBLIC FINANCIAL IMPACT

YES       NO

**If yes, explain:** 2021 Budget available for this in org 31010, account 64600.

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## PRIVATE FISCAL IMPACT

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:**





# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Consideration to AWARD CHANGE ORDER #2 TO A SINGLE SOURCE CONTRACT to H&E Equipment Services, Henderson, Colorado, in the amount of \$112,979.40 for the purchase of five (5) Emergency One fire trucks.
<b>Item Initiator:</b> Jeff Lehmann – Procurement Agent
<b>Staff Source/Legal Source:</b> Ron Forrest – Fleet Manager/Dave Lathers – 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:** N/A

**Regular Meeting:** 12/7/2020

Dual Listed Why is this item dual listed?[Click or tap here to enter text.](#)

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

- Approve Item as proposed at Study Session  Information Only
- Approve Item and Move Forward to Regular Meeting
- Approve Item as proposed at Regular Meeting
- Approve Item with Waiver of Reconsideration  
Why is a waiver needed?[Click or tap here to enter text.](#)

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### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

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

- Recommends Approval  Does Not Recommend Approval
- Forwarded Without Recommendation  Recommendation Report Attached
- Minutes Attached  Minutes Not Available

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**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 award to purchase three (3) Emergency One pumper fire trucks, one (1) Emergency One heavy rescue truck, and one (1) Emergency One aerial ladder truck from H&E Equipment Services in the amount of \$3,602,160.00 on December 10, 2018, Agenda Item #9i.

NOTE: Change Order #1 was added to original purchase order in error and subsequently reversed.

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

After City Council approved the award for the five fire trucks, Purchasing Services submitted purchase order to H&E Equipment based on final specifications agreed upon between the City and H&E Equipment. Upon receipt of purchase order H&E Equipment entered the order for the five trucks into their manufacturing queue based on these final specifications.

After additional reviews, Aurora Fire Rescue requested design/specification changes to each of the five trucks resulting in reengineering charges of \$112,979.40 broken out as follows:

- Engine 15 Pumper - \$21,115.00
- Engine 12 Pumper - \$21,115.00
- Engine 17 Pumper - \$21,115.00
- Heavy Rescue - \$22,122.43
- Engine Ladder 16 - \$27,511.97

Pricing for reengineering services is the same as previously negotiated City discount of 13% off manufacturer's list price and is less than the pricing available under the HGAC competitive agreement for the same services. Therefore, pricing is considered to be fair and reasonable.

City Council approval is required through eSCRIBE process for change orders exceeding an accumulative total of \$100,000.00.

Based on the above, staff recommends that the City award Change Order #2 to H&E Equipment Services, Henderson, Colorado in the amount of \$112,979.40 for City requested reengineering services.

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**QUESTIONS FOR COUNCIL**

Does City Council approve Change Order #2 to the single source contract with H&E Equipment Services, Henderson, Colorado in the amount of \$112,979.40 for reengineering services?

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**LEGAL COMMENTS**

1. Any change order or amendment that would cause the cumulative total of all change orders to a contract to exceed \$100,000 requires City Council approval (City Code § 2-676(II)(b)(3)). (Lathers)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Funding for Change Order #2 will be allocated to the following orgs and acct:

00954-67701 - \$64,352.43

00967-67601 - \$21,115.00

58061-67601 - \$27,511.97

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:**

Mayor LeGare asked Ms. Pierce to leave her contact information with the City Clerk so that she could take advantage of the City's Homelessness Program.

William Montgomery discussed his experience with homelessness in Aurora and a trespass notice issue he had with the Aurora Police.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR - 9a-s**

**General Business**

- a. Consideration to AWARD A SOLE SOURCE CONTRACT to Niquito's, Aurora, Colorado in the not-to-exceed amount of \$85,000.00 for delivery of prepared food and other food items to the Aurora Detention Center through December 31, 2019. STAFF SOURCE: Dr. Zelda DeBoyes, Court Administrator/Detention, Court Administration

Council Member Murillo asked the difference between a sole and single source contract, noting her understanding there were other potential providers in this instance but no one else put in a bid.

Bryn Fillinger, Manager, Purchasing & Contracts, stated those services were solicited for a number of years and Niquito's was the only company to respond therefore it was considered a sole source contract.

Dr. Zelda DeBoyes, Court Administrator/Detention, Court Administration, stated the City considered providing the services in-house and could not match the price.

Motion by Murillo, second by Roth, to approve item 9a.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

- b. Consideration to AWARD A SOLE SOURCE CONTRACT to the Aurora Economic Development Council (AEDC), Aurora, Colorado in an amount not to exceed \$550,000 for services to retain, expand, and attract companies and employment within the City of Aurora. STAFF SOURCE: Chad Argentar, Planning Supervisor, Planning & Development Services
- c. Consideration to APPROVE THE PURCHASE of 7 shares of the Union Ditch Company Stock, 22 shares of the Godfrey Ditch Company Stock, a water delivery structure, and 320 acre-feet of lined storage from Dixie Water LLC for \$5,000,000 by the City of Aurora, acting by and through its Utility Enterprise. STAFF SOURCE: Dawn Jewell, S. Platte Basin Supply, Aurora Water
- d. Consideration to EXTEND AN OPENLY SOLICITED CONTRACT to Viewu, Seattle, WA in the amount of \$236,250.00 to provide Body Worn Camera hardware and software services for the Aurora Police Department through October 31, 2019. (R1717) STAFF SOURCE: Lieutenant Dan Mark, Police
- e. Consideration to AWARD A SINGLE SOURCE CONTRACT to Simpler North America, LLC, Chicago, Illinois in the amount of \$108,000.00 for consulting services for LEAN Design of the Southeast Area Maintenance Facility (SEAM). ***(STAFF REQUESTS A***

- ◆ ***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.***



**WAIVER OF RECONSIDERATION)** STAFF SOURCE: Sarah Young, Water Planning Service Manager, Aurora Water

- f. Consideration to AWARD A SOLE SOURCE CONTRACT to Pure Technologies, Columbia, Maryland, in the amount of \$1,219,505.00 for a real-time wire break monitoring system and associated services for the four miles of PCCP in the new raw water delivery system. STAFF SOURCE: Sarah Young, Water Planning Service Manager, Aurora Water
- g. Consideration to AWARD AN OPENLY SOLICITED CONTRACT to CUES, Orlando, FL in the amount of \$125,135.00 to purchase Wastewater Pipeline Inspection Software for the Water Department. (R-1891) STAFF SOURCE: Steve Sciba, Manager of Water Operations, Aurora Water
- h. Consideration to AWARD A SINGLE SOURCE CONTRACT to NicheVision Forensics, LLC, Akron, Ohio in the amount of \$98,000.00 for the installation of two STRmix Expert DNA Analysis Systems for the Unified Metropolitan Forensic Crime Lab. **(STAFF REQUESTS A WAIVER OF RECONSIDERATION)** STAFF SOURCE: Police Lieutenant Timothy Dufour, Police
- i. Consideration to AWARD A SINGLE SOURCE CONTRACT to H&E Equipment Services, Henderson, Colorado, in the amount of \$3,602,160.00 for the purchase of three (3) Emergency One pumper fire trucks, one (1) Emergency One heavy rescue truck, and one (1) Emergency One aerial ladder truck. STAFF SOURCE: Mark Hinterreiter, Manager of Fleet Services, General Management
- j. Consideration to AWARD A SINGLE SOURCE CONTRACT to Wagner Equipment Company, Aurora, Colorado in the not-to-exceed amount of \$100,000.00 for the purchase of parts and repair services for Caterpillar and other miscellaneous heavy equipment from March 1, 2019, through February 28, 2020. STAFF SOURCE: Mark Hinterreiter, Manager of Fleet Services, General Management
- k. Consideration to AWARD A SINGLE SOURCE CONTRACT to Mike Naughton Ford, Inc., Aurora, Colorado, in the not-to-exceed amount of \$150,000.00 for the purchase of Ford OEM vehicle parts and repair services from March 1, 2019, through February 28, 2020. STAFF SOURCE: Mark Hinterreiter, Manager of Fleet Services, General Management
- l. Consideration to AUTHORIZE the Risk Manager to expend funds for the City of Aurora's property and liability insurance policies and surety bond due on January 1, 2019, paid through the insurance broker, IMA, Inc., Denver, Colorado in the amount not-to-exceed \$2,100,000.00. **(STAFF REQUESTS A WAIVER OF RECONSIDERATION)** STAFF SOURCE: Renee Pettinato Mosley, Risk Manager, Human Resources
- m. Consideration to AWARD A SINGLE SOURCE CONTRACT to Publication Printers Corporation, Denver, Colorado in the amount not-to-exceed \$153,593.20 through December 31, 2019. STAFF SOURCE: Jessica Bixenman, Manager of Marketing & Special Events, Parks, Recreation & Open Space
- n. Consideration to APPROVE a Water and Sewer Service Agreement between the City of Aurora and Trails, LLC. STAFF SOURCE: Kelley Neumann, Deputy Director Water Plan/Engineering, Aurora Water
- o. Approval of a contract to Holland & Knight in the amount of \$120,000 for federal lobbying services in 2019. STAFF SOURCE: Michael Crews, Intergovernmental Relations Coordinator, General Management

- ◆ **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.**

Motion by Gruber, second by Bergan, to approve items 9b – 9o with a waiver of reconsideration on items 9e, 9h and 9l.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

**Final Ordinances**

- ◆ p. **2018-59**  
Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, rezoning 6.95 acres more or less at the Southwest Corner of East Mississippi Avenue and Tower Road from Retail Business District (B-1) to Medium Density Residential District (R-2) and amending the zoning map accordingly. (COMMONS AT EAST CREEK AT TOWER LANDING REZONE) (**Case Number 2012-2001-01 Recommended approval unanimously at the October 24, 2018 Planning Commission Meeting**) STAFF SOURCE: Deborah Bickmire, Planner II, Planning & Development Services

Motion by Roth, second by Berzins, to approve item 9p.

Voting Aye: Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

- ◆ q. **2018-60**  
Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, amending Section 26-28 of the Aurora City Code, and adding article III Titled "Community Development Grants and Loans", expanding the duties and powers of the City of Aurora Business Advisory Board, and other related matters. STAFF SOURCE: Chad Argentar, Planning Supervisor, Planning & Development Services

Motion by Gruber, second by Watson, to approve item 9q.

Mayor Pro Tem Berzins asked if the item has been discussed with the Business Advisory Board (BAB) and if so, what they thought about it.

Chad Argentar, Planning Supervisor, Planning & Development Services, answered affirmatively, noting they initially expressed concerns related to capacity but were supportive after further discussion.

Voting Aye: Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

- ◆ r. **2018-62**  
Consideration of AN ORDINANCE FOR ADOPTION of the City Council of the City of Aurora, Colorado, vacating a portion of the public right-of-way for East 14th Avenue, a street segment between Boston Street and Beeler Street, City of Aurora, County of Arapahoe, State of Colorado and reserving a utility easement therein. (BOSTON ELEMENTARY SCHOOL-STREET VACATION) STAFF SOURCE: Stephen Rodriguez, Planning Supervisor, Planning and Development Services

Motion by Roth, second by Bergan, to approve item 9r.

Voting Aye: Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

- ◆ **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.**



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Consideration to APPROVE AN AGREEMENT between the city of Aurora, Colorado and the Fraternal Order of Police for the years 2021-2022

**Item Initiator:** Jacob Bergeron, Labor Relations Officer

**Staff Source/Legal Source:** Jason Batchelor, DCM / Rachel Allen, Client Group Manager

**Outside Speaker:** Brent Case, Esq.

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

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 12/7/2020

Dual Listed Why is this item dual listed? [Click or tap here to enter text.](#)

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

- Approve Item as proposed at Study Session  Information Only
- Approve Item and Move Forward to Regular Meeting
- Approve Item as proposed at Regular Meeting
- Approve Item with Waiver of Reconsideration  
Why is a waiver needed? [Click or tap here to enter text.](#)

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Use dropdown menu to select committee from list.

**Policy Committee Date:** Click or tap to enter a date or type N/A

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

- Recommends Approval  Does Not Recommend Approval
- Forwarded Without Recommendation  Recommendation Report Attached
- Minutes Attached  Minutes Not Available

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

The City entered into contract negotiations in September 2020 with the Fraternal Order of Police. The parties reached agreement for the 2021 and 2022 contract years.

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

Included in the Agreement between the Fraternal Order of Police, Lodge 49 and the City of Aurora are the following summary items:

2021

- Step and grade increases
- 0% salary increase

2022

- Step and grade increases
- 2% across-the-board salary increases on 1/1/22 and again on 7/1/22

Additional Summary Items:

- Removal of references to particular versions of Employee Manual, enabling management flexibility
- Reform health insurance contract language to allow the City more flexibility, enabling the City to enhance benefits
- Expand usage of vest allowance
- Pay overtime rate for hours worked on holiday
- Allow paid day off on day before and after military deployment

The Agreement becomes effective January 1, 2021 and will remain effective through December 31, 2022.

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**QUESTIONS FOR COUNCIL**

Does Council APPROVE THE AGREEMENT between the City of Aurora, Colorado and the Fraternal Order of Police for the years 2021 and 2022?

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**LEGAL COMMENTS**

Pursuant to Section 15-8 of the City Charter, agreements reached by the City and the Fraternal Order of Police, as the recognized bargaining unit for the APD, shall be set forth in a written contract. This contract is a mutual recommendation jointly submitted to the City Council. The contract will become binding once the members of the FOP ratified the contract and the City Council acts by majority vote to formally approve the contract. The ratification vote was completed on October 21, 2020. (Allen).

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Finance will comment

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** N/A

**APPENDIX A  
CIVIL SERVICE EMPLOYEES/POLICE  
2021 WAGE SCHEDULE**

<b>POSITIONS</b>	<b>A</b>	<b>B</b>	<b>C</b>
<b>PATROL OFFICER, IV Grade 801</b>	\$56,984 \$4,749 \$27.39615		
<b>PATROL OFFICER, III Grade 802</b>	\$62,115 \$5,176 \$29.86298		
<b>PATROL OFFICER, II Grade 803</b>	\$69,205 \$5,767 \$33.27163		
<b>PATROL OFFICER, I Grade 804</b>	\$76,469 \$6,372 \$36.76394	\$84,870 \$7,073 \$40.80288	\$91,986 \$7,666 \$44.22404
<b>PATROL OFFICER SPECIALIST Grade 809</b>	\$81,823 \$6,819 \$39.33798	\$90,810 \$7,568 \$43.65865	\$98,425 \$8,202 \$47.31971
<b>POLICE AGENT Grade 805</b>		\$94,844 \$7,904 \$45.59808	\$101,543 \$8,462 \$48.81875
<b>POLICE AGENT SPECIALIST Grade 811</b>		\$101,484 \$8,457 \$48.79038	\$108,651 \$9,054 \$52.23606
<b>POLICE SERGEANT Grade 806</b>		\$104,498 \$8,708 \$50.23942	\$110,525 \$9,210 \$53.13702
<b>POLICE SERGEANT SPECIALIST Grade 810</b>		\$111,812 \$9,318 \$53.75577	\$118,263 \$9,855 \$56.85721
<b>POLICE LIEUTENANT Grade 807</b>		\$117,455 \$9,788 \$56.46875	\$126,691 \$10,558 \$60.90913
<b>POLICE CAPTAIN Grade 808</b>		\$129,265 \$10,772 \$62.14663	\$139,429 \$11,619 \$67.03317

**APPENDIX B  
CIVIL SERVICE EMPLOYEES/POLICE  
2022 WAGE SCHEDULE  
1/1/2022 - 6/30/2022**

<b>POSITIONS</b>	<b>A</b>	<b>B</b>	<b>C</b>
<b>PATROL OFFICER, IV Grade 801</b>	\$58,124 \$4,844 \$27.94423		
<b>PATROL OFFICER, III Grade 802</b>	\$63,357 \$5,280 \$30.46010		
<b>PATROL OFFICER, II Grade 803</b>	\$70,589 \$5,882 \$33.93702		
<b>PATROL OFFICER, I Grade 804</b>	\$77,998 \$6,500 \$37.49904	\$86,567 \$7,214 \$41.61875	\$93,826 \$7,819 \$45.10865
<b>PATROL OFFICER SPECIALIST Grade 809</b>	\$83,459 \$6,955 \$40.12452	\$92,626 \$7,719 \$44.53173	\$100,394 \$8,366 \$48.26635
<b>POLICE AGENT Grade 805</b>		\$96,741 \$8,062 \$46.51010	\$103,574 \$8,631 \$49.79519
<b>POLICE AGENT SPECIALIST Grade 811</b>		\$103,514 \$8,626 \$49.76635	\$110,824 \$9,235 \$53.28077
<b>POLICE SERGEANT Grade 806</b>		\$106,588 \$8,882 \$51.24423	\$112,736 \$9,395 \$54.20000
<b>POLICE SERGEANT SPECIALIST Grade 810</b>		\$114,048 \$9,504 \$54.83077	\$120,628 \$10,052 \$57.99423
<b>POLICE LIEUTENANT Grade 807</b>		\$119,804 \$9,984 \$57.59808	\$129,225 \$10,769 \$62.12740
<b>POLICE CAPTAIN Grade 808</b>		\$131,850 \$10,988 \$63.38942	\$142,218 \$11,852 \$68.37404

**APPENDIX C  
CIVIL SERVICE EMPLOYEES/POLICE  
2022 WAGE SCHEDULE  
7/1/2022 - 12/31/2022**

<b>POSITIONS</b>	<b>A</b>	<b>B</b>	<b>C</b>
<b>PATROL OFFICER, IV Grade 801</b>	\$59,286 \$4,941 \$28.50288		
<b>PATROL OFFICER, III Grade 802</b>	\$64,624 \$5,385 \$31.06923		
<b>PATROL OFFICER, II Grade 803</b>	\$72,001 \$6,000 \$34.61587		
<b>PATROL OFFICER, I Grade 804</b>	\$79,558 \$6,630 \$38.24904	\$88,298 \$7,358 \$42.45096	\$95,703 \$7,975 \$46.01106
<b>PATROL OFFICER SPECIALIST Grade 809</b>	\$85,128 \$7,094 \$40.92692	\$94,479 \$7,873 \$45.42260	\$102,402 \$8,534 \$49.23173
<b>POLICE AGENT Grade 805</b>		\$98,676 \$8,223 \$47.44038	\$105,645 \$8,804 \$50.79087
<b>POLICE AGENT SPECIALIST Grade 811</b>		\$105,584 \$8,799 \$50.76154	\$113,040 \$9,420 \$54.34615
<b>POLICE SERGEANT Grade 806</b>		\$108,720 \$9,060 \$52.26923	\$114,991 \$9,583 \$55.28413
<b>POLICE SERGEANT SPECIALIST Grade 810</b>		\$116,329 \$9,694 \$55.92740	\$123,041 \$10,253 \$59.15433
<b>POLICE LIEUTENANT Grade 807</b>		\$122,200 \$10,183 \$58.75000	\$131,810 \$10,984 \$63.37019
<b>POLICE CAPTAIN Grade 808</b>		\$134,487 \$11,207 \$64.65721	\$145,062 \$12,089 \$69.74135



**AGREEMENT BETWEEN**

**THE CITY OF AURORA**

**AND**

**FRATERNAL ORDER OF POLICE, LODGE # 49**

**JANUARY 1, 2021**

**THROUGH**

**DECEMBER 31, 2022**

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## PREAMBLE

This Agreement between the City of Aurora, herein referred to as the "City", and the Fraternal Order of Police, Lodge # 49, herein referred to as the "FOP", is designed to promote the improvement of labor relations between the City of Aurora and the commissioned officers of the Police Department, to protect the public health, safety, and welfare by assuring at all times the orderly and uninterrupted operations and services of City government. It is understood that this Agreement was negotiated in good faith and shall not be violated or abridged in any way by either party.

## ARTICLE 1. COPIES OF AGREEMENT

The City shall furnish to the FOP twelve (12) copies of this Agreement and shall provide members of the bargaining unit access to this Agreement through electronic means, prior to commencement of this Agreement.

## ARTICLE 2. NON-DISCRIMINATION, FOP ACTIVITY AND FAIR SHARE

**Section 1:** The provisions of this Agreement in accordance with applicable federal and state laws shall be applied equally to all employees without discrimination as to race, religion, color, gender, sex, creed, age, sexual orientation, disability, ancestry, genetic information, veteran status or political affiliation, governed only by the limitation of the law regarding bona fide occupational qualifications.

**Section 2:** No department supervisor or representative of the City shall discriminate against any employee because he has formed, joined or chosen to be represented by the FOP or because he has given testimony or taken part in any grievance procedure or other hearings, negotiations or conferences as part of the FOP recognized under the terms of this Agreement.

**Section 3:** When the Police Chief or his/her designee has granted prior approval, FOP officials or representatives shall be allowed time away from their assigned duty station in order to conduct FOP business. Nothing herein shall limit the discretion of the Police Chief or his/her designee in approving such time off.

**Section 4:** The City agrees to deduct the FOP membership or initiation fees, dues, general or special assessments from the monthly gross pay of each officer who individually requests in writing that such deduction be made. The FOP shall designate the amount of the deduction and the aggregate amount of such deduction shall be remitted, together with an itemized statement, to the FOP no later than the fifteenth day of the month in which such deductions are made. The written authorization for deduction hereunder shall remain in full force and effect until revoked in writing by the officer.

**Section 5:** The FOP agrees that it will indemnify and save the City harmless from all suits, actions and claims against the City or persons acting on behalf of the City whether for damages, compensation, or any other combination thereof arising out of the City's compliance with the terms of Section 4 herein unless such damages are caused by the City's mistake. The FOP shall reimburse the City for any and all reasonable costs and attorney's fees arising out of the

defense of any such action against the City. The City agrees to cooperate with the FOP and its counsel concerning any such litigation.

### **ARTICLE 3. LEAVE SHARING PROGRAM**

All members of the bargaining unit shall be allowed to participate in the leave sharing program as described in the Employee Manual. The City shall continue the Leave Sharing Program for the duration of this Agreement. A Police Officer recommended by the FOP shall be appointed by the Chief on the leave sharing committee for decisions that affect members of the bargaining unit.

### **ARTICLE 4. UNIFORMS AND EQUIPMENT**

**Section 1:** During the term of this Agreement, the City shall pay for all leather gear purchased, replaced, or repaired for all Police Officers.

**Section 2:** The City shall provide one pair of shoes and one pair of boots that conform to Department policy. When several types of footwear are approved for wear by the Chief of Police, the Officer shall be allowed to choose the type that he/she prefers under this provision. The City shall pay one hundred percent (100%) of the expense of repair and replacement for all footwear provided by the City. When footwear needs to be resoled, the Police Officer shall select any sole consistent with the rules and regulations of the Aurora Police Department.

**Section 3:** The City shall provide a clothing allowance of \$30.00 per month for non-uniform Police Officers.

**Section 4:** The City shall provide five (5) full uniforms to each Police Officer. Each full uniform shall consist of one summer shirt, one pair of pants and one winter shirt. In addition, the City shall continue to provide one jacket, one raincoat, one hat and necessary ties.

**Section 5:** The City shall provide a vest allowance of \$1000.00 of the cost of purchasing a soft body armor vest to include the purchase of external plates and external and internal carrier under the uniform shirt, provided that this allowance shall be made available to each Police officer only one time every four years. If the vest is rendered unserviceable due to Police related activity, the City shall pay the full cost for replacement of the vest. If the City receives federal funds for the purchase of vests, the money will be used to reimburse the officer up to the full cost of the vest. The Police Officer may purchase the vest from the City's supplier in the same manner as any other equipment. If the vest costs more than the allowance, the Police Officer shall pay the difference. Also, the Police Officer may purchase the vest at any other supplier and submit the receipt for reimbursement up to the amount of the allowance.

### **ARTICLE 5. ANNUAL LEAVE**

**Section 1:** The vacation schedule for all officers shall be as follows:

Before completion of 2 yrs.	(4160 hrs.)	80 hours
After completion of 2 yrs.	(4160 hrs.)	88 hours
After completion of 3 yrs.	(6240 hrs.)	112 hours
After completion of 4 yrs.	(8320 hrs.)	120 hours

After completion of 5 yrs.	(10400 hrs.)	128 hours
After completion of 6 yrs.	(12480 hrs.)	136 hours
After completion of 10 yrs.	(20800 hrs.)	144 hours
After completion of 14 yrs.	(29120 hrs.)	184 hours
After completion of 20 yrs.	(41600 hrs)	200 hours

In calculating vacation accrual rates, Police Officers who were lateral hires will be given credit for three (3) additional years' experience with the City (e.g., a lateral hire with three (3) years' experience with the City shall accrue vacation at the same rate as a non-lateral hire with six (6) years' experience with the City).

**Section 2:** Vacations shall be taken pursuant to the Employee Manual except that whenever, in the opinion of the Chief of Police, due to excessive work loads and/or lack of personnel, a Police Officer is unable to utilize vacation accrued in excess of 260 hours which has been previously scheduled and approved, he/she shall be compensated at his/her hourly rate for each and every hour above the maximum accrual.

**ARTICLE 6. PERSONAL LEAVE**

Effective January 1, 2019, after completion of one (1) year of continuous service, all members of the bargaining unit shall receive twenty-eight (28) hours of personal leave with pay each calendar year. The eight (8) hour increase in personal leave from the 2017/18 Agreement is in recognition of the January 1, 2019 discontinuance of the practice of adding eight (8) hours each year to the annual leave banks for officers not in administrative positions within the Department.

Personal leave may not be taken in increments of less than two (2) hours and may not be accrued from year to year. Any personal leave that is not utilized in the year in which it accrues shall be lost and there is no compensation for unused personal leave.

**ARTICLE 7. LEAVE OF ABSENCE**

All commissioned police officers may apply for a leave of absence of up to one (1) year for purposes of continuing their education or to deal with hardships. Requests for leave without pay must be approved by the Chief of Police and the City Manager. However, leave without pay which is given pursuant to the City Charter regarding criminal allegations against police officers shall not be subject to above procedures and limits, but rather shall be subject to the language contained in the Charter.

All annual leave must be exhausted before a leave without pay may be granted, except maternity leave or when leave without pay is used in disciplinary action, or when the Police Chief approves leave without pay for an employee's professional activities. Any leave taken pursuant to FMLA shall not be considered leave of absence under this Article. During a leave without pay of more than one (1) work shift, an employee does not accrue vacation, sick leave, retirement, or step increase. Failure of a police officer to return from a leave without pay shall result in termination. A police officer on leave without pay for more than one (1) calendar month must pay the full cost of insurance benefits.

**ARTICLE 8. PAID INJURY OR ILLNESS LEAVE**

Paid injury or illness leave shall be granted to all Police Officers pursuant to the provisions of the Employee Manual. In the event a Police Officer suffers a job-related illness or injury, Police Officers remaining in the employ of the City may be granted up to two thousand eighty hours (2,080 hours) of paid leave in connection with the illness or injury. Employees who are on injury leave shall continue to accrue sick and annual leave and receive City-provided group benefits. Nothing in this Article shall affect a Police Officer's rights under the FMLA.

**ARTICLE 9. SAFETY AND HEALTH**

The City shall endeavor to conform to and comply with applicable Federal and State regulations regarding the safety and health of its employees during hours of employment.

**ARTICLE 10. HEALTH AND DENTAL INSURANCE**

Effective January 1, 2021 and 2022, the City shall offer members the same health and dental insurance plans offered to City employees not in a bargaining unit. Such offerings shall include multiple health insurance plans, with at least one plan having an actuarial value of at least 90% (meeting the actuarial value required of a platinum health plan as provided for in 45 CFR § 156.140) with a City premium contribution percentage to that plan of at least 87% for each coverage tier.

The FOP shall have representation on the City's Benefits Committee with the opportunity to participate in discussions regarding any proposed changes to health insurance plans offered by the City.

**ARTICLE 11. INTENTIONALLY OMITTED**

**ARTICLE 12. GROUP LIFE INSURANCE**

During the term of this Agreement, the City shall provide group life insurance coverage for each Police Officer in the bargaining unit in an amount equal to twice each Police Officer's annual salary rounded off to the next highest one thousand dollars (\$1,000.00) if not an even multiple of one thousand, and dependent life insurance in an amount of one thousand dollars (\$1,000.00) for each dependent. Officers may purchase additional coverage at their own expense.

**ARTICLE 13. WAGES**

**Section 1:** The base salary schedule for the Police Officers effective on the first pay period that includes January 1, 2021 is shown in Appendix A as attached hereto.

The base salary schedule for Police Officers effective on the first pay period that includes January 1, 2022 is shown in Appendix B as attached hereto. The base salary schedule for Police Officers effective on the first pay period that includes July 1, 2022 is shown in Appendix C as attached hereto.

**Section 2: Step Increases.** All Police Officers holding rank of Patrol Officer, First Grade or higher, shall receive step increases as set forth in Appendices A, B, and C for that rank.

The step increases provided in Appendices A, B, and C shall be made as described within those Appendices, provided that the Police Officer receives a satisfactory performance evaluation for that year, up to the maximum step for the rank on the salary schedules in Appendix A, B, and C. Failure to receive a satisfactory performance evaluation in any given year shall result in no step increase for that year.

Failure to qualify for a step increase in any given year shall not result in the loss of any step increases earned in prior years.

Police Officers who promote ranks shall be placed in the lowest step in the new rank that results in at least a 2% (two percent) wage increase for the Police Officer. This shall not apply to Police Officers in the assignment of Patrol Officer Specialist, Police Sergeant Specialist, or Agent Specialist; rather, Police Officers in those assignments who promote shall be placed in the lowest step in the new rank that results in a wage increase from the step the Police Officer occupied in the rank without the assignment (Patrol Officer I, Police Sergeant or Police Agent).

**Section 3:** For all officers hired after January 1, 1997 who are eligible for the death and disability coverage provided under §31-31-811(4), C.R.S., the City shall make the required contribution to the death and disability fund for the years 2021 and 2022.

#### **ARTICLE 14. GRIEVANCE PROCEDURE**

**Section 1:** A grievance under the Agreement shall be confined to an alleged violation of any express provision of this Agreement and shall not include any disciplinary matters. Any Police Officer or group of Police Officers may discuss any matter with their supervisor without invoking the formal grievance procedure provided for in this Article.

**Section 2:** A grievance must be initiated by either an aggrieved Police Officer or by the FOP on behalf of any one or more individual Police Officers. The grievant must reduce the grievance to writing and present the written grievance to the office of the Chief of the Police Department within ten (10) working days after the grievant knew or should have known the facts which gave rise to the grievance and, to trigger the Chief's response time, send the grievance via email to all Deputy and Division Chiefs.

The written grievance should contain:

- (a) a written statement of the grievance and the facts upon which it is based;
- (b) a written allegation of the specific wrongful act and harm done; and
- (c) a written statement of the remedy or adjustment sought.

**Section 3:** The Chief of the Police Department or his designee shall meet with the grievant and, if the grievant is an individual, representatives of the FOP in an effort to resolve the grievance within ten (10) working days after being presented with the written grievance. The



Chief of the Police Department or his designee must respond in writing to the grievance within ten (10) working days following the meeting with the grievant and/or representatives of the FOP.

**Section 4:** If the grievance is not resolved to the satisfaction of the FOP by the Chief of the Police Department or his designee, the FOP may appeal the grievance to the City Manager within ten (10) working days of receipt of the written answer of the Chief of the Police Department or his designee. Within ten (10) working days after receipt of the appeal, the City Manager or his designee shall meet with the grievant and if the grievant is an individual, with representatives of the FOP to discuss the grievance. Within ten (10) working days after this meeting, the City Manager or his designee shall give the FOP his answer in writing.

**Section 5:** Within ten (10) working days after the City Manager has issued his written decision, if the FOP is dissatisfied with the decision, the FOP shall give written notice to the City Manager of its intent to arbitrate. Within ten (10) working days of the written notice of intent to arbitrate, the parties shall attempt to select a neutral arbitrator, to hear and determine the dispute. In the event the parties are unable to agree upon a neutral arbitrator, either party or its representatives may request a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service, and the parties shall choose the arbitrator by counter-striking the names on the list received. The findings of the Arbitrator shall be final and binding on all parties concerned.

**Section 6:** The Arbitrator shall have the authority to hold hearings and make procedural rules.

**Section 7:** The findings of the Arbitrator shall be consistent with law and with the terms of this Agreement. The Arbitrator shall have no power to add to, subtract from, disregard, alter, or modify, any of the terms of this Agreement.

**Section 8:** The cost of any arbitration as well as the Arbitrator's fee shall be borne equally by the parties to the Agreement.

**Section 9:** Either party may request a Certified Court Reporter to take a stenographic record of the evidence taken at an arbitration hearing. If such stenographic record is taken, a copy of the transcript shall be provided to the Arbitrator. The party requesting a stenographic record shall pay the cost thereof, except that if the other party shall request a copy of any transcript, the parties shall share equally the entire cost of making the stenographic record.

**Section 10:** The term "working days" as used in this Article shall be inclusive of Mondays through Fridays during which the administrative offices of the City are normally open. The term "working days" shall exclude Saturdays, Sundays, and legal holidays.

**Section 11:** The number of days indicated at each level of the grievance procedure shall be considered as a maximum unless said limit is mutually extended.

**Section 12:** Nothing contained in this Article is intended to interfere with or abridge any constitutional rights of its employees to petition the City.

## **ARTICLE 15. CHANGES TO EMPLOYEE MANUAL**

During the term of this Agreement, before the City implements changes in the Employee Manual, it shall provide a copy of the proposed changes to the FOP at least thirty (30) days prior to implementation (except when required by law) to allow the FOP to provide input to the City regarding the proposed changes.

## **ARTICLE 16. SAVINGS CLAUSE**

If any provision of this Agreement is subsequently declared by the proper legislative or judicial authority to be unlawful, unenforceable, or not in accordance with applicable statutes or ordinances, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement.

## **ARTICLE 17. OVERTIME AND COMPENSATORY TIME**

**Section 1:** Overtime shall be paid at the rate of one and one-half times (1 1/2 X) a Police Officer's regular hourly rate. Accordingly, such overtime shall not apply to Lieutenants or Captains, except as specifically authorized by the Chief of Police. Overtime is defined as work performed in excess of the hours normally scheduled for any one (1) shift (either eight (8), nine (9), or ten (10) hours depending on assignment) and/or work performed in excess of forty (40) hours in any consecutive seven (7) calendar day period for Police Officers working on a seven (7) day duty cycle. For Police Officers assigned a duty cycle longer than seven (7) days, overtime shall include any hours worked over forty (40) per week when the weekly average of hours worked during the duty cycle is calculated.

For Police Officers assigned to a twelve (12) hour shift, overtime is defined as work performed in excess of the hours normally scheduled for any one (1) shift and/or work performed in excess of forty three (43) hours in any consecutive seven (7) calendar day period for Police Officers working on a seven (7) day duty cycle. For Police Officers assigned a duty cycle longer than seven (7) days overtime shall include any hours worked over forty three (43) per week when the weekly average of hours worked during the duty cycle is calculated.

**Section 2: Base Pay.** Computation of the officer's hourly rate shall be determined by adding the officer's annual base salary and steps, to which the officer is entitled in a given year and dividing that total annual figure by two thousand eighty (2080) hours. Necessary adjustments, because of the mode of payment of any of these items, will be made on an annual basis.

**Section 3:** Members of the bargaining unit shall be paid overtime pay when those members are off duty and are required to appear for court, authorized administrative hearings, or they are required to come to work to perform police functions. Members will be paid overtime for the actual time worked except that there will be a two-hour minimum overtime pay for being called in from an off-duty status. Members shall receive two hour minimum overtime pay for multiple "show-ups" in the same day as long as the show ups are at different locations or at least two hours apart from one another at the same location. Members who are required to appear in court immediately after their normal tour of duty will be paid overtime for the actual time spent in court. Members who are required to appear in court within two hours immediately preceding their normal duty time will receive the two-hour minimum overtime payment.

The two-hour minimum overtime pay shall also apply to subpoenas to testify in job related civil cases as long as any other monies received from outside sources are turned over to the Department when submitting for overtime payment. When members are required to appear for Internal Affairs investigations or other municipal administrative hearings they shall receive the two-hour minimum overtime payment as long as their testimony is for the City. This section does not apply to an accused member who appears at an administrative hearing if the alleged charges are sustained.

Members who receive subpoenas for court while they are on suspension without pay shall not be entitled to the two-hour minimum or to overtime pay under any circumstances. All pay shall be at straight time for the actual time spent in court.

**Section 4: Compensatory Time.** All overtime worked pursuant to the collective bargaining agreement between the City of Aurora and the FOP shall be compensated for in either money or time off pursuant to this agreement. All overtime work must be approved by the member's supervisor prior to the work being performed. Time worked will be recorded pursuant to the Department's established record keeping procedures.

After working overtime the member will designate whether he wants to be compensated in money or time off. If the member requests compensation in money, that request will be honored unless a supervisor, for reasonable cause, denies the request. Any such denial is subject to review through the chain of command and ultimately through the grievance procedure of the collective bargaining agreement. If the member requests compensation in compensatory time off, said request shall be granted, absent extraordinary circumstances, until the member achieves a bank of one hundred sixty (160) hours (106.67 hours of overtime worked). If a member has accumulated a bank of one hundred sixty (160) hours or more, then a request for further accrual of compensatory time off must be approved by a Division Chief or his designee.

The maximum amount of time accumulated in a compensatory time bank for each member, subject to proper approval, is four hundred and eighty (480) hours of compensatory time off for overtime worked on or after April 15, 1986.

When a member wants to take compensatory time off which was previously earned, the following procedures will apply. If the member desires to take off a block of time less than forty (40) hours, his request to do so must be granted within fourteen (14) days of the request, except under emergency circumstances. If the member desires to take off a block of time of forty (40) hours or more, the member must make the request to do so at least thirty (30) days prior to the beginning of the time off. The request will be granted unless, in the judgment of the Chief and/or his designee, granting the request at the time in question would unduly disrupt the operations of the Police Department. Under all circumstances, pre-approved vacations take precedence over requests to use compensatory time.

Notwithstanding the provisions of this subsection 4, the City may, at its sole discretion, freely substitute cash, in whole or in part, for compensatory time off for all officers.

Upon termination of employment for any reason, including death, the Police Officer, his beneficiaries or his estate, shall be paid all compensatory time in the member's bank at the time of termination.

**Section 5: On-Call/Stand-By.** Members of the bargaining unit who are assigned on-call duty and who are specified on a list designated by the Police Chief shall be paid three (3) hours of overtime pay for each calendar week of on-call duty. Members may elect to convert these hours to four and a half (4.5) hours of compensatory time.

**Section 6: K-9 Officers.** Members of the K-9 unit will be compensated for the care and maintenance of dogs by being credited with four (4) hours of compensatory time at straight time rate per calendar week.

#### **ARTICLE 18. WORKING OUT OF RANK**

**Section 1:** After a Police Officer fills a vacancy and performs duties of a higher rank for one hundred and sixty (160) cumulative hours, he/she shall receive pay at the higher rank for all subsequent hours of work in that rank. The one hundred and sixty (160) hours need only be accumulated one time for that rank following January 1, 2006.

**Section 2:** Whenever a Police Officer enters into a voluntary agreement with the Department to be assigned and performs duties of a higher rank in order to receive training and/or experience in the higher rank, and said agreement is for a predetermined length of time, the Police Officer shall not receive the pay of the higher rank until the one hundred eighty-first (181st) calendar day of performance of the duties of that higher rank.

#### **ARTICLE 19: SICK LEAVE**

**Section 1:** Sick leave shall be considered proper for the sole purpose of wage continuation when a Police Officer:

1. Is incapacitated due to illness, non-job related injury, sleep deprivation or disorder, or other bona fide medical condition that would interfere with a Police Officer's ability to safely carry out job-related duties;
2. When the Police Officer or immediate family member requires health examinations or scheduled medical treatment;
3. To supplement worker's compensation benefits after the expiration of injury leave;
4. When the Police Officer is required to be in attendance for the necessary medical care of a member of the Officer's immediate family.

Employees must notify their appropriate supervisor before their shift begins if they are going to be absent from work and the absence is to be charged to sick leave. If improper use of sick leave is indicated, supervisors have the authority to request that medical verification for absence be provided. Leave shall be taken according to the sick leave procedure in the Employee Manual.

**Section 2:** Each member of the bargaining unit shall accrue one hundred twenty (120) hours of sick leave for each two thousand eighty (2080) hours of regular work.

**Section 3: Sick Leave Conversion.** Sick leave hours accumulated in excess of established minimums may be converted annually on January 1 at a rate of one (1) hour's pay for each two (2) hours of sick leave up to the established maximum for Police Officers. A sick leave balance of seven hundred twenty (720) hours is required before any payment will be made. No more than two hundred forty (240) hours may be converted on an annual basis so that the maximum payment in any one year shall be one hundred twenty (120) hours.

**Section 4: Payment Upon Separation.** Upon separation after five (5) years of continuous service, Police Officers may receive one (1) hour's pay for every two (2) hours of accumulated sick leave provided such separation has not been the result of dismissal for cause. The maximum payment for each Police Officer shall be for four hundred eighty (480) hours of unused sick leave. It is understood that the maximum payment specified in this section, of four hundred eighty (480) hours, is one-half (1/2) of the maximum sick leave accumulation allowed to be converted. In other words, upon separation, no more than nine hundred sixty (960) hours of sick leave may be converted at the rate of two hours accumulated sick leave for one hour of pay; therefore, a maximum payment equal to four hundred eighty (480) hours.

## **ARTICLE 20. FLEXIBLE SPENDING ACCOUNT**

All members of the bargaining unit shall be allowed to participate in the Flexible Spending Account program pursuant to the rules and regulations of that program.

## **ARTICLE 21. EMERGENCY LEAVE**

The Chief of Police shall allow any Police Officer up to five (5) working days or forty (40) hours emergency leave in the case of an emergency or death involving the Officer's immediate family as defined by the Employee Handbook. Emergency leave may also be granted in the case of natural disaster, such as a home fire or for a medical emergency, and shall include one (1) day for an Officer's attendance at the birth of his/her child.

Minor illnesses, normal childhood diseases, and scheduled medical treatment, including scheduled surgery, shall not be considered emergencies.

## **ARTICLE 22. HOLIDAYS**

**Section 1:** The following shall be legal holidays for all members of the bargaining unit.

New Year's Day	January 1
Martin Luther King Day	3rd Monday in January
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veterans' Day	November 11
Thanksgiving Day	4th Thursday in November
Friday after Thanksgiving Day	Friday after the 4 <sup>th</sup> Thursday in November

Christmas Day

December 25

**Section 2:** An officer whose work shift commences on the day on which the holiday is observed or an officer whose scheduled day off falls on the day on which the holiday is observed will have eight (8) hours credited toward his/her vacation bank.

**Section 3:** In addition to receiving holiday time for the holiday, an officer who is required to work a shift beginning on a holiday listed above or the day of the holiday is observed shall be paid at their overtime rate for all hours worked on that shift. Officer may only receive holiday premium pay under this Article for one shift per listed holiday.

### **ARTICLE 23. MATERNITY LEAVE**

The provisions of the Employee Manual governing maternity leave shall apply to Police Officers.

### **ARTICLE 24. PAID INSURANCE FOR SURVIVORS**

**Section 1:** In the event that a member of the bargaining unit is killed in the line of duty as defined herein, the City shall pay the full cost of health and dental insurance for a surviving spouse (including civil union partner) and children of the member with the following conditions:

- a. The payments for a surviving spouse (including civil union partner) will end two years after the member's death or upon remarriage, whichever occurs first;
- b. The payments for a child will end two years after the member's death or upon the child reaching age 18, whichever occurs first.

**Section 2:** As used herein and in Article 25, Funeral Expenses, the phrase "line of duty" means acting as a Police Officer, on or off duty, unless so acting while employed by an employer other than the City of Aurora.

### **ARTICLE 25. FUNERAL EXPENSES**

When a member of the bargaining unit is killed in the line of duty (as defined in Article 24, Paid Health Insurance for Survivors), or dies from injuries sustained in the line of duty, the City shall be responsible for the actual funeral and burial expenses incurred by the survivors up to a maximum of fifteen thousand dollars (\$15,000.00).

## **ARTICLE 26. MILITARY LEAVE AND MOBILIZATION**

**Section 1.** Police Officers shall be entitled to one hundred twenty (120) hours of annual military leave per calendar year pursuant to the Employee Manual. In addition, officers who are on an active duty deployment of ninety (90) consecutive days or more shall receive paid leave for the day before they are deployed and the day immediately prior to their return to work from the deployment.

**Section 2.** Any member of the United States uniformed services who is mobilized by order of a state governor on declaration of a civil emergency or because of: war; an Authorization of Use of Military Force (AUMF) by the Congress; a national security crisis declared by the President; or a military deployment by direction of the President, shall continue to accrue vacation, personal leave and sick leave, which accrual shall be credited to the officer when he/she returns from active service, and shall continue to be eligible for step increase in accordance with Article 13, Section 2. The City shall provide medical and dental coverage at no cost to the officer or dependents during such active military service. Additionally, upon return from service, the officer shall have the option of contributing the amount of his/her pension contribution that the officer would have contributed had the officer not been on active duty, and if the officer chooses to contribute such amount, the City shall make the appropriate City contribution to the pension fund.

**Section 3.** Nothing in this article shall be construed to reduce any rights granted under the Uniformed Service Employment and Reemployment Rights Act.

## **ARTICLE 27. POST EMPLOYMENT HEALTH PLAN**

**Section 1:** The City agrees to participate in the Post Employment Health Plan (PEHP), Health Care Insurance Premium Sub-account, for Collectively Bargained Public Employees (Plan) in accordance with the terms and conditions of the Plan's Participation Agreement, a copy of which has been provided to the City. The parties hereto hereby designate Nationwide Retirement Solutions (or its successor appointed in accordance with the Plan and Trust documents) to act as Plan Administrator for the Plan and the City agrees to contribute to the Plan as set forth in this Article.

**Section 2:** Except as provided in Section 3, upon termination of employment (which does not include death) after having completed 19½ years of service or having reached age 55, or qualifying for a disability retirement, a percentage of the eligible police officer's accumulated sick leave and accrued but unpaid vacation that would have otherwise been paid to the eligible police officer had the City not participated in the Plan shall be contributed to the Participant's Health Care Insurance Premium Reimbursement Sub-account. Those police officers who separated from service prior to January 1, 2006 shall not be subject to the Plan. The FOP will notify the City of the contribution percentage of the eligible police officers' accumulated sick leave by November 15<sup>th</sup> of the previous year, as provided in Section 4. This section is further subject to the following restrictions:

- (a) The City shall deduct any overpayments to the police officer or other legal offsets due to the City from the police officer prior to the percentage calculation being made, however, before overpayment deductions and other legal offsets are made from

accumulated sick leave and accrued but unpaid vacation, the City will first make the deductions and offsets from other compensable absences of the police officer, if any, and then any remaining balance shall be deducted and offset from the accumulated sick leave and accrued but unpaid vacation; and

(b) The percentage calculation shall be made after the City processes designated deferred compensation contributions or designated roll-overs of the police officer.

**Section 3:** Police officers who are eligible for fully paid family retiree medical benefits through TRICARE, any other military program or by their status as a Native American through the Bureau of Indian Affairs medical benefit programs shall not be eligible for or subject to the contribution amount set forth in this Article.

**Section 4:** Annually, the FOP reserves the right to modify the funding formulas of the Plan as set forth in Section 2 pertaining to the amount of accumulated sick leave and accrued but unpaid vacation being contributed to the Plan on behalf of the eligible police officers.

## **ARTICLE 28. DEFERRED COMPENSATION**

**Section 1:** Members of the bargaining unit may participate in any of the deferred compensation plans offered by the City.

**Section 2:** The City will allow loans to be taken against City administered deferred compensation accounts in accordance with Internal Revenue Service regulations, to the extent permitted by the plan(s).

## **ARTICLE 29. TERM OF AGREEMENT**

This Agreement shall become effective January 1, 2021 and all of its provisions shall remain effective through December 31, 2021. Additionally, all provisions which do not have a budget impact shall remain effective from and including January 1, 2021 through and including December 31, 2022.

The parties to this Agreement mutually desire that all of its provisions shall be and remain effective from January 1, 2021, through and including December 31, 2022. However, in order to ensure compliance with the provisions of the TABOR Amendment, Article X, Section 20(4)(b) of the Colorado Constitution and because the parties recognize that there may be an inability on the part of the City of Aurora to contract at this time for items with a budget impact until such time as the budget process for the fiscal year 2020 is followed, the parties hereby agree that the FOP shall reopen this Agreement for negotiations of all items with a fiscal impact (impact on budget) which are to be effective on January 1, 2022 through and including December 31, 2022. This reopener shall be initiated within the time limits specified in Article XV of the Charter of the City of Aurora. In the event the parties are unable to agree that those items contained in the Agreement which by their own terms are to be effective on January 1, 2022 shall be placed into effect, then that party which refuses to renew the Agreement at that time shall be deemed to have bargained in bad faith during negotiations leading to the 2022 Agreement for any and all purposes.



It is specifically understood and agreed that this conclusion of failure to bargain in good faith shall be utilized by a fact finder, mediator or arbitrator appointed pursuant to Article XV of the of the Charter of the City of Aurora, and may be the basis relied upon by the fact finder pursuant to Article XV to recommend that those provisions contained in this Agreement to be effective on January 1, 2022 should be placed into effect on January 1, 2022.

**IN WITNESS WHEREOF**, the parties hereto have hereunto executed this Agreement as of the date hereof by their respective representatives duly authorized to do so this \_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY OF AURORA**

**FOP**

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
Secretary

**ATTEST:**

By: \_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
City Attorney

APPENDIX A  
CIVIL SERVICE EMPLOYEES/POLICE  
2021 WAGE SCHEDULE

POSITIONS	A	B	C
<b>PATROL OFFICER, IV Grade 801</b>	\$56,984 \$4,749 \$27.39615		
<b>PATROL OFFICER, III Grade 802</b>	\$62,115 \$5,176 \$29.86298		
<b>PATROL OFFICER, II Grade 803</b>	\$69,205 \$5,767 \$33.27163		
<b>PATROL OFFICER, I Grade 804</b>	\$76,469 \$6,372 \$36.76394	\$84,870 \$7,073 \$40.80288	\$91,986 \$7,666 \$44.22404
<b>PATROL OFFICER SPECIALIST Grade 809</b>	\$81,823 \$6,819 \$39.33798	\$90,810 \$7,568 \$43.65865	\$98,425 \$8,202 \$47.31971
<b>POLICE AGENT Grade 805</b>		\$94,844 \$7,904 \$45.59808	\$101,543 \$8,462 \$48.81875
<b>POLICE AGENT SPECIALIST Grade 811</b>		\$101,484 \$8,457 \$48.79038	\$108,651 \$9,054 \$52.23606
<b>POLICE SERGEANT Grade 806</b>		\$104,498 \$8,708 \$50.23942	\$110,525 \$9,210 \$53.13702
<b>POLICE SERGEANT SPECIALIST Grade 810</b>		\$111,812 \$9,318 \$53.75577	\$118,263 \$9,855 \$56.85721
<b>POLICE LIEUTENANT Grade 807</b>		\$117,455 \$9,788 \$56.46875	\$126,691 \$10,558 \$60.90913
<b>POLICE CAPTAIN Grade 808</b>		\$129,265 \$10,772 \$62.14663	\$139,429 \$11,619 \$67.03317

APPENDIX C  
CIVIL SERVICE EMPLOYEES/POLICE  
1/1/2022 WAGE SCHEDULE

POSITIONS	A	B	C
<b>PATROL OFFICER, IV Grade 801</b>	\$58,124 \$4,844 \$27.94423		
<b>PATROL OFFICER, III Grade 802</b>	\$63,357 \$5,280 \$30.46010		
<b>PATROL OFFICER, II Grade 803</b>	\$70,589 \$5,882 \$33.93702		
<b>PATROL OFFICER, I Grade 804</b>	\$77,998 \$6,500 \$37.49904	\$86,567 \$7,214 \$41.61875	\$93,826 \$7,819 \$45.10865
<b>PATROL OFFICER SPECIALIST Grade 809</b>	\$83,459 \$6,955 \$40.12452	\$92,626 \$7,719 \$44.53173	\$100,394 \$8,366 \$48.26635
<b>POLICE AGENT Grade 805</b>		\$96,741 \$8,062 \$46.51010	\$103,574 \$8,631 \$49.79519
<b>POLICE AGENT SPECIALIST Grade 811</b>		\$103,514 \$8,626 \$49.76635	\$110,824 \$9,235 \$53.28077
<b>POLICE SERGEANT Grade 806</b>		\$106,588 \$8,882 \$51.24423	\$112,736 \$9,395 \$54.20000
<b>POLICE SERGEANT SPECIALIST Grade 810</b>		\$114,048 \$9,504 \$54.83077	\$120,628 \$10,052 \$57.99423
<b>POLICE LIEUTENANT Grade 807</b>		\$119,804 \$9,984 \$57.59808	\$129,225 \$10,769 \$62.12740
<b>POLICE CAPTAIN Grade 808</b>		\$131,850 \$10,988 \$63.38942	\$142,218 \$11,852 \$68.37404

APPENDIX C  
CIVIL SERVICE EMPLOYEES/POLICE  
7/1/2022 WAGE SCHEDULE

POSITIONS	A	B	C
<b>PATROL OFFICER, IV Grade 801</b>	\$59,286 \$4,941 \$28.50288		
<b>PATROL OFFICER, III Grade 802</b>	\$64,624 \$5,385 \$31.06923		
<b>PATROL OFFICER, II Grade 803</b>	\$72,001 \$6,000 \$34.61587		
<b>PATROL OFFICER, I Grade 804</b>	\$79,558 \$6,630 \$38.24904	\$88,298 \$7,358 \$42.45096	\$95,703 \$7,975 \$46.01106
<b>PATROL OFFICER SPECIALIST Grade 809</b>	\$85,128 \$7,094 \$40.92692	\$94,479 \$7,873 \$45.42260	\$102,402 \$8,534 \$49.23173
<b>POLICE AGENT Grade 805</b>		\$98,676 \$8,223 \$47.44038	\$105,645 \$8,804 \$50.79087
<b>POLICE AGENT SPECIALIST Grade 811</b>		\$105,584 \$8,799 \$50.76154	\$113,040 \$9,420 \$54.34615
<b>POLICE SERGEANT Grade 806</b>		\$108,720 \$9,060 \$52.26923	\$114,991 \$9,583 \$55.28413
<b>POLICE SERGEANT SPECIALIST Grade 810</b>		\$116,329 \$9,694 \$55.92740	\$123,041 \$10,253 \$59.15433
<b>POLICE LIEUTENANT Grade 807</b>		\$122,200 \$10,183 \$58.75000	\$131,810 \$10,984 \$63.37019
<b>POLICE CAPTAIN Grade 808</b>		\$134,487 \$11,207 \$64.65721	\$145,062 \$12,089 \$69.74135



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Consideration to AWARD A SOLE SOURCE CONTRACT to Radix Metasystems, Aurora, Colorado in the amount of \$126,000.00 to provide Nighthawk software subscription services to Aurora Police through December 31, 2023..

**Item Initiator:** Michelle Ratcliff

**Staff Source/Legal Source:** Vanessa Willson, Police Chief

**Outside Speaker:** N/A

**Council Goal:** 2012: 1.1--Reduce crime rates

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 12/7/2020

Dual Listed Why is this item dual listed?[Click or tap here to enter text.](#)

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

Approve Item as proposed at Study Session  Information Only

Approve Item and Move Forward to Regular Meeting

Approve Item as proposed at Regular Meeting

Approve Item with Waiver of Reconsideration

Why is a waiver needed?[Click or tap here to enter text.](#)

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

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

Recommends Approval

Does Not Recommend Approval

Forwarded Without Recommendation

Recommendation Report Attached

Minutes Attached

Minutes Not Available

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

City Council reviewed the 2020 award to Radix Metasystems in the amount of \$31,100.00 on the Weekly Report of 10/26/20.

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

The Aurora Police Dept. (APD) requests approval to purchase a three year subscription to the Nighthawk software platform for participation in the Regional Anti-Violence Network (RAVEN) through 12/31/23.

Radix has submitted a proposal of \$126,000.00 for this multi-year subscription. This represents a 30% discount off list price due to APD membership in the Colorado Information Sharing Consortium. The fee includes implementation, training and ongoing support for APD officers. Staff considers the Radix proposal fair and reasonable.

As the developer of this software, Radix Metasystems has chosen not to authorize any other firms to sell its products.

Based on the above, it is staff's recommendation to award a sole source contract to Radix Metasystems, Aurora, Colorado in the amount of \$126,000.00 to provide Nighthawk software subscription service to APD through 12/31/23.

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**QUESTIONS FOR COUNCIL**

Does City Council approve the sole source award to Radix in the amount of \$126,000.00 for a three year subscription for Nighthawk software?

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**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 (City Code § 2-674(10)). (Lathers)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** The contract cost of \$126,000.00 is budgeted in the General Fund, Police Dept., and will be paid from: Organization 55039 (Investigations Bureau) and Account 60300 (Supplier Packaged Software)

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:**

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

COMPANY	DESCRIPTION OF AWARD	AWARD AMOUNT	BID NUMBER
<p><b>RADIX METASYSTEMS AURORA, CO</b></p> <p>Dept: Police</p>	<p>Award a sole source contract to purchase an annual subscription to the Nighthawk software platform for APD participation in the Regional Anti-Violence Network (RAVEN) through 9/30/21.</p> <p>As the developer of this software, Radix has chosen not to authorize any other firms to sell the platform.</p> <p>This purchase will be funded by a State of Colorado grant. The firm has proposed pricing similar to sales for other municipalities that are part of RAVEN. Therefore, the proposal is considered fair and reasonable.</p> <p><i>Purchases where one firm, and only one firm is known to be capable of providing items and/or services are authorized to be awarded through non competitive negotiations.</i> 2-674-10</p>	<p>\$31,100.00</p>	<p>N/A</p>



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Consideration to AMEND AN OPENLY SOLICITED CONTRACT with Dewberry Engineers, Inc., Denver, Colorado in the amount of \$286,792.00 to provide additional design phase services and services during construction for the Piney Creek Lift Station Repairs Project.

**Item Initiator:** Nathan Jones – Senior Procurement Agent – Purchasing and Contracts

**Staff Source/Legal Source:** Elizabeth Carter – Principal Engineer – Aurora Water

**Outside Speaker:** None

**Council Goal:** 2012: 3.4--Maintain a reliable water system

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 12/7/2020

Dual Listed Why is this item dual listed? [Click or tap here to enter text.](#)

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

Approve Item as proposed at Study Session  Information Only

Approve Item and Move Forward to Regular Meeting

Approve Item as proposed at Regular Meeting

Approve Item with Waiver of Reconsideration

Why is a waiver needed? [Click or tap here to enter text.](#)

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

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

Recommends Approval

Does Not Recommend Approval

Forwarded Without Recommendation

Recommendation Report Attached

Minutes Attached

Minutes Not Available



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**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 openly solicited Master Engineering Services Agreement (MESA-VI) in the not-to-exceed amount of \$133,075.00 was approved by City Council on August 27, 2018, Agenda Item 9a.

Amendment Number One for the Piney Creek Lift Station Repairs Project with Dewberry Engineers, Inc. in the amount of \$50,465.00 was reported on the Weekly Report To Council September 8, 2020.

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

**Background**

Dewberry Engineers, Inc. was selected for Piney Creek Lift Station Repairs Project as the result of a competitive Request for Proposals (RFP) process from four prequalified firms under the MESA VI in Category 19 – Water and Wastewater Pumping Facilities. Dewberry, Black & Veatch, Kennedy Jenks and Tetra Tech responded and after a review of the proposals, Dewberry was selected to complete the assessment. That contract totaled \$133,075.00. The scope of work contemplated in the RFP included a condition assessment services for the repairs to the lift station.

The Piney Creek Lift Station was constructed in 2002. A condition assessment was performed by Dewberry Engineers in 2020, and the facility needs repairs and upgrades. During the assessment, key components were assessed, and several design alternatives were evaluated. Through collaborative discussions with Operations and Dewberry Engineers, a preferred design alternative was selected, and the design project includes the following elements: Odor control improvements, mechanical improvements for transient management, emergency bypass improvements, structural improvements, and fencing.

Amendment 1 was issued for a limited design scope for \$50,465.00 as requested by Operations staff. The work included improvement evaluations for several additional items.

**Proposed Amendment**

Aurora Water is requesting approval to amend the professional design services contract awarded to Dewberry Engineers, Inc., Denver, Colorado in the amount of \$286,792.00 to provide complete design services for the recommended rehabilitation of the Piney Creek Lift Station. Without the improvements the lift station is at risk of a range of possible failures. The range of failures include anything from minor odor control issues to raw sewage spilling into Piney Creek. This amendment for complete project management, design, bidding services and services during construction for the recommended improvements totals \$286,792.00.

The proposed total design cost including services during construction is approximately 13% of the total estimated construction cost. Industry standards for capital projects of this size and the total project cost is within industry standards. The specific details regarding the proposed scope of services and cost breakdowns are shown in Attachment 3 to this commentary. The labor rates are consistent with recent projects completed by Dewberry. Based on the above, the agreed upon price proposal for providing the services is considered to be fair and reasonable.

**Recommendation**

Based on the above, staff recommends that the City amend the openly solicited contract with Dewberry Engineers, Inc., Denver, Colorado in the amount of \$286,792.00 to provide additional design phase services and services during construction for the Piney Creek Lift Station Repairs Project.

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**QUESTIONS FOR COUNCIL**

Does City Council approve the amendment to the contract with Dewberry Engineers, Inc., Denver, Colorado in the amount of \$286,792.00 to provide additional design phase services and services during construction for the Piney Creek Lift Station Repairs Project?

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**LEGAL COMMENTS**

Any change order or amendment that would cause the cumulative total of all change orders to a contract to exceed \$100,000 requires City Council approval (City Code § 2-676(II)(b)(3)). (Lathers)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Funding for this contract will be from Capital Improvement Program, Wastewater Fund, in the amount of \$286,792.00.

**ORG:** Misc Lift Station/Force Main Rehab-SS (52391)

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** Not Applicable.

Corey Thurman & Lamumba Sayers, Heavy Hands Heavy Heart, discussed their program and community center located in Aurora.

Council Member Johnston expressed appreciation to Mr. Thurman and Mr. Sayers for their efforts in the community and asked if they have met with Aurora Public Schools to discuss their outreach. Mr. Sayers answered affirmatively. Council Member Johnston suggested they connect with Kevin Cox, Aurora Public Schools Board of Education member, in that regard.

Mr. Sayers and Mr. Thurman agreed to do so.

Kevin Cox spoke in support of the Providence at the Heights housing development and the Denver Meadows residents.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented with item 10e moved to item 11b as a public hearing.

9. **CONSENT CALENDAR - 9a-i**

**General Business**

- a. Consideration to AWARD OPENLY SOLICITED CONTRACTS for Master Engineering Services Agreements (MESA VI) to fifty-five (55) firms in various amount as noted in this Commentary, for providing task order engineering services over a three-year period, RFP 1895. STAFF SOURCE: Steven Fiori, Project Delivery Services Manager, Aurora Water
- b. Consideration to AMEND AN OPENLY SOLICITED CONTRACT with Stantec Consulting Services, Inc., Fort Collins, Colorado in the amount of \$295,662.74 to add final design and construction phase engineering services for the Jefferson Lake Repairs Project. STAFF SOURCE: Steven Fiori, Project Delivery Services Manager, Aurora Water

Motion by Roth, second by Berzins, to approve items 9a and 9b.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

- c. Consideration to AMEND AN OPENLY SOLICITED CONTRACT with RJH Consultants, Inc., Englewood, Colorado in the amount of \$3,760,266.49 to add professional services and geotechnical field services for the Wild Horse Reservoir Project. STAFF SOURCE: Steven Fiori, Project Delivery Services Manager, Aurora Water

Council Member Roth pointed out the \$3.7M was being used to purchase additional design services for additional capacity.

Motion by Roth, second by Gruber, to approve item 9c.

Voting Aye: Mayor LeGare, Bergan, Berzins, Gruber, Hiltz, Johnston, Lawson, Murillo, Richardson, Roth, Watson

- d. Consideration to AMEND AN OPENLY SOLICITED CONTRACT with CH2M Hill Engineers, Inc., Englewood, Colorado in the amount of \$843,030.00 to add design services and engineering services during construction for the Quincy Reservoir Intertie & Aeration System Improvements Project. STAFF SOURCE: Steven Fiori, Project Delivery Services Manager, Aurora Water

**CHANGE ORDERS and AMENDMENTS \$25,000.00 to \$99,999.99 subject to call-up where the cumulative total of all change orders or amendments to the contract does not exceed \$100,000.00: (Continued)**

COMPANY/ DESCRIPTION OF CHANGE ORDER	CHANGE ORDER NUMBER	CHANGE ORDER AMOUNT	PREVIOUS CHANGE ORDERS	TOTAL TO DATE	AWARD NUMBER
<p><b>LIFE ASSIST INC.</b></p> <p><b>RANCHO CORDOVA, CA</b></p> <p>Change order to single source contract for the purchase of EMS supplies for Aurora Fire Rescue (AFR).</p> <p>The additional funding is needed due to COVID-19 for the purchase of additional personal protective equipment (PPE) such as gloves, masks, medical gowns etc., to protect firefighters from exposure to the virus. The additional PPE is expected to be covered by CARES Act funding.</p> <p>Pricing remains the same as the initial award that is based on combined pricing to both AFR and Falck that is based on the National Price List for Falck USA. Therefore, the pricing is considered to be fair and reasonable.</p> <p><i>This Change Order is within the original scope of the contract and is appropriate for consideration under the City Code. 2-676</i></p> <p>Dept: Fire</p>	1	\$45,000.00	\$0.00	\$145,000.00	19P1061B
<p><b>DEWBERRY ENGINEERING, INC.</b></p> <p><b>DENVER, CO</b></p> <p>Amendment to an openly solicited professional design services contract for the MESA VI Task Order #1, Piney Creek Lift Station Repairs Project.</p> <p>Dewberry investigated a broad range of alternatives during the first phase of this project. This amendment details the work effort required to complete design of the selected alternative.</p> <p>Pricing was requested from the consultant, and it is in accordance with the original contract. Therefore, it is considered to be fair and reasonable.</p> <p><i>This Amendment is consistent with requirements of the City code 2-676 establishing criteria for awards of amendments.</i></p> <p>Dept: Water</p>	1	\$50,465.00	\$0.00	\$183,540.00	20P0096

**CITY OF AURORA – AURORA WATER  
STUDY AND DESIGN FOR PINEY CREEK LIFT STATION REPAIR  
AMENDMENT 2**

**PROJECT UNDERSTANDING**

**BACKGROUND**

Amendment 1 for design services, dated August 13, 2020, expanded the scope of the project to include design of repairs and additions to the lift station and force main system. Unfortunately, Dewberry misunderstood a question and miscommunicated concerning the proposed change order value of Amendment 1. Consequently, the approved Amendment 1 change order value of \$50,465 was \$58,448 less than the intended value of \$108,913.

Amendment 2 is proposed to increase the contract value to cover the difference discussed above, add additional tasks to the design scope, and add construction services to the contract. The additional design tasks and constructions phase services are described below. Amendment 2 also increases the design schedule by four weeks to account for the additional effort required for the new tasks and adds twelve months over which construction services will occur. The table below summarizes the original contract fee and expenditures, the approved Amendment 1 value, and the proposed value for Amendment 2.

<b>Line Item</b>	<b>Value</b>	<b>Notes</b>
Original Contract Value	\$ 133,075	
Original Contract Expenditures	\$ 58,448	
Remaining Fee from Original Contract	\$ 74,627	
Proposed Design Services Fee	\$ 183,540	
Original Total Proposed Amendment for Design Services	\$ 108,913	Proposed Design Services Fee less the Remaining Fee from Original Cont.
Approved Amendment 1 Value	\$ 50,465	
Amendment 2 Value without Additional Scope	\$ 58,448	Total Proposed Amendment for Design Services less Approved Amend. 1 value
Proposed Fee for Additional Design Scope and Services During Construction	\$ 228,344	
Total Proposed Amendment 2 Value	\$ 286,792	
Revised Total Contract Value	\$ 470,332	Original Cont. Value plus Approved Amend. 1 Value plus Total Proposed Amend. 2 Value

**SCOPE OF WORK**

The items being added to our design scope of work are described in detail below. These items will be incorporated in the 90% Design, Final Design, and Bidding Assistance tasks described in

Amendment 1. The Construction Services tasks are described below. Planned engineering and construction services comprise and are limited to those specifically set forth under this proposal. Additional services may be added by written contract amendment.

Additional design items:

1. Complete the Asset Ingestion Form for new equipment installed as part of this project.
2. Specify replacement LED light fixtures for the pendant lights.
3. Specify replacement transducers for the radar level instruments in the wet well.  
Replacements will of the same type as the existing transducers.
4. Upgrade the two sump pumps in the lower level the of facility to be heavier duty sump pumps. Include control panels and motor starters with the new sump pumps that communicate with the lift station PLC or a separate PLC to allow the status of the sump pumps to be monitored from the ground level.
5. Add electrical actuators to the two existing plug valves in the 16-inch and 24-inch vertical runs of the discharge header in the dry well. The plug valves are open-close isolation valves and do not modulate. Open/close status shall be transmitted to the PLC.
6. Replace the broken rollup overhead door with a new, motorized rollup overhead door. Provide electrical connections required for the motor.
7. Repair the bolts in the gate frame which have pulled out of the fence stanchion.
8. Specify an epoxy coating for the ground level of the lift station.

## **TASK 11 – CONSTRUCTION SERVICES**

**11.1 Preconstruction Conference.** Attend the project Preconstruction Conference. This scope of work assumes three personnel from Dewberry for a two hour preconstruction conference meeting.

**Task 11.2 Office Engineering Services.** Provide the following services:

**Task 11.2.1 – Shop Drawing/Submittal Review.** Review all shop drawings and submittals for the Piney Creek Lift Station Repair project. Based upon the design items, we assume approximately 75 to 80 submittals of which 30 to 35 will need to be reviewed by multiple disciplines. Submittals are anticipated to include shop drawings, diagrams, illustrations, catalog data, samples, schedules, the results of inspections, O&M manuals and maintenance summaries, and other data that the Contractor is required to submit. Submittals and shop drawings will be reviewed for general conformance with project design and for general compliance with the requirements of the construction documents. Submittal/shop drawing review will be coordinated with the City of Aurora through the project construction management software system (EADoc Construction Project Management software). Dewberry's level of effort for submittal review assumes a maximum of two submissions by the Contractor for each shop drawing, sample, or submission with an average review time of five hours.

**Task 11.2.2 – Review Requests for Information (RFI's).** At the request of the City of Aurora, Dewberry will provide a technical review and response to Contractor requests for information or clarification of the construction documents. Dewberry will coordinate such review with the City. Budget for this task is based on assisting with up to 30 RFI's.

Dewberry anticipates that each interpretation and clarification will require an average of four hours to research, respond, and document.

**Task 11.2.3 – Change Order Review.** Process Change Orders or Work Directives. Engineer anticipates a total of ten PCO/Work Directives. Engineer anticipates that each PCO/Work Directive will require up to fourteen hours to research, prepare engineering, estimate costs, respond, document, and administer.

**Task 11.3 Construction Progress Meetings.** Dewberry will attend weekly construction progress meetings with representatives of the City of Aurora, the Contractor, and other personnel as required to discuss progress of construction and construction issues. Budget for this task is based on attending weekly progress meetings for approximately nine months. Within this time frame, a total of forty meetings is assumed. Each project progress meeting is anticipated to last one hour and require approximately one hour of time for pre and post meeting administration. Each project progress meeting shall be attended by the Project Manager and other members of the design team as needed.

**Task 11.4 – Periodic Site Visits during Construction.** Provide specialty inspections during construction. Conduct on-site observations and inspections of specific pieces of the Contractor's work to determine if the work generally conforms to the design intent of the construction contract and with approved project submittals, and to address specific construction issues. Specialty inspections are expected to include rebar and electrical inspections. Advise the City of Aurora of work found not to be in accordance with the construction documents and coordinate on corrective actions. Budget for this task is based on twelve four hour site visits. This task does not include normal daily work inspections. These inspections will be conducted by the City's staff.

**Task 11.5 – Substantial and Final Completion.** Dewberry will assist with substantial and final completion walk-throughs and review and provide input for substantial completion and final completion 'punch-list' items. Budget for this task assumes that the substantial completion and final completion walk-throughs will require one six hour day for each.

**Task 11.6 - Record Drawing Preparation.** Dewberry will transfer as-built data to permanent record drawings using Contractor's red-lines, survey data, and GIS data as well as Aurora Water information (red-lines, notes, survey data, GIS data, etc.) of construction changes and final configuration of constructed facilities.

Dewberry will rely on the accuracy and completeness of record drawing information developed by others. Dewberry will not be responsible for missing or incomplete information. If Dewberry identifies missing or incomplete information, Dewberry will notify Aurora Water.

## **DELIVERABLES**

Dewberry will prepare the following deliverables:

1. Submittal/Shop drawing review comments

2. Drawings, research, or other information (in PDF format) prepared for Tasks 11.2.2 and 11.2.3.
3. Record Drawings - one (1) set of half-size hardcopy and a complete set of electronic files (AutoCAD and PDF files)

**SERVICES NOT INCLUDED**

- Construction Management/Inspection services as provided by the City of Aurora.
- City of Aurora’s CWI and soils and materials testing consultant will prepare and submit all weld inspection, soils testing, and materials testing reports.
- Modifying the security system for the HVAC room doors and the overhead door. Any existing security equipment will be reinstalled on the new doors.

**TIMES FOR RENDERING SERVICES**

The estimated schedule for performance of these services has been updated to include four additional weeks in the design schedule to account for the additional design tasks and twelve months over which construction services will occur. These weeks have been added to the 90% design task. Specific target milestone dates are given below.

<b>Task</b>	<b>Completion Date</b>
City Council Meeting	September 14, 2020
Notice to Proceed	September 21, 2020
30% Design Submittal	November 9, 2020 (7 weeks)
30% Design City Review	Week of November 9, 2020
90% Design Submittal	February 1, 2021 (11 weeks)
90% City Review	Week of February 1, 2021
Building Department Submittal	February 5, 2021
Building Department Review	February 8 through March 15, 2021 (5 weeks)
Final Design Submittal	April 5, 2021 (3 weeks)
Bidding Assistance	April/May 2021
Construction Services	June 3, 2022 (12 months)

**COMPENSATION**

The proposed Amendment 2 amount is **\$286,792**. This includes the additional amount to cover the total proposed amendment for design services (\$58,448) and the fee for additional design and construction services (\$228,344). The Consultants Not-to-Exceed Cost for this project will total \$470,332 including the original fee (\$133,075), Amendment 1 (\$50,465), and Amendment 2 (\$286,792). Consultant’s hourly billing rates are defined by the current MESA VI Professional Design Services Agreement with the Owner. A detailed fee breakdown for the additional task associated with Amendment 2 is provided as Exhibit A.

Direct costs include vehicle mileage charges, miscellaneous equipment and materials required for the project, printing, and postage and delivery charges. Vehicle mileage for travel directly related



to project activities will be charged at the IRS prevailing rate, which is currently 57.5 cents per mile. Consultant does not charge for in-house incidentals such as photocopying, faxing, or computer time. Direct costs for copying and printing of project work products done by outside vendors will be charged to the project at cost.

Exhibit A: Detailed Cost and Level of Effort

Amendment 2 Additional Engineering Design and Construction Services - Piney Creek Lift Station Repair

Task	Task Description	Total Contract Amount	Subconsultant Costs		Dewberry											
			Architect	Direct Costs	Labor Cost	Total Hours	Eng IX	Eng VII	Eng VI - Struct. Eng	Eng IV - PM	Eng IV - HVAC	Elec. Eng V	Elec. Eng II	CAD Designer V	Admin IV	
							\$ 218	\$ 185	\$ 170	\$ 140	\$ 140	\$ 165	\$ 110	\$ 140	\$ 100	
<b>Lift Station Repair Design and Construction</b>																
<b>1</b>	<b>Project Management and QAQC</b>															
1.1	Project Management	\$ 22,200			\$ 22,200	170				130						40
1.2	QAQC	\$ 3,006			\$ 3,006	15	12			2			1			
	<b>Subtotal Task 1</b>	<b>\$ 25,206</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 25,206</b>	<b>185</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>132</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>40</b>	
<b>8</b>	<b>90 Percent Design</b>															
8.1	90 Percent Design															
	Completion of Asset Ingestion Form	\$ 1,560			\$ 1,560	12				8			4			
	Replace Pendant Lights with LED Fixtures	\$ 1,650			\$ 1,650	13						4	9			
	Replace Level Transducers	\$ 2,220			\$ 2,220	16				8		4	4			
	Upgrade Sump Pumps	\$ 6,800			\$ 6,800	50				24		4	10		12	
	Add Electrical Actuators to Two Existing Plug Valves	\$ 4,130			\$ 4,130	30				16		2	4		8	
	Replace the Rollup Overhead Door	\$ 7,030	\$ 1,200		\$ 5,830	40			8	16		2	2		12	
	Repair the Gate Frame Bolts	\$ 3,440			\$ 3,440	22			12	6					4	
	Epoxy Coating for the Floor	\$ 2,360			\$ 2,360	16			4	10					2	
	<b>Subtotal Task 8</b>	<b>\$ 29,190</b>	<b>\$ 1,200</b>	<b>\$ -</b>	<b>\$ 27,990</b>	<b>199</b>	<b>0</b>	<b>0</b>	<b>24</b>	<b>88</b>	<b>0</b>	<b>16</b>	<b>33</b>	<b>38</b>	<b>0</b>	
<b>9</b>	<b>Final Design</b>															
9.1	Final Design - Addressing Comments on the 90% Design	\$ 3,846			\$ 3,846	26	2		4	8		2	4		6	
	<b>Subtotal Task 9</b>	<b>\$ 3,846</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 3,846</b>	<b>26</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>8</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>6</b>	<b>0</b>	
<b>10</b>	<b>Bidding Assistance</b>															
10.1	Bidding Assistance	\$ 2,690			\$ 2,690	18			4	8		2			4	
	<b>Subtotal Task 10</b>	<b>\$ 2,690</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,690</b>	<b>18</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>8</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>0</b>	
<b>11</b>	<b>Construction Services</b>															
11.1	Preconstruction Conference	\$ 1,872			\$ 1,872	12	4			4					4	
11.2	Office Engineering Services															
11.2.1	Show Drawing/Submittal Review	\$ 76,740			\$ 76,740	564			32	340	12	36	136		8	
11.2.2	RFI Review	\$ 16,460			\$ 16,460	120			12	48		20	40			
11.2.3	Change Order Review	\$ 20,170			\$ 20,170	140			24	62		18	20		16	
11.3	Construction Progress Meetings	\$ 20,940			\$ 20,940	152			12	80		20	40			
11.4	Periodic Site Visits During Construction	\$ 6,720			\$ 6,720	48			20	8			20			
11.5	Substantial and Final Completion	\$ 11,510		\$ 1,500	\$ 10,010	70			8	20		18	16		8	
11.6	Record Drawings	\$ 13,000			\$ 13,000	96			4	24	4	8	20		32	4
	<b>Subtotal Task 11</b>	<b>\$ 167,412</b>	<b>\$ -</b>	<b>\$ 1,500</b>	<b>\$ 165,912</b>	<b>1,202</b>	<b>4</b>	<b>0</b>	<b>112</b>	<b>586</b>	<b>16</b>	<b>120</b>	<b>296</b>	<b>64</b>	<b>44</b>	
<b>Additional Design and Construction Services Total</b>		<b>\$ 228,344</b>	<b>\$ 1,200</b>	<b>\$ 1,500</b>	<b>\$ 225,644</b>	<b>1,630</b>	<b>18</b>	<b>0</b>	<b>144</b>	<b>822</b>	<b>16</b>	<b>140</b>	<b>334</b>	<b>112</b>	<b>44</b>	





# CITY OF AURORA

## Agenda Item Commentary

**Item Title:** Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Approving the 2nd Amendment for a five-year extension to the Utility Cost Reimbursement Agreement between Lennar Colorado, LLC., ADONEA Metropolitan District, A Quasi-Municip

**Item Initiator:** Young, Sarah – Deputy Director Planning and Engineering – Aurora Water

**Staff Source:** Young, Sarah – Deputy Director Planning and Engineering – Aurora Water

**Legal Source:** McKenney, Christine – Client Group Manager

**Outside Speaker:** None

**Council Goal:** 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

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

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

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### **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 original agreement was presented and approved by City Council on June 6, 2005.

An amendment was reviewed and approved by City Council on September 12, 2005.

The Water Policy Committee reviewed this item at the October 28, 2020 meeting and supported forwarding this item to Study Session.

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

Reimbursement agreements are required when a developer builds Regional Infrastructure (large infrastructure serving more than one development) ahead of when it is scheduled and subsequently budgeted in Aurora Water’s capital improvement plan(s). Regional infrastructure locations and sizing are identified in Water, Wastewater and Stormwater Master Plans. If Regional Infrastructure is connected to, or crosses, a certain development, that developer is required to adhere to the size requirements identified in the respective Master Plan.

When a developer builds Regional Infrastructure, they are eligible for a partial cost reimbursement based on the cost of the Regional Infrastructure minus the cost of infrastructure required to serve their individual development. In some instances, the developer is eligible for full reimbursement. This is allowed if their development does not require the Regional Infrastructure to gain service, yet the infrastructure runs along or beneath their property. In this case, there is project

or City cost advantage for the developer to install all, or portions of that infrastructure ahead of the Aurora Water project timing.

The Adonea Metropolitan District (Adonea) is a 320 acre development located between 6th Avenue and Alameda Ave, east of Little River St. and west of Powhaton Rd in Ward II (see attached map).

At the time of development, Adonea constructed oversized regional water, wastewater and stormwater infrastructure and thus is eligible for reimbursement as adjacent developments tie onto the system. Adonea developed between 2002 and 2005 and entered into an Aurora Water infrastructure reimbursement agreement in 2005. The amended agreement, signed in November, 2005 includes additional stormwater improvements.

The following requirements applied to this reimbursement agreement:

- Adonea was required to use an approved design firm for the infrastructure.
- Adonea received multiple bids for all work.
- Adonea and City agreed on the eligible reimbursement amount (see details below)
- Adonea had to warranty the work (which has now expired)
- Adonea had to supply invoices to confirm the reimbursable amounts.

The signed November amendment identified the total eligible reimbursable amounts as \$1,087,380.61, \$734,501.47 and \$1,106,517.06 for water, wastewater and stormwater respectively. Adonea was credited fees in the amounts of \$312,089.80, \$141,859 and \$274,613.69 for water, wastewater and stormwater infrastructure respectively. Aurora Water also paid Adonea \$336,150.57 and \$420,000 from the 2005 and 2006 water capital programs. Thus the remaining balance of reimbursable credit available as additional developments tied onto the infrastructure was \$19,140.24 for water, \$592,642.47 for wastewater and \$831,903.37 for stormwater.

With additional fees collected, the balance of water reimbursement has been fully paid and the outstanding balances for wastewater and stormwater are \$568,451 and \$771,811 respectively. The Adonea agreement had a 15-year term expiring this November. The agreement allowed for a 5-year term extension if there are still outstanding reimbursements. Due to the economic downturn in 2008, the surrounding area did not develop as quickly as anticipated and thus the Adonea Metropolitan District is requesting a five-year extension to allow for additional reimbursement as other developments tie onto the infrastructure.

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## **QUESTIONS FOR COUNCIL**

Does Council support moving this item forward to Regular Session?

RESOLUTION NO. R2020 – \_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE 2<sup>nd</sup> AMENDMENT TO THE UTILITY COST REIMBURSEMENT AGREEMENT BETWEEN LENNAR COLORADO, LLC, ADONEA METROPOLITAN DISTRICT, A QUASI-MUNICIPAL CORPORATION, AND THE CITY OF AURORA, ACTING BY AND THROUGH ITS UTILITY ENTERPRISE

WHEREAS, the City of Aurora, Colorado, acting by and through its Utility Enterprise (the “City”), Lennar Colorado, LLC (“Lennar”) and Adonea Metropolitan District No. 2 (as successor in interest to Adonea Metropolitan District No. 1), a political subdivision of the state of Colorado (“District”) have previously executed a Utility Cost Reimbursement Agreement (“Agreement”) and a First Amendment; and

WHEREAS, the parties have agreed to extend the term of the Agreement an additional five (5) years from fifteen (15) years to twenty (20) years; and

WHEREAS, the City is willing to continue to reimburse the District for pre-approved costs of \$1,340,262.21 as set forth in the Agreement and its updated Exhibit B through the five (5) additional years; 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 Council to approve, by resolution, the execution of contracts with other governmental units for furnishing or receiving commodities or services.

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

Section 1. The Utility Cost Reimbursement Agreement between the City, Lennar, and District is hereby approved.

Section 2. This Resolution shall take effect immediately without reconsideration.

Section 3. The Mayor and the City Clerk are hereby authorized to execute and deliver such Agreement on behalf of the City in substantially the form presented at this meeting, with such technical additions, deletions, and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

Section 4. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

RESOLVED AND PASSED this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

*Ian J Best*  
\_\_\_\_\_  
IAN BEST, Asst. City Attorney

**Second Amendment to Adonea Metropolitan District No. 2 Utility Line Cost Reimbursement Agreement**

This Utility Line Cost Reimbursement Agreement Amendment (“Amendment”), effective this \_\_\_\_ day of \_\_\_\_\_, 2020, is by and between Lennar Colorado, LLC (“Lennar”), Adonea Metropolitan District No. 2, (as successor in interest to Adonea Metropolitan District No. 1), a political subdivision in the State of Colorado (“District”), and the City of Aurora, Colorado, a municipal corporation of the counties Adams, Arapahoe and Douglas, acting by and through its Utility Enterprise (“City”). City, Lennar, and District shall be referred to collectively as the “Parties”.

**Recitals**

WHEREAS, in 2005, the Parties entered into the Utility Line Cost Reimbursement Agreement (“Agreement”) allowing the City to reimburse the District for certain Reimbursement Costs incurred by the District to install water and sewer facilities and storm and sewer line improvements; and

WHEREAS, in 2005 the Parties signed a first amendment modifying Section 8, Reimbursement by Utility Enterprise, of the Agreement (“First Amendment”); and

WHEREAS, the Parties have agreed to extend the term of the Agreement for five (5) additional years thereby extending the term of the Agreement from fifteen (15) to twenty (20) years; and

WHEREAS, the Agreement, as amended, shall remain in effect until June 6, 2025; and

WHEREAS, the Parties have again agreed to update both Section 8, Reimbursement by Utility Enterprise, and the associated Exhibit B.

NOW THEREFORE, in consideration of the foregoing facts and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Agreement**

1. Section 8 of the Agreement is to be changed as follows:

*Reimbursement by Utility Enterprise.* The Utility Enterprise will reimburse the District for the reimbursable costs (See, Exhibit B Amended), less the Sewer Interceptor Development Fee, and the Water Transmission Fee, which would have been payable by Lennar to the City pursuant to the Annexation Agreements. These fees were credited at the time of platting. The remaining Five Hundred Sixty-Eight Thousand Four Hundred Fifty-One Dollars and Twelve Cents (\$568,451.12) for sanitary sewer will be reimbursed from Sewer Interceptor Development Fees, and Seven Hundred Seventy-One Thousand Eight Hundred Eleven Dollars and Nine Cents (\$771,811.09) for storm drain will be reimbursed from

Storm Drainage Development Fees, collected by the City from adjacent developments over the term of this Agreement and shall be reimbursed to the District. Adjacent developments are any developments that connect or extend from these improvements. Future Sewer Development Fees and Future Storm Drainage Development Fees for Reimbursement are listed in Exhibit B Amended.

2. Term. Notwithstanding anything to the contrary in the Agreement or the First Amendment, the term of the Agreement, as amended, shall cease twenty (20) years after the approved date of the Agreement.
3. Nothing herein shall amend any other terms and conditions of the Agreement entered into by the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Second Amendment to the Adonea Metropolitan District Utility Cost Reimbursement Agreement dated June 6, 2005.



**Lennar Colorado, LLC.,**  
a Colorado limited liability company

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

State of Colorado )  
 ) ss.  
County of \_\_\_\_\_ )

The foregoing Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_, as \_\_\_\_\_.

Witness my hand and official seal. \_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

(Seal)



City of Aurora, Colorado,  
Acting by and through its  
Utility Enterprise

\_\_\_\_\_  
Mike Coffman, Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Susan Barkman, Interim City Clerk

\_\_\_\_\_  
Date

Approved as to form for Aurora:

*Ian J Best*  
\_\_\_\_\_  
Ian Best, Assistant City Attorney

10/14/20  
\_\_\_\_\_  
Date

20032788  
\_\_\_\_\_  
ACS #

State of Colorado            )  
  ) ss  
County of Arapahoe        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by Mike Coffman, Mayor, acting on behalf of the Utility Enterprise of the City of Aurora, Colorado.

Witness my hand and official seal. \_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

(Seal)

## Adonea Reimbursement Agreement

<b>Amended Exhibit B</b>	Eligible for Reimbursement	Development Fees paid by Developer	Reimbursed by City of Aurora	Credited by City of Aurora
<b>Water Lines</b>	1,087,380.61			
Water Development Fees	312,089.80			
Adonea Filing 1 & 2	166,535.60	166,535.60	166,535.60	
Adonea Filing 3	84,713.20			84,713.20
Adonea Filing 4	60,841.00			60,841.00
Reimbursement from adjacent developments	355,290.81			
Traditions Filings 1, 2, 4 & 5	290,838.90		290,838.90	
Traditions Filings 3 & 6	26,866.40		26,866.40	
Aurora Public Schools	37,585.51		37,585.51	
Payment from CIP			420,000.00	
<b>REMAINING WATER AMOUNT TO BE REIMBURSED</b>			<b>0.00</b>	
<b>Sanitary Sewer Lines</b>	734,501.47			
Sewer Interceptor Fees	141,859.00			
Adonea Filing 1 & 2	75,698.00	75,698.00	75,698.00	
Adonea Filing 3	38,506.00			38,506.00
Adonea Filing 4	27,655.00			27,655.00
Reimbursement from adjacent developments				
Aurora Public School	24,191.35		24,191.35	
Traditions Filings 1-6				
Star Fall Ranch				
Sand Creek Ranch				
First Creek Ranch (Sun Meadows)				
<b>REMAINING SEWER AMOUNT TO BE REIMBURSED</b>			<b><u>568,451.12</u></b>	
<b>Storm Drain</b>	1,106,517.06			
Storm Drain Development Fees				
Adonea Filing 1 & 2	162,447.91	162,447.91		
Adonea Filing 3	84,251.12	84,251.12	307,209.17	
Adonea Filing 4	60,509.14	60,509.14		

## Adonea Reimbursement Agreement

		Development Fees paid by tributary developments
Reimbursement from tributary developments	1,593,367.20	
Traditions Filings 1-6	27,496.80	27,496.80
Star Fall Ranch *	157,744.80	
Sand Creek Ranch*	680,505.60	
Sun Meadows *	49,365.60	
Eastern Hills *	678,254.40	

\* Need to verify that filings/fees for these developments are tributary developments to Adonea Storm Drain system.

**REMAINING STORM DRAIN AMOUNT TO BE REIMBURSED**

771,811.09

**REMAINING WATER AMOUNT TO BE REIMBURSED**

0.00

**REMAINING SEWER AMOUNT TO BE REIMBURSED**

568,451.12

**REMAINING STORM DRAIN AMOUNT TO BE REIMBURSED**

771,811.09

**REMAINING AMOUNT TO BE REIMBURSED**

**1,340,262.21**

**ADONEA METROPOLITAN DISTRICT  
UTILITY COST REIMBURSEMENT AGREEMENT**

THIS UTILITY LINE COST REIMBURSEMENT AGREEMENT ("Agreement"), dated and effective as of the 6th day of June 2005, is by and among LENNAR COLORADO, LLC, a ("LENNAR"); ADONEA METROPOLITAN DISTRICT I, a political subdivision in the State of Colorado ("DISTRICT"); and the CITY OF AURORA, a municipal corporation of the County of Adams, Arapahoe and Douglas, State of Colorado ("CITY"), acting on its own behalf and by and through it's UTILITY ENTERPRISE ("Utility Enterprise").

**RECITALS**

This Agreement is made on the basis of the following facts:

A. LENNAR is the owner of a parcel of real property (the "LENNAR Property") located within the City of Aurora, Colorado, consisting of approximately 320 acres, and which was annexed into the City of Aurora pursuant to Annexation Agreement dated October 20, 1986, recorded in the office of the Recorder on January 26, 1987, under Book 5028, page 546.

B. Pursuant to the terms of the Annexation Agreement described above, the CITY is to provide water and wastewater services to LENNAR's Properties and LENNAR is obligated to pay a water transmission development fee, a storm drain development fee and a sewer interceptor development fee, defined in the City Code, on the Properties, which amounts are determined and payable to the CITY upon platting within the Properties.

C. The development plans for the Properties include connection to the CITY's water and sewer facilities by construction of water, storm and sewer line improvements (the "Improvements") substantially in accordance with the CITY's master plans and along the proposed paths shown on EXHIBIT A.

D. To facilitate installation of the Improvements in advance of the time that the CITY is prepared or obligated to do so, the DISTRICT is willing to undertake the installation of the Improvements.

E. The CITY shall not be required to pay any installation costs or acceleration fees.

F. The CITY is willing to reimburse the District only for those costs identified in Section 8 and Exhibit B, hereinafter referred to as the "Reimbursement Costs."

## **AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing facts and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LENNAR, the DISTRICT, and the CITY agree as follows:

1. Project Engineer. LENNAR and the DISTRICT have selected Nolte Associates, Inc. ("Project Engineer") to undertake and supervise the design and engineering of the Improvements.

2. LENNAR agrees to design and construct the Improvements pursuant to City Code and with City Approval of the Scope of Services of the Contract(s) for the design and construction of the storm drainage, sanitary and water projects..

3. District Engineer. The DISTRICT has selected IDES ("District Engineer") to undertake and supervise the design, bidding and construction of the Improvements.

4. Supervision. District Engineer will supervise all design, bidding processes and construction of the improvements through and including completion of construction, dedication to and acceptance by the CITY ("Project Completion").

5. Payment Administration. District Engineer will coordinate construction payment procedures. District Engineer will submit bid summaries and change orders pursuant to the procedure identified in paragraph 8 and pay requests as necessary to the CITY for payment of the CITY's Reimbursable Costs, see Exhibit B, ("Reimbursement Costs"). District Engineer and the CITY's project manager will calculate the total Improvement Cost. The CITY will calculate the costs eligible for reimbursement by the CITY.

6. Rights of Way. Following approval by the CITY and the DISTRICT of the construction drawings, the CITY, at it's sole cost and expense, will use reasonable efforts, including use of its lawful condemnation authority, to obtain title to and immediate possession of the Rights-of-Way so that the DISTRICT can commence construction of the Improvements as soon as possible. The use of the CITY's condemnation authority shall be subject to the approval of the City Council. The DISTRICT agrees to dedicate, at no cost to the CITY, easements within their properties.

7. Initial Payment of Improvement Costs. The DISTRICT shall pay (subject to partial reimbursement by the Utility Enterprise pursuant to Section 8 and Exhibit B) 100 percent of the Improvement Costs.

8. Reimbursement by Utility Enterprise. The Utility Enterprise will reimburse the DISTRICT for the reimbursable costs (see Exhibit B), less the Sewer Interceptor Development Fee, and the Water Transmission Fee, which would have been payable by LENNAR to the CITY pursuant to the Annexation Agreements. These fees will be credited at the time of platting. The CITY agrees to make Water CIP funds available, for

reimbursement of the reimbursable water line costs identified in exhibit B, only if the credited Water Transmission Fees are insufficient to cover the CITY's Reimbursable Costs. Storm Drain Development Fees are sufficient to cover the Reimbursable Costs for the Storm Drainage Project. After application of the credited fees and initial acceptance of the work, the CITY agrees to pay the DISTRICT \$206,181.86 from Storm Drain and \$399,245.50 in 2005, with an additional \$376,045.31 in 2006 from Water CIP funds. Following these payments, the CITY's portion of the storm drainage will be paid in full. The remaining \$592,642.47 for sanitary sewer share will be reimbursed from Sewer Interceptor Development Fees collected by the CITY from adjacent developments over the next fifteen years from the effective date of this Agreement and shall be reimbursed to the DISTRICT. Adjacent developments are any developments that connect or extend from these improvements. Future Sewer Development Fees for Reimbursement are listed in Exhibit B.

(a) The reimbursement to the DISTRICT will be paid annually, commencing on the first calendar year after initial acceptance of the Work. The due date for payment of the annual installment shall be March 15<sup>th</sup>.

(b) The CITY or DISTRICT may, from time to time, consider changes in the scope of the services of the Construction/Design of the projects subject to the reimbursements of this Agreement. Such changes, including any increase or decrease in the amount of the compensation, which are mutually agreed upon by and between the CITY and the DISTRICT, shall be incorporated in written addendum. Any increases in cost that would cause the City 's reimbursement to increase are subject to City Council Approval by Aurora.

A claim is any demand, contention, or assertion by the DISTRICT seeking additional reimbursement resulting from approved changes in the scope of services. Claims by the DISTRICT must be made in writing as specified herein. Claims from the DISTRICT must contain all of the following:

- i) A narrative statement referencing and attaching the supporting documentation and specifically describing the legal, factual and contractual basis of the claim;
- ii) If the claim alleges delay to the work, the claim must include the precise number of days claimed, all alleged impacts, financial or otherwise, on the work, and the specific amount of money, if any, claimed as a result of the delay as well as a detailed critical path schedule analysis illustrating that the delays claimed were on the critical path of the project;
- iii) The CITY shall not pay any costs for acceleration.
- iv) If the claim is for additional compensation, the claim must include a detailed calculation of the precise amount claimed with all supporting documentation. All claims must reference the specific contract provisions relied upon to support the claim. All claims must specifically reference, by name, this Section and the fact that the claim is being submitted under this Section. Any writing or other



form of notice, however designated, which fails to specifically reference this Section, by name, shall not be deemed to constitute a valid claim hereunder.

Items i, ii, iii, and iv above shall hereinafter be referred to as the "Final Accounting." A claim notice must be made in writing within three (3) business days after the occurrence of the event within six days a complete claim request shall be submitted in writing to the CITY giving rise to the claim or the right to submit a claim is waived. The DISTRICT shall submit all information reasonably available that is otherwise required in the Final Accounting at the time of the claim. Failure to timely provide the Final Accounting shall constitute a waiver of the claim.

All requests for additional reimbursement by the DISTRICT shall be considered a separate claim and shall follow the claim procedures specified above. All information required in the Final Accounting must be submitted within the time limits established herein, and no supplementation of the information shall be permitted. Any attempted reservation of the right to submit or supplement an earlier made claim shall be void. Any increase in the Reimbursable Costs are subject to annual appropriations and shall be subject to approval by City Council.

After review of the claim, the CITY shall make a decision whether the DISTRICT is entitled to a Change Order. If in the opinion of the CITY, the DISTRICT is entitled to a Change Order, the Project Manager shall initiate a written Change Order DISTRICT shall not proceed with the work pursuant to such claim until receipt of written approval from the Project Manager. If in the opinion of the CITY, the DISTRICT is not entitled to a Change Order, the DISTRICT shall receive notice of the decision in writing from the Project Manager within five (5) business days of receipt of the claim by the CITY. The DISTRICT may submit an appeal of the decision in writing to the Director of Utilities within five (5) days of receipt of the decision from the Project Manager.

Claims shall be faxed with return acknowledgement or hand delivered to the following:

Joseph E. Wingert, Project Manager  
City of Aurora  
Utilities Department  
15151 E Alameda Parkway, 3<sup>rd</sup> Floor  
Aurora, CO 80012  
Fax: (303) 739-7641

(c) For each phase of construction of Improvements applicable to this agreement, LENNAR, the DISTRICT and the CITY will execute a written addendum to this agreement, outlining the actual approved Improvements, the actual costs for those Improvements, and the methodology of reimbursement shall be pursuant to section 8 of this Agreement. All addenda are subject to approval by the Aurora City Council.

Term. The term of this Agreement shall cease fifteen years after the approved date of this Agreement.

9 Sewer Extension Fees. The CITY acknowledges and agrees that execution of and performance under this Agreement by LENNAR and the DISTRICT shall constitute full and complete satisfaction of LENNAR's obligations pursuant to the October 20, 1986 Annexation Agreement to pay Sewer Interceptor Fees to the CITY.

10. Storm Drain Development Fees. The CITY acknowledges and agrees that execution of and performance under this Agreement by LENNAR and the DISTRICT shall constitute full and complete satisfaction of LENNAR's obligations pursuant to the October 20, 1986 Annexation Agreement to pay Storm Drain Development Fees to the CITY.

11. Water Transmission Fees. The CITY acknowledges and agrees that execution of and performance under this Agreement by LENNAR and the DISTRICT shall constitute full and complete satisfaction of LENNAR's obligations pursuant to the October 26, 1986 Annexation Agreement to pay Water Transmission Fees to the CITY.

12. Dedication to and Acceptance of Improvements by CITY. Upon completion of construction of the Improvements, LENNAR or the DISTRICT shall dedicate the Improvements to the CITY and warrant that the Improvements are constructed in substantial accordance with approved plans. The CITY shall process any such conveyance or dedication and if acceptable shall issue any necessary acceptance of the Improvements as defined by the Enhanced Development Process. Upon acceptance of the Improvements by the CITY ("Initial Acceptance") the Improvements shall become the property of the CITY. LENNAR and the DISTRICT shall indemnify and hold harmless the CITY for the costs of non-routine repair to the extent such repair is required due to faulty construction for a period of one year following Initial Acceptance. The period of indemnification shall begin upon issuance of the Notice of Initial Acceptance, which notice shall not be issued until the DISTRICT's contractor(s) have executed a lien release to the City of Aurora. The responsibility for the operation of the Improvements shall be that of the CITY. Upon expiration of said one-year period, the CITY shall be liable for all repair and maintenance of the Improvements.

13. Obligation of Utility Enterprise. Any and all obligations of the Utility Enterprise under this Agreement will be the sole obligation of the Utility Enterprise and, as such, will not constitute a general obligation or other indebtedness of the CITY or a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the CITY within the meaning of any constitutional, statutory or other charter limitation. In the event of a default by the Utility Enterprise on any of its obligations under the terms of this Agreement, the non-Defaulting party will have no recourse against any of the funds of the CITY except for the Utility Enterprise Wastewater Fund; provided, however, that the non-defaulting party's recourse against said fund will be on a basis subordinate and junior to that of the holders of any bonds, notes, or other obligations issued by the CITY or the Utility Enterprise payable from the remains of the fund, after the payment of said bonds, notes, or other obligations.

14. Non-Appropriation. The Parties acknowledge and understand that any financial obligations of the CITY payable after the current fiscal year are contingent upon funds for that purpose being budgeted and appropriated by the CITY's governing body. Accordingly, should the CITY's governing body exercise its right not to appropriate funds for any fiscal year sufficient for the continued performance by the CITY of its obligations under this Agreement, this Agreement shall terminate at the close of the fiscal year for which funds were last appropriated without penalty or recourse to the CITY.

15. Relationship of Parties. Nothing contained herein will be construed or interpreted as (a) creating a joint venture, partnership, or other similar relationship between LENNAR, the DISTRICT or the CITY; (b) entitling any person or entity not a Party to this Agreement to any of the benefits of this Agreement; (c) appointing a Party to this Agreement as agent of the others or authorizing a Party to this Agreement to make contracts in the name of the others; or (d) creating, establishing or imposing a fiduciary duty owned by one Party to the other hereunder or in any way creating a fiduciary relationship between the Parties.

16. Notices. Any notice provided for or required to be given hereunder will be in writing and will be deemed given on the date personally delivered or transmitted by facsimile transmission to the recipient of such notice at the facsimile numbers hereinafter identified; or (b) three (3) days after the date deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the recipient of such notice at such place as a Party may designate in writing for such purpose or, in the absence of such designation:

17. Captions. Captions to paragraphs are for convenience and reference purposes only and will not affect the construction of the meaning of the terms and provisions of this Agreement.

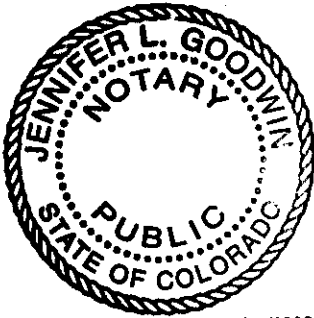
18. Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the Parties hereto, their representatives, successors, and assigns. This Agreement is intended by the Parties hereto to be of use and benefit of the Parties and no person or entity not a Party to this Agreement will be authorized or entitled to rely on the benefits of this Agreement or seek to enforce any of the terms, provisions or covenants contained herein as a third Party beneficiary hereof.

19. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Colorado.

20. Counterparts. This Agreement may be executed in one or more counterparts, each of which will constitute an original agreement, but all of which together will constitute a single agreement. A facsimile transmitted copy of this Agreement executed by one of the Parties hereto will be accepted as an originally executed copy of this Agreement.

THIS AGREEMENT has been executed by the Parties effective as of the date set forth above.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.



ATTEST  
My Commission Expires 01/03/2009  
Jennifer L. Goodwin

**Lennar Colorado, LLC**

[Signature]  
By: Brianne Garrett  
Its: Vice President



ATTEST  
My Commission Expires 01/03/2009  
Jennifer L. Goodwin

**Adonea Metropolitan District.**

[Signature]  
By: Brianne Garrett  
Its: President

The City of Aurora

Edward J. Tauer  
Edward J. Tauer, Mayor

ATTEST:

Debra Johnson  
Debra Johnson, City Clerk

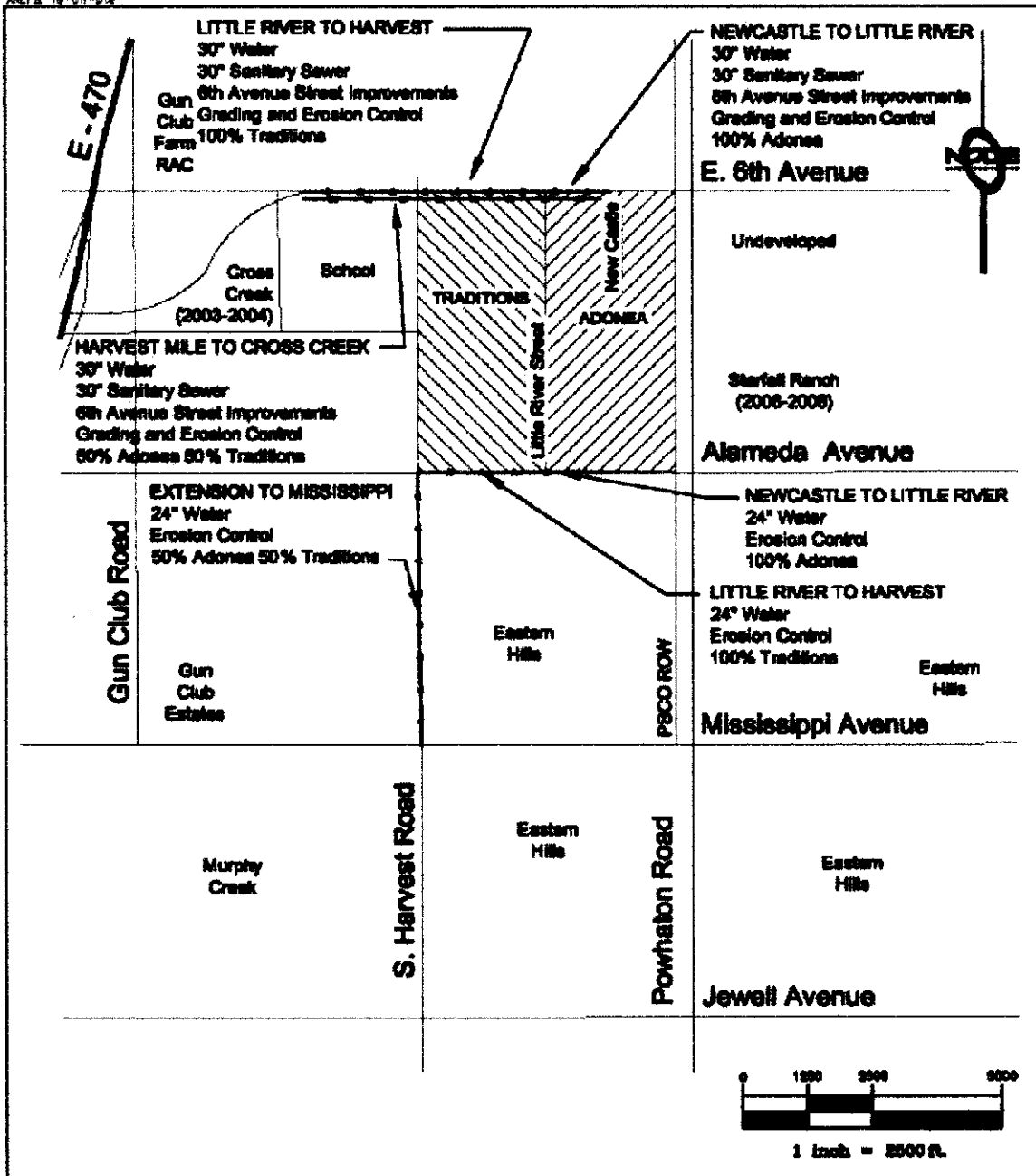
APPROVED AS TO FORM:

Christina McKENNEY  
Assistant City Attorney

<b>Exhibit B</b>							
<b>Adonea Cost Reimbursement Agreement</b>				<b>Date:</b>		<b>May 24, 2005</b>	
<b>NO.</b>	<b>ITEM</b>	<b>Proposed Cost</b>	<b>Percent Reimbursement</b>	<b>Eligible Reimbursement</b>	<b>Notes</b>		
<b>Water Lines</b>							
1	Off-Site Water 30" & 8" - 6th Avenue (Harvest to Cross Creek)	\$ 315,890.78	50.00%	\$ 157,915.39			
2	Off-Site Water 24" & 12" - Extension to Mississippi	\$ 1,140,817.06	50% & 100%	\$ 570,722.53			
3	Off-Site Water 12" & 6" - 6th Avenue (Newcastle to Little River)	\$ 19,500.12	50.00%	\$ 9,750.06			
4	Off-Site Water 12" & 6" - Alameda (Newcastle to Little River)	\$ 21,308.45	50.00%	\$ 10,654.73			
5	Off-Site Water 30" - 6th Avenue (Newcastle to Little River)	\$ 311,517.19	77% & 100%	\$ 240,787.47			
6	Off-Site Water 24" - Alameda (Newcastle to Little River)	\$ 142,315.30	65.00%	\$ 92,504.95			
7	Off-Site Water 16" - 6th (Newcastle to Little River)	\$ 15,350.00	33.00%	\$ 5,065.50			
8	<b>Water Sub Total (SUM LINES 1-7)</b>	<b>\$ 1,986,639.80</b>		<b>\$ 1,047,399.81</b>			
<b>Sanitary Lines</b>							
9	Off-Site Sanitary 30" - 6th Avenue (Harvest to Cross Creek)	\$ 592,334.56	50.00%	\$ 296,167.28			
10	Off-Site Sanitary 8" - 6th Avenue (Newcastle to Little River)	\$ 2,129.06	50.00%	\$ 1,064.53			
11	Off-Site Sanitary 24" - Alameda (Newcastle to Little River)	\$ 40,709.50	84.00%	\$ 34,195.98			
12	Sanitary 24" - Newcastle Way (On-Site)	\$ 131,741.50	80.00%	\$ 105,393.20			
13	Sanitary 24" - Newcastle Way (On-Site)	\$ 249,342.25	52.00%	\$ 129,657.67			
14	Off-Site Sanitary 30" - 6th Avenue (Newcastle to Little River)	\$ 255,451.54	62.00%	\$ 158,379.95			
15	Off-Site Sanitary 18" - 6th Avenue (Newcastle to Little River)	\$ 6,010.00	49.00%	\$ 2,944.90			
16	Off-Site Sanitary 24" - 6th Avenue (Newcastle to Little River)	\$ 1,785.00	48.00%	\$ 861.90			
17	Off-Site Sanitary 12" - Alameda (Newcastle to Little River)	\$ 7,205.00	81.00%	\$ 5,836.05			
18	<b>Sanitary Sewer Sub Total (SUM LINES 9-17)</b>	<b>\$ 1,288,718.41</b>		<b>\$ 734,501.47</b>			
<b>Storm Drain</b>							
19	Off-Site Storm - 6th Avenue (Harvest to Cross Creek)	\$ 194,709.72	50.0%	\$ 97,354.86			
20	Channel Drop Structures	\$ 108,827.00	100.00%	\$ 108,827.00			
21	<b>Storm Drain Sub Total (SUM LINES 19-20)</b>	<b>\$ 303,536.72</b>		<b>\$ 286,181.86</b>			
22	<b>Grand Total (LINES 8+18+21)</b>	<b>\$ 3,556,895.03</b>		<b>\$ 2,028,083.94</b>			
<b>Water Transmission Development Fee</b>							
		<b>Acres</b>	<b>Fee Per Acre</b>	<b>Fee Amount</b>			
23	Adonea Filing No 1 & 2	151.396	\$ 1,100.00	\$ 166,535.60	Paid to City 12/21/04		
24	Adonea Filing No 3	77.012	\$ 1,100.00	\$ 84,713.20	Fee Credited		
25	Adonea Filing No 4	55.31	\$ 1,100.00	\$ 60,841.00	Fee Credited		
26							
27	<b>Sub Total Water Transmission Fee (SUM LINES 23-26)</b>			<b>\$ 312,089.80</b>			
*Fee Reimbursement is the \$1,100 water transmission Fee This is credited at the time of subdivision.							
<b>Sanitary Sewer Interceptor Fee</b>							
		<b>Acres</b>	<b>Fee Per Acre</b>	<b>Fee Amount</b>			
28	Adonea Filing No 1 & 2	151.396	\$ 500.00	\$ 75,698.00	Paid to City 12/21/04		
29	Adonea Filing No 3	77.012	\$ 500.00	\$ 38,506.00	Fee Credited		
30	Adonea Filing No 4	55.31	\$ 500.00	\$ 27,655.00	Fee Credited		
31							
32	<b>Sub Total Sanitary Sewer Interceptor Fee (SUM LINES 28-31)</b>			<b>\$ 141,859.00</b>			
*Fee Reimbursement is the \$500 Sewer Interceptor Fee This is credited at the time of subdivision.							
<b>Storm Drainage Development Fee</b>							
		<b>Acres</b>	<b>Fee Per Acre</b>	<b>Fee Amount</b>			
33	Adonea Filing No 1 & 2	151.396	\$ 1,084.00	\$ 164,187.22	Paid to City 12/21/04		
34	Adonea Filing No 3	77.012	\$ 1,084.00	\$ 83,451.13	Paid to City 3/08/05		
35	Adonea Filing No 4	55.31	\$ 1,084.00	\$ 60,009.14	Paid to City 3/08/05		
36							
37	<b>Sub Total Storm Drain Development Fee (SUM LINES 33-36)</b>			<b>\$ 310,387.49</b>			
<b>Water CIP</b>							
		<b>ORG Number</b>	<b>Year</b>	<b>Amount</b>			
38	6th Avenue Gun Club Road to Powhatton Road	52876	2005	\$ 336,150.57	Remainder from Cross Creek		
39	Miscellaneous Transmission Mains	52702	2005	\$ 63,094.93			
40	Harvest Road Mins. To 6th Avenue	52668	2006	\$ 420,000.00			
41	<b>Water CIP Sub-Total (LINE 38+39+40)</b>			<b>\$ 819,245.50</b>			
42	<b>Sanitary Sewer CIP Sub-Total</b>			<b>\$0.00</b>			
<b>Storm Drain Reimbursement</b>							
43	Reimbursement Portion of the Storm Drain Development Fee (Line 21 because Line 37 is larger)			\$ 204,181.86	This amount will come from Storm Drain Development Fees to be collected from the development		
<b>Water Line Reimbursement</b>							
44	Water Amount to be reimbursed in 2005 after construction (Line 38 and Line 39)			\$ 399,245.50			
45	Water Amount to be reimbursed in 2006 (Line 8-27-44)			\$ 376,045.31			
<b>Sanitary Sewer Reimbursement</b>							
46	Sanitary Sewer Amount set cover with current funds (Line 18-32-42)			\$ 592,642.47	This amount will come from sanitary sewer interceptor fee collected from adjacent developments		
<b>Future Sanitary Sewer Development Fees For Reimbursement</b>							
	Traditions Filing 1 - 6 Pending Subdivision Applications	328.681	Acres	\$ 164,340.50			
	Star Fall Ranch	320	Acres	\$ 160,000.00			
	Sand Creek Ranch	480	Acres	\$ 240,000.00			
	First Creek Ranch	320	Acres	\$ 160,000.00			
	<b>Sub Total Future Development Fees For Reimbursement</b>			<b>\$ 724,340.50</b>			

# EXHIBIT A

RME: 7.38 D.F. DATE: 07/15/04 PATH: N:\DVB0130\Cadd\Survey\ SERVICE: DRAWING NAME: OFF-SITE COST SHARE.DWG SHEETS: TP-off-site



<p style="font-size: small;">200 SOUTH YAMHRT ST., SUITE 200, DENVER, CO 80202              (303) 733-1111 FAX: (303) 733-1112</p>	<h2 style="margin: 0;">ADONEA / TRADITIONS</h2> <h3 style="margin: 0;">OFF-SITE IMPROVEMENTS</h3> <h3 style="margin: 0;">CONSTRUCTION COST SHARE</h3>	SHEET NUMBER <h1 style="margin: 0;">1</h1>
	PREPARED FOR: LENNAR COLORADO, LLC	DATE SUBMITTED: JULY 2004



AMENDMENT TO  
ADONEA METROPOLITAN DISTRICT  
UTILITY COST REIMBURSEMENT AGREEMENT

THIS UTILITY LINE COST REIMBURSEMENT AGREEMENT ("Agreement"), dated and effective as of the 28<sup>th</sup> day of Nov 2005, is by and among LENNAR COLORADO, LLC, a ("LENNAR"); ADONEA METROPOLITAN DISTRICT I, a political subdivision in the State of Colorado ("DISTRICT"); and the CITY OF AURORA, a municipal corporation of the County of Adams, Arapahoe and Douglas, State of Colorado ("CITY"), acting on its own behalf and by and through it's UTILITY ENTERPRISE ("Utility Enterprise"). (Collectively, the "Parties").

RECITALS

WHEREAS, LENNAR is the owner of a parcel of real property (the "LENNAR Property") located within the City of Aurora, Colorado, consisting of approximately 320 acres, and which was annexed into the City of Aurora pursuant to Annexation Agreement dated October 20, 1986, recorded in the office of the Recorder on January 26, 1987, under Book 5028, page 546.

WHEREAS, Pursuant to the terms of the Annexation Agreement described above, the CITY is to provide water and wastewater services to LENNAR's Properties and LENNAR is obligated to pay a water transmission development fee, a storm drain development fee and a sewer interceptor development fee, defined in the City Code, on the Properties, which amounts are determined and payable to the CITY upon platting within the Properties.

WHEREAS, on June 6, 2005, the CITY approved the Adonea Metropolitan District Utility Cost Reimbursement Agreement to facilitate installation of the utility improvements in advance of the time that the CITY is obligated to do so, the DISTRICT agreed to undertake the installation of the utility improvements and the CITY agreed to reimburse the DISTRICT for the obligations that it is responsible for.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing facts and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Section 8 of the Agreement is to be changed as follows:

8. *Reimbursement by Utility Enterprise.* The Utility Enterprise will reimburse the DISTRICT for the reimbursable costs (See, Exhibit B Amended),



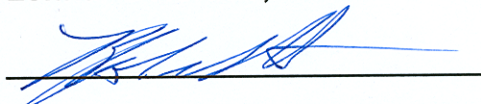
less the Sewer Interceptor Development Fee, and the Water Transmission Fee, which would have been payable by LENNAR to the CITY pursuant to the Annexation Agreements. These fees will be credited at the time of platting. The CITY agrees to make Water CIP funds available, for reimbursement of the reimbursable water line costs identified in exhibit B, only if the credited Water Transmission Fees are insufficient to cover the CITY's Reimbursable Costs. After application of the credited fees and initial acceptance of the work, the CITY agrees to pay the DISTRICT \$274,613.69 from Storm Drain Development Fees collected from this development, and \$336,150.57 in 2005, with an additional \$420,000 in 2006 from Water CIP funds. The remaining \$19,140.24 for Water, \$592,642.47 for sanitary sewer, and \$831,903.37 for storm drain will be reimbursed from Water Transmission Development Fees, Sewer Interceptor Development Fees, and Storm Drainage Development Fees, collected by the CITY from adjacent developments over the next fifteen years from the effective date of this Agreement and shall be reimbursed to the DISTRICT. Adjacent developments are any developments that connect or extend from these improvements. Future Sewer Development Fees and Future Storm Drainage Development Fees for Reimbursement are listed in Exhibit B Amended.

2. The attached Exhibit B shall replace Exhibit B in the original Agreement for illustrative purposes of the monetary disbursements.

3. Nothing herein shall amend any other terms and conditions of the original agreement entered into by the parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment to the Adonea Metropolitan District Utility Cost Reimbursement Agreement dated June 6, 2005, as of the date set above.

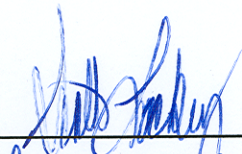
**Lennar Colorado, LLC**



By: Blaine GARRET

Its: Vice President

ATTEST:

  
\_\_\_\_\_  
PROVEN MUNKERS




Adonea Metropolitan District.

  
\_\_\_\_\_

By: BLAINE GARRET

Its: Vice President

ATTEST:

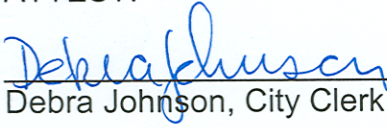
  
\_\_\_\_\_

The City of Aurora

  
\_\_\_\_\_

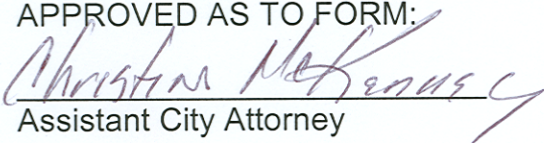
Edward J. Tauer, Mayor

ATTEST:

  
\_\_\_\_\_

Debra Johnson, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_

Assistant City Attorney



<b>Exhibit B AMENDED</b>				
<b>Adonea Cost Reimbursement Agreement</b>			Date:	May 24, 2005
<b>I Project Costs</b>				
NO.	ITEM	Proposed Cost	Percent Reimbursement	Eligible Reimbursement
<b>Water Lines</b>				
1	Off-Site Water 30" & 6" - 6th Avenue (Harvest to Cross Creek)	\$ 315,830.78	50.00%	\$ 157,915.39
2	Off-Site Water 24" & 12" - Extension to Mississippi	\$ 1,140,817.06	50% & 100%	\$ 570,722.53
3	Off-Site Water 12" & 6" - 6th Avenue (Newcastle to Little River)	\$ 19,500.12	50.00%	\$ 9,750.06
4	Off-Site Water 12" & 6" - Alameda (Newcastle to Little River)	\$ 21,309.45	50.00%	\$ 10,654.73
5	Off-Site Water 30" - 6th Avenue (Newcastle to Little River)	\$ 311,517.19	77% & 100%	\$ 240,767.47
6	Off-Site Water 24" - Alameda (Newcastle to Little River)	\$ 142,315.30	65.00%	\$ 92,504.95
7	Off-Site Water 16" - 6th (Newcastle to Little River)	\$ 15,350.00	33.00%	\$ 5,065.50
8	<b>Water Sub Total (SUM LINES 1-7)</b>	\$ 1,966,639.90		\$ 1,087,380.61
<b>Sanitary Lines</b>				
9	Off-Site Sanitary 30" - 6th Avenue (Harvest to Cross Creek)	\$ 592,334.56	50.00%	\$ 296,167.28
10	Off-Site Sanitary 8" - 6th Avenue (Newcastle to Little River)	\$ 2,129.06	50.00%	\$ 1,064.53
11	Off-Site Sanitary 24" - Alameda (Newcastle to Little River)	\$ 40,709.50	84.00%	\$ 34,195.98
12	Sanitary 24" - Newcastle Way (On-Site)	\$ 131,741.50	80.00%	\$ 105,393.20
13	Sanitary 24" - Newcastle Way (On-Site)	\$ 249,342.25	52.00%	\$ 129,657.97
14	Off-Site Sanitary 30" - 6th Avenue (Newcastle to Little River)	\$ 255,451.54	62.00%	\$ 158,379.95
15	Off-Site Sanitary 18" - 6th Avenue (Newcastle to Little River)	\$ 6,010.00	49.00%	\$ 2,944.90
16	Off-Site Sanitary 24" - 6th Avenue (Newcastle to Little River)	\$ 1,795.00	48.00%	\$ 861.60
17	Off-Site Sanitary 12" - Alameda (Newcastle to Little River)	\$ 7,205.00	81.00%	\$ 5,836.05
18	<b>Sanitary Sewer Sub Total (SUM LINES 9-17)</b>	\$ 1,286,718.41		\$ 734,501.47
<b>Storm Drain</b>				
19	Off-Site Storm - 6th Avenue (Harvest to Cross Creek)	\$ 194,709.72	50.0%	\$ 97,354.86
20	Channel Drop Structures	\$ 108,827.00	100.00%	\$ 108,827.00
<b>Admendment Number 1 Additional Drop Structures</b>				\$ 900,335.20
21	<b>Storm Drain Sub Total (SUM LINES 19-20)</b>	\$ 303,536.72		\$ 1,106,517.06
22	<b>Grand Total (LINES 8+18+21)</b>	\$ 3,556,895.03		\$ 2,928,399.14
<b>II Development Fees</b>				
<b>Water Transmission Development Fee</b>				
		<b>Acres</b>	<b>Fee Per Acre</b>	<b>Fee Amount</b>
23	Adonea Filing No 1 & 2	151.396	\$ 1,100.00	\$ 166,535.60
24	Adonea Filing No 3	77.012	\$ 1,100.00	\$ 84,713.20
25	Adonea Filing No 4	55.31	\$ 1,100.00	\$ 60,841.00
26				
27	<b>Sub Total Water Transmission Fee (SUM LINES 23-26)</b>			\$ 312,089.80
*Fee Reimbursement is the \$1,100 water transmission Fee This is credited at the time of subdivision.				
<b>Sanitary Sewer Interceptor Fee</b>				
		<b>Acres</b>	<b>Fee Per Acre</b>	<b>Fee Amount</b>
28	Adonea Filing No 1 & 2	151.396	\$ 500.00	\$ 75,698.00
29	Adonea Filing No 3	77.012	\$ 500.00	\$ 38,506.00
30	Adonea Filing No 4	55.31	\$ 500.00	\$ 27,655.00
31				
32	<b>Sub Total Sanitary Sewer Interceptor Fee (SUM LINES 28-31)</b>			\$ 141,859.00
*Fee Reimbursement is the \$500 Sewer Interceptor Fee This is credited at the time of subdivision.				
<b>Storm Drainage Development Fee</b>				
		<b>Acres</b>	<b>Fee Per Acre</b>	<b>Fee Amount</b>
33	Adonea Filing No 1 & 2	151.396	\$ 1,094.00	\$ 165,627.22
34	Adonea Filing No 3	77.012	\$ 1,094.00	\$ 84,251.13
35	Adonea Filing No 4	55.31	\$ 1,094.00	\$ 60,509.14
36	(area not inside drainage basin for reimbursement)	-32.70	\$ 1,094.00	\$ (35,773.80)
37	<b>Sub Total Storm Drain Development Fee (SUM LINES 33-36)</b>			\$ 274,613.69



<b>III Capital Improvement Project Budgets</b>				
	<b>Water CIP</b>	<b>ORG Number</b>	<b>Year</b>	<b>Amount</b>
38	6th Avenue Gun Club Road to Powhatton Road	52876	2005	\$ 336,150.57
39	Miscellaneous Transmission Mains	52702	2005	\$ 63,094.93
40	Harvest Road Miss. To 6th Avenue	52668	2006	\$ 420,000.00
41	<b>Water CIP Sub-Total (LINE 38+39+40)</b>			<b>\$ 819,245.50</b>
42	<b>Sanitary Sewer CIP Sub-Total</b>			<b>\$0.00</b>
<b>IV Reimbursement</b>				
<b>Storm Drain Reimbursement</b>				
43	<b>Reimbursement Portion of the Storm Drain Developemnt Fee (Line 21 - 37)</b>			<b>\$ 831,903.37</b>
	This amount will come from Storm Drain Developemnt Fees to be collected from the tributary developments			
<b>Water Line Reimbursement</b>				
44	<b>Water Amount to be reimbursed in 2005 after construction (Line 38 and Line 39)</b>			<b>\$ 399,245.50</b>
45	<b>Water Amount to be reimbursed in 2006 (Line 8-27-44)</b>			<b>\$ 376,045.31</b>
<b>Sanitary Sewer Reimbursement</b>				
46	<b>Sanitary Sewer Amount not cover with current funds (Line 18-32-42)</b>			<b>\$ 592,642.47</b>
	This amount will come from sanitary sewer interceptor fee collected from adjacent developments			
<b>Future Sanitary Sewer Development Fees For Reimbursement</b>				
	Traditions Filing 1 - 6 Pending Subdivision Applications	328.681	Acres	\$ 164,340.50
	Star Fall Ranch	320	Acres	\$ 160,000.00
	Sand Creek Ranch	480	Acres	\$ 240,000.00
	First Creek Ranch (Sun Meadows)	320	Acres	\$ 160,000.00
47	<b>SUB-TOTAL Future Sanitary Sewer Development Fee</b>			<b>\$ 724,340.50</b>
<b>Future Storm Drainage Development Fees For Reimbursement</b>				
	Traditions Filing 1 - 6 Pending Subdivision Applications *	17.1	Acres	\$ 27,496.80
	Star Fall Ranch *	98.1	Acres	\$ 157,744.80
	Sand Creek Ranch *	423.2	Acres	\$ 680,505.60
	Sun Meadows *	30.7	Acres	\$ 49,365.60
	Eastern Hills *	421.8	Acres	\$ 678,254.40
48	<b>SUB-TOTAL Future Storm Drainage Development Fee **</b>			<b>\$ 1,593,367.20</b>
	* Partial acreage estimating the area included in the drainage basin. Developer may have egilable structures for reimbursement with these properties and the total dollars may not be available.			
	** Only the first \$831,903.37 eligible for reimbursement will be reimbursed by this agreement			
	<b>Sub_Total Future Development Fees For Reimbursement</b>			<b>\$ 2,317,707.70</b>

- b. Consideration to APPROVE Adonea Metropolitan District Utility Cost Reimbursement Agreement between the City of Aurora, acting by and through its Utility Enterprise, and Lennar Colorado LLC and Adonea Metropolitan District. STAFF SOURCE: Joseph E. Wingert, Manager of Plans Review and Tap Applications.
- c. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Tierdael Construction Co., Denver, Colorado, in the amount of \$1,594,945.00 for the 2005 Waterline Replacement Project, Project Number 5060A. **Staff requests a waiver of reconsideration.** STAFF SOURCE: Robert Armstrong, Sr. Utilities CIP Manager.
- d. Consideration to APPROVE A LEASE AGREEMENT and AUTHORIZE THE MAYOR TO EXECUTE the lease for the old Martin Luther King, Jr. Library building with Red Delicious Press (9901 E. 16th Ave., Adams County, Colorado). STAFF SOURCE: Lyman Ho, Manager of Real Property Services.

### Final Ordinances

- ◆ e. Consideration of an ORDINANCE FOR FINAL amending Section 146-1609 of the City Code of the City of Aurora, Colorado, relating to the removal of political signs following an election. **Ordinance 2005-36, Introduced 9-0 at the May 16, 2005 City Council meeting.** STAFF SOURCE: Ron Moore, Manager of Neighborhood Support.
- ◆ f. Consideration of an ORDINANCE FOR FINAL amending Section 146-1252 of the City Code of the City of Aurora, Colorado, related to rules for after-hours uses. **Ordinance 2005-37, Introduced 9-0 at the May 16, 2005 City Council meeting.** STAFF SOURCE: Ron Moore, Manager of Neighborhood Support.
- ◆ g. Consideration of an ORDINANCE FOR FINAL zoning a parcel of land generally located in the Southeast quarter of the Southeast quarter of Section 31, Township 5 South, Range 65 West of the 6<sup>th</sup> Principal Meridian, City of Aurora, County of Arapahoe, State of Colorado, to E-470 Corridor Zone District, low density residential subarea, and amending the Aurora zoning map accordingly. (Winchester Group) 39.765 acres. Case Number 2005-2004-00. **Ordinance 2005-38, Introduced 9-0 at the May 16, 2005 City Council meeting.** STAFF SOURCE: Jim Sayre, Planning Department.

### 10. ORDINANCES FOR INTRODUCTION

- ◆ a. Consideration of an ORDINANCE FOR INTRODUCTION amending Subsection 50-72(c) and enacting Subsection 50-72(f) of the City Code of the City of Aurora, Colorado, relating to the Municipal Court. STAFF SOURCE: Richard Weinberg, Presiding Judge.
- ◆ b. Consideration of an ORDINANCE FOR INTRODUCTION appropriating sums of money in addition to those appropriated in Ordinance Nos. 2003-75, 2004-01, 2004-38, and 2004-92 for the 2004 fiscal year and in Ordinance Nos. 2004-72 and 2004-92 for the 2005 fiscal year. STAFF SOURCE: Greg Hays, Financial Program Supervisor.



Larry McElvain, 2381 Lima Street, Aurora, CO 80010, (303) 364-7925, spoke on behalf of the Northwest Aurora Neighborhood Organization. They are in favor of keeping the Fitzsimons Golf Course intact as an 18-hole course, noting that it is a nice amenity in the Fitzsimons campus, provides open space in the area, and has a historical link to President Eisenhower. Mr. McElvain presented signatures from 219 people in support of keeping the golf course to the City Clerk.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented with items 12a and 12b deferred to the June 20, 2005 City Council meeting.

9. **CONSENT CALENDAR - 9a-9g**

**General Business**

- a. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Academy Sports Turf, LLC, Englewood, Colorado, in the amount of \$145,500.00 for the playground surfacing renovation of Del Mar and Meadowood Parks, Project Number 5041A.

**APPROVED: 10-0**

**RECONSIDERATION DATE: 06-20-2005**

- b. Consideration to APPROVE Adonea Metropolitan District Utility Cost Reimbursement Agreement between the City of Aurora, acting by and through its Utility Enterprise, and Lennar Colorado LLC and Adonea Metropolitan District.

**APPROVED: 10-0**

**RECONSIDERATION DATE: 06-20-2005**

- c. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Tierdael Construction Co., Denver, Colorado, in the amount of \$1,594,945.00 for the 2005 Waterline Replacement Project, Project Number 5060A.

**APPROVED: 10-0**

**RECONSIDERATION DATE: WAIVED**

- d. Consideration to APPROVE A LEASE AGREEMENT and AUTHORIZE THE MAYOR TO EXECUTE the lease for the old Martin Luther King, Jr. Library building with Red Delicious Press (9901 E. 16th Ave., Adams County, Colorado).

**APPROVED: 10-0**

**RECONSIDERATION DATE: 06-20-2005**

**Final Ordinances**

- ◆ e. Consideration of an ORDINANCE FOR FINAL amending Section 146-1609 of the City Code of the City of Aurora, Colorado, relating to the removal of political signs following an election.

**APPROVED: 9-0**

**RECONSIDERATION DATE: 06-20-2005**

**ORDINANCE NO.: 2005-36**

**EFFECTIVE DATE: 07-16-2005**

- ◆ *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.*

- b. Consideration to APPROVE AN AMENDMENT to the Adonea Metropolitan District Utility Cost Reimbursement Agreement between the City of Aurora, acting by and through its Utility Enterprise, and Lennar Colorado LLC and Adonea Metropolitan District. STAFF SOURCE: Joseph E. Wingert, Manager of Plans Review.
- c. Consideration to AWARD A COMPETITIVELY BID CONTRACT to CSI, Inc., Aurora, Colorado, in the amount of \$105,700.00, for the Residential Noise Mitigation Program, Project Number 5073A. **Staff requests a waiver of reconsideration.** STAFF SOURCE: John Van Kirk, Environmental Planner/Airport Noise Coordinator.
- d. Consideration to APPROVE revised Council Rules of Order and Procedure. STAFF SOURCE: Suzanne Staiert, Assistant City Attorney.

### Final Ordinances

- ◆ e. Consideration of an ORDINANCE FOR FINAL creating Special Improvement District 1-05 in the City of Aurora, Colorado, authorizing and ordering the construction of public improvements therein and appropriating funds therefor, authorizing notice to contractors and determining the method of apportioning assessments to defray the costs thereof. **Ordinance 2005-64, Introduced 10-0 at the August 22, 2005 City Council meeting.** STAFF SOURCE: Ronald Degenhart, City Engineer.
- ◆ f. Consideration of an ORDINANCE FOR FINAL amending various provisions within Chapter 122 of the City Code of the City of Aurora, Colorado, regarding Special Service Districts. **Ordinance 2005-65, Introduced 10-0 at the August 22, 2005 City Council meeting.** STAFF SOURCE: Nancy Bailey, Manager of Development Assistance.
- ◆ g. Consideration of an ORDINANCE FOR FINAL rezoning a parcel of land generally located on the Northwest corner of Andes Street and 19<sup>th</sup> Avenue, City of Aurora, County of Adams, State of Colorado, from B-1 (Retail Business) Zone District to R-1 (Single Family Residential) Zone District and amending the Aurora zoning map accordingly. Case Number 2005-2007-00. (Andes Street Rezone) 1.007 acres. **Ordinance 2005-66, Introduced 10-0 at the August 22, 2005 City Council meeting.** STAFF SOURCE: Mitchell Harvey, Planning Department.
- ◆ h. Consideration of an ORDINANCE FOR FINAL authorizing the issuance of a City of Aurora, Colorado, Special Improvement District Revenue Note (Dam West Neighborhood Fence Project), Series 2005, in an aggregate principal amount not to exceed \$1,600,000. **Ordinance 2005-69, Introduced 9-0 at the August 29, 2005 City Council meeting.** STAFF SOURCE: Tom Sather, Debt and Financing Administrator.
- ◆ i. Consideration of an ORDINANCE FOR FINAL determining the whole cost of certain public improvements made in Special Improvement District 2-03; approving and confirming the apportionment of said cost to each lot or tract of land in the District; assessing a share of said cost to each lot or tract of land in the District; and prescribing the manner for the collection and payment of the assessments. (Dam West). **Ordinance 2005-70, Introduced 9-0 at the August 29, 2005 City Council meeting.** STAFF SOURCE: Ron Degenhart, City Engineer.

9/8/2005

- ◆ **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.**

Pamela Steele, 12237 East LaSalle Place, Aurora, CO 80014, 720-841-7142  
Marina Ruddick, 15400 East 14th Place, Aurora, CO 80011, 303-360-0715

The following citizens spoke in support of the Public Safety mill levy tax increase ballot question:

Tom Tobiassen, 3743 South Helena Way, Aurora, CO 80013, 303-677-3948  
John McCracken, 8214 South Catawba Court, Aurora, CO 80016, 303-364-3573  
Amie Schultz, 1137 South Oakland, Aurora, CO 80012, 303-750-8824  
Hunter Hackbarth, 1010 South Joliet Street, Aurora, CO 80013, 303-726-5003

The following citizens spoke on behalf of 18 people in attendance, in favor of retaining the Fitzsimons swimming pool:

Mary Rausch, 9863 East Exposition Avenue, Denver, CO 80247, 303-341-1263  
Pat Tudor, 1724 Clinton Street, Aurora, CO 80010, 720-201-5551  
Cassandra MacArthur, 12531 Revere Court, Aurora, CO 80011, 303-364-4139  
Ross Getchell, 3234 Ursula Street, Aurora, CO 80011, 303-341-1356  
Kathrin Getchell, 3234 Ursula Street, Aurora, CO 80011, 303-341-1356

Ross Getchell, 3234 Ursula Street, Aurora, CO 80011, 303-341-1356, spoke in favor of keeping the Parklane swimming pool open for children.

Suzanne J. Bodis, 11697 East Mexico Avenue, Aurora, CO 80012, 303-755-3540, spoke in favor of retaining the Art in Public Places programs.

Bill Murray, 18011 East 14th Drive, Aurora, CO 80011, 303-364-8208, spoke in favor of retaining all libraries and their programs.

Francis Peter Maks, Jr., 9109 East 12th Avenue, Aurora, CO 80010-3004, 303-344-2873, stated he heard references to an area called the Golden Triangle, which one group of people told him is from 6th Avenue to I-70 and Yosemite to I-25, while another group told him it is from Fitzsimons to Lowry to Stapleton. He went to the Planning Department to get a copy of the long-range plan for Northwest Aurora for 1990 - 2010, and was told they never heard of it. Ron Miller, City Manager, stated he would provide this document to Mr. Maks tomorrow.

8. **ADOPTION OF THE AGENDA**

The agenda was adopted as presented.

9. **CONSENT CALENDAR - 9a-i**

**General Business**

- a. Consideration to AWARD A COMPETITIVELY BID CONTRACT to Friedland Construction, Inc., Castle Rock, Colorado, in the amount of \$419,064.00 for the construction of the Quincy and Griswold Wells Facilities Improvements, Project Number 5066A.

**APPROVED: 11-0**

**RECONSIDERATION DATE: 09-26-2005**

- b. Consideration to APPROVE AN AMENDMENT to the Adonea Metropolitan District Utility Cost Reimbursement Agreement between the City of Aurora, acting by and through its Utility Enterprise, and Lennar Colorado LLC and Adonea Metropolitan District.

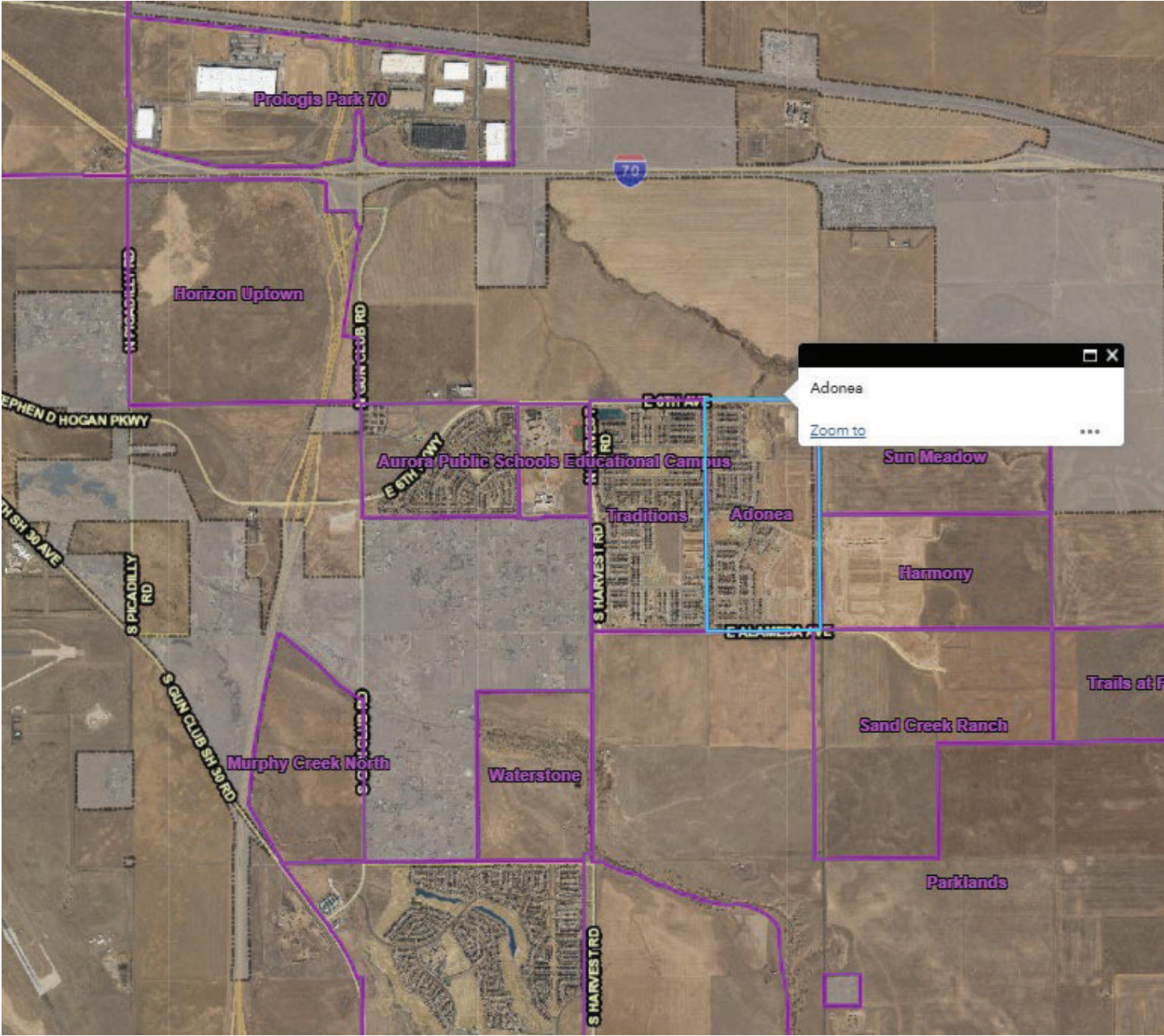
**APPROVED: 11-0**

**RECONSIDERATION DATE: 09-26-2005**

- ◆ ***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.***



Adonea Subdivision Map



**Water Policy Committee (WPC) Meeting**  
October 28, 2020

Members Present: Council Member Marsha Berzins, Chair; Council Member Alison Coombs  
Vice Chair; Council Member Francoise Bergan

Others Present: Casey Rossman, Sarah Young, Leiana Baker, Greg Baker, Rich Vidmar,  
Alexandra Davis, Dawn Jewell, Marshall Brown, Nancy Freed, Christine  
McKenney, Steve Fiori, Rory Franklin, Jo Ann Giddings, Greg Hansen, Sean  
Lieske, Dan Mikesell, John Murphy, Stephanie Nietzel, Gail Thrasher

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**3. Adonea Metro District Utility Cost Reimbursement Extension**

Summary of Issue and Discussion: S. Young stated, the Adonea Metropolitan District (Adonea) is a 320 acre development located between 6th Avenue and Alameda Ave, east of Little River St. and west of Powhatan Rd in Ward II. At the time of development, Adonea constructed oversized regional water, wastewater and stormwater infrastructure and thus is eligible for reimbursement as adjacent developments tie onto the system. Due to the economic downturn in 2008, the surrounding area did not develop as quickly as anticipated and thus the Adonea Metropolitan District is requesting a five-year extension to allow for additional reimbursement as other developments tie onto the infrastructure.

Council Member Berzins stated, this is a 15 year agreement and they want 5 years more. S. Young replied, we will see more of these types agreements, there was so much development happening at that time and a lot of reimbursement agreements were entered into and foresee development picking up again. I anticipate we will get more request like this. I'm unsure because I haven't reviewed all the reimbursement agreements to see if they have the same clause that allows for extension. This is the first one I have seen. Council Member Bergan asked, is it because development didn't happen as fast. S. Young replied, there is a lot of vacant land north, south and east of the developments, we are seeing some near term development, how much of that happens in the next 5 years I'm not sure. I wouldn't anticipate the entire amount they are due to happen in the next 5 years. Council Member Bergan stated, we required Adonea to build the regional infrastructure that they didn't need, they only needed a little portion, we are reimbursing them and the development hasn't come in to put the rest of the money in. S. Young replied, yes. They built a big sewer line and a big water line and they only needed smaller ones. The development on the north side will tie into those as they develop. M. Brown added, there is inconsistency in those reimbursement agreements. Some of the agreements are 15 years and they expire with no clause to extend and some are 20 years. The term of pay back in the reimbursement agreement is not consistent historically nor is it consistent that they would all have a clause allowing an extension. They were negotiated individually and we are trying to create more consistency moving forward. Council Member Bergan asked, how do you feel about this one. M. Brown replied, I feel good with this one. Council Member Coombs stated, what are we doing moving forward to make sure that as we're paying for infrastructure and paying people back for infrastructure and building out infrastructure that we're not looking at a footprint that's going to have the burden rest on the City either for an excessively long period of time or in a longer term. How are we changing the agreements moving forward to account for that? M. Brown replied, we are agreeing to a 20 year pay back period. The other thing we do in these agreements is to protect the City's liability and the agreement only pays them out at the value at the time that they put the improvements in. The

value doesn't appreciate and doesn't adjust. It fixes our liability and expires over a 20 year term. Council Member Bergan asked, is there any kind of modeling or cost comparison? M. Brown replied, the reason we do these is not only the cost gets greater in the future, it tears things that are already built like roads and streets. The balance we try to achieve is that we don't want someone 16 miles away from the existing system and put in improvements. It doesn't work well for them and doesn't work well for our system. With the 20 years it encourages infill opportunities. It creates a balance without getting to far out and that's why a 20 year is better than a 30 year.

Outcome: The Committee supports the Adonea Metro District Utility Cost Reimbursement Extension and forwarded to Regular Session for consideration.

Follow-Up Action: The Committee supports the Adonea Metro District Utility Cost Reimbursement Extension and will forward to Regular Session for consideration.



# CITY OF AURORA

## Agenda Item Commentary

**Item Title:** Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the United States Department of the Interior Bureau of Land Management Colorado State Office and the City of Aurora

**Item Initiator:** Dawn Jewell, South Platte Basin Supervisor, Aurora Water

**Staff Source:** Alex Davis, D/D Water Resources, Aurora Water

**Legal Source:** Stephanie Neitzel, Assistant City Attorney II, Civil Division

**Outside Speaker:** N/A

**Council Goal:** 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

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

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

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### **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 original agreement was reviewed and approved by the Water Policy Committee on August 15, 2017, and approved by City Council on September 25, 2017.

On October 28, 2020 the Water Policy Committee approved and forwarded to City Council Study Session an updated agreement between the Bureau of Land Management and the City of Aurora for Trout Creek Pond.

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

The United States Department of the Interior, Bureau of Land Management, Colorado State Office (BLM) and the City of Aurora entered into an IGA on October 18, 2017 to provide up to three (3) acre feet of water from Spinney Mountain Reservoir at times when the BLM water rights at Trout Creek Pond are not in priority. Since that time, the BLM has been required to secure additional water supplies than originally calculated.

The BLM and the City of Aurora continue to cooperate on Land and Water Management projects. The BLM's Trout Creek Pond is in need of 6.85 acre feet above the previously agreed upon 3 acre feet of water from Spinney Mountain Reservoir to prevent injury to senior water rights users. The City of Thornton has an agreement with the BLM to "bear any associated losses" at Trout Creek Pond but does not have any method for providing that water.

The City of Aurora is agreeing to provide the additional 6.85 acre feet of water from Spinney Mountain Reservoir annually at a rate of \$550 per acre foot, to be increased in accordance with potable rate increases.

The BLM has reached out to the City of Thornton to replace the water needed at Trout Creek Pond through a like amount to the City of Aurora at a location to be determined in the future. Until that agreement is in place, the BLM will pay the City of Aurora for the water from Spinney Mountain Reservoir as indicated above.

This IGA with the BLM has a 10 year term with the ability to extend for another 10 years.

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## **QUESTIONS FOR COUNCIL**

Does Council support moving this item forward to Regular Session?

RESOLUTION NO. R2020-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT COLORADO STATE OFFICE AND THE CITY OF AURORA, COLORADO, ACTING BY AND THROUGH ITS UTILITY ENTERPRISE, FOR PROVISION OF AND MANAGEMENT OF ADDITIONAL AUGMENTATION WATER FOR TROUT CREEK POND IN SOUTH PARK

WHEREAS, the United States Department of the Interior Bureau of Land Management Colorado State Office (the “BLM”), and the City of Aurora, Colorado, acting by and through its Utility Enterprise (the “City”), have historically cooperated on land and water management projects that benefit both entities; and

WHEREAS, the BLM owns and operates Trout Creek Pond in Park County for the purposes of providing critical water supplies and habitat for wildlife and for public recreation; and

WHEREAS, the BLM requires additional augmentation water to replace out-of-priority diversions and depletions associated with its operation of the Trout Creek Pond to prevent injury to senior water rights at or below Spinney Mountain Reservoir; and

WHEREAS, the City owns Spinney Mountain Reservoir and water stored in the Reservoir; and

WHEREAS, Aurora and the BLM desire to enter into this Agreement whereby the City shall release a portion of the its water stored in Spinney Mountain Reservoir to replace out-of-additional priority diversions and depletions resulting from the BLM’s operation of Trout Creek Pond; and

WHEREAS, Section 10-12 of the Aurora City Charter authorizes City Council to approve, by Resolution, the execution of contracts with other governmental units for furnishing or receiving commodities or services and for joint use of services and facilities.

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

Section 1. The Intergovernmental Agreement between the United States Department of the Interior Bureau of Land Management Colorado State Office and the City of Aurora, Colorado, acting by and through its Utility Enterprise, is hereby approved.

Section 2. The Mayor and the City Clerk are hereby authorized to execute, on behalf of Aurora, the 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 the Resolution.

Section 3. All resolutions or parts of resolutions in conflict herewith are expressly rescinded.

RESOLVED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
Susan Barkman, Interim City Clerk

APPROVED AS TO FORM:

*Stephanie Neitzel*  
\_\_\_\_\_  
STEPHANIE J. NEITZEL, Assistant City Attorney

**Intergovernmental Agreement  
between the United States Department of the Interior  
Bureau of Land Management Colorado State Office and  
City of Aurora, Colorado, a Colorado municipal corporation of the counties of  
Adams, Arapahoe, and Douglas, acting by and through Its Utility Enterprise,  
for Provision of and Management of Additional Augmentation Water for Trout Creek  
Pond in South Park**

This Intergovernmental Agreement ("Agreement") is entered into as of the "Effective Date" herein below defined, between the United States Department of the Interior, Bureau of Land Management, Colorado State Office ("BLM"), whose address is Bureau of Land Management, Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215, and the City of Aurora, Colorado, a Colorado municipal corporation of the counties of Adams, Arapahoe, and Douglas, acting by and through its Utility Enterprise ("Aurora"), whose address is 15151 E. Alameda Parkway, #3600, Aurora, CO 80012. Aurora and the BLM shall be referred to herein as "Party," and collectively as "Parties."

**Recitals**

**I. Purpose**

The purpose of this Agreement is to allow BLM to operate its Trout Creek Pond located in Park County, Colorado, in a manner that prevents injury to senior water rights and enables BLM to meet its obligations within the water rights priority system at a reasonable cost. Overall, this Agreement will protect long-term environmental and recreational benefits associated with the operation of Trout Creek Pond and be for the mutual benefit and convenience of both Parties.

**II. Background**

Aurora and the BLM have historically cooperated on land and water management projects that benefit both agencies. Aurora and BLM's intent for broad, long-term cooperation is memorialized in an existing Intergovernmental Agreement between the two Parties regarding Trout Creek Pond dated October 18, 2017, under which Aurora has agreed to provide 3.0 acre-feet of augmentation water annually to offset depletions ("Previous Agreement"). The Previous Agreement remains in effect and is not superseded by this Agreement. This Agreement furthers that overall cooperation by creating an additional water supply to that in the Previous Agreement for Trout Creek Pond and Spinney Mountain Reservoir.

In 2014, the Colorado Division of Water Resources ("DWR") notified the BLM that it was implementing advanced water rights administration practices in the South Platte watershed and requested that BLM calculate surface evaporation from Trout Creek Pond and decree a plan for augmentation to replace out-of-priority depletions. The BLM's application for a plan for augmentation resulted in the BLM and Aurora entering into the Previous Agreement for Aurora to provide up to 3.0 acre-feet of augmentation water to be released from Spinney Mountain Reservoir to offset out-of-priority depletions associated with Trout Creek Pond. Due to Aurora and the



BLM's cooperation in water supply projects that benefit both Parties, the Previous Agreement did not require payment of money by the BLM. However, in the BLM's pending application, the DWR has now required a different procedure for calculating evaporative depletions, resulting in an increased Augmentation Water requirement of 6.85 acre-feet above the 3.0 acre-feet already provided by Aurora.

The Trout Creek Pond is also the subject of an agreement between the BLM and the City of Thornton dated May 12, 1986, under which Thornton agreed to reconstruct the Trout Creek Pond that it inadvertently drained when implementing decree conditions associated with the change of its Trout Creek Ranch water rights. Under that agreement, Thornton agreed to reconstruct Trout Creek Pond to its prior existing conditions and, for any water right filing required for the pond, to "bear any associated losses." Accordingly, BLM has recently requested Thornton to provide the additional 6.85 acre-feet of required Augmentation Water by supplying the same to Aurora. BLM is proposing that Aurora continue to physically supply the Augmentation Water from Spinney Mountain Reservoir in exchange for the water supplied by Thornton.

### **III. Authorities**

A. The authority for the BLM to enter into this Agreement includes, but is not limited to, the Federal Land Policy and Management Act of 1976; 43 U.S.C. § 1737 (b), which authorizes the BLM to enter into contracts and cooperative agreements involving the management, protection, development, and sale of public lands; and 16 U.S.C. §1011, which authorizes the BLM to enter into cooperative agreements with local governments for the protection, restoration, and enhancement of fish and wildlife habitat and other resources on public or private land and the reduction of risk from natural disaster where public safety is threatened that benefit these resources on public lands within the watershed. The Parties agree that even though this Agreement is entitled an "Intergovernmental Agreement" for the purpose of consistency with Aurora's standard procedure for signing agreements with other units of governments, this Agreement meets the intent of "cooperative agreements" as defined and authorized pursuant 43 U.S.C. § 1737 (b) and 16 U.S.C. §1011.

B. The authority for Aurora to enter into this Agreement includes, but is not limited to, Section 18(2) of Article XIV of the Colorado Constitution, C.R.S. Section § 29-1-203 and Aurora City Charter Section 10-12.

### **IV. Precondition**

Aurora Water Staff determined that as a precondition to entering into this Agreement, Aurora is able to fulfill all existing water supply operations, obligations, and long term agreements requiring storage space and use of water in Spinney Mountain Reservoir, and other needs of Aurora will be met notwithstanding this Agreement.

THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, Aurora and BLM agree as follows:

## Agreement

### A. Term, Amendment and Termination

1. Term: This Agreement becomes effective upon the date it is signed and executed by the duly authorized representative of both Parties to this Agreement (“Effective Date”) and shall remain in effect for ten (10) years from the Effective Date unless terminated prior. This Agreement may be extended by Aurora, in its sole discretion, for up to an additional ten (10) years upon the request of BLM. Aurora’s written approval of such extension(s) shall be provided by the General Manager of Aurora Water.
2. Amendment: The Parties may request changes in this Agreement, which shall be effective only upon written agreement of both Parties duly authorized with the same formality as this Agreement.
3. Termination: This Agreement may be terminated by either Party prior to the end of the Term upon ninety (90) days written Notice to the other Party.

### B. Source, Amount and Delivery Point of Augmentation Water

Aurora agrees to provide the following water to BLM to be used for augmentation and replacement purposes (“Augmentation Water”):

<b>Structure Name</b>	<b>Location</b>	<b>Water Right Case Number</b>	<b>Annual (Water Year) Augmentation Water Volume Provided</b>	<b>Purpose of Augmentation Water</b>
Spinney Mountain Reservoir	South Platte River	W-9424-78A	Up to 6.85 acre feet, or up to 8.0 acre-feet under certain conditions.	Offset out-of-priority depletions associated with BLM’s Trout Creek Pond

Aurora will deliver the Augmentation Water by release from Spinney Mountain Reservoir (“Delivery Point”). Prior to delivery of the Augmentation Water, the Parties will agree to a “Delivery Schedule.” The BLM may amend the Delivery Schedule anytime during the Term as long as the total amount of water provided each water year (November 1 through October 31) does not exceed 6.85 acre-feet. There may be water years during the Term in which BLM requires additional Augmentation Water to be delivered. Upon BLM’s request and subject to Aurora’s determination, in its sole discretion, that the increase is reasonably required by BLM and will not adversely impact Aurora’s operations, the amount of Augmentation Water provided in a water year may be increased up to 8.0 acre-feet. In no event shall the total amount of water provided each water year exceed 8.0 acre-feet.

**C. Consideration**

From the Effective Date, BLM will compensate Aurora at the rate of Five Hundred Fifty Dollars (\$550.00) per acre-foot of Augmentation Water provided from Spinney Mountain Reservoir on an annual basis (“Unit Rate”). Beginning on January 1, 2022, the Unit Rate will escalate annually by the same percentage increase as the overall average revenue increase in Aurora’s potable rates.

**D. Payment**

1. Except as provided in subparagraph 2. of this Paragraph D, below, BLM will make payment to Aurora on an annual basis in December of each year, based upon the volume of Augmentation Water delivered from the Delivery Point during the previous water year, which extends from November 1 to October 31, as shown on the Delivery Schedule, as may be amended pursuant to Paragraph B, above. Prior to December of each year, Aurora will provide an invoice to BLM showing the volume of Augmentation Water delivered during the previous water year pursuant to the Delivery Schedule, as may be amended, and the total charge for that water.

2. BLM is seeking for the City of Thornton to provide water to Aurora to replace the same amount of Augmentation Water provided to BLM each year under this Agreement. Upon execution of an agreement for that replacement water source and delivery of that replacement water to Aurora, or alternative form of payment by the City of Thornton acceptable to Aurora, payment under subparagraph 1. of this Paragraph D, above, will no longer be required. In the event during the Term that delivery of the full amount of replacement water or alternative payment to Aurora from Thornton ceases for any reason, BLM will be required to make payments under subparagraph 1., above, for any Augmentation Water delivered by Aurora and not replaced by Thornton.

**E. Measurement and Reporting**

1. BLM will install all measuring devices required by decree or by the State Engineer’s Office.

2. The BLM is solely responsible for any and all reporting and accounting required by the Colorado State Engineer, the Water Division 1 Engineer, the Water District 23 Water Commissioner, and any other lawful authority, after Aurora makes delivery of water as provided under this Agreement. Aurora agrees to provide accounting information required by the Colorado State Engineer, the Water Division 1 Engineer, the Water District 23 Water Commissioner, and any other lawful authority concerning the storage and release of water provided to the BLM during the Term of this Agreement.

**F. Representatives and Notice**

1. The Parties will designate representatives as specified in Exhibit A to ensure coordination during the implementation of this Agreement. The Parties may change their point of contact at any time by providing a revised Exhibit A to the other Party. Any revisions must be added to the official file maintained in Central Files at the BLM Colorado State Office, Lakewood, CO.

2. All notices, requests, demands, or other communications (collectively, “Notices”) hereunder shall be in writing and given by (i) established express delivery service which maintains delivery records requiring a signed receipt, (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested to the Parties’ representatives. Notice shall be effective (iv) the next day following the date sent by an established express delivery service which maintains delivery records requiring a signed receipt, (v) upon receipt by the addressee of a hand delivery, or (vi) three (3) days following the date of mailing via certified or registered mail, postage prepaid, return receipt requested.

3. Notwithstanding subparagraph 2. of the Paragraph F., the Parties may communicate with respect to the Delivery Schedule and miscellaneous matters by email as follows: (i) to Aurora to Brian Fitzpatrick at [bfitzpatrick@auroragov.org](mailto:bfitzpatrick@auroragov.org) or [spaccounting@auroragov.org](mailto:spaccounting@auroragov.org); and (ii) to BLM to Roy Smith at [r20smith@blm.gov](mailto:r20smith@blm.gov), or such other email address or other address as the Parties may designate.

### **G. Funding**

1. Subject to the availability of funds, the Parties agree to fund their own expenses associated with the implementation of this Agreement.

2. Nothing contained herein shall be construed as obligating the BLM to any expenditure or obligation of funds in excess or in advance of appropriations, in accordance with the Anti-Deficiency Act, 31 U.S.C. § 1341.

### **H. Records**

Any records or documents generated as a result of this Agreement shall become part of the official BLM record maintained in accordance with the BLM record management policies.

### **I. Adjudicatory and Administrative Approvals**

The Parties agree that the BLM has the sole responsibility for any adjudicatory or administrative activities, applications or requirements necessary for it to store, release, and use all the Augmentation Water obtained from Aurora pursuant to this Agreement. BLM will provide a draft version of any application to Aurora for review and comment before filing, but BLM retains discretion to reject any comments or modifications proposed by Aurora. Aurora agrees to cooperate with BLM in adjudicatory or administrative proceedings regarding the existence and operation of this Agreement; however, the Parties acknowledge Aurora reserves and will have the right to appear in any adjudicatory or administrative activity brought by the BLM, if any, when Aurora in its sole good faith discretion believes such adjudicatory or administrative request by the BLM might cause harm or injury to any of Aurora’s water rights or water rights facilities.

### **J. No Transfer of Ownership**

The Parties agree no portion of this Agreement should be construed or interpreted as a transfer of title or a transfer of ownership of any water, water right or any facility for the supply, treatment,

and distribution of water owned by either Party. Except as otherwise provided in this Agreement, the Parties acknowledge that all water provided to the BLM hereunder is ultimately intended for the present and future use of Aurora. It is further understood and agreed to by the Parties that this Agreement shall confer no rights in such water upon the BLM, nor shall any future needs of the BLM for water enable the BLM to make claim against Aurora for any of the subject water, other Aurora, water right or facility. The BLM further acknowledges the statutory prohibition against vesting of a right for a continued lease expressed in C.R.S. § 31-35-201 applies in these circumstances.

#### **K. Assignments**

Neither the BLM nor Aurora may assign its rights or delegate its duties hereunder without the prior written consent of the other party. The BLM may not sell or sublease any of the water supplied hereunder without the permission of Aurora, which permission Aurora may grant or withhold at its sole discretion.

#### **L. Governmental Immunity**

Notwithstanding any provisions of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, either expressed or implied, of the monetary limitations on liability or any of the immunities, rights, benefits or protections provided to either Party under applicable federal law or the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended or as may be amended. The Parties hereto understand and agree liability for claims for injuries to persons or property arising out of the alleged negligence of either Party, their officials, and employees may be controlled or limited by said Act, as amended or as may be amended. Any provision of this Agreement, whether or not incorporated herein by reference, shall not be interpreted to control, limit or otherwise modify so as to limit any liability protection of either Party pursuant to the above cited laws.

#### **M. Force Majeure**

Neither Party to this Agreement shall be liable for any delay or failure to perform under this Agreement due solely to conditions or events of *force majeure*.

#### **N. Subordination**

Delivery of any water to the BLM under this Agreement expressly subordinates to any present or future Aurora use of the water for purposes of augmentation, exchange, or any other use which is or will be of greater direct benefit to Aurora and the users of its water delivery system, as well as to the water supply obligations which Aurora has incurred for any and all obligations resulting from any firm delivery annual lease or delivery contract for water, wastewater or storage space executed prior to the date of this Agreement. The foregoing subordination does not, in and of itself, create an excuse for Aurora's failure to provide water under this Agreement, however, Aurora and the BLM agree the purpose and effect of the foregoing subordination is to establish a priority among and between Aurora's obligation under this Agreement and Aurora's other

obligations with respect to its obligations for supplying water, wastewater or storage space in the event of a *force majeure* event or other delay or interruption in Aurora's provision of water.

**O. Sole Obligation of the Utility Enterprise**

1. This Agreement shall never constitute a general obligation or other indebtedness of the City of Aurora, Colorado ("City") or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City within the meaning of the Constitution and laws of the State of Colorado or of the Charter and ordinances of the City.
2. In the event of a default by Aurora's Utility Enterprise of any of its obligations under this Agreement, the BLM shall have no recourse for any amounts owed to it against any funds or revenues of the City except for those revenues derived from rates, fees or charges for the services furnished by, or the direct or indirect use of, the Water System and deposited in the Water Enterprise Fund, as the terms "Water System" and "Water Enterprise Fund" are defined in City Ordinance No. 2003-18, and then only after the payment of all operation and maintenance expenses of the Water System and all debt service and reserve requirements of any bonds, notes, or other financial obligations of the Utility Enterprise secured by a pledge of the net revenues of the Water Enterprise Fund. Notwithstanding any language herein to the contrary, nothing in this Agreement shall be construed as creating a lien upon any revenues of the Utility Enterprise or the City.
3. Aurora represents this Agreement has been duly authorized, executed and delivered by the City of Aurora, and constitutes a valid and legally binding obligation of Aurora, enforceable against Aurora in accordance with the terms hereof, subject only to the terms hereof and to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

**P. Miscellaneous Provisions**

1. Intent of Agreement. This Agreement is intended to describe the rights and responsibilities of and between the named Parties and is not intended to, and shall not be deemed to confer rights upon any persons or entities not named as parties or as authorized assigns, nor to limit in any way the powers and responsibilities of Aurora, the BLM, or any other entity not a party or assign hereto.
2. Entire Agreement. This Agreement represents the entire bargain and contract of the Parties, and neither Party has relied upon any fact or representation not expressly set forth herein. All prior and contemporaneous conversations, negotiations, possible alleged agreements, representations, covenants, and warranties concerning the subject matter hereof, are merged in this Agreement. The Previous Agreement between BLM and Aurora dated October 18, 2017, remains in effect, and is not superseded by this Agreement.
3. Multiple Originals. This Agreement may be simultaneously executed in any number of counterparts, each one of which shall be deemed an original, but all of which constitute one and the same agreement.

4. Headings for Convenience. Headings and titles contained herein are intended for the convenience and reference of the Parties only, and are not intended to confine, limit, or describe the scope of intent of any provision of this Agreement.
5. No Attorney Fees. In the event of any litigation, mediation, arbitration or other dispute resolution process arising out of or related to this Agreement, each Party agrees to be responsible for its own attorney and other professional fees, costs, and expenses associated with any such proceedings.
6. Compliance with Applicable Laws; Non-Severability; Effect of Invalidity. This Agreement is subject to all applicable Federal laws, regulations and rules, whether now in force or hereafter enacted or promulgated. Nothing in this Agreement shall be construed as in any way impairing the general powers of the BLM under such applicable laws, regulations, and rules. Each Section in this Agreement is intertwined with the others and are not severable unless by mutual consent of Aurora and the BLM or as provided for below. If any provision or portion of this Agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable for any reason by a Court of competent jurisdiction, and the basis of the bargain between the Parties hereto is not destroyed or rendered ineffective thereby, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.
7. Waiver of Breach. Waiver of breach of any of the provisions of this Agreement by either Party shall not constitute a continuing waiver of any subsequent breach by said Party of either the same or any other provision of this Agreement.
8. Non-Business Days. If any date for any action under this Agreement falls on a Saturday, Sunday or a day that is a “holiday” as such term is defined in Rule 6 of the Colorado Rules of Civil Procedure, then the relevant date shall be extended automatically until the next business day.
9. No Recordation. The Parties expressly agree this Agreement will not be recorded in any Clerk and Recorder’s Office within or outside of Colorado. Both Parties expressly agree this unmodified Agreement may be referenced, included, or otherwise incorporated in any future or pending Water Court Application or administrative proceeding before the office of the Colorado State Engineer.
10. Authority of the Parties. Subject to the terms of this Agreement, the Parties each affirm and represent they have the full power and authority to execute this Agreement, and thereafter perform all of the terms and conditions set forth herein.
11. No Agency Created. This Agreement is not intended and shall not be construed to create any joint venture, agency relationship or partnership between the Parties. Neither of the Parties shall have any right or authority to act on behalf of or bind the other Party.

12. Execution of Additional Documents. The Parties agree to execute any further documents reasonably necessary to complete the transactions provided for or contemplated by this Agreement.

*Signatures on following pages*



City of Aurora, Colorado,  
Acting by and through its  
Utility Enterprise

\_\_\_\_\_  
Mike Coffman, Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Susan Barkman, Interim City Clerk

\_\_\_\_\_  
Date

Approved as to form for Aurora:

*Stephanie Neitzel*  
\_\_\_\_\_  
Stephanie Neitzel, Assistant City Attorney

10/13/2020 20036851  
Date ACS #

State of Colorado            )  
  ) ss  
County of Arapahoe         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
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)

**United States Department of the Interior, Bureau of Land Management, Colorado State Office**

\_\_\_\_\_  
State Director  
Bureau of Land Management, Colorado State Office

\_\_\_\_\_  
Date

## **Exhibit A – Representatives**

### **For Aurora Water:**

Brian Fitzpatrick  
Water Resources Project Manager  
City of Aurora  
15151 East Alameda Parkway, Suite 3600  
Aurora, Colorado 80012  
303-739-7370  
bfitzpat@auroragov.org

### **For BLM:**

Roy E. Smith  
Water Rights Specialist  
Bureau of Land Management  
Colorado State Office  
2850 Youngfield Street  
Lakewood, CO 80215  
303-239-3940  
r20smith@blm.gov

RESOLUTION NO. R2017-\_\_\_\_\_

A RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, ACTING BY AND THROUGH ITS UTILITY ENTERPRISE, AND THE UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT COLORADO STATE OFFICE FOR COOPERATION IN THE MANAGEMENT OF WATER RIGHTS, FACILITIES, AND LANDS

WHEREAS, Aurora Water and the Bureau of Land Management have historically cooperated on water supply projects that include pipelines, and water storage facilities designed to increase the reliability of municipal water supply while simultaneously providing environmental benefits, and minimizing environmental impacts on public lands; and

WHEREAS, in many locations, Aurora and the BLM own water rights and water facilities in the same watershed, and coordinate operations of such facilities to benefit both agencies; and

WHEREAS, the agreement provides up to three (3) acre feet of augmentation water at the City of Aurora's discretion for the next ten (10) years from Spinney Mountain Reservoir to off-set out of priority depletions at the BLM's Trout Creek Pond; and

WHEREAS, the City is authorized pursuant to Article XIV of the Colorado Constitution and Section 29-1-201, et seq., of the Colorado Revised Statutes to cooperate and contract with any political subdivision of the State of Colorado, to provide any function, service or facility lawfully authorized to each of the contracting or cooperating units of government; and

WHEREAS, Section 10-12 of the City Charter authorizes the City by resolution to enter into contracts or agreements with other governmental units, including counties, 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:

Section 1. That the Intergovernmental Agreement between the City and the United States Department of the Interior Bureau of Land Management Colorado State Office for cooperation in the management of water rights, facilities, and lands is hereby approved.

Section 2. That the Mayor and City Clerk are hereby authorized to execute and deliver the approved Bureau of Land Management Agreement in the form substantially presented with such technical additions, deletions and variations as may be deemed necessary or appropriate by the City Attorney and the Director of Aurora Water.

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


RESOLVED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
STEPHEN D. HOGAN, Mayor

ATTEST:

\_\_\_\_\_  
LINDA S. BLACKSTON, City Clerk

APPROVED AS TO FORM:

  
Christine McKenney,  
Senior Assistant City Attorney  
f/christine/resolution/2017/BLM

**Intergovernmental Agreement between United States Department of the Interior Bureau of Land Management Colorado State Office and City of Aurora, Colorado, a Colorado municipal corporation of Adams, Arapahoe, and Douglas, acting by and through Its Utility Enterprise, for Cooperation in the Management of Water Rights, Facilities, and Lands**

**I. Introduction**

This Intergovernmental Agreement ("Agreement") is entered into as of the "Effective Date" herein below defined, between the United States Department of the Interior, Bureau of Land Management, Colorado State Office ("BLM"), whose address is Bureau of Land Management, Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215, and the City of Aurora, Colorado, a Colorado municipal corporation of the counties of Adams, Arapahoe, and Douglas, acting by and through its Utility Enterprise ("Aurora"), whose address is 15151 E. Alameda Parkway, #3600, Aurora, CO 80012. Aurora and the BLM shall be referred to herein as "Party", and collectively as "Parties".

**II. Purpose(s)**

The purpose of this Agreement is to facilitate as discussed herein efficient management of certain water rights, facilities, and lands owned by the Parties, with the objectives of decreasing management costs, and increasing benefits of those assets for the general public, including environmental, recreation, and water supply benefits for the mutual benefit and convenience of both parties.

**III. Background**

Aurora and the BLM have historically cooperated on land and water management projects that benefit both agencies. When Aurora has converted certain historic ranch properties to municipal water supply purposes, the BLM has assisted with long-term management of those properties for various purposes including *inter alia* open space and for public use and enjoyment.

Aurora and the BLM have historically cooperated on water supply projects that are designed to increase the reliability of municipal water supply while simultaneously providing environmental benefits, and minimizing environmental impacts on public lands. These projects have included, but are not limited to, rights-of-way over the BLM lands for pumps, pipelines, and water storage facilities.

In many locations, Aurora and the BLM own water rights and water facilities in the same watershed, and coordinated operation of those facilities may provide further benefit and increase certainty to both Aurora and the BLM.

Aurora and the BLM are Parties to certain site-specific agreements that address operation and management of water facilities owned by either Party. These agreements are generally designed to minimize the cost of operating facilities, increase reliability of facilities, implement the requirements of water right decrees, and facilitate water rights administration.

Nothing in this Agreement alters or supersedes the authorities and responsibilities of the Parties on any matter under their respective jurisdictions. Nothing in this Agreement precludes either Party from formally participating in legal or administrative procedures that involve the other party, including water right cases, and land use planning processes. Unless otherwise stated herein

nothing in this Agreement modifies or changes any previous agreement(s) between the Parties or others and nothing herein modifies or changes any permit, license or right-of-way.

Aurora Water Staff has determined as a precondition to entering into this Agreement, Aurora is able to fulfill all water supply operations, obligations, and long term agreements requiring storage space, and other needs of the City will be met notwithstanding this Agreement.

**IV. Authorities**

A. The authority for the BLM to enter into this Agreement includes, but is not limited to, the Federal Land Policy and Management Act of 1976; 43 U.S.C. § 1701, *et seq.*

B. The authority for Aurora to enter into this Agreement includes, but is not limited to Section 18(2) of Article XIV of the Colorado Constitution, C.R.S. Section 29-1-203 and Aurora City Charter Section 10-12.

**V. Roles and Responsibilities**

A. Aurora and the BLM meet regularly and on an ‘as needed’ basis for the purpose of coordinating operations in locations where both Parties own assets, including water rights, facilities, and lands, and identifying potential operational efficiencies and enhanced public benefits that could result from coordinated operations. Issues that may be discussed at these meetings include: proposed or potential land use authorizations for new Aurora facilities on the BLM lands, coordination of facility operations to provide maximum recreational and environmental benefits, pending water court cases, and the BLM needs for water supplies to support operation of facilities designed to provide recreation and environmental benefits. Where deemed mutually beneficial, Aurora and the BLM may choose to meet annually.

B. The Parties will work together on implementation of provisions of the Wild and Scenic Rivers Act on the stream systems that are of mutual interests to both Parties through several existing processes. The Parties will continue to coordinate efforts wherever feasible.

C. Aurora agrees that it may provide additional augmentation water beyond that specified in Paragraph D below for specified term(s) to the BLM that allows continuous operation of the BLM water rights and water facilities that have junior priorities. A decision to provide augmentation water will be made at Aurora’s sole discretion on a case by case basis, after consultation with the BLM concerning its augmentation water needs. If Aurora provides augmentation water for some need other than Trout Creek Pond, the Parties will enter into a subsequent IGA.

D. Aurora, at its sole discretion, agrees to provide the augmentation water described in this paragraph. Additional augmentation water may be provided by Aurora by amending this paragraph to include additional water rights.

<b>Structure Name</b>	<b>Location</b>	<b>Water Right Case Number</b>	<b>Annual Augmentation Water Volume Provided</b>	<b>Purpose of Augmentation Water</b>
Spinney Mountain	South Platte	W-9424-78A	Up to 3.0 acre feet	Offset out-of-priority depletions associated with

Reservoir	River			BLM's Trout Creek Pond
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E. Aurora will not receive monetary compensation for the augmentation water described in Paragraph D above. Aurora provides the augmentation water with the goal of producing tangible public benefits and minimizing environmental impacts in the watersheds where Aurora's supply is diverted. These public benefits include *inter alia* maintenance of wetland and riparian communities, maintenance of waterfowl and shorebird habitat, providing public recreational opportunities such as hunting, wildlife viewing and fishing, and support of local economies through enhanced recreational opportunities.

F. The Parties hereto acknowledge the adequacy and sufficiency of the mutual promises and covenants contained herein, and other good and valuable consideration, as consideration for this Agreement.

**VI. Representatives**

The Parties will designate representatives as specified in Exhibit A to ensure coordination during the implementation of this Agreement. The Parties may change their point of contact at any time by providing a revised Exhibit A to the other Party. Any revisions must be added to the official file maintained in Central Files at the BLM Colorado State Office, Lakewood, CO.

**VII. Funding**

A. Subject to the availability of funds, the Parties agree to fund their own expenses associated with the implementation of this Agreement.

B. Nothing contained herein shall be construed as obligating the BLM to any expenditure or obligation of funds in excess or in advance of appropriations, in accordance with the Anti-Deficiency Act, 31 U.S.C. § 1341.

**VIII. Records**

Any records or documents generated as a result of this Agreement shall become part of the official BLM record maintained in accordance with the BLM record management policies.

The Parties will make every effort to keep confidential and protect from public disclosure any and all documents related to, or generated by this Agreement to the extent permitted by law including the Freedom of Information Act (FOIA). The BLM, upon consultation with Aurora, will determine their suitability for public review or release under the provisions of the FOIA, Privacy Act, and in accordance with Department of the Interior or BLM regulations.

**IX. Compliance with Applicable Laws and Regulations; Severability Clause**

This Agreement is subject to all applicable Federal laws, regulations and rules, whether now in force or hereafter enacted or promulgated. Nothing in this Agreement shall be construed as in any way impairing the general powers of the BLM under such applicable laws, regulations, and rules. If any term or provision of this Agreement is held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions. Meeting the terms of this Agreement shall not excuse any failure to comply with all applicable laws and regulations, whether or not these laws and regulations are specifically listed herein.



**X. Term, Amendment, and Termination**

**A. Term of Agreement:**

1. This Agreement becomes effective upon the date last signed and executed by the duly authorized representative of the Parties to this Agreement.
2. This Agreement shall remain in effect for 10 (ten) years from the execution date unless terminated or cancelled prior to the expiration date.

**B. Amendments:**

1. The Parties may request changes to this Agreement, which shall be effective only upon the written agreement of all Parties.
2. Any changes, modification, revisions, or amendments to this Agreement shall be incorporated by written instrument, executed and signed by all Parties, and will be effective in accordance with the terms and conditions contained herein.

**C. Termination:**

1. This Agreement may be terminated prior to the expiration date upon thirty (30) day written notice and agreement between all Parties to terminate this Agreement.

**XI. Signatures**

- A. All signatories have the appropriate delegation of authority to sign this Agreement.
- B. The Parties have executed this Agreement on the dates shown below.

**XII. Additional Provisions**

A. The BLM is solely responsible for any and all reporting and accounting required by the Colorado State Engineer, the Water Division 1 Engineer, the Water District 23 Water Commissioner, or any other lawful authority, after Aurora makes any delivery of water as provided under this Agreement. Aurora agrees to provide accounting information required by the Colorado State Engineer, the Water Division 1 Engineer, the Water District 23 Water Commissioner, or any other lawful authority concerning its storage and release of water provided to the BLM during the term of this Agreement. The BLM agrees to provide its present water rights accounting forms to Aurora at the time of the execution of this Agreement. The BLM further agrees to promptly provide to Aurora any and all future updates or changes to its water rights accounting forms.

B. The Parties agree that the BLM has the sole responsibility for any adjudicatory or administrative activities or requirements necessary for it to store, release, and use all water obtained from Aurora pursuant to this Agreement. Aurora agrees to cooperate with BLM in adjudicatory or administrative proceedings regarding the existence and operation of this Agreement; however, the Parties acknowledge Aurora reserves and will have the right to appear in any adjudicatory or administrative activity brought by the BLM, if any, when Aurora in its sole good faith discretion believes such adjudicatory administrative request by the BLM might cause harm or injury to any of Aurora's water rights or water rights facilities.

C. The BLM acknowledges Spinney Mountain Reservoir is a mainstem facility and water stored therein is derived from, and comingled with, water from multiple in-basin and transbasin sources. Thus, the quality of any water delivered to the BLM pursuant to this Agreement will be the same as any other water stored in or released from Spinney Mountain Reservoir.

D. The Parties hereto acknowledge hydrologic and other conditions may exist wherein the BLM may not need all or a portion of the water to be provided under this Agreement. Aurora Water may contact the BLM representative referenced in Section VI above not more frequently than once per week to determine if the water will not be needed. At any time the BLM determines water is not needed, Aurora will have the right to use any unused portion of such water without charge.

E. The Parties agree no portion of this Agreement should be construed or interpreted as a transfer of title or a transfer of ownership of any water, water right or any facility for the supply, treatment, and distribution of water owned by either Party.

F. Neither the BLM nor Aurora may assign its rights or delegate its duties hereunder without the prior written consent of the other party. The BLM may not sell or sublease any of the water supplied hereunder without the permission of Aurora, which permission Aurora may grant or withhold at its sole discretion.

G. Notwithstanding any provisions of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, either expressed or implied, of the monetary limitations on liability or any of the immunities, rights, benefits or protections provided to either Party under the Colorado Governmental Immunity Act, § 24-10-101, et seq. C.R.S., as amended or as may be amended. The Parties hereto understand and agree liability for claims for injuries to persons or property arising out of the alleged negligence of either Party, their officials, and employees may be controlled or limited by said Act, as amended or as may be amended. Any provision of this Agreement, whether or not incorporated herein by reference, shall not be interpreted to control, limit or otherwise modify so as to limit any liability protection of either Party pursuant to the above cited laws.

H. Except as otherwise provided in this Agreement, the Parties acknowledge that all water provided to the BLM hereunder is ultimately intended for the present and future use of Aurora. It is further understood and agreed to by the Parties that this Agreement shall confer no rights in such water upon the BLM, nor shall any future needs of the BLM for water enable the BLM to make claim against Aurora for any of the subject water, other Aurora, water right or facility. The BLM further acknowledges the statutory prohibition against vesting of a right for a continued lease expressed in C.R.S. § 31-35-201 applies in these circumstances.

I. Neither Party to this Agreement shall be liable for any delay or failure to perform under this Agreement due solely to conditions or events of *force majeure*.

J. Delivery of any water to the BLM under this Agreement expressly subordinates to any present or future Aurora use of the water for purposes of augmentation, exchange, or any other use which is or will be of greater direct benefit to Aurora and the users of its water delivery system, as well as to the water supply obligations which Aurora has incurred for any and all obligations resulting from any firm delivery annual lease or delivery contract for water, wastewater or storage space

executed prior to the date of this Agreement. The foregoing subordination does not, in and of itself, create an excuse for Aurora's failure to provide water under this Agreement, however, Aurora and the BLM agree the purpose and effect of the foregoing subordination is to establish a priority among and between Aurora's obligation under this Agreement and Aurora's other obligations with respect to its obligations for supplying water, wastewater or storage space in the event of a *force majeure* event or other delay or interruption in Aurora's provision of water.

**K. Solo obligation of the Utility Enterprise:**

1. This Agreement shall never constitute a general obligation or other indebtedness of the City of Aurora, Colorado ("City") or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City within the meaning of the Constitution and laws of the State of Colorado or of the Charter and ordinances of the City.

2. In the event of a default by Aurora's Utility Enterprise of any of its obligations under this Agreement, the BLM shall have no recourse for any amounts owed to it against any funds or revenues of the City except for those revenues derived from rates, fees or charges for the services furnished by, or the direct or indirect use of, the Water System and deposited in the Water Enterprise Fund, as the terms "Water System" and "Water Enterprise Fund" are defined in City Ordinance No. 2003-18, and then only after the payment of all operation and maintenance expenses of the Water System and all debt service and reserve requirements of any bonds, notes, or other financial obligations of the Utility Enterprise secured by a pledge of the net revenues of the Water Enterprise Fund. Notwithstanding any language herein to the contrary, nothing in this Agreement shall be construed as creating a lien upon any revenues of the Utility Enterprise or the City.

3. Aurora represents this Agreement has been duly authorized, executed and delivered by the City Aurora, and constitutes a valid and legally binding obligation of Aurora, enforceable against Aurora in accordance with the terms hereof, subject only to the terms hereof and to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

L. The "Effective Date" of this Agreement shall be the date on which the Agreement is executed by Aurora or the BLM, whoever is later in time.

**M. Miscellaneous Provisions:**

1. **Intent of Agreement.** This Agreement is intended to describe the rights and responsibilities of and between the named Parties and is not intended to, and shall not be deemed to confer rights upon any persons or entities not named as parties or as authorized assigns, nor to limit in any way the powers and responsibilities of Aurora, the BLM, or any other entity not a party or assign hereto.

2. **Entire Agreement.** This Agreement represents the entire bargain and contract of the Parties, and neither Party has relied upon any fact or representation not expressly set forth herein. All prior and contemporaneous conversations, negotiations, possible alleged agreements, representations, covenants, and warranties concerning the subject matter hereof, are merged in this Agreement.

3. **Multiple Originals.** This Agreement may be simultaneously executed in any number of counterparts, each one of which shall be deemed an original, but all of which constitute one and the same agreement.
4. **Amendment.** This Agreement may be amended, modified, changed, or terminated in whole or in part only by written agreement duly authorized and executed by the Parties hereto.
5. **Headings for Convenience.** Headings and titles contained herein are intended for the convenience and reference of the Parties only, and are not intended to confine, limit, or describe the scope of intent of any provision of this Agreement.
6. **No Attorney Fees.** In the event of any litigation, mediation, arbitration or other dispute resolution process arising out of or related to this Agreement each Party agrees to be responsible for its own attorney and other professional fees, costs, and expenses associated with any such proceedings.
7. **Non-Severability; Effect of Invalidity.** Each Section in this Agreement is intertwined with the others and are not severable unless by mutual consent of Aurora and the BLM or as provided for below. If any provision or portion of this Agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable for any reason by a Court of competent jurisdiction, and the basis of the bargain between the Parties hereto is not destroyed or rendered ineffective thereby, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.
8. **Waiver of Breach.** Waiver of breach of any of the provisions of this Agreement by either Party shall not constitute a continuing waiver of any subsequent breach by said Party of either the same or any other provision of this Agreement.
9. **Non-Business Days.** If any date for any action under this Agreement falls on a Saturday, Sunday or a day that is a "holiday" as such term is defined in Rule 6 of the Colorado Rules of Civil Procedure, then the relevant date shall be extended automatically until the next business day.
10. **No Recordation.** The Parties expressly agree this Agreement will not be recorded in any Clerk and Recorder's Office within or outside of Colorado. Both Parties expressly agree this unmodified Agreement may be referenced, included, or otherwise incorporated in any future or pending Water Court Application or administrative proceeding before the office of the Colorado State Engineer.
11. **Authority of the Parties.** Subject to the terms of this Agreement, the Parties each affirm and represent they have the full power and authority to execute this Agreement, and thereafter perform all of the terms and conditions set forth herein.

12. **No Agency Created.** This Agreement is not intended and shall not be construed to create any joint venture, agency relationship or partnership between the Parties. Neither of the Parties shall have any right or authority to act on behalf of or bind the other Party.
13. **Execution of Additional Documents.** The Parties agree to execute any further documents reasonably necessary to complete the transactions provided for or contemplated by this Agreement.

CITY OF AURORA, COLORADO,  
ACTING BY AND THROUGH ITS  
UTILITY ENTERPRISE

\_\_\_\_\_  
Stephen D. Hogan, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Linda S. Blackston, City Clerk

\_\_\_\_\_  
Date

APPROVED AS TO FORM FOR AURORA:

*Christine McKenney*  
\_\_\_\_\_  
Christine McKenney  
Senior Assistant City Attorney

*July 25, 2017*  
\_\_\_\_\_  
Date

17038827  
ACS #

STATE OF COLORADO    )  
                                  ) ss  
COUNTY OF ARAPAHOE )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2017, by Stephen D. Hogan, 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)

**United States Department of the Interior, Bureau of Land Management, Colorado State Office**

\_\_\_\_\_  
Acting State Director  
Bureau of Land Management, Colorado State Office

\_\_\_\_\_  
Date

## **Exhibit A – Representatives**

### **For Aurora Water:**

Brian Fitzpatrick  
Water Resources Project Manager  
City of Aurora  
15151 East Alameda Parkway, Suite 3600  
Aurora, Colorado 80012  
303-739-7370  
bfitzpat@auroragov.org

### **For BLM:**

Roy E. Smith  
Water Rights Specialist  
Bureau of Land Management  
Colorado State Office  
2850 Youngfield Street  
Lakewood, CO 80215  
303-239-3940  
r20smith@blm.gov



**Water Policy Committee (WPC) Meeting**  
August 15, 2017

Members Present: Council Member Bob Roth, Chair: Council Member Brad Pierce, Vice Chair; Council Member Francoise Bergan

Others Present: Greg Baker, Leiana Baker, Marshall Brown, Alex Davis, Steve Fiori, Nancy Freed, Jo Ann Giddings, Pam Hensley, Don Langley (CWAC), Christine McKenney, John Murphy, Kelley Neumann, Gail Thrasher, Rich Vidmar, Cathy Haddon, Fernando Aranda, Geoff Rabinowitz, Dub Jones, Scott Newman

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**III. INTERGOVERNMENTAL AGREEMENT (IGA) FOR COOPERATION WITH THE BUREAU OF LAND MANAGEMENT – TROUT CREEK**

Summary of Issue and Discussion: The United States of the Interior Bureau of Land Management Colorado State Office (BLM) is in need of a year around augmentation supply, and is requesting the City of Aurora to provide up to three (3) acre-feet of water at the City of Aurora's discretion for the next ten (10) years from Spinney Mountain Reservoir to off-set out of priority depletions at the BLM's Trout Creek Pond.

Council Member Bergen asked, do you need to put the actual date in the resolution. C. McKenney replied no, only in the agreement. Council Member Pierce asked, are we getting any compensation. A Davis replied, no, it was an obligation that we took on. We acquired a number of water rights from the City of Thornton some time ago. Thornton had an obligation to help the BLM augment their Trout Creek Pond, and that obligation came to us with the acquisition of the water rights.

Outcome: The Committee supports the Intergovernmental Agreement for Cooperation with the Bureau of Land Management – Trout Creek, and forwarded the matter to Study Session for consideration.

Follow-Up Action: The Committee supports the Intergovernmental Agreement for Cooperation with the Bureau of Land Management – Trout Creek, and will forward to Study Session for consideration.

- ◆ c. **R2017-73**  
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, an Intergovernmental Agreement between the City of Aurora, Colorado, acting by and through its Utility Enterprise, and the United States Department of the Interior Bureau of Land Management Colorado State Office for cooperation in the management of water rights, facilities, and Lands. (Trout Creek) STAFF SOURCE: Alexandra Davis, Deputy Director/Water Resource, Aurora Water

Motion by Roth, second by Bergan, to approve item 11c.

Council Member Mounier asked staff to state an opinion on whether or not it was a good idea for the Bureau of Land Management of move their offices from Washington DC to the west and if it was possible for them to come to Aurora.

Marshall Brown, Director, Aurora Water, stated most of the land the bureau managed was located in the west but he stated he did not know if there was a chance for them to come to Colorado.

Voting Aye: Bergan, Berzins, Cleland, Lawson, LeGare, Mounier, Pierce, Richardson, Roth

- ◆ d. **R2017-74**  
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, approving an Intergovernmental Agreement between the City of Aurora, the Town of Castle Rock, and the Colorado Water Conservation Board for funding of Lost Creek underground storage pilot study. STAFF SOURCE: Alexandra Davis, Deputy Director/Water Resource, Aurora Water

Motion by Roth, second by Mounier, to approve item 11d.

Marshall Brown, Director, Aurora Water, provided a brief summary of the pilot project, noting it related to the concept of taking advantage of subsurface geology to store water underground rather than storing it in aboveground reservoirs, noting the water could then be pulled out during times of need.

Voting Aye: Bergan, Berzins, Cleland, Lawson, LeGare, Mounier, Pierce, Richardson, Roth

- ◆ e. **R2017-75**  
Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, supporting the continuation of the Federal Deferred Action for Childhood Arrivals (DACA) program and applaud Congressman Coffman for his support of the bridge (Bar Removal of Individuals who Dream and Grow our Economy) act. **(Staff requests a Waiver of Reconsideration)** STAFF SOURCE: Michael J. Hyman, City Attorney

Motion by Richardson, second by Cleland, to approve item 11e with a waiver of reconsideration.

Motion by Mounier, second by Bergan, to move item 11e to the Management & Finance (M&F) policy committee for further discussion, amendments and more developed discussion related to immigration and the City's immigration problems.

Council Member Cleland pointed out the issue had the opportunity to be heard in committee because it was on the last Federal, State & Intergovernmental Relations (FSIR) committee meeting agenda. She stated it was not heard at that time due to time constraints. She

- ◆ *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.*





Trout Creek Pond

Spinney Mountain Reservoir

Hartsel

285

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24

285

9



# Trout Creek Pond



**Water Policy Committee (WPC) Meeting**  
October 28, 2020

Members Present: Council Member Marsha Berzins, Chair; Council Member Alison Coombs  
Vice Chair; Council Member Francoise Bergan

Others Present: Casey Rossman, Sarah Young, Leiana Baker, Greg Baker, Rich Vidmar,  
Alexandra Davis, Dawn Jewell, Marshall Brown, Nancy Freed, Christine  
McKenney, Steve Fiori, Rory Franklin, Jo Ann Giddings, Greg Hansen, Sean  
Lieske, Dan Mikesell, John Murphy, Stephanie Nietzel, Gail Thrasher

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**4. Bureau of Land Management (BLM) Intergovernmental Agreement (IGA) for Trout  
Creek Pond**

Summary of Issue and Discussion: D. Jewell stated, the BLM and the City of Aurora entered into an IGA on October 18, 2017, to provide up to three (3) acre feet of water from Spinney Mountain Reservoir at times when the BLM water rights at Trout Creek Pond are not in priority. Since that time the BLM has been required to secure additional water supplies for augmentation. BLM's Trout Creek Pond needs 6.85 acre feet above the previously agreed upon three (3) acre feet of water from Spinney Mountain Reservoir to prevent injury to senior water rights users, and the City of Thornton has an agreement with the BLM to "bear any associated losses" at Trout Creek Pond but does not have any method for providing that water. The City of Aurora is agreeing to provide the additional 6.85 acre feet of water from Spinney Mountain Reservoir annually at a rate of \$550.00 per acre foot, to be increased in accordance with potable rate increases. The BLM has reached out to the City of Thornton to replace the water needed at Trout Creek Pond through a like amount to the City of Aurora at a location to be determined in the future. Until that agreement is in place, the BLM will pay the City of Aurora for the water from Spinney Mountain Reservoir as indicated above. This IGA with the BLM has a ten (10) year term with the ability to extend for another ten (10) years.

Council Member Bergan asked, is the BLM good at meeting their obligations quickly. D. Jewell replied, yes. Council Member Coombs asked, what are the recreational uses of the pond. D. Jewell replied, fishing. Council Member Berzins asked, is the amount of \$550.00 per acre foot a standard amount. D. Jewell replied, the amount we charge for effluent is \$550.00 per acre feet.

Outcome: The Committee supports the BLM IGA for Trout Creek Pond and forwarded to Study Session for consideration.

Follow-Up Action: The Committee supports the BLM IGA for Trout Creek Pond and will forward to Study Session for consideration.



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Restated Intergovernmental Agreement for Joint Professional Firefighter Certification
<b>Item Initiator:</b> Danelle Carrel
<b>Staff Source:</b> Deputy Chief Cindy Andersen
<b>Legal Source:</b>
<b>Outside Speaker:</b>
<b>Council Goal:</b> 2012: 1.0--Assure a safe community for people

**COUNCIL MEETING DATES:**

**Study Session:** 11/16/2020

**Regular Meeting:** 11/16/2020

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

- |  |  |
|--|--|
| <input type="checkbox"/> Approve Item as proposed at Study Session                   | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item as proposed at Regular Meeting                 | <input type="checkbox"/> Information Only                            |

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**PREVIOUS ACTIONS OR REVIEWS:**

**Policy Committee Name:** Public Safety, Courts & Civil Service

**Policy Committee Date:** 10/15/2020

**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 checked="" type="checkbox"/> Minutes Not Available |
-

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**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.)*

Colorado Metropolitan Certification Board entered into the original IGA in January of 1996. This agreement allows for the certification of firefighters from the six metropolitan agencies (outlined in the IGA). The certification process is over seen by CMCB who is accountable to Pro Board; an nationally accredited certification agency. These standards meet or exceed the standards established by National Fire Protection Association.

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

The attached Restated IGA for Joint Professional Firefighter Certification incorporates all previous addendum's and utilizes current language. This document has been reviewed and approved by the department designated legal representative.

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**QUESTIONS FOR COUNCIL**

None.

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**LEGAL COMMENTS**

The state and its political subdivisions may contract with one another to provide any function, service, or facility lawfully authorized to each of the contracting units. (Colo. Const. Art. XIV, Section 18 and C.R.S. Sec. 29-1-203 and City Charter Sec. 10-12) (Evans)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Type Text Here

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** Type Text Here



RESOLUTION NO. R2020- \_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, TO APPROVE THE RESTATED INTERGOVERNMENTAL AGREEMENT FOR JOINT PROFESSIONAL FIREFIGHTER CERTIFICATION

WHEREAS, the City of Aurora provides fire and rescue services through its Aurora Fire Rescue; and

WHEREAS, the City of Aurora has participated in the Colorado Metropolitan Certification Board (“CMCB”) pursuant to an intergovernmental agreement entered into effective January 15, 1996, and subsequently amended in 2008, 2010, and 2014; and

WHEREAS, this Restated Intergovernmental Agreement for Joint Professional Firefighter Certification is intended to restate and replace the 1996 agreement and all subsequent amendments to the 1996 Agreement; and

WHEREAS, the CMCB is a cooperative mechanism by which Aurora Fire Rescue and neighboring municipal fire departments and fire protection districts combine resources to cooperate in the certification of professional firefighters; and

WHEREAS, firefighters employed by the City of Aurora receive professional firefighter certifications through the CMCB; and

WHEREAS, Aurora Fire Rescue wishes to continue its cooperation with other members of the CMCB to provide professional firefighter certification; and

WHEREAS, the City is authorized, pursuant to Article XIV of the Colorado Constitution and Section 29-1-201, *et seq.*, of the Colorado Revised Statutes, to cooperate and contract with any political subdivision of the State of Colorado, to provide any function, service or facility lawfully authorized to each of the contracting or cooperating units of government;

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

Section 1. The Restated Intergovernmental Agreement for Joint Professional Firefighter Certification between the City of Aurora, the City of Colorado Springs, the City and County of Denver, the Poudre Fire Authority, the South Metro Fire Protection District, and the West Metro Fire Protection District, regarding the provision of joint professional firefighter certifications is hereby approved.

Section 2. The Mayor and City Clerk are hereby authorized to execute the attached agreement in substantially the form presented at this meeting with such technical additions, deletions and variations as may be deemed necessary or appropriate by the City Attorney.

Section 3. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

RESOLVED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
ISABELLE EVANS, Assistant City Attorney II



**RESTATED INTERGOVERNMENTAL AGREEMENT  
FOR  
JOINT PROFESSIONAL FIREFIGHTER CERTIFICATION**

This Restated Intergovernmental Agreement for Joint Professional Firefighter Certification (“Agreement”), effective this [REDACTED] day of [REDACTED], 2020 (“Effective Date”), is made by and between the City of Aurora, the City of Colorado Springs, the City and County of Denver, the Poudre Fire Authority, the South Metro Fire Rescue Fire Protection District, and the West Metro Fire Protection District (collectively the “Contracting Parties” and individually a “Contracting Party”).

1. **AUTHORITY:**

This Agreement is made under authority of Section 29-1-203(1) of the Colorado Revised Statutes (“C.R.S.”).

2. **PURPOSE:**

The purpose of this Agreement is to provide a mechanism for joint professional certification of firefighters employed by the Contracting Parties by combining the resources of the Contracting Parties as authorized by Section 29-1-203(1) C.R.S.; however, nothing herein is intended to create, and shall not be construed as creating, any separate entity as provided under Section 29-1-203(4) C.R.S.

3. **PRIOR INTERGOVERNMENTAL AGREEMENT, AS AMENDED, SUPERSEDED:**

The initial intergovernmental agreement between the original contracting parties was entered into effective January 15, 1996 (“1996 Agreement”), and subsequently amended in 2008, 2010, and 2014. This Agreement is intended to restate and replace the 1996 Agreement and all subsequent amendments to the 1996 Agreement. Upon the Effective Date, this Agreement shall fully supersede and replace the 1996 Agreement and all subsequent amendments thereto, and the 1996 Agreement and all subsequent amendments thereto shall be deemed null and void for all purposes as of the Effective Date.

4. **COLORADO METROPOLITAN CERTIFICATION BOARD:**

a. Contracting Parties and Board Representation.

- i. There is hereby created the Colorado Metropolitan Certification Board (“CMCB”).
- ii. The CMCB will consist of one Board member appointed by each Contracting Party (exclusive of any Contracting Party that withdraws or is involuntarily removed from this Agreement). The Board member shall be the Chief Training Officer or other employee of a Contracting Party who is appointed by its Fire

- Chief. The Board member will serve at the pleasure of the appointing Contracting Party and may be replaced at any time by its Fire Chief. In the event a Board member is unable to perform his/her Board member duties due to absence, injury, illness or otherwise, the Contracting Party's Chief Training Officer shall submit to the CMCB another employee of the Contracting Party to serve as a proxy to the Board member.
- iii. Each Board member serving on the CMCB shall have one vote on all matters coming before the CMCB.
  - iv. Meetings of the CMCB shall only be conducted when a quorum of the Board members are participating. A "quorum" means more than one-half the number of Board members serving on the CMCB at the time of the meeting. A vacant Board member position will not be counted for purposes of determining if a quorum is present. A Board member who abstains from a vote will still be counted for purposes of determining if a quorum is present.
  - v. Action by the CMCB shall only be taken by affirmative majority vote. A "majority" means one more than half the Board members present at a meeting where a quorum of the Board members are present.
- b. CMCB Rules, Regulations and Policies. The CMCB shall establish written rules, regulations and policies (collectively, "Rules") for implementation and operation of the professional certification process, including an appeal process. The Rules shall be effective upon written approval by a majority of the CMCB. In the event there is a conflict between a Rule and this Agreement, this Agreement shall control.
- c. CMCB Staff.
- i. The Contracting Parties may, from time-to-time, designate one or more of the Contracting Parties to employ CMCB Staff on behalf of the Contracting Parties. Such designation shall only be effective upon the affirmative majority vote of the CMCB and the written consent of the Contracting Party(ies) that are being designated to employ one or more of the CMCB Staff. CMCB Staff shall include but not be limited to a full-time CMCB Director and a part-time CMCB Managing Evaluator ("Managing Evaluator"). The CMCB Director will dedicate at least 40 hours per workweek to the CMCB and its activities. The Managing Evaluator will dedicate 29 hours per workweek to the CMCB and its activities. A Contracting Party employing one or more of the CMCB Staff shall be responsible for ensuring the employee(s) is/are correctly classified and compensated under the federal Fair Labor Standards Act. A Contracting Party employing one or more of the CMCB Staff shall be responsible for compensating the employee(s) in accordance with the applicable rate schedules and benefits as determined from time to time by that Contracting Party.
  - ii. A Contracting Party employing one or more of the CMCB Staff shall provide Workers Compensation Coverage, tax withholding and payroll deductions, and

all other relevant human resource functions as are provided to other comparable employees of that Contracting Party. The CMCB's supervision of the CMCB Director will be provided through the CMCB Chairperson.

- iii. All liabilities, judgments, expenses, wages, benefits, and costs of the CMCB, whatsoever, shall be shared equally between the Contracting Parties. A Contracting Party employing one or more of the CMCB Staff shall establish specific budget codes through which CMCB funds will be maintained, and all expenses relating to CMCB Staff shall be drawn directly from the applicable CMCB budget codes. Once per quarter (March, June, September, and December) the CMCB Director shall calculate the actual expenses, and prepare an invoice to each Contracting Party for its share of the actual expenses.
  - iv. The duties of CMCB Staff shall be determined by the CMCB. The CMCB Director shall provide services only for the CMCB and shall not be used as an administrative backup for any Contracting Party. However, in the event the CMCB Director position becomes vacant, or in the absence of the CMCB Director, the Managing Evaluator shall provide backup services until the CMCB Director position is filled or the CMCB Director resumes his/her duties. The expenses of providing the backup services shall be shared between the Contracting Parties as provided for the CMCB Director in this Section.
  - v. The Contracting Parties agree that provision of CMCB Staff is an activity which, as recognized by Section 29-1-203 C.R.S., could be performed separately by each Contracting Party. Accordingly, the Contracting Parties agree that, for purposes of the Colorado Constitution, Article X, Section 20, any funds contributed, paid or otherwise provided by any Contracting Party to a Contracting Party employing one or more of the CMCB Staff are and remain solely an expenditure of that Contracting Party, and are not revenue or expenditures of the Contracting Party(ies) employing one or more of the CMCB Staff.
- d. CMCB Staff Office Space. The Contracting Parties may, from time-to-time, designate one or more Contracting Parties to provide office space for CMCB Staff on behalf of the Contracting Parties. Such designation shall only be effective upon the affirmative majority vote of the CMCB and the written consent of the Contracting Party(ies) that are being designated to provide office space for CMCB Staff. A Contracting Party providing office space for CMCB Staff shall receive a credit per quarter for the office space.
- e. IT/Finance Support. The Contracting Parties may, from time-to-time, designate one or more Contracting Parties to provide IT/Finance support on behalf of the Contracting Parties for the CMCB and its authorized activities. Such designation shall only be effective upon the affirmative majority vote of the CMCB and the written consent of the Contracting Party(ies) that are being designated to provide IT/Finance

support. A Contracting Party providing IT/Finance support shall receive a credit per quarter for the IT/Finance support.

5. TRAINING AND FACILITIES:

Each Contracting Party shall conduct its certification training and testing using its own facilities and equipment, except that, for economy of resources, the CMCB may from time to time designate joint training facilities and joint training equipment, with the consent of the Chief Training Officer(s) of the Contracting Party(ies) owning or controlling those facilities or equipment.

6. OWNERSHIP OF MATERIALS AND EQUIPMENT:

All testing materials developed or acquired under this Agreement shall be the joint property of the Contracting Parties to this Agreement. Any equipment acquired under this Agreement shall be approved by the CMCB prior to acquisition and payment for that equipment. The individual files of any firefighter tested pursuant to this Agreement shall be the sole property of the Contracting Party employing the firefighter. Nothing in this Agreement is intended, or shall be construed, to modify, waive or amend any provision of the Colorado Open Records Act, the Colorado Governmental Immunity Act, or any other State or Federal law.

7. LAW:

This Agreement is subject to and shall be interpreted under Colorado law and the applicable Charter, City Code, Ordinances, Rules, and Regulations of the Contracting Parties.

8. APPROPRIATION OF FUNDS:

In accordance with state and local law, performance of any Contracting Party's obligations under this Agreement is expressly subject to appropriation of funds by the Contracting Party's governing body and the availability of those funds under state and local spending limitations. The Contracting Parties acknowledge that: a) the Contracting Parties do not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years; and, b) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of any Contracting Party.

9. WORKER'S COMPENSATION INSURANCE:

Each Contracting Party shall provide during the period of this Agreement, Colorado Worker's Compensation Insurance for all personnel of the Contracting Party.

10. INTELLECTUAL PROPERTY RIGHTS:

The Contracting Parties agree that all products, item writings, designs, models, examples, or other work product produced or acquired pursuant to this Agreement shall be jointly owned by the Contracting Parties, and each Contracting Party shall have joint ownership of any intellectual property rights of such materials.

11. NON-DISCLOSURE OF CONFIDENTIAL COMMERCIAL DATA:

Confidential information provided to the Contracting Parties under this Agreement is subject to and shall be interpreted under Colorado law, including non-disclosure of confidential commercial data under Section 24-72-204(3)(a)(IV) C.R.S.

12. LIABILITY FOR FACILITIES, EQUIPMENT AND EMPLOYEES:

- a. No employee of a Contracting Party shall participate in any activity under this Agreement unless the employee is on duty within the meaning of the federal Fair Labor Standards Act. When a Contracting Party's employee attends training or otherwise participates in activities under this Agreement, that employee shall at all times remain exclusively under the direction of that Contracting Party, and that Contracting Party shall be responsible for all compensation and benefits, including Workers Compensation benefits, for that employee, and each Contracting Party shall handle all legal issues raised by or pertaining to its employee or personnel.
- b. When a Contracting Party's facility or equipment is utilized under this Agreement, that Contracting Party shall remain responsible for the facility or equipment and shall be responsible for any claims or damages resulting from the use of that facility or equipment, except that employees of any Contracting Party are deemed to be performing their duties for their own Contracting Party when utilizing another Contracting Party's facility or equipment, and shall be covered by their own Contracting Party's benefits in the event of injury or other claims or damage. In the event that a facility or equipment is damaged, the Contracting Party whose employee is responsible for the damage shall be responsible for the costs of that damage unless the damage is intentional, in which case the Contracting Party owning the facility or equipment may pursue all legal remedies against the person intentionally causing the damage.
- c. Subject to the limitations of subparagraph 12(b) above, in the event that a legal action for damages is brought against a Contracting Party as a result of its facility or equipment use under subparagraph 12(b) above, that Contracting Party may request reimbursement of any and all fees, costs or damages paid as a result of the legal action or settlement thereof, from the Contracting Party whose employee was responsible for the damages, and the employee's Contracting Party may reimburse those expenses subject to subparagraph 12(d) below. In the event that an insurance payment is made by a Contracting Party as a result of vehicle operation under

subparagraph 12(b) above, the Contracting Party that owns the vehicle may request reimbursement of any and all fees, costs or damages paid as a result of the legal action or settlement thereof, and the Contracting Party whose employee caused the damage may reimburse those expenses subject to subparagraph 12(d) below.

- d. Reimbursements under this Agreement shall be subject to appropriation of funds by the Contracting Party's governing body for that purpose, and nothing herein shall be construed as requiring appropriation of funds by any governing body. In addition, the Contracting Parties may, at their sole option, agree to pay any reimbursement, or any judgment of financial liability to a third party, resulting from operation of a facility or equipment, from special funds which the Contracting Parties may from time to time choose to appropriate for that purpose, on behalf of the liable Contracting Party.
- e. Nothing in this Agreement shall be construed to place the officers of any Contracting Party under the control or employment of another Contracting Party. Each Contracting Party remains responsible for all compensation, benefits, employment decisions, and worker's compensation liabilities, for its own personnel. Nothing in this Agreement is intended to create or grant to any third party or person any right or claim for damages or the right to bring or maintain any action at law, nor does any Contracting Party waive its immunities at law, including immunity granted under the Colorado Governmental Immunity Act.

### 13. ASSIGNMENT:

A Contracting Party's rights and responsibilities under this Agreement shall not be assigned or otherwise transferred without the prior written consent of all other Contracting Parties to this Agreement at the time of the potential assignment or transfer.

### 14. WITHDRAWAL OR REMOVAL FROM AGREEMENT; TERMINATION:

- a. Withdrawal from Agreement. A Contracting Party may withdrawal from this Agreement upon sixty (60) calendar days prior written notice to all other Contracting Parties at the time of such withdrawal. Upon withdrawal, the Contracting Party shall have no further right, title or interest in or to any equipment or materials under Section 6 (Ownership of Materials and Equipment) or intellectual property rights under Section 10 (Intellectual Property Rights) of this Agreement, except as permitted by Section 16.
- b. Removal. The CMCB may remove a Contracting Party as a party to this Agreement upon the occurrence of either of the following: i) the Contracting Party's breach of this Agreement ("Breach"); or ii) the Contracting Party's failure to pay in full at the required time all amounts owed under this Agreement ("Failure to Pay"). The procedure for such removal shall be as follows:
  - 1. *Super Majority Vote*. Removal shall require a Super Majority vote of the CMCB at a meeting during which the Contracting Party shall have the

opportunity to present relevant evidence in its defense, which relevancy shall be determined by the CMCB. “Super majority vote” means at least sixty-six percent (66%) of the Board members attending a CMCB meeting where a quorum of the Board members are present.

2. *Opportunity to Cure.* If the Board members vote to remove a Contracting Party as set forth above, the Contracting Party shall have thirty (30) calendar days to cure a Breach, or ten (10) calendar days to cure a Failure to Pay, as applicable.
  3. *Final Removal Vote.* At a meeting where a quorum of the Board members are participating, the CMCB shall determine whether the Contracting Party cured the violation within the applicable cure period. The CMCB may review such evidence as it determines is reasonable and necessary and shall thereafter vote on the matter. Whether the Contracting Party successfully cured the violation shall be determined by a majority vote of the Board members. If the meeting is to evaluate the cure of a Breach, this meeting shall be held not less than thirty (30) calendar days and not more than sixty (60) calendar days after a super majority vote of the Board members to remove the Contracting Party. If the meeting is to evaluate the cure of a Failure to Pay, this meeting shall be held not less than ten (10) calendar days nor more than thirty (30) calendar days after a super majority vote of the Board members to remove the Contracting Party. If the CMCB determines that the Contracting Party did not cure the violation, the Contracting Party shall be removed as a party to this Agreement.
  4. Upon removal, the terminated Contracting Party shall have no further right, title or interest in or to any equipment or materials under Section 6 (Ownership of Materials and Equipment) or intellectual property rights under Section 10 (Intellectual Property Rights) of this Agreement, except as permitted by Section 16. Removal of one or more Contracting Parties shall not cause termination of this Agreement.
- c. Termination. This Agreement may be terminated at any time by written agreement of all the Contracting Parties, or all of the Contracting Parties except one, who are a Contracting Party to this Agreement at the time of such termination. The Contracting Parties will use their best efforts to reach an equitable division of any equipment or materials jointly developed or acquired by the CMCB pursuant to this Agreement, and any associated intellectual property rights, or, if not divided, how given equipment or property will continue to be jointly owned, including any associated intellectual property rights.

#### 15. NEW CONTRACTING PARTIES:

- a. A governmental agency may become a Contracting Party to this Agreement upon the super majority vote of the CMCB consenting to the governmental agency becoming a Contracting Party. In addition to considering such addition factors as it deems appropriate, the CMCB shall find that the governmental agency:

- i. Is accredited by the Commission on Fire Accreditation International (CFAI) or has demonstrated it can obtain accreditation within one year of becoming a Contracting Party;
  - ii. Operates on, or has demonstrated that within one year of becoming a Contracting Party it will operate on, a common Learning Management System platform consistent with CMCB;
  - iii. Has a training facility/training site and equipment that conforms to NFPA 1402, as may be amended from time to time.
  - iv. Agrees to be bound by all terms and conditions of this Agreement upon becoming a Contracting Party.
- b. Upon the CMCB's consent pursuant to Section 15(a), above, the new Contracting Party shall sign a written document agreeing to become a Contracting Party, stating the effective date of such joinder, and that the new Contracting Party shall be subject to all of the terms and conditions of this Agreement as if the new Contracting Party had been an original Contracting Party to this Agreement. Upon the new Contracting Party's execution of such document, the document shall constitute a valid and binding amendment to this Agreement with no further action being required by the Contracting Parties.

#### 16. EXAMINATION OF RECORDS:

The Contracting Parties agree that any duly authorized representative of any Contracting Party shall, until five years following a Contracting Party's withdrawal from this Agreement, or the Termination of this Agreement, whichever shall occur first, have access to and the right to examine any directly pertinent books, documents, papers and records of each Contracting Party involving transactions related to this Agreement, except for any books, documents, papers and records that confidential or privileged under state or federal law.

#### 17. NO THIRD-PARTY BENEFICIARY:

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and any rules, regulations or policies promulgated pursuant to this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Contracting Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any third person or entity, including but not limited to contractors, subcontractors, subconsultants, suppliers, and persons seeking certification. It is the expressed intention of the Contracting Parties that any person or entity, other than the Contracting Parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.



18. SEVERABILITY:

It is understood and agreed by the Contracting Parties that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Contracting Parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be invalid. Further, the Contracting Parties agree and acknowledge that the activities contained in this Agreement are matters of local concern only, and that the Contracting Parties have mutually joined together for the performance of the matters of local concern, and that nothing in this Agreement shall be construed as making any of the local concerns covered herein matters of statewide concern.

19. INTEGRATION; AMENDMENT:

This is a completely integrated Agreement and contains the entire agreement between the Contracting Parties. Any prior written or oral agreements or representations regarding the subject matter of this Agreement shall be of no effect and shall not be binding on any Contracting Party. Further, the Contracting Parties acknowledge and agree that this is a negotiated text agreement, and that as such no term shall be construed against any Contracting Party as the author thereof. This Agreement shall only be amended in writing, with approval by the governing bodies of the Contracting Parties, and signatures of the authorized representative of each Contracting Party. Course of performance, no matter how long, shall not constitute an amendment to this Agreement.

20. EXECUTION:

This Agreement may be executed in counterparts and by facsimile or electronic PDF, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the governing bodies of the Contracting Parties have executed this Agreement on the dates indicated below:

[SIGNATURE PAGES IMMEDIATELY FOLLOW]

**FOR THE CITY OF AURORA:**

By: \_\_\_\_\_  
Mayor

This \_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Assistant City Attorney

Recommended and Approved for Aurora:

By: \_\_\_\_\_  
Deputy City Manager for Community Services

By: \_\_\_\_\_  
Fire Chief

**FOR THE CITY OF COLORADO SPRINGS:**

By: \_\_\_\_\_  
Mayor

This \_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

By: \_\_\_\_\_  
Deputy City Clerk

Approved as to Form:

By: \_\_\_\_\_  
City Attorney

**FOR THE CITY AND COUNTY OF DENVER:**

By: \_\_\_\_\_

Fire Chief

This \_\_\_\_ day of \_\_\_\_\_, 2020.

Recommended and Approved for Denver:

By: \_\_\_\_\_

Executive Director of Safety

By: \_\_\_\_\_

Fire Chief

**FOR POUUDRE FIRE AUTHORITY:**

By: \_\_\_\_\_  
Board Chair

This \_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

By: \_\_\_\_\_  
Board Secretary

Approved as to Form:

By: \_\_\_\_\_  
General Counsel

**FOR SOUTH METRO FIRE RESCUE FIRE PROTECTION DISTRICT:**

By: \_\_\_\_\_  
Fire Chief

This \_\_\_ day of \_\_\_\_\_, 2020.

**FOR THE WEST METRO FIRE PROTECTION DISTRICT:**

By: \_\_\_\_\_  
Fire Chief

This \_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

Approved as to Form:

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
District's Attorney



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, AND THE STATE OF COLORADO DEPARTMENT OF REVENUE, FOR THE USE OF THE STATE'S SALES AND USE TAX SIMPLIFICATION

**Item Initiator:** Trevor Vaughn, Manager of Tax and Licensing

**Staff Source:** Trevor Vaughn, Manager of Tax and Licensing

**Legal Source:** Hans Hernandez Perez, Assistant City Attorney

**Outside Speaker:**

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

### COUNCIL MEETING DATES:

**Study Session:** 11/16/2020

**Regular Meeting:** N/A

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

- |  |  |
|--|--|
| <input type="checkbox"/> Approve Item as proposed at Study Session                   | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item as proposed at Regular Meeting                 | <input type="checkbox"/> Information Only                            |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 9/22/2020

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

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



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**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 previously presented to the Business Advisory Board on September 21st and received unanimous support and to the Management and Finance Committee on September 22nd.

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

This item is a resolution to approve an intergovernmental agreement with the Department of Revenue for participation in the Sales and Use Tax Simplification System (SUTS). The city has a cost of \$17,500 for integration with the system and this integration is already in process utilizing 2020 funds.

With Colorado Senate Bill 19-006 the legislature directed the Department of Revenue to develop a sales and use tax simplification system. The system developer was selected through a request for proposal by the State. The sales and use tax simplification system (SUTS) will allow a business to file sales tax returns on a single site for all taxing jurisdictions in the state. The simplification measure will also allow the city to adopt a provision requiring vendors with economic nexus and not only physical nexus to collect sales tax.

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**QUESTIONS FOR COUNCIL**

Does council approve of forwarding the resolution for the intergovernmental agreement for formal consideration?

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**LEGAL COMMENTS**

Governments may cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units only if such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the proper power to so approve. See Sec. 29-1-203(1) C.R.S. The City Council may, by resolution enter into intergovernmental agreements and also authorize amendments thereto with other governmental units or special districts for the joint use of buildings, equipment or facilities, and for furnishing or receiving commodities or services. See *also* City Charter Sec. 10-12. (Hernandez)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Cost of \$17,500 for integration from current year funding. Will be offset by additional revenue from internet retailers.

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:**



15151 E. Alameda Parkway  
Aurora, Colorado 80012  
Ph: (303) 326-8690  
Fax: (303) 739-7136

September 21, 2020

Mayor & City Council  
City of Aurora  
15151 E. Alameda Pkwy., 5<sup>th</sup> Floor  
Aurora, CO 80012

**Subject: Proposal for the Colorado Sales and Use Tax Simplification System and Adoption of Economic Nexus**

Dear Mayor Coffman & Members of City Council:

The Business Advisory Board met on Monday, September 21, 2020 and heard Trevor Vaughn's presentation regarding the proposal for the Colorado Sales and Use Tax Simplification System and Adoption of Economic Nexus. After a lengthy discussion Board Members voted to unanimously support this proposal.

The Board feels that this proposal assures that e-commerce companies are playing fair in the City of Aurora. This in turn would level the playing field for all business owners that do business in our City.

The only concern expressed by numerous Board Members was regarding how businesses would comply with the Ordinance, the enforcement mechanism and outreach programs to educate business owners on how the system would work. The Board strongly recommends that the program be implemented with an outreach component, and a training/educational program from Tax and Licensing in collaboration with the SBDC and the BID, in order to reach to as many business owners as possible.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Garrett Walls".

Garrett Walls, Chairperson

GW/ev

CC: BAB Members  
Elena Vasconez, Economic and Business Development Supervisor  
Trevor Vaughn, Manager of Tax & Licensing

## **AGREEMENT REGARDING DEPARTMENT OF REVENUE SALES AND USE TAX SOFTWARE (“SUTS SYSTEM”)**

This agreement regarding the SUTS System (“**Agreement**”) is entered between the Colorado Department of Revenue (“**CDOR**”) and the undersigned home rule local taxing jurisdiction (“**Jurisdiction,**” collectively, “**the Parties**”) for the purposes of permitting access to the SUTS System and its related tax information look up tool as described in this Agreement. The SUTS System permits the acceptance of returns and processing of payments for the sales and use tax levied by the state and any local taxing jurisdictions in accord with the objectives of SB19-006. To further those objectives here, the Parties agree to the following:

### **AGREEMENT**

CDOR grants Jurisdiction access to the SUTS System for Jurisdiction’s use in the collection and payment of Sales and Use tax under the terms set forth in this Agreement.

#### **A. Purpose of Agreement**

Pursuant to Senate Bill 19-006, CDOR has contracted with vendors, including at this time, MUNIREvs, Inc. and Transaction Tax Resources, Inc., Fast Enterprises, LLC, and others, which may change from time to time (collectively, “Vendors”) to provide a sales and use tax simplification system that allows taxpayers to look up and remit sales and use taxes through a single portal managed by Vendors and held in trust for the benefit of the Jurisdiction.

#### **B. Definitions**

- 1) “Confidential Information” means any information derived from the SUTS System, including but not limited to taxpayer information, return information, and “personally identifiable information,” as defined in section 24-73-101(4) (b), C.R.S.
- 2) A "Security Incident," has the meaning set forth in section 24-37.5-402(10), C.R.S., which is “an accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of communication and information resources. Security incidents include but are not limited to: a) detection of a virus, worm, malware, etc; b) unauthorized use of an information resource; c) unauthorized modification of an information resource; d) theft or diversion of an information resource; e) theft or diversion of property using an information resource, and f) vandalism or other damage to an information resource.”

- 3) “Taxpayer” means any individual or business required to remit sales or use taxes to a taxing jurisdiction.
- 4) “Sales and Use Tax” means sales and use tax collected by Taxpayers and remitted to a jurisdiction by Taxpayers. Sales and Use Tax does not include excise taxes or other taxes or fees that a jurisdiction requires taxpayers to pay.

### **C. Confidentiality.**

- 1) CDOR agrees to continually maintain a secure place in which Confidential Information will be stored, regardless of whether Confidential Information is in physical or electronic form and will restrict access to Confidential Information to persons whose duties and responsibilities require such access. All third-party contractors who need such access for purposes consistent with this Agreement shall sign confidentiality agreements with CDOR or Jurisdiction no less restrictive than the confidentiality terms of this Agreement.
- 2) Except as may be ordered by a court of competent jurisdiction, no Confidential Information obtained pursuant to this Agreement shall be disclosed by CDOR or Jurisdiction to any person or entity not authorized to receive such information by the laws of the Jurisdiction or the State of Colorado.
- 3) If CDOR or Jurisdiction is served with a request for Confidential Information, CDOR or Jurisdiction shall use reasonable efforts to provide notice to the other Party within such time that CDOR or Jurisdiction may intervene and seek a protective order or other relief if it so chooses.
- 4) The information obtained pursuant to this Agreement shall be used only for the purpose of administration and enforcement of the sales and/or use tax laws of the Jurisdiction or the State of Colorado.
- 5) Nothing in this agreement shall prevent a Jurisdiction from contacting their Taxpayers for auditing or other purposes.
- 6) If either party becomes aware of any Security Incident, they shall notify the other immediately and cooperate with one another regarding recovery, remediation, and the necessity to involve law enforcement.

### **D. Payments of Taxes to Jurisdiction.**

- 1) All funds deposited by a Taxpayer shall be and shall remain the property of Jurisdiction held in trust until transferred to Jurisdiction. Deposited remittances

shall be transferred to Jurisdiction as soon as the funds have settled with the SUTS bank following NACHA guidelines.

2) If any Taxpayer payment is returned via an ACH or credit card charge-back against the account past the settlement process above, that Jurisdiction will pay applicable amounts back to the SUTS System within five banking days of notification of return.

### **E. Data and Reports.**

1) Jurisdiction will have access to all information from tax forms processed in the SUTS System that involve transactions within the Jurisdiction via CSV file downloads, PDF files or some other manner that is mutually acceptable.

2) The following reports will be available to Jurisdiction with the SUTS System:

- a) Assessment Report: This report shows all assessments, by business and includes several filters.
- b) Form Data Report: The form data report provides the ability to see all data for a taxpayer's form (e.g., gross sales through all deductions).
- c) Business Comparison Reports by Month: Allows review of trends over time for particular businesses, or an audience of businesses.
- d) Business Contact Report.
- e) Missing Account Number Report for validating Jurisdiction's Local Account Number for each registered account in the SUTS System.

### **F. Support.**

CDOR will provide Taxpayer user support during regular, published State business hours. Support to Jurisdiction's administrative users for system questions is provided by Vendor specialists who will be available by email and phone Monday through Friday from 8:00 am to 5:00 pm Mountain Time, excluding Federal and State Holidays.

### **G. Retention of Data.**

The SUTS System will retain, for a minimum of three years, all data, records, returns, and information: a) submitted by Taxpayers to the SUTS System, b) derived from Taxpayer submissions, and c) transferred to Jurisdiction.

### **H. System Failure.**

If the SUTS System becomes disabled, CDOR will use good faith and reasonable

efforts to recover the system and all Jurisdiction data not already in the possession of Jurisdiction This recovery of the SUTS System and data will be conducted at no additional cost to Jurisdiction.

### **I. Reservation of Rights.**

The software, workflow processes, user interface, designs, know-how and other services and technologies which are the sole property provided by Vendors as part of the SUTS System and CDOR's agreements with Vendors will remain with Vendors and Jurisdiction will not have any right, title or interest in or to such items, including all associated intellectual property rights.

### **J. Restrictions on Use of The SUTS System.**

1) Jurisdiction *may not* a) sell, resell, rent or lease the SUTS System, b) use the SUTS System to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party rights, c) interfere with or disrupt the integrity or performance of the SUTS System, or d) attempt to gain unauthorized access to the SUTS System or its related systems or networks.

2) Jurisdiction may allow its third-party contractors to use the SUTS System solely on behalf of and for the benefit of Jurisdiction and only in compliance with the terms and conditions of this Agreement. Jurisdiction is responsible for compliance with the terms of this Agreement by its contractors.

### **K. Initial Setup.**

Jurisdiction shall furnish the following items in order to use the SUTS System:

1) Jurisdiction Depository Information: Jurisdiction will provide bank deposit information (routing & account number) to CDOR's appropriate Vendors within 5 days of signing this Agreement. This information will be utilized for the deposits of taxes, penalties, and interest from the SUTS System. It is the responsibility of Jurisdiction to provide updated depository information should this account need to be changed at any point in time.

2) Initial Account Number Validation: Jurisdiction will upload their local account numbers for their Taxpayers to the SUTS System using the SUTS standard upload format (e.g. Excel, CSV) as soon as is reasonable after signing this Agreement. CDOR will use this information to validate account numbers for businesses registering on the SUTS System with actual account numbers for each jurisdiction for accurate account information on SUTS System tax returns.

3) The local account numbers will include the Taxpayer's account number, business name, dba, FEIN#, address and any other contact information or the SUTS System to validate and match the registered account to Jurisdiction's account number.

4) The SUTS System will not activate for Jurisdiction for tax receipts until the Existing Account Number Data File has been provided to CDOR, imported to the SUTS System and validated by Vendor.

5) It is the responsibility of Jurisdiction to update the account numbers that need to be added or edited in the SUTS System in order to display the local account number on future tax returns generated from the SUTS System.

#### **L. Use Tax Purchase Details.**

Taxpayers filing tax returns through the SUTS System are not required to include use tax purchase details. Purchase details are typically required on Schedule B to tax returns required by local jurisdictions. However, nothing in this Agreement prevents Jurisdiction from requesting these use tax details directly from the Taxpayer.

#### **M. Business Licenses.**

The SUTS System will not require any Taxpayer to obtain separate Jurisdiction business licenses or any other license. Jurisdiction may, at Jurisdiction's discretion, use the information provided by the Taxpayer in the SUTS System to reach out separately and independently to their Jurisdiction's Taxpayers for licenses or any other requirements from the Jurisdiction that is not included in the SUTS System.

#### **N. Frequency of Tax Filings.**

Taxpayers may file tax returns via the SUTS System at the frequency which is required of Taxpayer for State taxes under CDOR regulations; however, Jurisdiction may request from CDOR that the Taxpayer may be moved to a more frequent filing, which will not be unreasonably denied.

#### **O. Jurisdiction New Account Review.**

When a Taxpayer submits a new registration with the SUTS System and does not have a Colorado Account Number, the SUTS System will require that the Taxpayer submit an online Sales Tax License Application and pay the State of Colorado license fee. The application and fee shall be sent to the CDOR for license issuance and account number creation for the Colorado Account Number. It is the

responsibility of the Jurisdiction to use the SUTS reports to include any new businesses in their external system of record and to update their local account number in the SUTS System using the procedures set forth above.

#### **P. Jurisdiction Rate Validation.**

- 1) Jurisdiction will provide written confirmation to Vendors of its sales and use tax rates, rules, and boundaries. Jurisdiction will use due care and make best efforts to provide accurate rates, rules, and boundaries.
- 2) Jurisdiction agrees to specify to Vendors authorized Jurisdiction users who are allowed to propose changes within the SUTS System administrative tools.
- 3) Jurisdiction will use best efforts to email Vendors or use the SUTS System administrative tools to notify Vendors of any tax rates, rules, boundaries, or other needed data changes 30 days before they are effective for them to be updated in the system. All notifications must include details on the changes and the period for which changes are effective.

#### **Q. Tax Data Integration.**

This Agreement does not provide a direct interface or integration to Jurisdiction's system of record for sales and use tax. If a direct interface or custom format is desired by Jurisdiction to better integrate to Jurisdiction's system of record, Jurisdiction may contact Vendor to discuss custom options, which may entail programming fees to be paid directly to the Vendor by the Jurisdiction.

#### **R. Licensed Documentation.**

All SUTS System user guides, sample data, marketing, training and other items provided through the SUTS System or by Vendors ("Licensed Documentation") may be used and copied by Jurisdiction via a non-exclusive license for the duration of the Agreement for Jurisdiction's use solely with the SUTS System according to the terms of this Agreement.

#### **S. Payment and Merchant Fees.**

Taxpayer pays credit, debit or any other merchant processor or bank fee associated with Taxpayer's remittance payment, and the Jurisdiction agrees to pay the ACH Credit or Debit *transfer* fees from the SUTS System to Jurisdiction's bank account, which is currently one dollar (\$1) per banking day, or approximately twenty dollars (\$20) per month for a Jurisdiction that gets a payment every banking day. The Jurisdiction will Pre-pay an amount of two hundred and sixty dollars (\$260) during



the SUTS onboarding process as a credit towards the transfer fees. Jurisdiction will replenish any funds used, paying in advance of each CDOR fiscal year on or before July 1 after receiving a notice of account and balance due by June 1.

**T. Additional Terms.**

- 1) **Governing Law.** This Agreement is governed by Colorado law without regard to conflicts of law principles.
- 2) **Survival of Terms.** Any terms that by their nature survive termination or expiration of this Agreement, will survive.
- 3) **Entire Agreement and Changes.** This Agreement constitutes the entire agreement between the Parties, and supersedes all prior or contemporaneous negotiations, agreements and representations, whether oral or written, related to this subject matter. No modification or waiver of any term of this Agreement is effective unless in a written instrument signed by both Parties.
- 4) **No Assignment.** Neither Party may assign or transfer this Agreement to a third party.
- 5) **Enforceability:** If any term of this Agreement is determined to be invalid or unenforceable, the other terms remain in effect.
- 6) **Notices:** All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered (a) by hand with receipt required, (b) by certified or registered mail to such Party's principal representative at the address set forth below or (c), as an email with read receipt requested addressed as given herein. This contact information may be changed by notice submitted in accordance with this section.

For CDOR:

Name: Scott McKimmy

Title: Director, Business Information Group

Email: [Scott.McKimmy@state.co.us](mailto:Scott.McKimmy@state.co.us)

Address: 1707 Cole Blvd., Lakewood, CO 80401

Phone: 720-793-8117

For Jurisdiction:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

7) **Counterparts, Facsimiles and E-Mail.** This Agreement may be signed in any number of counterparts, which together shall constitute one and the same instrument. Original signatures of the Parties on copies of this Agreement transmitted by facsimile or electronically/scanned and e-mailed copies shall be deemed originals for purposes of this Agreement, and such copies shall be binding on all Parties.

8) **Authority to Execute Agreement.** Each person executing this Agreement on behalf of each Party represents, warrants, assures, and guarantees that s/he has full legal authority to execute this Agreement on behalf of the Jurisdiction and CDOR, respectively, and to bind Jurisdiction and CDOR, to all the terms, conditions, provisions, and obligations of this Agreement.

9) **Termination of Agreement:** CDOR or Jurisdiction may terminate this Agreement for any reason on 90 days written notice to the other Party. In the event of a breach of contract, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach of contract, at its sole expense, within 30 days after the delivery of written notice, the Party may terminate the contract. Notwithstanding any provision of this Agreement to the contrary, both Parties retain any statutory rights they may have to immediately terminate this Agreement in whole or in part in order to protect the public interest of their citizens.

10) **Limited Financial Obligation.** Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of either party not performed during the current fiscal year is subject to annual appropriation, so the obligation shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

11) **Limitation of Liability for CDOR.** CDOR, its employees, agents, including Vendors and assignees shall not be liable for any costs, expenses, claims, damages, liabilities, court fees and other amounts (including attorneys' fees and related costs) including but not limited to cost of delay, loss of data or information, failure of the SUTS system, loss of moneys remitted to SUTS, direct losses, consequential, special, indirect, incidental, punitive or exemplary loss incurred by Jurisdiction in relation to any services, including database access in connection with this Agreement.

12) **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, or of the Jurisdiction, 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.

<b>Jurisdiction Approval</b>	
By	Title
*Signature	Date
Municipality or County of	Date
Jurisdiction Mailing Address	Appointee Phone Number
Appointee Name	Title
Appointee Signature	Appointee Email
Name of Chief Administrative Officer or Designee	Title
Chief Administrative Officer or Designee Signature	Chief Administrative Officer or Designee Email
* <input type="checkbox"/> By checking this box and signing above, I hereby represent, warrant, assure, and guarantee that I have full legal authority to execute this Agreement on behalf of the Jurisdiction and to bind Jurisdiction to all the terms, conditions, provisions, and obligations of this Agreement.	
<b>Colorado Department of Revenue Approval</b>	
By	Title
Signature	Date

**MANAGEMENT AND FINANCE POLICY COMMITTEE MEETING  
SEPTEMBER 22, 2020**

**COLORADO SALES AND USE TAX SIMPLIFICATION SYSTEM**

Summary of Issue and Discussion

Previously the committee was presented with information regarding simplification actions taking place prior to adoption of economic nexus. The State has activated the Sales and Use Tax Simplification System and has presented the city with an Intergovernmental Agreement for participation in that system. The Colorado Municipal League also worked with home rule cities in drafting model language for economic nexus.

With Colorado Senate Bill 19-006 the legislature directed the Department of Revenue to develop a sales and use tax simplification system. The system developer was selected through a request for proposal by the State. The sales and use tax simplification system (SUTS) will allow a business to file sales tax returns on a single site for all taxing jurisdictions in the state. The simplification measure will also allow the city to adopt a provision requiring vendors with economic nexus and not only physical nexus to collect sales tax. The adoption of economic nexus is much more likely to pass a court test under the ruling in Wayfair vs. South Dakota if simplification measures are in place. In July, the city adopted a marketplace facilitator ordinance but held off on adopting economic nexus until the SUTS system was operational. The State's vendor for the system, Munirevs has indicated they are ready to begin work on an integration with the city's tax software. This integration price was negotiated by the State and is \$17,500. It is believed that this cost will be more than offset by revenues from adopting economic nexus. The integration work can also start prior to signing the IGA. An additional simplification measure as part of the SUTS system is a single address location system that is being developed by another state vendor and also includes a taxability matrix. This is an improvement over the current address location system vendors certified by the state. The city currently has ordinance language regarding a hold harmless provision for vendors that currently rely on those systems for sourcing sales tax collection. While the figure is very difficult to estimate, the adoption of economic nexus may result in up to one to two million dollars of additional revenue per year. Most of the internet retail space already remits sales tax to the city. Moving forward staff would recommend agreeing to the \$17,500 for the integration and starting work immediately on that project. Next a resolution would be brought forward for approval of the SUTS IGA and an ordinance for adoption of economic nexus with a hold harmless clause for the address locator and taxability matrix. Currently 29 home rule cities have approved the IGA.

1. Does the committee approve of sending the IGA for participation in the system for full council consideration?
2. Does the committee approve of drafting an ordinance incorporating the model economic nexus language and bringing this forward for full council consideration?
3. Does the committee approve of the \$17,500 expense offset by additional revenue for integration with the SUTS system?

Committee Discussion

CM Gruber: Garrett, the Committee received the letter that the Business Advisory Board drafted, did you have any other thoughts on this?

Garrett Walls, Business Advisory Board: No, Trevor did a good job with summing up. Just the concern was voiced by several members talking about qualifying for nexus in state and that it's a double-edged sword. We definitely appreciate the efficiency move to the system and were fully in support of that. We just want there to be some sort of training and support component potentially by the SBDC (Small Business Development Center) or state agencies. To help retailers understand for an example if you're shipping to Grand Junction you need to be collecting Grand Junction sales tax or Mesa County sales tax as it applies, which is probably collected in state sales tax. So that was our concern. We didn't want a whole bunch of retailers that are shipping products across the state to all of sudden be out of compliance with any of these sales tax collection practices. Therefore, we need some education.

CM Gruber: As we move this forward and I suspect it will move forward but that would be having SBDC available to speak at Study Session. I think would be an important move. Trevor, I have a question for you. When we discussed this before we talked about the TABOR impact and that as a home rule city Aurora has the ability to tax certain things a certain way. This combined system is combining things across the state which may or may not include the same tax that Aurora has on Aurora products. How's that dealt with?

T. Vaughn: So how that's dealt with is actually it doesn't change what tax is applied to. All its doing is providing a centralized place to file and pay the taxes, so it does not unify the base across the state. Wayfair said you don't have to have the same tax rate there. I don't know that the question regarding unification or uniformed base was really addressed in Wayfair. That's potentially an area that a retailer may say that there's a challenge there. However, in a lot of states there are some situations where there are some different tax abilities, but Colorado is particularly complicated with that situation where jurisdictions will just vary from one place to the other. What we did do as a city is we adopted standardized definitions and then that taxability matrix is being compiled as part as that state's system so vendors would be able to look and see and hopefully things are defined the same. They can see if an item is taxed in this city or if it's not taxed and try to adjust as they do that. The software out there has become a lot better and the retailers have become a lot more sophisticated and software vendors have offered products which adjust for that. As far as this goes this is all about enforcement of Aurora's existing tax code. There's not a change with the tax code, it is about enforcement and therefore no TABOR impact.

CM Gruber: Thank you. I appreciate all the work that you folks have done on this. This has moved a long way and bringing in an extra couple million dollars is always going to be a helpful to the City, so I appreciate that.

The Committee recommended that this item is moved forward unanimously.

#### Outcome

The Committee recommended that this item be moved forward to Study Session.

#### Follow-up Action

Staff will forward this to Study Session.

RESOLUTION NO. R2020-\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, AND THE STATE OF COLORADO DEPARTMENT OF REVENUE, FOR THE USE OF THE STATE'S SALES AND USE TAX SIMPLIFICATION SOFTWARE SYSTEM

WHEREAS, Article XIV, Section 18 of the Colorado Constitution and Section 29-1-203, C.R.S., allow the state and its political subdivisions to contract with one another to provide any function, service, or facility lawfully authorized to each of the contracting units; and

WHEREAS, Colorado Senate Bill 19-006 the Department of Revenue (the "DOR") was directed to develop a sales and use tax simplification system to facilitate the central collection of sales and use taxes, and after the "Sales and Use Tax Simplification System" ("SUTS") is implemented, it will allow businesses to file sales tax return on a single site increasing the likelihood of remittance of taxes; and

WHEREAS, participation in this system would benefit the City of Aurora (the "City") by increasing substantially the amount of taxes that can be collected to fund critical governmental functions; and

WHEREAS, the DOR and the City wish to enter into an Intergovernmental Agreement (the "Agreement"), for participation on the SUTS system to assist the City in collecting sales and use taxes through the SUTS system; 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, Section 10-12 of the City Charter requires that the City Council adopt a resolution in order to authorize the execution and delivery of an intergovernmental agreement.

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

Section 1. The Intergovernmental Agreement attached to this resolution between the City of Aurora, Colorado, and the State of Colorado, for participation on the Sales and Use Tax Simplification Software System is hereby approved.

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

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

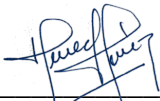
RESOLVED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
SUSAN BARKMAN,  
Interim City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
HANOSKY HERNANDEZ,  
Assistant City Attorney



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** A Resolution of the City Council of the City of Aurora, Colorado, Expressing the Aurora City Council’s Support of the Affordable Housing GAP Financing Program 2020 Funding Recommendation for Second Chance Center, INC.’s Providence at the Heights Apartmen

**Item Initiator:** Liz Fuselier, Community Development Planner

**Staff Source/Legal Source:** Tim Joyce, Assistant City Attorney II

**Outside Speaker:** N/A

**Council Goal:** 2012: 1.0--Assure a safe community for people

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 12/7/2020

Dual Listed

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

- |   |  |
|---|--|
| <input type="checkbox"/> Approve Item as proposed at Study Session              | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <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                            |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Housing, Neighborhood Services & Redevelopment

**Policy Committee Date:** 8/5/2020

### 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          |



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

During the HORNS Policy Committee meeting on Wednesday, August 5, 2020 staff from the Housing and Community Services Department presented an update of the newly developed Homeless Services RFP Applications for funds available to community-based agencies. This RFP process is intended to simplify, streamline, improve transparency and improve equitable distribution of funding. The process also intends to identify the best grant source with the best funding guidelines for each agency. The funding can serve low to moderate income persons: individuals and households, households at risk of losing their homes and those who are currently homeless.

Multiple Funding Sources will support this program:

- General Fund
- Marijuana Tax Revenue HUD Federal Funds
- ESG – Emergency Solutions Grant Fund
- CDBG – Community Development Block Grant fund

During the August 24, 2020 study session Council approved the item and asked that all of the agreements be put on a regular meeting agenda as individual items.

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

The Second Chance Center-Providence at the Heights received a \$260,000 award in Marijuana Fund dollars as part of the GAP Financing process. Providence at the Heights (PATH) provides affordable housing for low-income residents (0-30% AMI). Housing units are available to all homeless individuals and families who score as being high need on the One Home system. The award, in the form of a grant, will be utilized for parking lot upgrades, landscaping improvements and added safety features to individual residences.

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**QUESTIONS FOR COUNCIL**

Does Council approve this item for consideration of approval at the Regular Council Meeting on December 7, 2020?

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**LEGAL COMMENTS**

The City has all the powers which are necessary, requisite, or proper for the government and administration of its local and municipal matters, and all powers which are granted to home rule cities by the Constitution of the State of Colorado. (Charter § 1-3)

Colorado Constitution, Article XIV, Section 18, Subsection 2(c) permits the City to contract with private persons, associations, or corporations for the provision of any legally authorized functions, services, or facilities within or without its boundaries. (TJoyce)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:**

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**PRIVATE FISCAL IMPACT**

Not Applicable     Significant     Nominal

**If Significant or Nominal, explain:**



# Affordable Housing Gap Finance Application

City of Aurora

Submitted On:

June 26, 2020 11:02am  
America/Denver

## Applicant Information

<b>Agency</b>	Second Chance Center
<b>Tax ID, if applicable</b>	90-0794239
<b>Executive Directive / Project Manager</b>	Mr. Hassan Latif
<b>Title</b>	Executive Director
<b>Project Contact</b>	Mr. Hassan Latif
<b>Applicant Address:</b>	9722 E. 16th Ave. Aurora, CO 80010
<b>Phone Number</b>	720-297-9694
<b>Email</b>	hassan@scccolorado.org
<b>Status of Applicant</b>	Non-Profit
<b>Project Type (Check all that apply)</b>	Multifamily
<b>Project Activities (Check all that apply)</b>	Site Infrastructure
<b>Is the property or any unit in the property currently subsidized or assisted under any federal or state housing program or has any assistance been received during the past 12 months or anticipate federal funding? Please provide a description in the box below.</b>	Yes, describe the type of subsidy or assistance
<b>Describe the type of subsidy or assistance</b>	In Fall of 2017, Second Chance Center was awarded a 9% low-income housing tax credit award from the Colorado Housing and Finance Agency and 49 project-based vouchers from the Colorado Division of Housing, for its first Permanent Supportive Housing project, Providence at the Heights (PATH). Funding for PATH came from a variety of sources. National Equity Fund as our investor brought over \$10.5 million in equity to the project. BlueLine owns 0.0075% of the project as the managing General Partner (GP) and SCC owns 0.0025% as the co-general partner. East Metro, as SLP, owns 0.01% and the Limited Partner (NEF) owns 99.98%, totaling 100.00% of the Partnership. Throughout the initial five years of operations, BlueLine will work closely with SCC to train staff and build the capacity necessary for eventual sole ownership of Providence at the Heights. If after five years of operations SCC meets all required financial and managerial benchmarks required by NEF, BlueLine will remove itself from the General Partnership and SCC will hold 0.01% ownership as sole General Partner. At the end of the tax credit compliance period (15 years), SCC will have the right to pay off any remaining project debt and become 100% owner.

## Project Information

<b>Name of Project</b>	<p>Providence at the Heights (PATH). Providence at the Heights is located at 15602 E. Alameda Pkwy in Aurora, CO. By working closely with OneHome (Coordinated Entry System), SCC will receive referrals for individuals who score with high vulnerability and a need for PSH. The project will have a preference for individuals and families who would benefit from services due to involvement in the criminal justice system and due to behavioral health needs. Second Chance Center is the lead service provider, with Aurora Mental Health Center as our primary provider for behavioral health. We refer to other community partners on an as-needed basis. PATH is a 49-unit permanent supportive housing project, which includes (39) 1-bedrooms and (10) 2-bedrooms. There are 50 total dwellings in the building; the 50th unit is a non-project based voucher 1-bedroom, which will be used as a guest apartment for family/friends who come to visit residents in an effort to support family reunification. Each unit has a refrigerator, dishwasher, oven/range, energy star appliances, high efficiency windows, increased insulation and AC. Washers and dryers will be in one location on each of the three floors for residents to use. The entire project will self-certify to Enterprise Green Community Standards. There will be approximately 6,500 square feet of administrative offices and engagement space on the first floor, which is sufficient to house 3-4 offices for service staff, community meeting room and kitchen, computer lab, indoor and outdoor programming space for kids, outdoor courtyard to be used as an eating area/space for activities, community garden and a walking path to nearby creek, and a welcoming front desk area that has an open lobby so people can hang out, have a cup of coffee and interact with front desk staff and other residents. There is a secure front door where residents and guests will be buzzed in to enter, and the front desk is staffed 24 hours a day, 7 days a week. Residents have keys to their individual units. The architectural design of the building was done through a trauma-informed lens. PATH will follow a Housing First, low-barrier model. It will also bring the service philosophies of trauma-informed care, harm reduction, progressive engagement, and motivational interviewing into working with residents who live at PATH</p>
<b>Project Address</b>	15602 E Alameda Pkwy, Aurora, CO, 80017
<b>Units Created</b>	50
<b>Units Served</b>	50
<b>Estimated Number of Individuals the Activity Will Serve</b>	61-80
<b>Will the Activity be Income Restricted?</b>	Yes
<b>What AMI levels will be primarily served?</b>	0-30%
<b>Will there be a population that will be targeted for this project such as veterans, homeless, seniors, or low/mod income? Please provide a brief description in the box below.</b>	<p>Units are available to all homeless individuals and families who score as being at high need on the One Home system.</p> <p>PATH is part of the Metro Denver Homeless Initiative's OneHome coordinated entry approach. MDHI has been hugely supportive of our efforts to open affordable housing for returning citizens, helping staff with training and education on the coordinated entry system.</p> <p>The populations we serve have unique and urgent needs, all of which are exacerbated by being homeless or having only tenuous access to shelter. They include: People with mental illness and substance use disorders; women traumatized by domestic violence, sexual assault, and the impact of imprisonment - and desperate to reunite with their children; aged and infirm elders newly released after decades in prison. Our clients are all low /mod income and include seniors and people that have disabilities, for some of our clients PATH will be their last home.</p>
<b>Site Control</b>	
<b>Feasibility Analysis/Due Diligence</b>	244

<b>Planning Approval</b>	
<b>Environmental Reviews (City of Aurora)</b>	
<b>Plans and Specifications Completed</b>	
<b>Estimated Bid Date</b>	07/2020
<b>Permitting</b>	
<b>Estimated Constructed Completion</b>	08/2020
<b>How will this project add value to Aurora or contribute to a diversified house stock?</b>	<p>PATH aligns with the city of Aurora priorities to Provide Safe, Decent, Affordable Housing, Maintain and improve the existing supply of affordable housing to meet the needs of low and moderate income residents, Increase access to affordable housing options, Prevent Homelessness ,Provide a suitable living environment, Improve or Enhance Public Infrastructure and Community Resources, Strengthen delivery and coordination of human services, Support Community Outreach Programs Provide expanded economic opportunities and enhance the economic vitality of the community through the support of the resident workforce. The wrap around services provided to all PATH residents include career and workforce training allowing our residents to find jobs and contribute to the city’s economic infrastructure. Addressing mental health issues aids in addressing homelessness, Mental health services are available. The ability to meet all the needs under one roof speaks to the important role PATH plays in the city of Aurora landscape.</p>
<b>How will this project add to Aurora's housing strategy?</b>	<p>The 2017 housing strategy presented by the city of Aurora directs support of permanent supportive housing and the like priorities of PATH. We are proud to provide the City of Aurora with its very first permanent supportive housing project. Helping homeless persons (especially chronically homeless individuals and families, families with children, people with disabilities make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, and preventing individuals and families who were recently homeless from becoming homeless again</p>
<b>Please describe a past development project that was completed in Aurora, or within the state of Colorado.</b>	<p>Providence at the Heights is located at 15602 E. Alameda Pkwy in Aurora, CO. By working closely with OneHome (Coordinated Entry System), SCC will receive referrals for individuals who score with high vulnerability and a need for PSH. The project will have a preference for individuals and families who would benefit from services due to involvement in the criminal justice system and due to behavioral health needs. Second Chance Center is the lead service provider, with Aurora Mental Health Center as our primary provider for behavioral health. We refer to other community partners on an as-needed basis. PATH is a 49-unit permanent supportive housing project, which includes (39) 1-bedrooms and (10) 2-bedrooms. There are 50 total dwellings in the building; the 50th unit is a non-project based voucher 1-bedroom, which will be used as a guest apartment for family/friends who come to visit residents in an effort to support family reunification. Each unit has a refrigerator, dishwasher, oven/range, energy star appliances, high efficiency windows, increased insulation and AC. Washers and dryers will be in one location on each of the three floors for residents to use. The entire project will self-certify to Enterprise Green Community Standards. There will be approximately 6,500 square feet of administrative offices and engagement space on the first floor, which is sufficient to house 3-4 offices for service staff, community meeting room and kitchen, computer lab, indoor and outdoor programming space for kids, outdoor courtyard to be used as an eating area/space for activities, community garden and a walking path to nearby creek, and a welcoming front desk area that has an open lobby so people can hang out, have a cup of coffee and interact with front desk staff and other residents. There is a secure front door where residents and guests will be buzzed in to enter, and the front desk is staffed 24 hours a day, 7 days a week. Residents have keys to their 245</p>

	<p>individual units. The architectural design of the building was done through a trauma-informed lens. PATH will follow a Housing First, low-barrier model. It will also bring the service philosophies of trauma-informed care, harm reduction, progressive engagement, and motivational interviewing into working with residents who live at PATH. Since its inception, SCC has been providing services through a trauma-informed lens. Clients have experienced trauma from having been incarcerated, not to mention in their lives prior to incarceration. As personal traumas present in the lives of program participants, SCC staff is always careful to gauge an individual's readiness to change before advocating for service connection. Our approach to engaging clients will be client-driven and SCC will dedicate at least one full-time care manager to every 15 clients. There will also be a Family Advocate to work with the families who have children at PATH, as well as peer navigators on staff.</p>
<b>Partnerships</b>	<p>CHFA Federal State Agency Private Non-Profit</p>
<b>Name of the organization</b>	<p>Providence at the Heights</p>
<b>Please describe the partnership as it pertains to this project:</b>	<p>In addition to SCC's demonstrated success in leveraging more than \$14 M to develop PATH, the subject of this request, SCC has also been very effective at leveraging both government and private resources for its operating budget, which has grown steadily since its founding in 2012, and is now \$1.8 M. Because of our demonstrated results in reducing recidivism, government grants make up a significant part of our budget, most notably: The Work and Gain Education and Employment Skills (WAGEES) program created by the Colorado Legislature to redirect Colorado Department of Corrections funds toward community safety instead of incarceration. This allocation has been increased by the legislature and in FY 2020 generates \$740,000 for SCC. Transforming Safety, another program created by the Legislature to redirect funds toward community safety instead of incarceration provides \$166,750 for FY 2020, and community corrections funding generates a further \$100,000. Local government support is provided by Adams County.</p>
<b>Please list level of funding from these partnerships.</b>	<p>Please see previous answer as well as attached budget and break down of fund by source.</p>
<b>Preferred Funding Source</b>	<p>Looking for best fit of resources.</p>
<b>Upload additional files.</b>	<p><a href="https://seam.ly/4DT0dbhQ">https://seam.ly/4DT0dbhQ</a> City of Aurora RFP Sources Use of Funds.docx</p>
<b>Required Uploads: Site Plans, Rendering, Sources and Uses of Funds</b>	<p>RFP 2020.pptx <a href="https://seam.ly/MyGuMPOF">https://seam.ly/MyGuMPOF</a></p>

## FUNDING AGREEMENT

BETWEEN THE CITY OF AURORA, COLORADO, AND SECOND CHANCE CENTER, INC. FOR THE PROVIDENCE AT THE HEIGHTS APARTMENTS

This Agreement (the "Agreement") is made and entered into as of this 30<sup>th</sup> day of October, 2020, by and between the City of Aurora, Colorado, (the "City"), a municipal corporation, located at 15151 East Alameda Pkwy, Aurora, Colorado 80012, and Second Chance Center, Inc., a non-profit corporation ("SCC") whose principal office street address is 9722 East 16<sup>th</sup> Avenue, Aurora, Colorado 80010 for the Providence at the Heights Apartments ("PATH") located at 15602 East Alameda Pkwy, Aurora, Colorado 80017.

1. Amount of the Award. The City agrees to provide SCC with the Funds from the marijuana sales tax fund account in an amount not to exceed \$260,000.00 for completion of the construction of the Providence at the Heights Apartments (the "Project"). The Funds to be paid SCC under this Agreement is intended to constitute the entire commitment by the City to assist SCC in completing the construction of the Providence at the Heights Apartments.

Nothing in this Agreement is a pledge of the City's credit, or a payment guarantee by the City to SCC. The obligation of the City to make payments hereunder shall constitute a currently budgeted expense of the City, and nothing contained herein shall constitute a mandatory liability, charge, or requirement of or against the City in any ensuing fiscal year beyond the then current fiscal year. This Agreement shall never constitute a general obligation or other indebtedness of the City, or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City within the meaning of the Constitution and laws of the State of Colorado or of the Charter and ordinances of the City. In the event of a default by the City of any of its obligations under this Agreement, the Contractor shall have no recourse against any revenues of the City. Notwithstanding any language herein to the contrary, nothing in this Agreement shall be construed as creating a lien against any revenues of the City.

2. Use of Funds. SCC agrees that it shall use the Funds for the activities listed in the funding application attached to this Agreement as *Exhibit A*.

3. Administration and Implementation.

a. SCC shall be responsible for the direct supervision, administration, and implementation of the Project. The City shall not be liable or responsible for any cost overruns or have any duty or obligation to provide any additional funding to SCC if the construction project cannot be completed with the amount of Funds awarded by the City to SCC.

b. This Agreement does not guarantee SCC any additional or future Funds except as expressly authorized herein.

4. Acknowledgement of City by SCC. SCC agrees to acknowledge the City as a contributor in all publications, news releases and other publicity issued by the SCC related to

SCC's operations and agrees to allow the City to do the same. SCC shall cooperate with the City in preparing public information pieces, providing photos of the SCC's facilities from time to time, and providing access to SCC's facilities for publicity purposes.

5. Record Keeping Requirements. SCC shall maintain a complete set of books and records documenting its use of the Funds and the number of direct referrals from and/or other services provided to the City in support of the City's efforts to assist people experiencing homelessness or at risk of being homeless. The City or any of its duly authorized representatives shall have reasonable access to any books, documents, papers, and records of SCC which are pertinent to this Agreement for the purpose of making an audit or examination of SCC's activities. SCC shall keep all books, documents, papers, and records which are pertinent to this Agreement for a minimum of three (3) years following its termination.

6. Performance Reporting Requirement. SCC shall submit to the City the following performance reporting requirements:

- a. Provide a summary of the project and how it impacted residents, the organization or the surrounding community;
- b. Provide a summary of how these improvements may have impacted the resident's quality of life, employees access to the site and/or community impact;
- c. At project completion, provide how many residents are being served and the vacancy rate of the residences.

7. Illegal Aliens.

a. Unlawful Employees, Contractors and Subcontractors. SCC shall not knowingly employ or contract with illegal aliens to perform services under this Agreement. SCC shall not knowingly contract with a subcontractor that (a) knowingly employs or contracts with illegal aliens to perform services under this Agreement and (b) fails to certify to SCC that the subcontractor will not knowingly employ or contract with an illegal alien to perform services under this Agreement.

b. Verification Regarding Illegal Aliens. By executing this Agreement SCC confirms the employment eligibility of all employees who are newly hired for employment to perform services under this Agreement through participation in either the Federal E-Verify program or the Colorado Department of Labor Department Program.

c. Limitations. SCC shall be prohibited from using either the Federal E-Verify Program or the Colorado Department of Labor Department Program procedures to undertake pre-employment screening of job applicants.

d. Duties of the SCC. If SCC obtains actual knowledge that a subcontractor performing services under this Agreement knowingly employs or contracts with an illegal alien, SCC shall be required to:



i. Notify the subcontractor and the City within three days that SCC has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

ii. Terminate the subcontract with the subcontractor if, within three days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that SCC shall not terminate the contract with the subcontractor if the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

e. Duty to Comply with State Investigation. SCC shall comply with any request made by the Colorado Department of Labor or the City in the course of an investigation that the Department or the City is undertaking.

f. Damages. Notwithstanding any other provisions within this Agreement, if SCC violates any of the above provisions regarding illegal aliens, the City may terminate the Agreement for cause and SCC may be liable for consequential damages.

8. Termination for Cause - In the event a material breach of this Agreement remains uncured following written notice of said breach by City, the City may immediately terminate this Agreement upon written notice specifying the effective date thereof (“Event of Default”); provided however, the City may, in its discretion and for good cause, allow SCC to cure any breach or submit an acceptable plan to cure such breach within ten (10) days of such written notice. An Event for Cause can include, but is not limited to, SCC fails or refuses to: (i) use the Funds in accordance with the terms and covenants of this Agreement or (ii) perform any other of the material covenants, agreements, or conditions in this Agreement.

If this Agreement terminated for cause as provided in this section and it is subsequently determined that the City’s termination of this Agreement for cause was improper, then the termination for cause shall be considered to be a termination for convenience and the procedures in this section related to a termination for convenience shall apply.

9. Remedies. Should SCC fail, for any reason, to cure an Event of Default the City shall have the right to terminate this Agreement forthwith and demand reimbursement from SCC of: (i) all Funds advanced hereunder that were expended by SCC in violation of this Agreement, which amount shall be determined on a pro-rata basis as of the date upon which such Event of Default is deemed to have first occurred; and (ii) any Funds remaining unexpended as of the date of such termination shall remain in the possession of the City. The rights and remedies of the City as set forth in this Agreement shall not be exclusive and are in addition to any other rights or remedies provided by law.

10. No Waiver of Rights. A waiver by either party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

11. Assignment. No assignment by a party to this Agreement of any rights under or

interests in this Agreement will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law). And unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility in this Agreement.

12. Relationship of the Parties. SCC shall perform all duties and obligations under this Agreement as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee, or other relationship with the City. An independent contractor is not a City of Aurora, Colorado, employee and as such is not entitled to Workers' Compensation benefits. It is expressly understood between the City and SCC that SCC, as an independent contractor, is not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by SCC or some entity other than the City.

13. No Third-Party Beneficiaries. Nothing in this Agreement shall give or allow any claim or right of action whatsoever by any third party, including, but not limited to, any agents or contractors of SCC.

14. Severability. Should any one or more provisions of this Agreement be determined to be, illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a provision that will achieve the original intent of the parties hereunder.

15. Written Amendment Required. This Agreement may be amended, modified, or changed, in whole or in part, only by written agreement duly authorized and executed by the City and SCC.

16. Insurance.

a. SCC shall provide the appropriate certificates of insurance and Worker Compensation documents, at no cost to the City, as described in **Attachment B**. SCC further agrees and understands that they are to maintain and keep in force the appropriate insurance policies throughout the term of this Agreement. SCC shall ensure the pool of contractors SCC may use for Work contemplated by the Agreement shall also have the appropriate certificates of insurance and Worker Compensation documents as described in **Attachment B**.

b. SCC shall be responsible for any injury to persons or damage to property to the extent arising from negligent or otherwise wrongful acts, errors and omissions of SCC, its agents, and employees. If SCC knows of the damage SCC shall immediately notify the City. If the City discovers the damage, City will notify SCC immediately. Repair shall be accomplished under City direction and to City specifications, so property is in as good or better condition than before damage. SCC shall provide the City with a certificate of liability coverage in accordance per the attached form 410-33, **Attachment 2**.

c. The SCC's policy will be primary and non-contributory with respect to any and all insurance policies purchased by the additional insured.

17. Indemnification.

a. The SCC shall indemnify, hold harmless and, not excluding City's right to participate, defend the City, its officials, officers, employees, volunteers and agents from and against all liabilities, actions, losses, claims, damages, costs and expenses, including without limitation reasonable attorney fees and costs, expert witness fees, arising out of or resulting in any way from the performance of SCC's services for the City and caused by negligent acts, errors, and omissions of the SCC or any person employed by it or anyone for whose act the SCC is legally liable.

b. The insurance coverage specified in this Agreement constitutes the minimum requirements and these requirements do not lessen or limit the liability of SCC hereunder. SCC shall maintain, at its own expense, any additional kinds and amounts of insurance that it may deem necessary under this Agreement.

c. Patents Infringement: SCC shall indemnify, defend and hold harmless the City Indemnities from and against all suits or actions for infringement or unauthorized use of any patent, trademark, copyright or trade secret relating to the services under this Agreement. SCC's indemnity pursuant to this Section shall apply only when infringement occurs or is alleged to occur from the intended use for which the deliverable material was provided by the SCC pursuant to this Agreement. SCC shall not be held liable for any suits or actions of infringement of any patent, trademark, or copyright arising out of any patented or copyrighted materials, methods, or systems specified by the City under the Agreement or Change Order or infringement resulting from unauthorized additions, changes or modifications to the deliverable material made or caused to be made by the City subsequent to delivery by the SCC. SCC also agrees to notify the City upon the knowledge of any potential infringement claim, so that the City may provide input on suggested solution.

d. SCC agrees that it will contractually obligate its sub-contractors to indemnify and hold harmless the indemnitees identified in this Section to the same extent that SCC is required to indemnify and hold harmless said indemnitees.

18. Nondiscrimination. SCC shall not discriminate against any individual, employee, and applicant for employment or in its provision of services on the basis of race, color, national origin, ancestry, age, sex (gender), sexual orientation, religion, creed, or physical or mental disability.

19. Notices. Notices, as referred to in this Agreement, shall be sent to:

City: City of Aurora, Colorado  
Attn: Homelessness Program Director  
9898 East Colfax Avenue

Aurora, Colorado 80010

With a copy to: Office of the City Attorney  
City of Aurora, Colorado  
15151 East Alameda Parkway  
Aurora, Colorado 80012

SCC: Hassan Abdal Latif  
Second Chance Center, Inc.  
9722 East 16<sup>th</sup> Avenue  
Aurora, Colorado 80010

20. Legal Compliance.

a. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.

b. SCC and its contractors and subcontractors shall comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the Project, including but not limited to those laws and regulation which require appropriate actions to protect the environment. If SCC, a contractor, or subcontractor performs or continues to perform any work knowing it to be contrary to any law, ordinances, rules and regulations SCC shall assume full responsibility and shall bear all attributable costs.

21. Examination of Records - For Agreements funding more than \$10,000.

a. The Internal Auditor of the City of Aurora, or a duly authorized representative from the City of Aurora shall, until three (3) years after final payment under this Agreement, have access to and the right to examine any of the SCC's directly pertinent books, documents, papers, or other records involving transactions related to this Agreement.

b. SCC agrees to include in first-tier sub-consultants under this Agreement a clause to the effect that the City's Internal Auditor, or a duly authorized representative from the City of Aurora shall, until three (3) years after final payment under the subcontract have access to and the right to examine any of the SCC's directly pertinent books, documents, papers, or other records involving transactions related to the subcontract. "Subcontract," as used in this clause, excludes (1) purchase orders not exceeding \$10,000.00 and (2) subcontracts or purchase orders from public utility services at rates established to apply uniformly to the public, plus any applicable reasonable connection charge.

c. The periods of access and examination as noted above for records relating to (1) litigation or settlement of claims arising from the performance of this Agreement, or (2) costs and expenses of this Agreement to which the City, acting through its duly authorized designee, has taken exception, shall continue until such appeals, litigation, claims, or exceptions are finally resolved.

22. Extent of Agreement. This Agreement constitutes the entire agreement of the parties hereto. The parties agree that there have been no representations made regarding the subject matter hereof other than those, if any, contained herein, that this Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and further agree that the various promises and covenants contained herein are mutually agreed upon and are in consideration of one another.

23. Attorney Fees. If litigation is commenced by either party concerning this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs from the other party.

24. Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement.

25. Incorporation of Exhibits. Unless otherwise stated in this Agreement, any exhibits, applications, resolutions, or other documents referenced in this Agreement shall be incorporated by reference into this Agreement for all purposes.

26. Section Headings. The headings for any section of this Agreement are only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

27. Signatures. The signatories to this Agreement represent that they are fully authorized to execute this Agreement and bind their respective entities.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the City and Metro Community Provider Network (SCC) have executed this Agreement as of the day and year first written above.

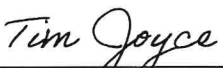
**CITY OF AURORA, COLORADO**

  
\_\_\_\_\_  
Roberto Venegas, Deputy City Manager

ATTEST:

  
\_\_\_\_\_  
Susan Barkman, Interim City Clerk

APPROVED AS TO FORM

  
\_\_\_\_\_  
Tim Joyce, Assistant City Attorney

**SECOND CHANCE CENTER, INC.**

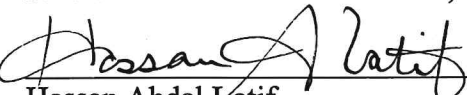
  
\_\_\_\_\_  
Hassan Abdal Latif  
Second Chance Center, Inc.  
9722 East 16<sup>th</sup> Avenue  
Aurora, Colorado 80010

EXHIBIT A  
SCOPE OF WORK  
SECOND CHANCE CENTER-2020 GRANT (\$260,000)

- a. **Repaving of Elevation Church Parking Lot:** Pulverization of existing asphalt, repaving parking with 5", Fire Lane 7". Reuse of existing parking lot signage. Description of additional work completed included cut for curb and gutter, subgrade stabilization; plowed area for cross pan, removing 14" of wet soils and replaced; plowed parking lot at 24" removed wet material and sent it to Henderson pit; placed 112 tons of RCB on unstable areas; curb & gutter30- (Remove & Replace) Crosspan- (remove & replace); Sidewalk- (remove & replace); reconstruction of 6" Channel 5' wide with 6" curbs – remove & replace).
- b. **Landscaping:** trellis, cedar planters and community garden fence.
- c. **Hardware and Installation of Schlage's keypad locks:** designed with added features that allow the adoption of needs to lock, secure, change codes when enabled, disable user codes preventing any unauthorized attempts of entry.

\*\*All proposed work must follow the bid process for the City of Aurora. The City must review at least three (3) bids for each item within the scope of work.

Attachment B  
INSURANCE REQUIREMENTS

The Contractor providing services under this agreement will be required to procure and maintain, at its own expense and without cost to the City of Aurora, until final acceptance by the City of all work covered by the Purchase Order or contract the following types of insurance. The policy limits required are to be considered minimum amounts:

Commercial General Liability Insurance. The Contractor shall maintain commercial general liability insurance covering all operations by or on behalf of the Contractor on a per occurrence basis against claims for bodily injury (including death) and property damage (including loss of use) and products and completed operations coverage for a period of one (1) year after completion of the Work. Coverage will include personal injury liability with employee and contractual exclusions deleted and a Waiver of Subrogation. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

Minimum limits:

\$1,000,000 each occurrence  
\$2,000,000 general aggregate  
\$2,000,000 products and completed operations

Commercial Automobile Liability Insurance. The Contractor shall maintain commercial automobile insurance covering liability arising out of the operation of any vehicle (including owned, non-owned and hired vehicles) with minimum limits of \$1,000,000 combined single limit each accident.

Workers' Compensation and Employers Liability Insurance. The Contractor shall maintain Worker's Compensation Insurance with limits in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado. Additionally, the Contractor shall maintain Employers' Liability Insurance with minimum limits of \$1,000,000 bodily injury for each accident, \$1,000,000 bodily injury by disease each employee and \$1,000,000 bodily injury disease aggregate.

Umbrella/Excess Liability Insurance. Contractor will maintain an Umbrella/Excess Liability insurance policy on an occurrence basis in excess of the general liability coverage specified above, with minimum limits of \$2,000,000 per occurrence. The coverage shall be as broad as the underlying general liability policy set forth above. The City, its elected and appointed officials, employees, agents, and representatives shall be named as Additional Insureds by endorsement.

Subcontractor's Insurance. It shall be the responsibility of the vendor/contractor to ensure that subcontractors maintain:



- a. Commercial General Liability insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 general aggregate and shall name the City of Aurora as an additional insured; and
- b. Worker's Compensation Insurance with limits in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado and;
- c. 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.

The Contractor is responsible for verifying that the subcontractor's insurance is in effect prior to commencement of work and throughout the time that the subcontractor performs work on the project. Any subcontractor which ceases to 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. The Contractor shall name the City of Aurora, its elected and appointed officials, employees, agents and representatives as additional insureds by endorsement for the Commercial General Liability, Auto Liability and Excess Liability insurance policies and the certificate of insurance will include this specific language along with a copy of the endorsement.

Certificates of Insurance. Upon the execution of this Agreement, the Contractor shall provide certificates of insurance to the City of Aurora demonstrating that the minimum coverages required herein are in effect. Contractor 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 Contractor's or its subcontractor's coverage is renewed at any time prior to completion of the services, the Contractor shall be responsible for obtaining updated insurance certificates for itself and such subcontractors from the respective insurance carriers and forwarding the replacement certificates to the City within five (5) days of the expiration date of any previously delivered certificate.

The minimum A.M. Best rating of each primary insurer shall be A- X and the minimum A.M. Best rating of each excess insurer shall be A- VIII. The Contractor shall provide copies of insurance policies to the City Risk Manager upon request.

Any of the minimum limits of insurance set out herein may be raised or lowered at the sole discretion of the Risk Manager for the City of Aurora in response to the particular circumstances giving rise to the contract.

Insurance Primary Not Contributory. The Contractor's policies will be primary and non-contributory with respect to any and all insurance policies purchased by the City.

Self Insurance/Deductible. If the Contractor has any self-insured retentions or deductibles

under any of the required policies, the Contractor must reflect these amounts on the Certificate(s) of Insurance. If requested, the Contractor will provide satisfactory evidence of financial responsibility for such obligations. In any event, Contractor will be solely responsible for any self-insured retentions deductibles.

The City has all the powers which are necessary, requisite, or proper for the government and administration of its local and municipal matters, and all powers which are granted to home rule cities by the Constitution of the State of Colorado. (Charter § 1-3)

Colorado Constitution, Article XIV, Section 18, Subsection 2(c) permits the City to contract with private persons, associations, or corporations for the provision of any legally authorized functions, services, or facilities within or without its boundaries. (TJoyce)

RESOLUTION NO. R2020-\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO,  
EXPRESSING THE AURORA CITY COUNCIL'S SUPPORT OF THE AFFORDABLE  
HOUSING GAP FINANCING PROGRAM 2020 FUNDING RECOMMENDATION FOR  
SECOND CHANCE CENTER, INC.'S PROVIDENCE AT THE HEIGHTS APARTMENTS

WHEREAS, the Community Development Division and the Homelessness Division developed a new Affordable Gap Financing application to simplify and streamline the application process who are interested in building or rehabilitating a structure used for housing as well as other capital needs; and

WHEREAS, the new application process aligns with CHFA tax credit application deadline and take place on a bi-annual basis, ahead of CHFA's application deadline when CHFA funding applies to the applicant; and

WHEREAS, Second Chance Center, Inc. has applied for a grant from the City's marijuana sales tax funds for the Providence at the Heights Apartments located at 15602 East Alameda Pkwy, Aurora, Colorado 80017 in the amount of \$260,000; and

WHEREAS, the 2020 Affordable Housing Gap Funding Review Committee evaluated the application and recommends a HOME loan amount of \$260,000 for this project.

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

Section 1. The Aurora City Council resolves to approve the 2020 Affordable Gap Financing Review Committee's award of \$260,000 in a grant from the City's marijuana sales tax fund to Second Chance Center, Inc. for the Providence at the Heights Apartments.

Section 2. This Resolution shall take effect immediately without reconsideration.

Section 3. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

RESOLVED AND PASSED this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

*Tim Joyce* RLA

TIM JOYCE, Assistant City Attorney



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** Montview Boulevard Design

**Item Initiator:** Nancy Freed

**Staff Source/Legal Source:** Nancy Freed/Brian Rulla

**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:** 12/7/2020

Dual Listed Why is this item dual listed?[Click or tap here to enter text.](#)

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

- Approve Item as proposed at Study Session  Information Only
- Approve Item and Move Forward to Regular Meeting
- Approve Item as proposed at Regular Meeting
- Approve Item with Waiver of Reconsideration  
Why is a waiver needed?[Click or tap here to enter text.](#)

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

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

- Recommends Approval  Does Not Recommend Approval
- Forwarded Without Recommendation  Recommendation Report Attached
- Minutes Attached  Minutes Not Available

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**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.)*

Transforming the Fitzsimons Army Medical Center from a former military facility to a vibrant, bustling, industry leading life sciences activity hub and innovation district involves rebuilding the infrastructure to support the elements of a great community.

For several years, the vision for a full campus redevelopment always considered Montview Boulevard to be a key infrastructure component to support the growth of the medical uses, the expanding Anschutz Medical Campus, and Fitzsimons Innovation District. The completion of Fitzsimons Parkway, connecting Colfax Avenue to the important Martin Luther King Boulevard and Peoria Street corridors, focused attention on Montview Boulevard as the “backbone” and main street of the Fitzsimons redevelopment. The original alignment of the RTD R Line was along Montview Boulevard, but was later adjusted to follow Fitzsimons Parkway.

Beginning in 2013, recognizing the need to address the inadequacies of the current Montview Boulevard configuration, the City of Aurora (City) reached out to the key stakeholders adjacent to the corridor to discuss the vision and needs for the future Montview Boulevard and funded the effort in the amount of \$211,120.00. A stakeholder committee, consisting of the Fitzsimons Redevelopment Authority (FRA), the University of Colorado Campus leadership, The Children’s Hospital, Veterans Administration Hospital, and other key stakeholders and development representatives, met over the course of several years to develop ideas, criteria, and concepts for Montview Boulevard that would meet the needs of the community and would provide an important framework for creating a true centerpiece for the Anschutz Medical Campus and Fitzsimons Innovation District.

In May 2018, the stakeholder committee’s efforts culminated in a set of conceptual plans, completed by Felsburg, Holt and Ullevig (FHU), for Montview Boulevard between Oswego Street, just west of Peoria, and Fitzsimons Parkway, the eastern terminus of the project. The conceptual plans include a context sensitive multimodal complete street improvement to the Montview/Peoria intersection as well as relevant and pertinent street improvements including horizontal alignment, lane balancing and signalization of key intersections. Additionally, the concept plans include separated bike lanes, a pedestrian plaza area at the Ursula intersection couplet, and greatly enhanced pedestrian walkways and crossings and associated streetscape elements as key design components. The right of way process for acquisitions has also begun.

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

Earlier this year, Aimco Properties, LLC (Aimco) reached out to the city management to discuss potential options for completing the final design of Montview Boulevard within the Fitzsimons Campus. Aimco has purchased the property along Montview Boulevard between Ursula Street and N. Uvalda Street with the intention of constructing a boutique hotel. Aimco expressed an interest in funding a portion of the Montview effort and believe it has a benefit to the overall campus.

Through numerous discussions with city staff, Aimco proposed to front the costs for the final redesign of Montview Blvd. from Peoria St. east to Fitzsimons Pkwy and an intergovernmental agreement (IGA) has been developed with the following salient features:

- Aimco will fund the design cost of approximately \$1.8 million interest free for up to 2 years.
- The City of Aurora, the Fitzsimons Redevelopment Authority, and the Regents of the University of Colorado will each pay \$300,000 of the design cost upon completion.
- Aimco and the Colorado Science and Technology Park Metro Districts Nos. 1, 2, and 3, will each

pay \$450,000 of the design cost upon completion.

- All partners will equally share in any design change order costs.
- There is no commitment to construct Montview Boulevard once design is completed. However, federal stimulus funds may become available to fund construction.
- The City of Aurora will negotiate the contract with FHU to complete the final design.
- The City of Aurora will manage the design contract for Montview Boulevard.
- The City of Aurora will utilize capital impact fees to fund its portion of the design reimbursement.
- All parties, CU, FRA, Aimco, and Metro Districts, have agreed to the terms of the IGA.

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## QUESTIONS FOR COUNCIL

Does Council support proceeding with this proposed agreement to fund the design of Montview Boulevard?

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## LEGAL COMMENTS

Governments may cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units only if such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve. (Colo. Rev. Stat. §29-1-203(1)). City Council may, by resolution, enter into intergovernmental agreements with other governmental units or special districts for the joint use of buildings, equipment or facilities, and for furnishing or receiving commodities or services. (City Charter §10-12). (Rulla)

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## PUBLIC FINANCIAL IMPACT

YES       NO

**If yes, explain:** The City of Aurora will utilize capital impact fees to fund its portion of the design reimbursement.

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## PRIVATE FISCAL IMPACT

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** N/A



RESOLUTION NO. R2020\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AIMCO PROPERTIES, LLC, THE FITZSIMONS REDEVELOPMENT AUTHORITY, THE COLOARDO SCIENCE AND TECHNOLOGY PARK METRO DISTRICTS NOS. 1, 2 AND 3, AND THE REGENTS OF THE UNIVERSITY OF COLORADO FOR AND ON BEHALD OF THE UNIVERSITY OF COLOARDO ANSCHUTZ MEDICAL CAMPUS APPROVING A ROADWAY REDESIGN COST REIMBURSEMENT AGREEMENT

WHEREAS, the City of Aurora ("City"), Aimco Properties, LLC, a Delaware limited liability company authorized to transact business in the State of Colorado, ("Developer"), the Fitzsimons Redevelopment Authority, an urban renewal authority and body corporate and politic duly existing under the laws of the State of Colorado, the Colorado Science and Technology Park Metro Districts Nos. 1, 2, and 3, quasi-municipal corporations and political subdivisions of the State of Colorado, and the Regents of the University of Colorado, a body corporate, for and on behalf of the University of Colorado Anschutz Medical Campus (collectively, "the Parties") are in agreement that Montview Boulevard within the Fitzsimons campus will need to be redesigned and improved to adequately serve development around the Fitzsimons campus; and

WHEREAS, Developer is willing to advance one hundred percent of the cost of the redesign work; and

WHEREAS, the Parties desire to memorialize an agreement concerning the reimbursement for a portion of the redesign work; and

WHEREAS, the City has determined it to be in the best interests of the residents of the City to enter into this Agreement; and

WHEREAS, Section 10-12 of the City Charter authorizes the City Council by resolution, to enter into contracts or agreements with other governmental units or special districts for the joint use of buildings, equipment, or facilities, and for the furnishing or receiving of services; and

WHEREAS, pursuant to Colorado Constitution Article XIV, Section 18(2)(a), and Section 29-1-203, C.R.S., the City may cooperate or contract with other political subdivisions in order to provide any lawfully authorized function, service or facility.

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

Section 1. The Public Improvement Funding Agreement between the Parties is hereby approved.

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

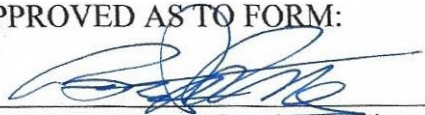
RESOLVED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
BRIAN J. RULLA, Assistant City Attorney

## ROADWAY REDESIGN COST REIMBURSEMENT AGREEMENT

THIS ROADWAY REDESIGN COST REIMBURSEMENT AGREEMENT (“Agreement”), is entered into this \_\_\_\_ day of \_\_\_\_\_, 2020 (“Effective Date”), between Aimco Properties, LLC, a Delaware limited liability company authorized to transact business in the State of Colorado, (“Developer”), the City of Aurora, Aurora, Colorado, a Colorado municipal corporation of the counties of Adams, Arapahoe, and Douglas, State of Colorado (“City”), the Fitzsimons Redevelopment Authority, an urban renewal authority and body corporate and politic duly existing under the laws of the State of Colorado (“Authority”), the Colorado Science and Technology Park Metro Districts Nos. 1, 2, and 3, quasi-municipal corporations and political subdivisions of the State of Colorado (“Districts”), and the Regents of the University of Colorado, a body corporate, for and on behalf of the University of Colorado Anschutz Medical Campus (“University”). The City, Developer, Authority, Districts, and University shall be referred to herein individually as a “Party, and collectively as “Parties.”

### RECITALS

- A. Developer has purchased certain real property located within the City of Aurora, Colorado consisting of approximately .82568 acres, located between Ursula St. and N. Uvalda St. along Montview Blvd (the “Property”). Developer intends to construct a boutique hotel on the Property to serve the Fitzsimons campus.
- B. The Parties agree that Montview Blvd. will need to be redesigned and improved in order to adequately serve development around the Fitzsimons campus.
- C. The City previously funded the Montview Boulevard – Right of Way Comparison dated May 23, 2018 (the “Preliminary Design”) in the amount of \$211,120.00.
- D. In connection with development of the Property, Developer intends to fund the additional costs for the final redesign of Montview Blvd. from Peoria St. east to Fitzsimons Pkwy. In order that Montview Blvd. may serve both the Property and adjacent properties, it will be redesigned in such a manner that access to adjacent properties is provided.
- E. To facilitate the redesign of Montview, Developer is willing to advance one hundred percent (100%) of the cost of the redesign, including any additional change orders necessary (“Total Design Cost”), subject to the terms and conditions hereof.
- F. The design costs for the redesigned Montview Blvd. are estimated to be \$1,800,000.00 (the “Estimated Design Cost”).
- G. The City, Authority, Districts, and University are willing to reimburse Developer for a portion of the design cost.
- H. The Authority has agreed to lead the effort in ensuring the full participation and cooperation of the Parties in the redesign of Montview Blvd.

## AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Design Consultant. The City has selected Felsburg Holt & Ullevig, Inc, (“Design Consultant”) to undertake the redesign and engineering of Montview Blvd. and to provide cost estimating for construction thereof. Design Consultant will begin final redesign and construction plans and specifications for the redesigned Montview Blvd. based on a contract approved by the City for such work, titled \_\_\_\_\_, and dated as of \_\_\_\_\_ (the “Design Contract”), a copy of which has been provided to the Parties. The cost of the Design Contract is estimated to be \$1,800,000.00 but may be adjusted to accommodate additional change orders (“Total Design Cost”).

(a) Engineering and Redesign.

(i) As a part of the Preliminary Design the City determined the legal descriptions for any easements (“Easements”) or right of way (“Right of Way”) that will be required to be granted to the City by plat or by separate document for the maintenance of the Montview roadway. Dedications of the Easements and Right of Way that have previously been approved by the appropriate entities will be made at no cost to the City. The Design Consultant will prepare the next phase of the redesign plan referred to as the sixty percent (60%) redesign plans (the “60% Plans”).

(ii) Upon approval of the 60% Plans by the City, Design Consultant will complete the final redesign, construction plans and specifications for the roadway (the “Final Plans”) and will coordinate with the City to obtain formal and final approval of the Final Plans from the City through the standard review process. The City will provide the Final Plans to the other Parties for their review. The Final Plans will define all roadway redesign details, establish vertical and horizontal alignments, and work out drainage and water quality components in accordance with the City of Aurora's Design and Construction Specifications (the “Criteria”). The Final Plans will provide survey control, design curb ramps and intersection details, put together traffic signal components and details, and establish final topography and grading for the entire length of Montview Boulevard from Peoria on the west, to Fitzsimons Parkway on the east. The Final Plans will also include sidewalk and separated bike lane design, Ursula couplet plaza design, building demolition, subsurface utility engineering, environmental clearances, drainage analysis and reports, water quality analysis and reports, pavement design, and signing and striping details per the Criteria.

(iii) For the preparation of the 60% Plans and Final Plans, the Parties will continue the collaborative process used in the development of the Preliminary Plans. The City shall not execute any change orders necessary for the completion of the 60% or the Final Plans without the prior written consent of the other Parties, which shall not be

unreasonably withheld or delayed. Any Total Design Costs over \$1,800,000.00 shall require the issuance of a change order approved by all of the Parties to this agreement.

(b) Reimbursement Amount. Parties hereby agree that the estimated amount to be reimbursed to Developer for the redesign of Montview Blvd. under the Design Contract is \$1,350,000.00 (“Eligible Reimbursement Amount”). It is contemplated that Aimco will contribute approximately \$450,000.00 to the cost of the design, based on the Estimated Design Cost, subject to change based on the Total Design Cost.

(c) Payment Administration. The City will review and approve Design Consultant pay requests and supporting documentation as provided in the Design Contract and pay Design Consultant from the funds advanced to the City as described in Section 2 below. Developer will not be responsible for the review of the pay requests and other documentation submitted for any payments by Design Consultant. The Parties shall be provided pay requests and supporting documents should they request to review them.

2. Initial Payment of Redesign Costs. Developer shall fund one hundred percent (100%) of the Total Design Cost under the Design Contract. Developer shall provide the City with one half of the Estimated Design Cost (\$900,000.00) upon the date of the Design Contract and the balance of the Estimated Design Cost within six (6) months of the date of the Design Contract. Developer shall provide the City with the difference between the Estimated Design Cost and the Total Design Cost within thirty (30) days of request from the City. The City expressly agrees that the funds provided from Developer are for the limited purpose of funding actual Design Costs. The City shall maintain or cause to be maintained full and complete records of actual Design incurred and expended for actual Design Costs in accordance with generally accepted accounting principles.

3. Reimbursement Payment. The City, Authority, Districts, and University will reimburse Developer only up to the Eligible Reimbursement Amount. All Parties shall confirm in writing the final amount owed to Developer for reimbursement.

(a) Contribution. The City, Authority, Districts, and University will each contribute to the Eligible Reimbursement Amount. Based on the Estimated Design Cost, the estimated reimbursement contributions are as follows:

The City:	\$300,000.00
The Authority:	\$300,000.00
The Districts:	\$450,000.00
The University:	\$300,000.00

Estimated Total: \$1,350,000.00

Any difference between the Total Design Cost and the Estimated Design Cost shall be shared equally between all Parties.

(b) Timing. Reimbursement payments shall be due and payable within 30 days of the date of the City's approved and signed set of the Final Plans, which will occur within two years of the Effective Date of this Agreement. The University procurement policies may require additional time up to 45 days to secure payment and appropriate lead time will be required and documentation will be required to secure those funds per State and University procurement rules.

(c) Interest. No interest will accrue between the time Developer advances the funds for the redesign work to the time of reimbursement.

4. Scope. By entering into this agreement to pay a portion of the design costs, none of the Parties are agreeing to fund the construction and/or any infrastructure development of Montview Blvd.

5. Term. The term of this Agreement shall cease upon completion of the reimbursement. If the redesign work under the Design Contract has not commenced within one (1) year of the Effective Date, the Parties may revisit the terms of this Agreement.

6. Commencement. It is anticipated that the redesign work by Design Consultant will begin within 30 days of the City's approval of the Design Contract.

7. Non-Appropriation. The Parties acknowledge and understand that any financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being budgeted and appropriated by the City's governing body. Accordingly, should the City's governing body exercise its right not to appropriate funds for any future fiscal year sufficient for the continued performance by the City of its obligations under this Agreement, the City's obligations under this Agreement shall terminate at the close of the fiscal year for which funds were last appropriated without penalty or recourse to the City.

8. Relationship of Parties. Nothing contained herein will be construed or interpreted as (a) creating a joint venture, partnership, or other similar relationship between Developer or the Parties; (b) entitling any person or entity not a Party to this Agreement to any of the benefits of this Agreement; (c) appointing a Party to this Agreement as agent of the others or authorizing a party to this Agreement to make contracts in the name of the others; or (d) creating, establishing or imposing a fiduciary duty owned by one Party to any other hereunder or in any way creating a fiduciary relationship between the Parties.

9. Notices. Any notice provided for or required to be given hereunder will be in writing and will be deemed given (a) the date personally delivered or transmitted by facsimile or email transmission to the recipient of such notice at the facsimile numbers or email addresses hereinafter identified; or (b) three (3) days after the date deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the recipient of such notice at such place as a

Party may designate in writing for such purpose or, in the absence of such designation. Notices shall be provided as follows:

If to City: Deputy Director of Public Works  
City of Aurora  
15151 East Alameda Parkway, Suite 3200  
Aurora, CO 80012

If to Developer: AIMCO Properties, LLC  
Attention: Wes Powell  
6700A Rockledge Drive, Suite 110  
Bethesda, MD 20817  
Email: [Wesley.Powell@aimco.com](mailto:Wesley.Powell@aimco.com)

With copy to: AIMCO  
4582 South Ulster Street, Ste 1700  
Denver, Colorado 80237  
Attn: Ken Diamond, Esq.  
Email: [ken.diamond@aimco.com](mailto:ken.diamond@aimco.com)

10. Captions. Captions to paragraphs are for convenience and reference purposes only and will not affect the construction of the meaning of the terms and provisions of this Agreement.

11. Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the Parties hereto, their representatives, successors, and assigns. This Agreement is intended by the Parties hereto to be of use and benefit of the Parties and their respective successors and/or assigns and no person or entity not a party to this Agreement will be authorized or entitled to rely on the benefits of this Agreement or seek to enforce any of the terms, provisions or covenants contained herein as a third-party beneficiary hereof.

12. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Colorado.

13. Counterparts. This Agreement may be executed in one or more counterparts, each of which will constitute an original agreement, but all of which together will constitute a single agreement. A facsimile transmitted copy of this Agreement executed by one of the Parties hereto will be accepted as an originally executed copy of this Agreement.

*[end of document text, signature pages follow]*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.











**CITY OF AURORA, COLORADO**

\_\_\_\_\_  
Jim Twombly, City Manager

\_\_\_\_\_  
Date

APPROVED AS TO FORM FOR AURORA:

\_\_\_\_\_  
Brian J. Rulla  
Assistant City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
ACS #

STATE OF COLORADO    )  
  )  ss  
COUNTY OF ARAPAHOE )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Jim Twombly, City Manager of the City of Aurora, Colorado.

Witness my hand and official seal. \_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

(SEAL)



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** 2020 FALL SUPPLEMENTAL: FOR AN ORDINANCE OF THE CITY OF AURORA, COLORADO APPROPRIATING SUMS OF MONEY IN ADDITION TO THOSE APPROPRIATED IN ORDINANCE NOS. 2019-82, AND 2020-44 FOR THE 2020 FISCAL YEAR

**Item Initiator:** Kerstin Claspell, Lead Financial Analyst

**Staff Source:** Kerstin Claspell, Lead Financial Analyst

**Legal Source:** Hanosky Hernandez Perez, Assistant City Attorney

**Outside Speaker:** N/A

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

**COUNCIL MEETING DATES:**

**Study Session:** 11/16/2020

**Regular Meeting:** 12/7/2020

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

- |  |  |
|--|--|
| <input type="checkbox"/> Approve Item as proposed at Study Session                   | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item as proposed at Regular Meeting                 | <input type="checkbox"/> Information Only                            |

**PREVIOUS ACTIONS OR REVIEWS:**

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 10/27/2020

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

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

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**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 presented to the Management and Finance Policy Committee on October 27, 2020. The Committee recommended this item be moved forward to study session. Minutes attached.

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

One of the first steps of the annual budget process is to prepare an updated projection of current year requirements. During this process revenue adjustments, potential savings, as well as new and additional requirements are identified and serve as the basis for the majority of supplemental appropriation requests.

The 2020 Fall Supplemental Appropriation Request includes operating expenditures and capital projects that require appropriation adjustments for 2020 in the funds listed in Attachment A. Nearly all of the requests were identified and included in the 2020 projection in the 2021 Proposed Budget document. Alternatively, several items that were identified and projected are not included in this fall process. Those items that are subject to change will be included in the 2021 spring supplemental as needed.

The vast majority of requests included in this supplemental process have been previously reviewed by Council or Council Committee. Council review includes items included in the 2020 projection and reviewed as part of the 2021 Proposed Budget as well as items reviewed at either a Council Committee meeting or City Council meeting.

Many of the 2020 fall supplemental requests are associated with COVID-19-related balancing efforts. Budget reductions in the Capital Projects Fund will increase available funds and reduce the General Fund transfer to the Capital Projects Fund, helping to balance the General Fund. Uncertainty in the economy related to COVID-19 and future revenues has led to a conservative spending approach in other funds as well. Completed capital projects, and those that can be deferred, reduced, or eliminated were identified. Related budget reductions were included in the 2020 projection as part of the 2021 Proposed Budget. These items are indicated by including "2020 Balancing" in the title. Technical items are typically reallocations or zero-dollar amendments with appropriation offset by revenue, and accounting or other adjustments. These items are indicated by including "technical" in the title and may or may not have been reviewed by Council. Council review details are included in the narrative for each supplemental request.

The attachments for this agenda item reflect summary and detail information regarding the requested appropriation changes for each fund and department. Transfers result in a move of funding from one fund to another. The details of these appropriation amendments are found in:

- Attachment A: 2020 Appropriation Summaries by Fund; and
- Attachment B: 2020 Appropriation Detail by Fund.

The following discussion will identify and focus on significant changes included for this budget year, rather than the list in its entirety. Please see attachment B for details on each request.

2020 Supplemental Amendment Requests

Appropriation requests related to 2020 balancing total **\$13.9 million** across various funds and include completed, deferred, reduced, and eliminated projects:

- Capital Projects Fund: Reduction (lapse) of **\$4.9 million** for various projects to include the completion of Fire Station 15, Median Development in PROS, and ADA Assessment and Light Rail Restrooms in Public Works.
- Open Space Fund: Reduction (lapse) of **\$5.0 million** for various PROS projects to include Triple Creek Trail, Central Community Park, and Signature Park.
- Conservation Trust Fund: Reduction (lapse) of **\$3.1 million** for various PROS projects to include Central Community Park, Olympic Park Infrastructure, and Aurora Reservoir Gazebo.
- E-911 Fund: Reduction (lapse) of **\$885,000** for the deferred Public Safety Communications Console Replacement project.

Other significant supplemental items include:

- The appropriation of capital grant awards totaling **\$1.9 million** in the Gifts and Grants Fund for various PROS projects, including Parklane Pool renovation.
- The appropriation of one-time CDBG COVID-19 grant receipts of **\$1.7 million** in the Community Development Fund to help prevent, prepare for, and respond to the coronavirus.
- The transfer of **\$1.5 million** from the General Fund to the Capital Projects Fund and the appropriation of **\$1.7 million** in the Capital Projects Fund for the I-70/Picadilly Interchange project.
- The appropriation of **\$1.2 million** in the Capital Projects Fund for the design of two Southeast Aurora Regional Improvement Authority (SARIA) projects: Gartrell Bridge and Aurora Parkway Bridge. This phase is fully funded by SARIA.
- The appropriation of cash receipts totaling **\$889,400** in the Capital Projects Fund for street maintenance equipment in accordance with the Fitzsimons Redevelopment Authority IGA.

Detail for all supplemental items can be found in Attachment B.

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### QUESTIONS FOR COUNCIL

Does Council wish to send this item forward for formal approval?

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### LEGAL COMMENTS

The City Council may make appropriations in addition to those contained in the budget upon recommendation of the City Manager, provided that the Finance Director certifies there are sufficient funds available to meet such appropriations. City Charter §11-16. (Hernandez)

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### PUBLIC FINANCIAL IMPACT

YES       NO

**If yes, explain:** This supplemental budget request will make adjustments to the 2020 budget.

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### PRIVATE FISCAL IMPACT

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** N/A

**2020 Fall Amendment Ordinance  
Appropriation Summaries by Fund**

**2020 Amendment Summary  
Attachment A**



**Attachment A**  
**2020 Fall Amendment Ordinance**  
**Appropriation Summary by Fund and Department**  
**2020 Amendment Summary**

<b>Fund/Department</b>	<b>FTE Request</b>	<b>Net Total Appropriation</b>	<b>Revenue <sup>1</sup> Offset</b>	<b>Inc. / (Dec.) <sup>2</sup> in Fund Bal.</b>
<b>General Fund Total</b>	<b>0.00</b>	<b>1,509,835</b>	<b>0</b>	<b>-1,509,835</b>
Non-Departmental	0.00	1,509,835	0	-1,509,835
<b>Capital Projects Fund Total</b>	<b>0.00</b>	<b>-741,827</b>	<b>3,263,492</b>	<b>4,005,319</b>
Fire	0.00	-451,900	0	451,900
Information Technology	0.00	-319,378	0	319,378
Non-Departmental	0.00	12,584	1,489,044	1,476,460
Parks, Recreation & Open Space	0.00	-1,094,023	0	1,094,023
Public Works	0.00	1,110,890	1,774,448	663,558
<b>Community Development Fund Total</b>	<b>0.00</b>	<b>2,092,860</b>	<b>2,092,860</b>	<b>0</b>
Housing and Community Services	0.00	2,092,860	2,092,860	0
<b>Conservation Trust Fund Total</b>	<b>0.00</b>	<b>-3,141,113</b>	<b>0</b>	<b>3,141,113</b>
Parks, Recreation & Open Space	0.00	-3,141,113	0	3,141,113
<b>Designated Revenues Fund Total</b>	<b>0.00</b>	<b>6,380</b>	<b>0</b>	<b>-6,380</b>
Public Works	0.00	6,380	0	-6,380
<b>Enhanced E-911 Fund Total</b>	<b>0.00</b>	<b>-885,000</b>	<b>0</b>	<b>885,000</b>
Information Technology	0.00	-885,000	0	885,000
<b>Gifts &amp; Grants Fund Total</b>	<b>0.00</b>	<b>1,945,000</b>	<b>1,945,000</b>	<b>0</b>
Parks, Recreation & Open Space	0.00	1,945,000	1,945,000	0
<b>Open Space Fund Total</b>	<b>0.00</b>	<b>-4,951,961</b>	<b>0</b>	<b>4,951,961</b>
Parks, Recreation & Open Space	0.00	-4,951,961	0	4,951,961
<b>Total</b>	<b>0.00</b>	<b>(\$4,165,826)</b>	<b>\$7,301,352</b>	<b>\$11,467,178</b>

1 The revenue offset includes new revenue and revenue from transfers.

2 Inc./Dec in Fund Balance = New Revenue minus Net Appropriation.

**2020 Fall Amendment Ordinance  
Appropriation Detail by Fund**

**2020 Amendment Detail  
Attachment B**

**Attachment B**  
**2020 Fall Amendment Ordinance**  
**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Fire**

**2020 Balancing - Lapse of Fire Station 15 Funding**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Capital Projects Fund	0.00	0	-451,900	-451,900	0	451,900
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$451,900)</b>	<b>(\$451,900)</b>	<b>\$0</b>	<b>\$451,900</b>

Fire Station 15 was replaced in May 2018 and the project came in under budget. This supplemental lapses the remaining capital budget for this project for 2020 balancing. This supplemental was included as part of the 2020 projection shown in the 2021 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Fire	Capital Projects Fund	-451,900	0	Lapse of Appropriation

**Attachment B**  
**2020 Fall Amendment Ordinance**  
**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Housing and Community Services**

**Technical: 2020 Community Development Block Grant (CDBG) Award Reconciliation**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Community Development Fund	0.00	86,378	0	86,378	86,378	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$86,378</b>	<b>\$0</b>	<b>\$86,378</b>	<b>\$86,378</b>	<b>\$0</b>

This technical adjustment will align the budget for the Community Development Block Grant to the 2020 actual award amount. The final 2020 CDBG award received from HUD was 3.0 percent, or \$86,378, higher than anticipated.

This supplemental was included as part of the 2020 projection shown in the 2021 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Housing and Community Services	Community Development Fund	0	86,378	New Appropriation

**Technical: 2020 Community Development Block Grant (CDBG) COVID-19 Grant**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Community Development Fund	0.00	1,729,114	0	1,729,114	1,729,114	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$1,729,114</b>	<b>\$0</b>	<b>\$1,729,114</b>	<b>\$1,729,114</b>	<b>\$0</b>

In July 2020, the City of Aurora received a one-time CDBG COVID-19 grant in the amount of \$1,729,114 to help prevent, prepare for and respond to the coronavirus. This technical supplemental will appropriate those funds to allow for additional expenditures in carrying out the grant.

This supplemental was included as part of the 2020 projection shown in the 2021 Proposed Budget.

The city will be receiving an additional CDBG COVID-19 grant in the amount of \$1,752,084 in the coming months. The appropriation of those funds will be requested in a spring supplemental when a signed grant agreement has been received.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Housing and Community Services	Community Development Fund	0	1,729,114	New Appropriation

**Attachment B**  
**2020 Fall Amendment Ordinance**  
**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Housing and Community Services**

**Technical: 2020 HOME Investment Partnership (HOME) Grant Award Reconciliation**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Community Development Fund	0.00	256,577	0	256,577	256,577	0
<b>Total Appropriation Impact</b>	0.00	<b>\$256,577</b>	<b>\$0</b>	<b>\$256,577</b>	<b>\$256,577</b>	<b>\$0</b>

This technical adjustment will align the budget for the Home Investment Partnership (HOME) grant to the 2020 actual award amount plus the actual year-to-date program income. The final 2020 HOME award received from HUD was 8.2 percent, or \$92,402, higher than anticipated. Actual program income received year-to-date through August is \$164,175 more than budgeted due to a stronger than anticipated year of loan repayments.

This supplemental was included as part of the 2020 projection shown in the 2021 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Housing and Community Services	Community Development Fund	0	256,577	New Appropriation

**Technical: Increase HOME Match for Community Development Funds Based on Final 2020 Grant Amount**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Community Development Fund	0.00	20,791	0	20,791	20,791	0
General Fund	0.00	20,791	0	20,791	0	-20,791
<b>Total Appropriation Impact</b>	0.00	<b>\$41,582</b>	<b>\$0</b>	<b>\$41,582</b>	<b>\$20,791</b>	<b>(\$20,791)</b>

This technical adjustment will align the General Fund HOME match to the 2020 actual award amount. The city is required to provide a match to the HOME grant equal to 22.5 percent of the annual award. The final 2020 HOME award received from HUD was 8.2 percent, or \$92,402 higher than anticipated, increasing the General Fund match by \$20,791.

This supplemental was included as part of the 2020 projection shown in the 2021 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Non-Departmental	General Fund	0	20,791	Operating Transfer Out
Housing and Community Services	Community Development Fund	0	20,791	New Appropriation

**Attachment B**  
**2020 Fall Amendment Ordinance**  
**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Information Technology**

**2020 Balancing: Defer Public Safety Communications Console Replacement**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Enhanced E-911 Fund	0.00	0	-885,000	-885,000	0	885,000
Total Appropriation Impact	0.00	\$0	(\$885,000)	(\$885,000)	\$0	\$885,000

This supplemental lapses the capital appropriation for the Public Safety Communications Center console replacement. The project has been delayed until 2021 to assist in balancing the E-911 Fund in 2020. This supplemental was included as part of the 2020 projection shown in the 2021 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Information Technology	Enhanced E-911 Fund	-885,000	0	Lapse of Appropriation

**2020 Balancing: Lapse of City of Aurora Public Safety Training Center (CAPSTC) Track Shelter**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	-280,000	-280,000	0	280,000
Total Appropriation Impact	0.00	\$0	(\$280,000)	(\$280,000)	\$0	\$280,000

This supplemental will lapse funds for the deferred CAPSTC track shelter project as part of the 2020 balancing efforts. This supplemental was included as part of the 2020 projection shown in the 2021 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Information Technology	Capital Projects Fund	-280,000	0	Lapse of Appropriation

**2020 Balancing: Lapse of Learning Management System Project**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	-39,378	-39,378	0	39,378
Total Appropriation Impact	0.00	\$0	(\$39,378)	(\$39,378)	\$0	\$39,378

This supplemental will lapse the remaining capital project appropriation for the implementation of the city's learning management system for 2020 balancing. This project has reached completion. This supplemental was included as part of the 2020 projection shown in the 2021 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Information Technology	Capital Projects Fund	-39,378	0	Lapse of Appropriation

**Attachment B**  
**2020 Fall Amendment Ordinance**  
**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Non-Departmental**

**2020 Balancing - Lapse of Art in Public Places (AIPP) Funding**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Capital Projects Fund	0.00	0	-300,000	-300,000	0	300,000
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$300,000)</b>	<b>(\$300,000)</b>	<b>\$0</b>	<b>\$300,000</b>

This supplemental lapses the Metro Center Tunnel AIPP project from the 2020 budget for 2020 balancing. This was noted as such in the 2020 projection of the 2021 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Non-Departmental	Capital Projects Fund	-300,000	0	Lapse of Appropriation

**2020 Balancing - Lapse of Completed Dayton Street Project**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Capital Projects Fund	0.00	0	-75,000	-75,000	0	75,000
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$75,000)</b>	<b>(\$75,000)</b>	<b>\$0</b>	<b>\$75,000</b>

This supplemental lapses the remaining budget of the completed Dayton Street Facility Modifications project for 2020 balancing. This supplemental was noted as such in the 2020 projection found in the 2021 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Non-Departmental	Capital Projects Fund	-75,000	0	Lapse of Appropriation

**Attachment B**  
**2020 Fall Amendment Ordinance**  
**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Non-Departmental**

**Highway 30 Landfill Remediation**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Capital Projects Fund	0.00	0	387,584	387,584	0	-387,584
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>\$387,584</b>	<b>\$387,584</b>	<b>\$0</b>	<b>(\$387,584)</b>

This supplemental will address the gap in Highway 30 Landfill Remediation project funding. This was noted in the 2020 projection as part of the 2021 Proposed Budget.

The closed Highway 30 Landfill operated from 1969-1975. It was closed in accordance with the regulations at the time. In 2016, CDPHE issued a compliance advisory to the city for soil gas and groundwater contamination. Based on preliminary results of the investigation indicating significant levels of some contaminants, CDPHE and the city entered into an Order on Consent mandating further investigation and potential remediation. In 2016, staff estimated that the investigation and remediation would cost approximately \$600,000. Methane contamination detected in the first quarter of 2019 created potentially unsafe conditions on adjacent property. A methane mitigation system was installed under an emergency purchase order in the summer of 2019 resulting in unforeseen additional costs to the project.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Non-Departmental	Capital Projects Fund	387,584	0	New Appropriation



**Attachment B**  
**2020 Fall Amendment Ordinance**  
**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Parks, Recreation & Open Space**

**2020 Balancing: Completed Projects - Capital Projects Fund**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	-457,989	-457,989	0	457,989
Total Appropriation Impact	0.00	\$0	(\$457,989)	(\$457,989)	\$0	\$457,989

This supplemental lapses budget in four completed projects in the Capital Projects Fund for 2020 balancing. These reductions were included as part of the 2020 projection shown in the 2021 Proposed Budget:

- \* Buckley Buffer - \$96,500
- \* City Center Park - \$7,900
- \* Morrison Nature Center - \$3,600
- \* Triple Creek Trail Match - \$350,000

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Parks, Recreation & Open Space	Capital Projects Fund	-457,989	0	Lapse of Appropriation

**2020 Balancing: Completed Projects - Conservation Trust Fund**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Conservation Trust Fund	0.00	0	-554,937	-554,937	0	554,937
Total Appropriation Impact	0.00	\$0	(\$554,937)	(\$554,937)	\$0	\$554,937

This supplemental lapses budget in four completed capital projects in the Conservation Trust Fund for 2020 balancing. These reductions were included as part of the 2020 projection shown in the 2021 Proposed Budget:

- \* Acquisitions - \$231,100
- \* Moorhead Recreation Center Improvements - \$319,700
- \* Sand Creek Trail - \$2,800
- \* Sand Creek Park - \$1,400

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Parks, Recreation & Open Space	Conservation Trust Fund	-554,937	0	Lapse of Appropriation

**Attachment B**  
**2020 Fall Amendment Ordinance**  
**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Parks, Recreation & Open Space**

**2020 Balancing: Completed Projects - Open Space Fund**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Open Space Fund	0.00	0	-260,622	-260,622	0	260,622
Total Appropriation Impact	0.00	\$0	(\$260,622)	(\$260,622)	\$0	\$260,622

This supplemental lapses budget in four completed capital projects in the Open Space Fund for 2020 balancing. These reductions were included as part of the 2020 projection shown in the 2021 Proposed Budget:

- \* Acquisitions - \$200,000
- \* Court Replacement - \$16,800
- \* Delaney Farm - \$43,000
- \* Red Tailed Hawk Park - \$800

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Parks, Recreation & Open Space	Open Space Fund	-260,622	0	Lapse of Appropriation

**2020 Balancing: Deferred Projects - Capital Projects Fund**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	-38,034	-38,034	0	38,034
Total Appropriation Impact	0.00	\$0	(\$38,034)	(\$38,034)	\$0	\$38,034

This supplemental lapses budget for the deferred Aurora Reservoir Gazebo project in the Capital Projects Fund for 2020 balancing. The deferral was included as part of the 2020 projection shown in the 2021 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Parks, Recreation & Open Space	Capital Projects Fund	-38,034	0	Lapse of Appropriation

**Attachment B**  
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**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Parks, Recreation & Open Space**

**2020 Balancing: Deferred Projects - Open Space Fund**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Open Space Fund	0.00	0	-3,540,812	-3,540,812	0	3,540,812
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$3,540,812)</b>	<b>(\$3,540,812)</b>	<b>\$0</b>	<b>\$3,540,812</b>

This supplemental lapses budget for seven deferred capital projects in the Open Space Fund for 2020 balancing. These deferrals were included as part of the 2020 projection shown in the 2021 Proposed Budget:

- \* Central Community Park - \$552,800
- \* Court Replacement - \$200,000
- \* Havana Park - \$300,000
- \* High Line Canal - \$309,100
- \* Kingsborough Park - \$300,000
- \* Signature Park - \$502,000
- \* Triple Creek Trail - \$1.4 million

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Parks, Recreation & Open Space	Open Space Fund	-3,540,812	0	Lapse of Appropriation

**2020 Balancing: Deferred Projects -Conservation Trust Fund**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Conservation Trust Fund	0.00	0	-1,280,000	-1,280,000	0	1,280,000
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$1,280,000)</b>	<b>(\$1,280,000)</b>	<b>\$0</b>	<b>\$1,280,000</b>

This supplemental lapses budget for three deferred capital projects in the Conservation Trust Fund for 2020 balancing. These deferrals were included as part of the 2020 projection shown in the 2021 Proposed Budget:

- \* Aurora Reservoir Gazebo - \$380,000
- \* Central Community Park - \$700,000
- \* Playground Renovation - \$200,000

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Parks, Recreation & Open Space	Conservation Trust Fund	-1,280,000	0	Lapse of Appropriation

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**Department \ Description - Reason for Appropriation**

**Parks, Recreation & Open Space**

**2020 Balancing: Eliminated Projects - Capital Projects Fund**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Capital Projects Fund	0.00	0	-90,000	-90,000	0	90,000
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$90,000)</b>	<b>(\$90,000)</b>	<b>\$0</b>	<b>\$90,000</b>

This supplemental lapses the Beck Gym Floor Replacement project, a low priority project cut for 2020 balancing. This supplemental was reflected in the 2020 projection noted in the 2021 Proposed Budget.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Parks, Recreation & Open Space	Capital Projects Fund	-90,000	0	Lapse of Appropriation

**2020 Balancing: Reduced Projects - Capital Projects Fund**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Capital Projects Fund	0.00	0	-508,000	-508,000	0	508,000
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$508,000)</b>	<b>(\$508,000)</b>	<b>\$0</b>	<b>\$508,000</b>

This supplemental lapses budget for the reduced Median Development and Westerly Creek projects in the Capital Projects Fund for 2020 balancing. These reductions were included as part of the 2020 projections shown in the 2021 Proposed Budget:

- \* Median Development - \$370,000
- \* Westerly Creek - \$138,000

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Parks, Recreation & Open Space	Capital Projects Fund	-508,000	0	Lapse of Appropriation

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**2020 Fall Amendment Ordinance**  
**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Parks, Recreation & Open Space**

**2020 Balancing: Reduced Projects - Conservation Trust Fund**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Conservation Trust Fund	0.00	0	-1,306,176	-1,306,176	0	1,306,176
Total Appropriation Impact	0.00	\$0	(\$1,306,176)	(\$1,306,176)	\$0	\$1,306,176

This supplemental lapses budget for five reduced capital projects in the Conservation Trust Fund for 2020 balancing. Sufficient budget remains to address safety, maintenance, and ADA needs. These reductions were included as part of the 2020 projections shown in the 2021 Proposed Budget:

- \* Construction Parks Small Projects - \$346,900
- \* Olympic Park Infrastructure - \$570,000
- \* Park Signage - \$100,000
- \* Playground Resurfacing - \$50,000
- \* Recreation/Aquatics Infrastructure - \$239,300

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Parks, Recreation & Open Space	Conservation Trust Fund	-1,306,176	0	Lapse of Appropriation

**2020 Balancing: Reduced Projects - Open Space Fund**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Open Space Fund	0.00	0	-1,150,527	-1,150,527	0	1,150,527
Total Appropriation Impact	0.00	\$0	(\$1,150,527)	(\$1,150,527)	\$0	\$1,150,527

This supplemental lapses budget for eleven reduced capital projects in the Open Space Fund for 2020 balancing. Sufficient budget remains to address safety, maintenance, and ADA needs. These reductions were included as part of the 2020 projections shown in the 2021 Proposed Budget:

- Adams County:
- \* Infrastructure Open Spaces Small Projects - \$48,700
  - \* Infrastructure Parks Small Projects - \$25,000
  - \* Open Space Restoration - \$40,900
  - \* Park Signage - \$40,000

- Arapahoe County:
- \* Athletic Field Renovation - \$76,700
  - \* Construction Parks Small Projects - \$143,800
  - \* Infrastructure Parks Small Projects - \$230,600
  - \* Open Space Restoration - \$156,100
  - \* Park Signage - \$88,700
  - \* Park Tree Planting - \$20,000
  - \* Playground Renovation - \$280,000

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Parks, Recreation & Open Space	Open Space Fund	-1,150,527	0	Lapse of Appropriation

**Attachment B**  
**2020 Fall Amendment Ordinance**  
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**Department \ Description - Reason for Appropriation**

**Parks, Recreation & Open Space**

**Technical: Grant-Funded Capital Projects**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Gifts & Grants Fund	0.00	0	1,945,000	1,945,000	1,945,000	0
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>\$1,945,000</b>	<b>\$1,945,000</b>	<b>\$1,945,000</b>	<b>\$0</b>

This technical supplemental will appropriate grant funding from Arapahoe County Open Space and Adams County Open Space for four capital projects. This supplemental was not known during preparation of the 2021 Proposed Budget and is, therefore, not included in the 2020 projection.

\* Parklane Pool AdCo (\$775,000):  
Renovation of aging pool house mechanical system and concrete decking, and addition of a splash pad.

\* Sand Creek Shelter AdCo (\$170,000):  
Addition of a large picnic shelter at Sand Creek Park.

\* Canterbury Park ArCo (\$500,000):  
Renovation of existing park to include perimeter walks, new playground, and conversion of some turf to native grass.

\* Plains Conservation Center ArCo (\$500,000):  
Improvements to the Prairie Meander and Prairie Wetland laboratory.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Parks, Recreation & Open Space	Gifts & Grants Fund	1,945,000	0	New Appropriation

**Attachment B**  
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**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Public Works**

**2020 Balancing Public Works**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Capital Projects Fund	0.00	0	-2,666,692	-2,666,692	0	2,666,692
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$2,666,692)</b>	<b>(\$2,666,692)</b>	<b>\$0</b>	<b>\$2,666,692</b>

This supplemental will lapse 2020 funds for deferred, completed and/or low priority projects as part of the 2020 balancing efforts. These reductions were included as part of the 2020 projection shown in the 2021 Proposed Budget:

- \* ADA Assessment Project- \$1.0 million (\$500,000 deferred, \$500,000 cut)
- \* FasTrack Betterments - \$248,400 (completed)
- \* Fence Design - \$130,700 (eliminated/cut)
- \* Geotech Testing Contract \$9,900 (completed)
- \* Light Rail Restrooms - \$707,700 (eliminated/cut)
- \* Quincy/Plains and Southlands/Orchard Signal- \$118,200 (completed)
- \* Signals Insurance Recoveries - \$199,200 (eliminated/cut)
- \* Streets Condition Testing - \$30,000 (deferred)
- \* Traffic Studies - \$185,000 (eliminated/cut)
- \* Westerly Creek Lighting - \$37,500 (completed)

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Public Works	Capital Projects Fund	-2,666,692	0	Lapse of Appropriation

**Attachment B**  
**2020 Fall Amendment Ordinance**  
**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Public Works**

**Appropriate Portion of I70/Picadilly Match**

<b>Fund Impact</b>	<b>FTE</b>	<b>Operating Approp.</b>	<b>CIP Approp.</b>	<b>Approp. Total</b>	<b>Revenue Offset</b>	<b>Inc. / (Dec.) in Fund Bal.</b>
Capital Projects Fund	0.00	0	1,688,134	1,688,134	1,489,044	-199,090
General Fund	0.00	1,489,044	0	1,489,044	0	-1,489,044
<b>Total Appropriation Impact</b>	<b>0.00</b>	<b>\$1,489,044</b>	<b>\$1,688,134</b>	<b>\$3,177,178</b>	<b>\$1,489,044</b>	<b>(\$1,688,134)</b>

Aurora received Federal Funds for the I-70/Picadilly interchange Project. The city match is \$16 million and will come from funds available in the General Fund. This supplemental will transfer and appropriate a portion of the match, in the amount of \$1.5 million, for the eligible expense of Program Management Consulting Services to assist and guide City Staff in the development of the solicitation documents, establishment of document management systems, and evaluation of response. The remaining match will remain set aside in the General Fund. Additionally, funding will be lapsed for the following completed projects and reallocated to the I-70/Picadilly Interchange project for completion of the 30 percent design:

- \*Montview Overlay (\$150,000)
- \*Courts/Detention Center Roof (\$240,100)
- \*Alameda Ave/I225 Turn Lane (\$37,900)
- \*Heritage Eagle Bend Improvements (\$26,800)
- \*Priority Projects Study/Appraisals (\$260,000) as the need for the anticipated studies and appraisals did not come to fruition.
- \*\$199,100 in CPF funds available

The lapsed projects and thirty-percent design were included as part of the 2020 projection shown in the 2021 Proposed Budget; however, the exact cost of the Program management contract was not known at the time of budget preparation and was not included in the projection. The award for the Program Manager was reviewed at the August 3, 2020 Regular Council Meeting.

Total Appropriation Impact (Does not include offset impact)

<b>Department</b>	<b>Fund</b>	<b>Capital</b>	<b>Operating</b>	<b>Type</b>
Public Works	Capital Projects Fund	-739,910	0	Lapse of Appropriation
Non-Departmental	General Fund	0	1,489,044	Operating Transfer Out
Public Works	Capital Projects Fund	2,428,044	0	New Appropriation



## Attachment B

### 2020 Fall Amendment Ordinance

### 2020 Appropriation Amendment Requests

#### Department \ Description - Reason for Appropriation

#### Public Works

##### Technical: Appropriate Gartrell and Aurora Parkway SARIA Funding

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	1,200,000	1,200,000	1,200,000	0
Total Appropriation Impact	0.00	\$0	\$1,200,000	\$1,200,000	\$1,200,000	\$0

This supplemental will appropriate funding for the design of two Southeast Aurora Regional Improvement Authority (SARIA) Projects: Gartrell Bridge and Aurora Parkway Bridge.

The Gartrell project establishes \$500,000 in funding for the initial scoping and preliminary design of a bridge to support the full 4-lane roadway section with turn lanes and new traffic signals at the E470 ramps. Subsequent agreements for construction and maintenance would follow pending information gained during this first phase. This phase is fully funded by SARIA. The current estimate for the total project is approximately \$6,000,000.

The Aurora Parkway project appropriates \$700,000 in funding for initial scoping, planning and design of a bridge to support the full 4-lane roadway section as well as construction plans for the interim 2-lane section. This phase is fully funded by SARIA. The current estimate for the total project is approximately \$6,000,000.

Subsequent agreements for construction and maintenance of both projects will be forthcoming with information gained during this first phase. Both projects will be managed by city staff with coordination from the E470 and SARIA. This supplemental was not included as part of the 2020 projection shown in the 2021 Proposed Budget. The Intergovernmental Agreements (IGAs) for both projects were approved at the August 5, 2019 Regular City Council Meeting.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Public Works	Capital Projects Fund	1,200,000	0	New Appropriation

##### Technical: Appropriate Road Maintenance IGA Receipts

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	889,448	889,448	574,448	-315,000
Total Appropriation Impact	0.00	\$0	\$889,448	\$889,448	\$574,448	(\$315,000)

This supplemental will appropriate cash receipts received per the terms of road maintenance IGAs. As part of a street maintenance agreement with the Fitzsimons Redevelopment Authority (FRA), the authority is funding the purchase of street maintenance equipment for operations within their development. Funds are appropriated for a payment received for two tandem axle trucks outfitted for road maintenance and snow and ice control (\$574,400). Additionally as part of agreements with oil and gas operators, funds are escrowed for repair of heavy equipment routes used to access oil and gas sites. Funds are appropriated for repairs required along Monaghan (\$315,000). The equipment purchase was included as part of the 2020 projection shown in the 2021 Proposed Budget. The road repairs were not yet estimated at the time of budget preparation and were not included in the projection.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Public Works	Capital Projects Fund	889,448	0	New Appropriation

**Attachment B**  
**2020 Fall Amendment Ordinance**  
**2020 Appropriation Amendment Requests**

**Department \ Description - Reason for Appropriation**

**Public Works**

**Technical: Move Funding Between Street Maintenance Programs**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Capital Projects Fund	0.00	0	0	0	0	0
Total Appropriation Impact	0.00	\$0	\$0	\$0	\$0	\$0

This technical supplemental will move \$442,100 from the Street Overlay program to the Chip Seal program to reflect where this year's street maintenance work occurred. This supplemental was not known during preparation of the 2021 Proposed Budget and is, therefore, not shown in the 2020 projection.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Public Works	Capital Projects Fund	-442,099	0	Lapse of Appropriation
Public Works	Capital Projects Fund	442,099	0	New Appropriation

**Technical: Ptarmigan Wall Repairs**

Fund Impact	FTE	Operating Approp.	CIP Approp.	Approp. Total	Revenue Offset	Inc. / (Dec.) in Fund Bal.
Designated Revenues Fund	0.00	6,380	0	6,380	0	-6,380
Total Appropriation Impact	0.00	\$6,380	\$0	\$6,380	\$0	(\$6,380)

This technical supplemental will appropriate existing funding for repairs to Ptarmigan Park Fence for several panels that required replacement after being struck by a vehicle. Ptarmigan Park Fence is part of a Special Improvement District (SID) and annual assessments to property owners fund an Operating and Maintenance (O&M) account that was used to pay for these repairs. While a cash balance exists, this supplemental is necessary to provide appropriation of that cash. The city is pursuing the responsible party for reimbursement of these costs. This supplemental was not included as part of the 2020 projection shown in the 2021 Proposed Budget as costs were not known at the time.

Total Appropriation Impact (Does not include offset impact)

Department	Fund	Capital	Operating	Type
Public Works	Designated Revenues Fund	0	6,380	New Appropriation

**MANAGEMENT AND FINANCE POLICY COMMITTEE MEETING  
OCTOBER 27, 2020**

**2020 FALL SUPPLEMENTAL**

Summary of Issue and Discussion

Kerstin Claspell, Budget Office stated the 2020 Fall Supplemental Appropriation Request includes operating expenditures and capital projects that require appropriation adjustments for 2020 in the funds listed in Attachment A. Nearly all of the requests were identified and included in the 2020 projection in the 2021 Proposed Budget document. Alternatively, several items that were identified and projected are not included in this fall process. Those items that are subject to change will be included in the 2021 spring supplemental as needed.

The vast majority of requests included in this supplemental process have been previously reviewed by Council or Council Committee. Council review includes items included in the 2020 projection and reviewed as part of the 2021 Proposed Budget as well as items reviewed at either a Council Committee meeting or City Council meeting.

Many of the 2020 fall supplemental requests are associated with COVID-19-related balancing efforts. Budget reductions in the Capital Projects Fund will increase available funds and reduce the General Fund transfer to the Capital Projects Fund, helping to balance the General Fund. Uncertainty in the economy related to COVID-19 and future revenues has led to a conservative spending approach in other funds as well. Completed capital projects, and those that can be deferred, reduced, or eliminated were identified. Related budget reductions were included in the 2020 projection as part of the 2021 Proposed Budget. These items are indicated by including “2020 Balancing” in the title. Technical items are typically reallocations or zero-dollar amendments with appropriation offset by revenue, and accounting or other adjustments. These items are indicated by including “technical” in the title and may or may not have been reviewed by Council. Council review details are included in the narrative for each supplemental request.

The attachments for this agenda item reflect summary and detail information regarding the requested appropriation changes for each fund and department. Transfers result in a move of funding from one fund to another. The details of these appropriation amendments are found in:

- Attachment A: 2020 Appropriation Summaries by Fund; and
- Attachment B: 2020 Appropriation Detail by Fund.

The following discussion will identify and focus on significant changes included for this budget year, rather than the list in its entirety. Please see attachment B for details on each request.

2020 Supplemental Amendment Requests

Appropriation requests related to 2020 balancing total **\$13.9 million** across various funds and include completed, deferred, reduced, and eliminated projects:

- Capital Projects Fund: Reduction (lapse) of **\$4.9 million** for various projects to include the completion of Fire Station 15, Median Development in PROS, and ADA Assessment and Light Rail Restrooms in Public Works.
- Open Space Fund: Reduction (lapse) of **\$5.0 million** for various PROS projects to include Triple Creek Trail, Central Community Park, and Signature Park.
- Conservation Trust Fund: Reduction (lapse) of **\$3.1 million** for various PROS projects to include Central Community Park, Olympic Park Infrastructure, and Aurora Reservoir Gazebo.
- E-911 Fund: Reduction (lapse) of **\$885,000** for the deferred Public Safety Communications Console Replacement project.

Other significant supplemental items include:

- The appropriation of capital grant awards totaling **\$1.9 million** in the Gifts and Grants Fund for various PROS projects, including Parklane Pool renovation.
- The appropriation of one-time CDBG COVID-19 grant receipts of **\$1.7 million** in the Community Development Fund to help prevent, prepare for, and respond to the coronavirus.
- The transfer of **\$1.5 million** from the General Fund to the Capital Projects Fund and the appropriation of **\$1.7 million** in the Capital Projects Fund for the I-70/Picadilly Interchange project.
- The appropriation of **\$1.2 million** in the Capital Projects Fund for the design of two Southeast Aurora Regional Improvement Authority (SARIA) projects: Gartrell Bridge and Aurora Parkway Bridge. This phase is fully funded by SARIA.
- The appropriation of cash receipts totaling **\$889,400** in the Capital Projects Fund for street maintenance equipment in accordance with the Fitzsimons Redevelopment Authority IGA.

### Committee Discussion

Council Member Marcano: I have one question around the 911 fund, specifically the console replacement. How does that intersect with any kind of training requirements for new dispatch protocols? I'm thinking about the codes program for example in any kind of training we would need to direct calls if they're emergency in nature. Medical emergencies rather than the emergencies of kind that are the more traditional response like we have today.

K. Claspell: Scott is that something that you could answer.

S. Newman: Sure, I apologize CM Marcano I'm not sure if I understand the question. The consoles are the furniture where the personnel physically sit. It houses the monitors and screens so today they have a number of spare positions that are open at any given time on the floor because they have more positions than the fully staff level. So, presumably the additional staff would be able to.

occupy one of those spare spaces. But it shouldn't impact training because when we replace the consoles all around, then they would be replaced across the entire floor once. Does that make sense?

CM Marcano: That does. I think I just misunderstood what you meant by console. In this case, I thought it was kind of more like the display and more the type for the CAD actually. Not anything else, so just regard.

S. Newman: Just for your awareness as part of the CAD project. The monitors and the equipment used to access will be replaced next year as well. But that will come most likely either simultaneous or after the physical console replacements.

CM Gruber: So again, what we're primarily talking about is taking money that had not been spent and then transferring or taking that out of the budget and either deferring it or just holding it tight. The ordinance will then just outline that, and this will be the final ordinance required for the 2020 budget. Is that correct?

K. Claspell: That is correct.

The Committee recommended that this item is moved forward unanimously.

#### Outcome

The Committee recommended this item be moved forward to Study Session.

#### Follow-up Action

Staff will forward this item to the November 16, 2020 Study Session.

ORDINANCE NO. 2020- \_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY OF AURORA, COLORADO APPROPRIATING SUMS OF MONEY IN ADDITION TO THOSE APPROPRIATED IN ORDINANCE NOS. 2019-82, AND 2020-44 FOR THE 2020 FISCAL YEAR

WHEREAS, pursuant to Ordinance Nos. 2019-82 and 2020-44, the City Council (the “Council”) of the City of Aurora, Colorado (the “City”) has appropriated funds for the fiscal year beginning January 1, 2020, and ending December 31, 2020 (“Fiscal Year 2020”); and

WHEREAS, additional appropriations are needed to fund new expenditures for which revenues have recently become available; and

WHEREAS, the Director of Finance has certified that unappropriated reserves and additional funding sources and revenues are available for appropriation in the various funds; and

WHEREAS, the City Manager has recommended that the various appropriations enumerated in this Ordinance be made.

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

Section 1. Appropriations in addition to those made in Ordinance Nos. 2019-82 and 2020-44 shall be made for Fiscal Year 2020 for the purposes enumerated in Attachment B to the document entitled 2020 Fall Amendment Ordinance Appropriation Detail by Fund, such document being in the form as filed with the Office of the City Clerk and presented to the Council at this meeting (the “2020 Amendment Detail”), all as follows:

- a. From the unappropriated fund balance and/or additional revenues of the General Fund, the net amount of One Million, Five Hundred Nine Thousand, Eight Hundred Thirty-Five Dollars (\$1,509,835).
- b. From the unappropriated fund balance and/or additional revenues of the Community Development Fund, the net amount of Two Million, Ninety-Two Thousand, Eight Hundred Sixty Dollars (\$2,092,860).
- c. From the unappropriated fund balance and/or additional revenues of the Designated Revenues Fund, the net amount of Six Thousand, Three Hundred Eighty Dollars (\$6,380).
- d. From the unappropriated fund balance and/or additional revenues of the Gifts and Grants Fund, the net amount of One Million, Nine Hundred Forty-Five Thousand Dollars (\$1,945,000).

Section 2. Appropriations made in Ordinance Nos. 2019-82 and 2020-44 for Fiscal Year 2020 shall be adjusted for the reasons enumerated in the 2020 Amendment Detail, all as follows:

- a. From the Capital Projects Fund, the net amount of Seven Hundred Forty-One Thousand, Eight Hundred Twenty-Seven Dollars (\$741,827) shall be deemed lapsed.
- b. From the Conservation Trust Fund, the net amount of Three Million, One Hundred Forty-One Thousand, One Hundred Thirteen Dollars (\$3,141,113) shall be deemed lapsed.
- c. From the Enhanced E-911 Fund, the net amount of Eight Hundred Eighty-Five Thousand Dollars (\$885,000) shall be deemed lapsed.
- d. From the Open Space Fund, the net amount of Four Million, Nine Hundred Fifty-One Thousand, Nine Hundred Sixty-One Dollars (\$4,951,961) shall be deemed lapsed.

Section 3. Inter-fund and inter-departmental transfers shall be made as enumerated in the 2020 Amendment Detail for Fiscal Year 2020.

Section 4. The City Manager and the Budget Officer are hereby directed and authorized to expend so much of said funds as are necessary to pay for the projects and acquisitions referenced herein.

Section 5. 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 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.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

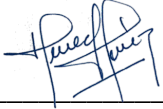
\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

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SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:



RLA

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HANOSKY HERNANDEZ, Assistant City Attorney





# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING VARIOUS SECTIONS OF CHAPTER 130 OF THE CITY CODE RELATED TO ECOMONIC NEXUS

**Item Initiator:** Trevor Vaughn, Manager of Tax and Licensing

**Staff Source:** Trevor Vaughn, Manager of Tax and Licensing

**Legal Source:** Hans Hernandez Perez, Assistant City Attorney

**Outside Speaker:**

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

### COUNCIL MEETING DATES:

**Study Session:** 11/16/2020

**Regular Meeting:** N/A

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

- |  |  |
|--|--|
| <input type="checkbox"/> Approve Item as proposed at Study Session                   | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item as proposed at Regular Meeting                 | <input type="checkbox"/> Information Only                            |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Management & Finance

**Policy Committee Date:** 9/22/2020

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

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

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**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 presented to the Business Advisory Board on September 21<sup>st</sup> and to the Management and Finance Committee on September 22<sup>nd</sup>. Both committees provided unanimous approval for the drafting of economic nexus language into the city's tax code. This language is taken from a model ordinance created by the tax simplification committee at the Colorado Municipal League.

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

This item is an ordinance to incorporate economic nexus into the city's tax code under the definition of engaged in business in the city. The ordinance will require businesses that have economic nexus with the city to collect city sales taxes on retail sales into the city. The ability to require businesses with only economic nexus to collect city sales taxes is permitted under the Wayfair v South Dakota Supreme Court Decision. That decision also indicated that simplification measures should take place in order to avoid placing an undue burden on interstate commerce. As a result, staff recommends delaying enforcement of the economic nexus provision of the ordinance until the city completes integration with the State's Sales and Use Tax Simplification System. This intergovernmental agreement for integration with that system is proposed to city council with a separate agenda item.

The revenue impacts from the adoption of economic nexus is very difficult to quantify but may result in more than \$1.0 million in additional revenue annually. Many large internet retailers have already voluntarily licensed to collect the city's sales tax, or they operate under through a marketplace facilitator that is already collecting the city's sales tax on their behalf.

The ordinance defines economic nexus to include any business that has economic nexus with the State of Colorado. This includes businesses with more than \$100,000 in annual taxable sales into the State. This definition is included in 39-26-102 of the Colorado Revised Statutes.

This item does not violate requirements of the TABOR amendment of the state's constitution in that the city is not enacting a new tax or tax policy change. The city is estimating additional revenue from compliance with the city's existing tax code by requiring retailers to collect the tax rather than relying on individual citizens to remit use tax on these transactions. The tax code did not explicitly exempt economic retailers from collecting the tax, instead court rulings indicated that the city code could not compel the retailers to collect the tax as it placed an undue burden on the out of state retailers. The Supreme Court reversed this opinion in Wayfair v South Dakota.

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**QUESTIONS FOR COUNCIL**

Does City Council approve of forwarding the ordinance for formal consideration?

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**LEGAL COMMENTS**

Governments may cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units only if such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the proper power to so approve. See Sec. 29-1-203(1) C.R.S. The City Council may, by resolution enter into inter, governmental agreements and also authorize amendments thereto with other governmental units or special districts for the joint use of buildings, equipment or facilities, and for furnishing or receiving commodities or services. See also City Charter Sec. 10-12. (Hernandez)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Substantial additional revenue that is difficult to quantify.

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** Improved compliance with the City's tax code.



15151 E. Alameda Parkway  
Aurora, Colorado 80012  
Ph: (303) 326-8690  
Fax: (303) 739-7136

September 21, 2020

Mayor & City Council  
City of Aurora  
15151 E. Alameda Pkwy., 5<sup>th</sup> Floor  
Aurora, CO 80012

**Subject: Proposal for the Colorado Sales and Use Tax Simplification System and Adoption of Economic Nexus**

Dear Mayor Coffman & Members of City Council:

The Business Advisory Board met on Monday, September 21, 2020 and heard Trevor Vaughn's presentation regarding the proposal for the Colorado Sales and Use Tax Simplification System and Adoption of Economic Nexus. After a lengthy discussion Board Members voted to unanimously support this proposal.

The Board feels that this proposal assures that e-commerce companies are playing fair in the City of Aurora. This in turn would level the playing field for all business owners that do business in our City.

The only concern expressed by numerous Board Members was regarding how businesses would comply with the Ordinance, the enforcement mechanism and outreach programs to educate business owners on how the system would work. The Board strongly recommends that the program be implemented with an outreach component, and a training/educational program from Tax and Licensing in collaboration with the SBDC and the BID, in order to reach to as many business owners as possible.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Garrett Walls".

Garrett Walls, Chairperson

GW/ev

CC: BAB Members  
Elena Vasconez, Economic and Business Development Supervisor  
Trevor Vaughn, Manager of Tax & Licensing



August 2020

To Whom It May Concern:

We are writing to share a major step forward in collaborative efforts to simplify the manner in which businesses collect and remit sales taxes to Colorado municipalities while ensuring the home rule municipalities continue to retain local control of taxation matters of purely local concern.

The Colorado Municipal League (CML) has engaged in significant efforts with the business community over the years to assist businesses by simplifying collection and remittance of local sales taxes levied by self-collecting home rule municipalities. These efforts began with creating standard definitions and promoting their adoption – but most recently, following the *South Dakota v. Wayfair, Inc.* Supreme Court decision, have focused on marketplace facilitators and economic nexus ordinances.

Taxing jurisdictions throughout the country have already moved forward with these ordinances, and the State of Colorado and all state-collected municipalities also began collecting from remote sellers last year. Now, the 71 self-collecting home rule municipalities are moving forward with adopting a model Marketplace Facilitator and Economic Nexus ordinance (model ordinance). The model ordinance was crafted by CML, municipal finance directors, municipal attorneys, and members of the business community.

In an effort to comply with the guidelines identified in the *Wayfair* decision, CML emphasizes that self-collecting home rule municipalities work with the Colorado Department of Revenue (DOR) and other home rule municipalities in Colorado to provide a single point of filing and remittance through DOR's Sales and Use Tax Simplification (SUTS) software. Municipalities are asked to join the SUTS portal prior to adopting the model. If the municipality chooses not to utilize the SUTS portal, CML urges that municipality to continue with requesting voluntary compliance for collection and remittance of local sales taxes rather than adopting the model ordinance.

To obtain a list of which municipalities have joined the SUTS and have adopted the model ordinance, including effective date(s), please visit CML's website at <https://www.cml.org/modelordinance>. There you can also find a copy of the model ordinance and additional information on this project.

To file online through this portal, please go to <https://colorado.munirevs.com>. Use of the SUTS software is optional for businesses. All of the self-collecting home rule municipalities in Colorado will continue to accept filings and payment directly to the municipality. Please contact the municipality in question if you need clarity on how to file local sales tax returns.

Finally, municipalities may require additional licensing for remote sellers. Please contact individual municipalities for further information on licensing, local ordinances, or with question on how to file returns. Questions about the model ordinance can be addressed locally or by contacting Laurel Witt, CML associate counsel, at [lwitt@cml.org](mailto:lwitt@cml.org) or by calling (303) 831-6411.

Best regards,

Kevin Bommer  
Executive Director

Laurel Witt  
Associate Counsel

**MANAGEMENT AND FINANCE POLICY COMMITTEE MEETING  
SEPTEMBER 22, 2020**

**COLORADO SALES AND USE TAX SIMPLIFICATION SYSTEM**

Summary of Issue and Discussion

Previously the committee was presented with information regarding simplification actions taking place prior to adoption of economic nexus. The State has activated the Sales and Use Tax Simplification System and has presented the city with an Intergovernmental Agreement for participation in that system. The Colorado Municipal League also worked with home rule cities in drafting model language for economic nexus.

With Colorado Senate Bill 19-006 the legislature directed the Department of Revenue to develop a sales and use tax simplification system. The system developer was selected through a request for proposal by the State. The sales and use tax simplification system (SUTS) will allow a business to file sales tax returns on a single site for all taxing jurisdictions in the state. The simplification measure will also allow the city to adopt a provision requiring vendors with economic nexus and not only physical nexus to collect sales tax. The adoption of economic nexus is much more likely to pass a court test under the ruling in Wayfair vs. South Dakota if simplification measures are in place. In July, the city adopted a marketplace facilitator ordinance but held off on adopting economic nexus until the SUTS system was operational. The State's vendor for the system, Munirevs has indicated they are ready to begin work on an integration with the city's tax software. This integration price was negotiated by the State and is \$17,500. It is believed that this cost will be more than offset by revenues from adopting economic nexus. The integration work can also start prior to signing the IGA. An additional simplification measure as part of the SUTS system is a single address location system that is being developed by another state vendor and also includes a taxability matrix. This is an improvement over the current address location system vendors certified by the state. The city currently has ordinance language regarding a hold harmless provision for vendors that currently rely on those systems for sourcing sales tax collection. While the figure is very difficult to estimate, the adoption of economic nexus may result in up to one to two million dollars of additional revenue per year. Most of the internet retail space already remits sales tax to the city. Moving forward staff would recommend agreeing to the \$17,500 for the integration and starting work immediately on that project. Next a resolution would be brought forward for approval of the SUTS IGA and an ordinance for adoption of economic nexus with a hold harmless clause for the address locator and taxability matrix. Currently 29 home rule cities have approved the IGA.

1. Does the committee approve of sending the IGA for participation in the system for full council consideration?
2. Does the committee approve of drafting an ordinance incorporating the model economic nexus language and bringing this forward for full council consideration?
3. Does the committee approve of the \$17,500 expense offset by additional revenue for integration with the SUTS system?

Committee Discussion

CM Gruber: Garrett, the Committee received the letter that the Business Advisory Board drafted, did you have any other thoughts on this?

Garrett Walls, Business Advisory Board: No, Trevor did a good job with summing up. Just the concern was voiced by several members talking about qualifying for nexus in state and that it's a double-edged sword. We definitely appreciate the efficiency move to the system and were fully in support of that. We just want there to be some sort of training and support component potentially by the SBDC (Small Business Development Center) or state agencies. To help retailers understand for an example if you're shipping to Grand Junction you need to be collecting Grand Junction sales tax or Mesa County sales tax as it applies, which is probably collected in state sales tax. So that was our concern. We didn't want a whole bunch of retailers that are shipping products across the state to all of sudden be out of compliance with any of these sales tax collection practices. Therefore, we need some education.

CM Gruber: As we move this forward and I suspect it will move forward but that would be having SBDC available to speak at Study Session. I think would be an important move. Trevor, I have a question for you. When we discussed this before we talked about the TABOR impact and that as a home rule city Aurora has the ability to tax certain things a certain way. This combined system is combining things across the state which may or may not include the same tax that Aurora has on Aurora products. How's that dealt with?

T. Vaughn: So how that's dealt with is actually it doesn't change what tax is applied to. All its doing is providing a centralized place to file and pay the taxes, so it does not unify the base across the state. Wayfair said you don't have to have the same tax rate there. I don't know that the question regarding unification or uniformed base was really addressed in Wayfair. That's potentially an area that a retailer may say that there's a challenge there. However, in a lot of states there are some situations where there are some different tax abilities, but Colorado is particularly complicated with that situation where jurisdictions will just vary from one place to the other. What we did do as a city is we adopted standardized definitions and then that taxability matrix is being compiled as part as that state's system so vendors would be able to look and see and hopefully things are defined the same. They can see if an item is taxed in this city or if it's not taxed and try to adjust as they do that. The software out there has become a lot better and the retailers have become a lot more sophisticated and software vendors have offered products which adjust for that. As far as this goes this is all about enforcement of Aurora's existing tax code. There's not a change with the tax code, it is about enforcement and therefore no TABOR impact.

CM Gruber: Thank you. I appreciate all the work that you folks have done on this. This has moved a long way and bringing in an extra couple million dollars is always going to be a helpful to the City, so I appreciate that.

The Committee recommended that this item is moved forward unanimously.

#### Outcome

The Committee recommended that this item be moved forward to Study Session.

#### Follow-up Action

Staff will forward this to Study Session.

ORDINANCE NO. 2020-\_\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING VARIOUS SECTIONS OF CHAPTER 130 OF THE CITY CODE RELATED TO ECONOMIC NEXUS

WHEREAS, the City of Aurora, Colorado, (the “City”), is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, the City is authorized under Article XX, Section 6 of the Colorado Constitution to pass ordinances and regulate local affairs including ordinances for the administration and collection of sales and use tax; and

WHEREAS, the United States Supreme Court in South Dakota v. Wayfair, 138 S.Ct. 2080 (2018), overturned prior precedent and held that a State is not prohibited by the Commerce Clause from requiring a retailer to collect sales tax based solely on the fact that such retailer does not have a physical presence in the State (“Remote Sales”); and

WHEREAS, based upon such decision, the retailer’s obligation to collect Remote Sales is no longer based on the retailer’s physical presence in the jurisdiction by the Constitution or law of the United States, and the City’s Sales and Use Tax Code needs to be amended to clearly reflect such obligation consistent with said decision; and

WHEREAS, the delivery of tangible personal property, products, or services into the City relies on and burdens local transportation systems, emergency and police services, waste disposal, utilities and other infrastructure and services; and

WHEREAS, the failure to tax remote sales creates incentives for businesses to avoid a physical presence in the State and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the State and its municipalities; and

WHEREAS, it is appropriate for Colorado municipalities to adopt uniform definitions within their sales tax codes to encompass retailers, marketplace facilitators, marketplace sellers, and multichannel sellers that do not have a physical presence in the City, but that still have a taxable connection with the City; and



WHEREAS, the goal of adopting this ordinance is to join in on the simplification efforts of all the self-collecting home rule municipalities in Colorado; and

WHEREAS, this ordinance provides a safe harbor to those who transact limited sales within the City; and

WHEREAS, absent such amendment, the continued failure of retailers to voluntarily apply and remit sales tax owed on remote sales exposes the municipality to unremitted taxes and permits an inequitable exception that prevents market participants from competing on an even playing field; and

WHEREAS, the City adopts this ordinance with the intent to address tax administration, and, in connection with, establish economic nexus for retailers or vendors without physical presence in the State.

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

Section 1. Section 130-31 of the Aurora City code is hereby amended to read as follows:

Sec. 130-31. - Definitions.

***Economic Nexus* means the connection between the City and a person not having a physical nexus in the State of Colorado, which connection is established when the person or marketplace facilitator makes retail sales into the City; and:**

**(A) In the previous calendar year, the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in § 39-26-102(3)(c) C.R.S.; or**

**(B) In the current calendar year, 90 days has passed following the month in which the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-102(3)(c).**

**This definition does not apply to any person who is doing business in this state but otherwise applies to any other person.**

*Engaged in business in the city* means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the city. Engaged in business in the city includes, but is not limited to, any one of the following activities by a person:

- (1) Directly or indirectly or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;
- (2) Sends one or more employees, agents or commissioned salespersons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;
- (3) Maintains one or more employees, agents or commissioned salespersons on duty at a location within the taxing jurisdiction;
- (4) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or
- (5) Makes more than one delivery into the taxing jurisdiction within a 12-month period ~~by any means other than a common carrier;~~ **or**
- (6) Makes retail sales sufficient to meet the definitional requirements of economic nexus as set forth in this section.**

Section 2. The Finance Director may delay utilizing the enforcement provisions of chapter 130 in regards to retailers that only meet the economic nexus definition of engaged in business, until adequate simplification measures are in place, so as to not place an undue burden on interstate commerce.

Section 3. 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 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 invalid or unenforceable by a court of competent jurisdiction, the invalidity of 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.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
SUSAN BARKMAN,  
Interim City Clerk

APPROVED AS TO FORM:

 RLA

\_\_\_\_\_  
Hanosky Hernandez,  
Assistant City Attorney



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 6 OF THE CITY CODE PERTAINING TO BACKGROUND QUALIFICATIONS FOR MARIJUANA BUSINESS OWNERS AND EMPLOYEES AND TO ADD A SECTION TO ALLOW MARIJUANA DELIVERY WITHIN THE CITY

**Item Initiator:** Robin Peterson

**Staff Source:** Robin Peterson, Manager Marijuana Enforcement

**Legal Source:** Dan Money

**Outside Speaker:**

**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:** 11/16/2020

**Regular Meeting:** 11/16/2020

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

- |  |  |
|--|--|
| <input type="checkbox"/> Approve Item as proposed at Study Session                   | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item as proposed at Regular Meeting                 | <input type="checkbox"/> Information Only                            |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Amendment 64 Ad Hoc Committee

**Policy Committee Date:** 10/8/2020

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

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

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**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.)*

Adopt State Requirements on Who Can Own or Work in Aurora Marijuana Businesses

The proposal by staff to adopt state requirements on who can own or work in an Aurora marijuana business and remove Aurora's more restrictive requirements was part of the delivery ordinance that was presented at the August 17, 2020 Study Session. This proposal was delayed from moving forward so staff could provide more information.

Marijuana Delivery

House Bill 19-1234 was approved by Governor Polis on May 29, 2019. This bill allowed for delivery of medical marijuana on January 2, 2020 and will allow retail marijuana delivery on January 2, 2021.

The Amendment 64 Committee has discussed delivery on April 2019, July 2019, February 2020 and June 2020. Delivery was also discussed at the Federal, State and Intergovernmental Relations Committee (FISR) in early 2019.

A draft delivery ordinance was brought forward for discussion at the August 17, 2020 Study Session. The item was delayed moving forward so staff has time to gather more information.

The Amendment 64 Committee discussed delivery on October 8, 2020. It was recommended with a change to allow deliveries by the stores located in Aurora to Aurora addresses in addition to allow deliveries into other jurisdictions that allowed delivery.

It was also recommended that the committee members meet with stakeholders, the marijuana industry and social equity proponents to discuss social equity and whether or not Aurora might address social equity and inclusion in the delivery ordinance. That meeting was held on November 4, 2020.

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

This proposed ordinance looks very different from the draft ordinance presented at the August 17, 2020 Study Session.

Changes to align the city ordinance with the state marijuana statutes, rules and regs are removed from this version. Staff decided to present these changes at a later time so we could include the rules that are now being adopted during this rule making session at the state MED.

Only two changes to the ordinance are being proposed.

The first one is to adopt the state requirements on who can own or work in a marijuana business. Currently, Aurora has more stringent criminal background requirements that prevents owners or employees from working in Aurora. They are "No felony convictions in the last ten years, no drug related local ordinance, petty offense, or misdemeanor convictions in the last five years, and no drug felony convictions at any time."

The state MED had similar restrictions but the look back period was for ten years. The state MED recently changed its marijuana licensee prohibition to anyone convicted of a felony in the three years immediately preceding an application or who is currently subject to a sentence for a felony conviction.

By amending the code to be consistent with the state, staff believes this will possibly allow more people to be able to own or work in Aurora sooner. The ten and five year waiting period from when convicted would be removed and replaced with the three year period imposed by the state.

In addition to the above, the owner and employee applicants will still be reviewed for good moral character and all the other requirements stated in the ordinance.

The second proposed change is allowing retail marijuana delivery in the city. Staff is proposing to allow only licensed Aurora retail marijuana stores to deliver to addresses only in Aurora.

Staff is proposing the hours of delivery to mirror the store hours of operation, with the caveat deliveries must be completed by 10 pm.

Staff is recommending the amount of product to be delivered be the same as what the state is allowing. Local jurisdictions do have the ability to allow less than the state recommended amount, but saw no reason to do this.

The rationale behind this proposal is the following: only a few jurisdictions are considering delivery at this time; Aurora has always used the slow, measured approach to the marijuana rules which has allowed us flexibility and reduced impacts if "we didn't get it quite right".

In our last committee meeting, three of the committee members supported delivery with no restrictions: Aurora stores would be able to deliver anywhere it was allowed and deliveries could be made into the city from stores outside of Aurora that allowed delivery.

But based on our rationale behind our recommendations and not knowing what the delivery landscape is going to look like in future, staff is recommending caution and giving time to learn from others' experiences, good and bad.

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## **QUESTIONS FOR COUNCIL**

Does Council wish to move this ordinance on to full Council for introduction?

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## **LEGAL COMMENTS**

The local licensing authority may promulgate such rules and regulations as he or she deems necessary for the proper administration and enforcement of this article, and may exercise all other powers and duties as are set forth in the Colorado Retail Marijuana Code, subsection 5(e) of section 16 of article XVIII of the Colorado Constitution, the Colorado Department of Revenue Marijuana Enforcement Division Retail Marijuana Rules, (1 CCR 212-2), the Colorado Medical Marijuana Code, section 14 of article XVIII of the Colorado Constitution, the Colorado Department of Revenue Medical Marijuana Enforcement Division Medical Marijuana Rules, (1 CCR 212-1), the City Code and any rule or regulation adopted pursuant thereto.

City Code Sec. 6-304(c)

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Deliver of retail marijuana was approved by Colorado HB 19-1234 and allows municipalities to create ordinances that would prohibit or allow delivery within their jurisdictions, as well as rules around that delivery.

Social equity measures were instituted by HB 20-1424, and are defined under C.R.S. 44-10-308 which defines social applicant as one who: “(a) is a colorado resident; (b) has not been the beneficial owner of a license subject to disciplinary or legal action from the state resulting in the revocation of a license issued pursuant to this article 10; (c) has demonstrated at least one of the following: (i) the applicant has resided for at least fifteen years between the years 1980 and 2010 in a census tract designated by the office of economic development and international trade as an opportunity zone or designated as a disproportionate impacted area as defined by rule pursuant to section 44-10-203 (1)(j); (ii) the applicant or the applicant's parent, legal guardian, sibling, spouse, child, or minor in their guardianship was arrested for a marijuana offense, convicted of a marijuana offense, or was subject to civil asset forfeiture related to a marijuana investigation; or (iii) the applicant's household income in the year prior to application did not exceed an amount determined by rule of the state licensing authority; and (d) the social equity licensee, or collectively one or more social equity licensees, holds at least fifty-one percent of the beneficial ownership of the regulated marijuana business license.”

C.R.S. Sec. 44-10-308(4)

“A person who meets the criteria in this section for a social equity licensee, pursuant to rule and agency discretion, may be eligible for incentives available through the department of revenue or office of economic development and international trade, including but not limited to a reduction in application or license fees.”

C.R.S. Sec. 44-10-308(5)

(Money)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:**

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:**

ORDINANCE NO. 2020-\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 6 OF THE CITY CODE PERTAINING TO BACKGROUND QUALIFICATIONS FOR MARIJUANA BUSINESS OWNERS AND EMPLOYEES AND TO ADD A SECTION TO ALLOW MARIJUANA DELIVERY WITHIN THE CITY

WHEREAS, Colorado Revised Statutes Section 44-10-307 regulates marijuana licensees' requirements, and takes into consideration felony convictions in the three years preceding the application date for the license; and

WHEREAS, the City currently has a more stringent criminal background requirement for licensees within the City; and

WHEREAS, the City believes that amending the code to be consistent with state requirements will increase jobs and promote social equity; and

WHEREAS, Colorado Revised Statutes Section 44-10-601 allows delivery of retail marijuana and retail marijuana products within the state; and

WHEREAS, if City Council desires to authorize the delivery of retail marijuana and retail marijuana products, City Council must enact an ordinance authorizing such delivery.

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

Section 1. The City Code of the City of Aurora Colorado is hereby amended, amending Section 6-302(8)h, which shall read as follows:

Sec. 6-302. - Definitions.

*Good moral character* means an individual who has a personal history demonstrating honesty, fairness, and respect for the rights of others and for conformance to the law which may include considerations of whether an individual has:

- (1) Ever had a professional license denied, suspended, or revoked;
- (2) Ever had a business license denied, suspended, or revoked;
- (3) Ever surrendered, been denied, or had any type of marijuana related business license placed on an administrative hold, suspended, or revoked;
- (4) Ever been denied any type of marijuana related business license;
- (5) Ever had a business temporarily or permanently closed for failure to comply with any tax, health, building, fire, zoning, or safety law;



- (6) Ever had an administrative, civil, or criminal finding of delinquency for failure to file or failure to pay sales or use taxes or any other taxes;
- (7) Ever been convicted of a crime of moral turpitude; or
- (8) ~~Within the previous five years been convicted of any misdemeanor, petty offense or any local ordinance violation related to the cultivation, processing, manufacture, storage, sale, distribution, transportation, testing, research, or consumption of any form of marijuana, drug or controlled substance; or within the previous ten years been convicted of a non-drug related felony; or, at any time, been convicted of a felony related to the cultivation, processing, manufacture, storage, sale, distribution, transportation, testing, research, or consumption of any form of marijuana, drug or controlled substance.~~ **Been convicted of a felony in the three years immediately preceding his or her application date or who is currently subject to a sentence for a felony conviction.**

Section 2. The City Code of the City of Aurora, Colorado is hereby amended, amending Section 6-308, subsections (g), (h) and (k), pertaining to criminal convictions and good moral character, and renumbering the remaining subsections accordingly, which shall read as follows:

Sec. 6-308. - General licensing requirements.

- (g) *Issuance of a license.* If after investigation the local licensing authority determines that:
  - (1) The applicant has met all the terms, conditions, provisions, and requirements imposed upon the applicant or the licensee by the applicable provisions of the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the City Code and all the rules and regulations adopted pursuant thereto, and all applicable building, fire, health or zoning statutes, codes, ordinances, rules, or regulations adopted pursuant thereto related to the cultivation, processing, manufacture, storage, sale, distribution, testing, research, transporting, or consumption of any form of marijuana;
  - (2) The license application is complete, and all requested supplemental documentation has been provided;
  - (3) The license application contains no fraudulent, misrepresented, or false statements of a material or relevant fact;
  - (4) All fees and late charges, if any, have been paid;
  - (5) The applicant has timely filed all tax returns as required by law in relation to the business for which the license is sought;
  - (6) The applicant is not overdue on his or her payment to the city of any taxes, fines, interest, penalties, or collections costs assessed against or imposed upon such applicant in relation to the business for which the license is sought;

- (7) The applicant, officers, directors, other owners, any person having a direct or indirect financial interest in the business, and agents or employees of the applicant are of good moral character;
  - (8) The applicant, officers, directors, other owners, any person having a direct or indirect financial interest in the business, and agents or employees of the applicant ~~have no felony convictions in the last ten years, no drug related local ordinance, petty offense, or misdemeanor convictions in the last five years, and no drug related felony convictions;~~ **not been convicted of a felony in the three years immediately preceding his or her application date or who is not currently subject to a sentence for a felony conviction.**
  - (9) The applicant has made all the improvements to the licensed premises as required by the City Code or has an improvement implementation plan and timeline to make non-essential improvements to the premises or location approved by the local licensing authority; and
  - (10) The applicant is reasonably likely to begin operating the business within one year of the issuance of the license; then the local licensing authority shall issue the license sought, with or without terms and conditions being ordered upon the license, to the applicant for the use and the location identified in the license application as the situs of the business and notify the state the applicant has been issued a license.
- (h) *Denial of application.* Each of the following, in and of itself, constitutes full and adequate grounds for denying an application:
- (1) The applicant has not paid all applicable fees required by this article;
  - (2) The applicant has violated, does not meet, or has failed to comply with any provision of the applicable provisions in the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the City Code, or the rules and regulations adopted pursuant thereto, or any other applicable building, fire, health or zoning statute, code, ordinance, rule, or regulation adopted pursuant thereto related to the cultivation, processing, manufacture, storage, sale, distribution, testing, research, transporting, or consumption of any form of marijuana;
  - (3) The application contains false, misleading, or incomplete information;
  - (4) The applicant, or an officer, director, other owner, agent, employee, or any person having a direct or indirect financial interest in the business are not of good moral character;
  - (5) The applicant is not reasonably likely to commence, operations within one year of the issuance of the license by the state;
  - (6) The applicant, or an officer, director, other owner, agent or employee, or any person having a direct or indirect financial interest in the marijuana establishment, ~~has a felony conviction in the last ten years, or a drug related local ordinance, petty offense, or misdemeanor conviction in the~~

~~last five years, or a drug-related felony conviction; been convicted of a felony in the three years immediately preceding his or her application date or who is currently subject to a sentence for a felony conviction.~~

- (7) The applicant has failed to file any tax return as required by law in relation to the marijuana establishment for which the license is sought;
  - (8) The applicant is overdue on his or her payment to the city of any taxes, interest, penalties, and collection costs assessed against or imposed upon such applicant or licensee in relation to the marijuana establishment for which the license is sought;
  - (9) For good cause; and
  - (10) The applicant employs or intends to employ a person who has not submitted fingerprints for a criminal background check.
- (k) *Duty to supplement.*
- (1) If, at any time before or after a license is issued pursuant to this article, any information required by the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, the City Code, or any rule and regulation adopted pursuant thereto, changes from that which is stated in the application, the applicant or licensee shall supplement their application with the updated information within ten days from the date upon which such change occurs.
  - (2) An applicant or licensee has a duty to notify the local licensing authority of any pending criminal charge and any criminal conviction **for a crime of moral turpitude, or of a pending felony charge or felony conviction** by the applicant, licensee, any owner, officer, director, manager, agent or employee of the applicant or licensee within ten days of the event.
  - ~~(3) An applicant or licensee has a duty to notify the local licensing authority of any pending violation of, and any conviction for, a violation of any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, transportation, storage, sale, distribution, testing, research or consumption of any form of marijuana by the applicant, licensee, any owner, officer, director, manager, agent or employee of the applicant or licensee within ten days of the event.~~

Section 3. The City Code of the City of Aurora, Colorado is hereby amended, amending Section 6-309, to amend (a)(3) and (a)(9), pertaining to criminal convictions, and renumbering the remaining subsections accordingly, which shall read as follows:

Sec. 6-309. – Licensing requirements —Retail marijuana stores:

- (a) The local licensing authority shall not issue a retail marijuana store license to an applicant that does not meet each of the following minimum requirements:
  - (1) The applicant has been licensed by the state pursuant to the Colorado Retail Marijuana Code;

- (2) The applicant has at least \$400,000.00 in liquid assets in the applicant's control and readily available to the applicant, as evidenced by bank statements, lines of credit, or the equivalent to show that the applicant has sufficient resources to operate a retail marijuana store;
- (3) The applicant, and the applicant's officers, directors, owners, agents and employees ~~have no drug related felony conviction, no felony convictions in the last ten years, no drug related local ordinance, petty offense, or misdemeanor convictions in the last five years, and no pending criminal charges of any type~~ **have not been convicted of a felony in the three years immediately preceding his or her application date or who is not currently subject to a sentence for a felony conviction.**
- (4) The applicant must have at least two years of experience operating a licensed marijuana establishment in Colorado within the last four years;
- (5) At least one of the owners, with at least one percent ownership, applying for a license must have been a resident of the state for at least one year prior to the date of the application;
- (6) The applicant must be in good standing with the state licensing authority;
- (7) The applicant shall not have incurred administrative penalties related to the operations of a marijuana establishment in Colorado in the previous three years;
- (8) The applicant and the applicant's officers and executives are in compliance with all state and local laws relating to taxes;
- (9) The applicant must certify that he/she will not employ as a manager or other employee any person ~~with a felony conviction in the last ten years, a drug related local ordinance, petty offense or misdemeanor conviction in the last five years, a drug related felony conviction, or pending criminal charges of any type~~ **who has been convicted of a felony in the three years immediately preceding his or her application date or who is currently subject to a sentence for a felony conviction;**
- (10) The applicant must prevent the odor of marijuana from being detected by any person at the exterior of the retail marijuana store or perceptible at any adjoining use or business of the retail marijuana store and shall install an air filtration system to filter the odor of marijuana, if necessary;
- (11) The applicant's security plan must demonstrate that the applicant will implement security measures that exceed the requirements set forth in the Colorado Retail Marijuana Code, the City Code and any rules adopted pursuant thereto. If the security plan includes specialized details of security arrangements it will be protected from disclosure as provided under the Colorado Open Records Act, C.R.S. § 24-72-204(2)(a)(VIII). If the city finds that such documents are subject to inspection, it will attempt to provide at least 24-hour notice to the applicant prior to such disclosure;

- (12) An applicant shall submit an operating plan. The operating plan may include a staffing plan that will provide and ensure adequate staffing and experience for all accessible business hours and adequate security and theft prevention; an operations manual that demonstrates compliance with the Colorado Retail Marijuana Code, and the City Code; proactive consumer education practices; a description of an employee training program; and a list of best operational practices; and
- (13) An applicant shall submit a business plan. The business plan shall clearly demonstrate the applicant's ability to operate in a highly regulated industry, and may include a scope of work for the planning and development of the proposed business; a scope of work for capital improvements for the proposed business; an estimate of first-year revenues; an estimate of first-year operating expenses and evidence that the applicant will have the resources necessary to pay for those expenses; and a description of the applicant's history of compliance in another highly regulated industry.

Section 4. The City Code of the City of Aurora, Colorado, is hereby amended to add Section 6-319, which shall read as follows:

**Sec. 6-319 – Delivery of retail marijuana authorized.**

- (a) **Retail marijuana stores licensed to operate in the City are authorized to deliver retail marijuana and retail marijuana products to residences within the City, and to residences within any other jurisdiction that would allow delivery of retail marijuana from outside their jurisdiction.**
- (b) **The City will allow the delivery of retail marijuana and retail marijuana products to be delivered into the City from outside jurisdictions in which the marijuana store has been licensed to deliver these products by the State and the local jurisdiction from which they reside.**
- (c) **Retail marijuana and retail marijuana product deliveries are authorized between the hours of 8:00 a.m. and 10:00 p.m., of which completion of delivery must be done by 10 p.m.**
- (d) **The delivery of retail marijuana and retail marijuana product is limited to no more than 1 ounces of retail marijuana, no more than 8 grams of retail marijuana concentrate, or retail marijuana products containing no more than 80 ten milligram servings of THC, per customer, per business day.**
- (e) **No delivery is allowed in the City until the agent of the store delivering is properly permitted to deliver through the jurisdiction allowing the retail marijuana delivery. Aurora delivery permits must be obtained through the Aurora Marijuana Enforcement Division. A permit shall not be issued until the applicable permit fees have been paid. The fee for each permit shall be set forth in a schedule of fees recommended by the local licensing authority and approved by the City Manager as regulated in Section 2-587 of the Code.**

- (f) **The City recognizes that ensuring social equity to applicants of delivery licenses, under C.R.S. Title 44-10-308, is a shared purpose of the City and State. In supporting the pursuit of social equity, the City shall establish a grant program to fund 75% of the fees, listed in subsection (e) above, for social equity licensees. This grant shall be for a 24-month period following the permit application. After the 24-month period expires, grant funds shall not be available for this purpose.**

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. 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 \_\_\_\_\_, 2020.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

*Daniel L Money*

\_\_\_\_\_  
DANIEL L. MONEY, Senior Assistant City Attorney

ORDINANCE NO. 2020-\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 6 OF THE CITY CODE PERTAINING TO BACKGROUND QUALIFICATIONS FOR MARIJUANA BUSINESS OWNERS AND EMPLOYEES AND TO ADD A SECTION TO ALLOW MARIJUANA DELIVERY WITHIN THE CITY

WHEREAS, Colorado Revised Statutes Section 44-10-307 regulates marijuana licensees' requirements, and takes into consideration felony convictions in the three years preceding the application date for the license; and

WHEREAS, the City currently has a more stringent criminal background requirement for licensees within the City; and

WHEREAS, the City believes that amending the code to be consistent with state requirements will increase jobs and promote social equity; and

WHEREAS, Colorado Revised Statutes Section 44-10-601 allows delivery of retail marijuana and retail marijuana products within the state; and

WHEREAS, if City Council desires to authorize the delivery of retail marijuana and retail marijuana products, City Council must enact an ordinance authorizing such delivery.

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

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- (1) Ever had a professional license denied, suspended, or revoked;
- (2) Ever had a business license denied, suspended, or revoked;
- (3) Ever surrendered, been denied, or had any type of marijuana related business license placed on an administrative hold, suspended, or revoked;
- (4) Ever been denied any type of marijuana related business license;
- (5) Ever had a business temporarily or permanently closed for failure to comply with any tax, health, building, fire, zoning, or safety law;

- (6) Ever had an administrative, civil, or criminal finding of delinquency for failure to file or failure to pay sales or use taxes or any other taxes;
- (7) Ever been convicted of a crime of moral turpitude; or
- (8) ~~Within the previous five years been convicted of any misdemeanor, petty offense or any local ordinance violation related to the cultivation, processing, manufacture, storage, sale, distribution, transportation, testing, research, or consumption of any form of marijuana, drug or controlled substance; or within the previous ten years been convicted of a non-drug related felony; or, at any time, been convicted of a felony related to the cultivation, processing, manufacture, storage, sale, distribution, transportation, testing, research, or consumption of any form of marijuana, drug or controlled substance.~~ **Been convicted of a felony in the three years immediately preceding his or her application date or who is currently subject to a sentence for a felony conviction.**

Section 2. The City Code of the City of Aurora, Colorado is hereby amended, amending Section 6-308, subsections (g), (h) and (k), pertaining to criminal convictions and good moral character, and renumbering the remaining subsections accordingly, which shall read as follows:

Sec. 6-308. - General licensing requirements.

- (g) *Issuance of a license.* If after investigation the local licensing authority determines that:
  - (1) The applicant has met all the terms, conditions, provisions, and requirements imposed upon the applicant or the licensee by the applicable provisions of the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the City Code and all the rules and regulations adopted pursuant thereto, and all applicable building, fire, health or zoning statutes, codes, ordinances, rules, or regulations adopted pursuant thereto related to the cultivation, processing, manufacture, storage, sale, distribution, testing, research, transporting, or consumption of any form of marijuana;
  - (2) The license application is complete, and all requested supplemental documentation has been provided;
  - (3) The license application contains no fraudulent, misrepresented, or false statements of a material or relevant fact;
  - (4) All fees and late charges, if any, have been paid;
  - (5) The applicant has timely filed all tax returns as required by law in relation to the business for which the license is sought;
  - (6) The applicant is not overdue on his or her payment to the city of any taxes, fines, interest, penalties, or collections costs assessed against or imposed upon such applicant in relation to the business for which the license is sought;



- (7) The applicant, officers, directors, other owners, any person having a direct or indirect financial interest in the business, and agents or employees of the applicant are of good moral character;
  - (8) The applicant, officers, directors, other owners, any person having a direct or indirect financial interest in the business, and agents or employees of the applicant ~~have no felony convictions in the last ten years, no drug related local ordinance, petty offense, or misdemeanor convictions in the last five years, and no drug related felony convictions;~~ **not been convicted of a felony in the three years immediately preceding his or her application date or who is not currently subject to a sentence for a felony conviction.**
  - (9) The applicant has made all the improvements to the licensed premises as required by the City Code or has an improvement implementation plan and timeline to make non-essential improvements to the premises or location approved by the local licensing authority; and
  - (10) The applicant is reasonably likely to begin operating the business within one year of the issuance of the license; then the local licensing authority shall issue the license sought, with or without terms and conditions being ordered upon the license, to the applicant for the use and the location identified in the license application as the situs of the business and notify the state the applicant has been issued a license.
- (h) *Denial of application.* Each of the following, in and of itself, constitutes full and adequate grounds for denying an application:
- (1) The applicant has not paid all applicable fees required by this article;
  - (2) The applicant has violated, does not meet, or has failed to comply with any provision of the applicable provisions in the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the City Code, or the rules and regulations adopted pursuant thereto, or any other applicable building, fire, health or zoning statute, code, ordinance, rule, or regulation adopted pursuant thereto related to the cultivation, processing, manufacture, storage, sale, distribution, testing, research, transporting, or consumption of any form of marijuana;
  - (3) The application contains false, misleading, or incomplete information;
  - (4) The applicant, or an officer, director, other owner, agent, employee, or any person having a direct or indirect financial interest in the business are not of good moral character;
  - (5) The applicant is not reasonably likely to commence, operations within one year of the issuance of the license by the state;
  - (6) The applicant, or an officer, director, other owner, agent or employee, or any person having a direct or indirect financial interest in the marijuana establishment, ~~has a felony conviction in the last ten years, or a drug related local ordinance, petty offense, or misdemeanor conviction in the~~

~~last five years, or a drug-related felony conviction;~~ **been convicted of a felony in the three years immediately preceding his or her application date or who is currently subject to a sentence for a felony conviction.**

- (7) The applicant has failed to file any tax return as required by law in relation to the marijuana establishment for which the license is sought;
  - (8) The applicant is overdue on his or her payment to the city of any taxes, interest, penalties, and collection costs assessed against or imposed upon such applicant or licensee in relation to the marijuana establishment for which the license is sought;
  - (9) For good cause; and
  - (10) The applicant employs or intends to employ a person who has not submitted fingerprints for a criminal background check.
- (k) *Duty to supplement.*
- (1) If, at any time before or after a license is issued pursuant to this article, any information required by the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, the City Code, or any rule and regulation adopted pursuant thereto, changes from that which is stated in the application, the applicant or licensee shall supplement their application with the updated information within ten days from the date upon which such change occurs.
  - (2) An applicant or licensee has a duty to notify the local licensing authority of any pending criminal charge and any criminal conviction **for a crime of moral turpitude, or of a pending felony charge or felony conviction** by the applicant, licensee, any owner, officer, director, manager, agent or employee of the applicant or licensee within ten days of the event.
  - ~~(3) An applicant or licensee has a duty to notify the local licensing authority of any pending violation of, and any conviction for, a violation of any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, transportation, storage, sale, distribution, testing, research or consumption of any form of marijuana by the applicant, licensee, any owner, officer, director, manager, agent or employee of the applicant or licensee within ten days of the event.~~

Section 3. The City Code of the City of Aurora, Colorado is hereby amended, amending Section 6-309, to amend (a)(3) and (a)(9), pertaining to criminal convictions, and renumbering the remaining subsections accordingly, which shall read as follows:

Sec. 6-309. – Licensing requirements —Retail marijuana stores:

- (a) The local licensing authority shall not issue a retail marijuana store license to an applicant that does not meet each of the following minimum requirements:
  - (1) The applicant has been licensed by the state pursuant to the Colorado Retail Marijuana Code;

- (2) The applicant has at least \$400,000.00 in liquid assets in the applicant's control and readily available to the applicant, as evidenced by bank statements, lines of credit, or the equivalent to show that the applicant has sufficient resources to operate a retail marijuana store;
- (3) The applicant, and the applicant's officers, directors, owners, agents and employees ~~have no drug related felony conviction, no felony convictions in the last ten years, no drug related local ordinance, petty offense, or misdemeanor convictions in the last five years, and no pending criminal charges of any type~~ **have not been convicted of a felony in the three years immediately preceding his or her application date or who is not currently subject to a sentence for a felony conviction.**
- (4) The applicant must have at least two years of experience operating a licensed marijuana establishment in Colorado within the last four years;
- (5) At least one of the owners, with at least one percent ownership, applying for a license must have been a resident of the state for at least one year prior to the date of the application;
- (6) The applicant must be in good standing with the state licensing authority;
- (7) The applicant shall not have incurred administrative penalties related to the operations of a marijuana establishment in Colorado in the previous three years;
- (8) The applicant and the applicant's officers and executives are in compliance with all state and local laws relating to taxes;
- (9) The applicant must certify that he/she will not employ as a manager or other employee any person ~~with a felony conviction in the last ten years, a drug related local ordinance, petty offense or misdemeanor conviction in the last five years, a drug related felony conviction, or pending criminal charges of any type~~ **who has been convicted of a felony in the three years immediately preceding his or her application date or who is currently subject to a sentence for a felony conviction;**
- (10) The applicant must prevent the odor of marijuana from being detected by any person at the exterior of the retail marijuana store or perceptible at any adjoining use or business of the retail marijuana store and shall install an air filtration system to filter the odor of marijuana, if necessary;
- (11) The applicant's security plan must demonstrate that the applicant will implement security measures that exceed the requirements set forth in the Colorado Retail Marijuana Code, the City Code and any rules adopted pursuant thereto. If the security plan includes specialized details of security arrangements it will be protected from disclosure as provided under the Colorado Open Records Act, C.R.S. § 24-72-204(2)(a)(VIII). If the city finds that such documents are subject to inspection, it will attempt to provide at least 24-hour notice to the applicant prior to such disclosure;

- (12) An applicant shall submit an operating plan. The operating plan may include a staffing plan that will provide and ensure adequate staffing and experience for all accessible business hours and adequate security and theft prevention; an operations manual that demonstrates compliance with the Colorado Retail Marijuana Code, and the City Code; proactive consumer education practices; a description of an employee training program; and a list of best operational practices; and
- (13) An applicant shall submit a business plan. The business plan shall clearly demonstrate the applicant's ability to operate in a highly regulated industry, and may include a scope of work for the planning and development of the proposed business; a scope of work for capital improvements for the proposed business; an estimate of first-year revenues; an estimate of first-year operating expenses and evidence that the applicant will have the resources necessary to pay for those expenses; and a description of the applicant's history of compliance in another highly regulated industry.

Section 4. The City Code of the City of Aurora, Colorado, is hereby amended to add Section 6-319, which shall read as follows:

**Sec. 6-319 – Delivery of retail marijuana authorized.**

- (a) **Retail marijuana stores licensed to operate in the City are authorized to deliver retail marijuana and retail marijuana products to residences within the City, and to residences within any other jurisdiction that would allow delivery of retail marijuana from outside their jurisdiction.**
- (b) **The City will allow the delivery of retail marijuana and retail marijuana products to be delivered into the City from outside jurisdictions in which the marijuana store has been licensed to deliver these products by the state and the local jurisdiction from which they reside.**
- (c) **Retail marijuana and retail marijuana product deliveries are authorized between the hours of 8:00 a.m. and 10:00 p.m., of which completion of delivery must be done by 10 p.m.**
- (d) **The delivery of retail marijuana and retail marijuana product is limited to no more than 1 ounces of retail marijuana, no more than 8 grams of retail marijuana concentrate, or retail marijuana products containing no more than 80 ten milligram servings of THC, per customer, per business day.**
- (e) **No delivery is allowed in the City until the agent of the store delivering is properly permitted to deliver through the jurisdiction allowing the retail marijuana delivery. Aurora delivery permits must be obtained through the Aurora Marijuana Enforcement Division. A permit shall not be issued until the applicable permit fees have been paid. The fee for each permit shall be set forth in a schedule of fees recommended by the local licensing authority and approved by the City Manager as regulated in Section 2-587 of the Code.**

(f) **The City recognizes that ensuring social equity, under C.R.S. Title 44-10-308, to applicants of delivery licenses is a shared purpose of the State and the City. In supporting the pursuit of social equity the City provides that:**

**1) For the first 36-months of this program, a City delivery permit granted to a retail marijuana transporter, as defined under C.R.S. Title 44-12-103, shall only go to social equity applicants through a program to be established by the City Manager. After the 36-month period expires, any applicant qualified under the state and local rules may apply for and receive a delivery license from the City; and**

**2) The City Manager shall establish a grant program to fund 75% of the fees, listed in subsection (e) above, for social equity licensees. This grant will be for a 24-month period following the permit application. After the 24-month period expires, grant funds shall not be available for this purpose.**

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. 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 \_\_\_\_\_, 2020.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

*Daniel L Money*  
DANIEL L. MONEY, Senior Assistant City Attorney



# CITY OF AURORA

## Council Agenda Item Continuation Page

**Item Title:** For an ordinance of the City Council of the City of Aurora, Colorado, amending Chapter 6 of the city code pertaining to background qualifications for marijuana business owners and employees and to add a section to allow marijuana delivery within the city.

**Item Initiator:** Robin Peterson, Mgr Of Marijuana Enforcement

**Staff Source:** Robin Peterson, Manager Of Marijuana Enforcement

**Legal Source:** Dan Money, Senior Asst City Attorney

**Outside Speaker:** N/A

**Date of Change:** 11/24/2020

### COUNCIL MEETING DATES:

**Study Session:** 11/16/2020

**Regular Meeting:** 12/7/2020

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### ITEM SUMMARY *(Brief description of changes or updates with documents included.)*

The above-named ordinance was discussed at the 11/16 City Council Study Session. The conclusion of that discussion sent forward one of two drafts of the proposed marijuana ordinance, in order to 1) clarify that "agent" could be the employee of the store or the third party transporter contracting with the store – agent has been removed and clarifying language has been added; and 2) social equity would be applied by: a) the use of a grant for the purpose of reduced fees; and b) an exclusion of transporter delivery licenses to any transporter that does not receive social equity licensee status through the State.

ORDINANCE NO. 2020-\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 6 OF THE CITY CODE PERTAINING TO BACKGROUND QUALIFICATIONS FOR MARIJUANA BUSINESS OWNERS AND EMPLOYEES AND TO ADD A SECTION TO ALLOW MARIJUANA DELIVERY WITHIN THE CITY

WHEREAS, Colorado Revised Statutes Section 44-10-307 regulates marijuana licensees' requirements, and takes into consideration felony convictions in the three years preceding the application date for the license; and

WHEREAS, the City currently has a more stringent criminal background requirement for licensees within the City; and

WHEREAS, the City believes that amending the code to be consistent with state requirements will increase jobs and promote social equity; and

WHEREAS, Colorado Revised Statutes Section 44-10-601 allows delivery of retail marijuana and retail marijuana products within the state; and

WHEREAS, if City Council desires to authorize the delivery of retail marijuana and retail marijuana products, City Council must enact an ordinance authorizing such delivery.

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

Section 1. The City Code of the City of Aurora Colorado is hereby amended, amending Section 6-302(8), which shall read as follows:

Sec. 6-302. - Definitions.

*Good moral character* means an individual who has a personal history demonstrating honesty, fairness, and respect for the rights of others and for conformance to the law which may include considerations of whether an individual has:

- (1) Ever had a professional license denied, suspended, or revoked;
- (2) Ever had a business license denied, suspended, or revoked;
- (3) Ever surrendered, been denied, or had any type of marijuana related business license placed on an administrative hold, suspended, or revoked;
- (4) Ever been denied any type of marijuana related business license;
- (5) Ever had a business temporarily or permanently closed for failure to comply with any tax, health, building, fire, zoning, or safety law;



- (6) Ever had an administrative, civil, or criminal finding of delinquency for failure to file or failure to pay sales or use taxes or any other taxes;
- (7) Ever been convicted of a crime of moral turpitude; or
- (8) ~~Within the previous five years been convicted of any misdemeanor, petty offense or any local ordinance violation related to the cultivation, processing, manufacture, storage, sale, distribution, transportation, testing, research, or consumption of any form of marijuana, drug or controlled substance; or within the previous ten years been convicted of a non drug related felony; or, at any time, been convicted of a felony related to the cultivation, processing, manufacture, storage, sale, distribution, transportation, testing, research, or consumption of any form of marijuana, drug or controlled substance.~~ **Been convicted of a felony in the three years immediately preceding his or her application date or who is currently subject to a sentence for a felony conviction.**

Section 2. The City Code of the City of Aurora, Colorado is hereby amended, amending Section 6-308, subsections (g), (h) and (k), pertaining to criminal convictions and good moral character, and renumbering the remaining subsections accordingly, which shall read as follows:

Sec. 6-308. - General licensing requirements.

- (g) *Issuance of a license.* If after investigation the local licensing authority determines that:
  - (1) The applicant has met all the terms, conditions, provisions, and requirements imposed upon the applicant or the licensee by the applicable provisions of the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the City Code and all the rules and regulations adopted pursuant thereto, and all applicable building, fire, health or zoning statutes, codes, ordinances, rules, or regulations adopted pursuant thereto related to the cultivation, processing, manufacture, storage, sale, distribution, testing, research, transporting, or consumption of any form of marijuana;
  - (2) The license application is complete, and all requested supplemental documentation has been provided;
  - (3) The license application contains no fraudulent, misrepresented, or false statements of a material or relevant fact;
  - (4) All fees and late charges, if any, have been paid;
  - (5) The applicant has timely filed all tax returns as required by law in relation to the business for which the license is sought;
  - (6) The applicant is not overdue on his or her payment to the city of any taxes, fines, interest, penalties, or collections costs assessed against or imposed upon such applicant in relation to the business for which the license is sought;

- (7) The applicant, officers, directors, other owners, any person having a direct or indirect financial interest in the business, and agents or employees of the applicant are of good moral character;
  - (8) The applicant, officers, directors, other owners, any person having a direct or indirect financial interest in the business, and agents or employees of the applicant ~~have no felony convictions in the last ten years, no drug related local ordinance, petty offense, or misdemeanor convictions in the last five years, and no drug related felony convictions;~~ **not been convicted of a felony in the three years immediately preceding his or her application date or who is not currently subject to a sentence for a felony conviction.**
  - (9) The applicant has made all the improvements to the licensed premises as required by the City Code or has an improvement implementation plan and timeline to make non-essential improvements to the premises or location approved by the local licensing authority; and
  - (10) The applicant is reasonably likely to begin operating the business within one year of the issuance of the license; then the local licensing authority shall issue the license sought, with or without terms and conditions being ordered upon the license, to the applicant for the use and the location identified in the license application as the situs of the business and notify the state the applicant has been issued a license.
- (h) *Denial of application.* Each of the following, in and of itself, constitutes full and adequate grounds for denying an application:
- (1) The applicant has not paid all applicable fees required by this article;
  - (2) The applicant has violated, does not meet, or has failed to comply with any provision of the applicable provisions in the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the City Code, or the rules and regulations adopted pursuant thereto, or any other applicable building, fire, health or zoning statute, code, ordinance, rule, or regulation adopted pursuant thereto related to the cultivation, processing, manufacture, storage, sale, distribution, testing, research, transporting, or consumption of any form of marijuana;
  - (3) The application contains false, misleading, or incomplete information;
  - (4) The applicant, or an officer, director, other owner, agent, employee, or any person having a direct or indirect financial interest in the business are not of good moral character;
  - (5) The applicant is not reasonably likely to commence, operations within one year of the issuance of the license by the state;
  - (6) The applicant, or an officer, director, other owner, agent or employee, or any person having a direct or indirect financial interest in the marijuana establishment, ~~has a felony conviction in the last ten years, or a drug related local ordinance, petty offense, or misdemeanor conviction in the~~

~~last five years, or a drug-related felony conviction; been convicted of a felony in the three years immediately preceding his or her application date or who is currently subject to a sentence for a felony conviction.~~

- (7) The applicant has failed to file any tax return as required by law in relation to the marijuana establishment for which the license is sought;
  - (8) The applicant is overdue on his or her payment to the city of any taxes, interest, penalties, and collection costs assessed against or imposed upon such applicant or licensee in relation to the marijuana establishment for which the license is sought;
  - (9) For good cause; and
  - (10) The applicant employs or intends to employ a person who has not submitted fingerprints for a criminal background check.
- (k) *Duty to supplement.*
- (1) If, at any time before or after a license is issued pursuant to this article, any information required by the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, the City Code, or any rule and regulation adopted pursuant thereto, changes from that which is stated in the application, the applicant or licensee shall supplement their application with the updated information within ten days from the date upon which such change occurs.
  - (2) An applicant or licensee has a duty to notify the local licensing authority of any pending criminal charge and any criminal conviction **for a crime of moral turpitude, or of a pending felony charge or felony conviction** by the applicant, licensee, any owner, officer, director, manager, agent or employee of the applicant or licensee within ten days of the event.
  - ~~(3) An applicant or licensee has a duty to notify the local licensing authority of any pending violation of, and any conviction for, a violation of any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, transportation, storage, sale, distribution, testing, research or consumption of any form of marijuana by the applicant, licensee, any owner, officer, director, manager, agent or employee of the applicant or licensee within ten days of the event.~~

Section 3. The City Code of the City of Aurora, Colorado is hereby amended, amending Section 6-309, to amend (a)(3) and (a)(9), pertaining to criminal convictions, and renumbering the remaining subsections accordingly, which shall read as follows:

Sec. 6-309. – Licensing requirements —Retail marijuana stores:

- (a) The local licensing authority shall not issue a retail marijuana store license to an applicant that does not meet each of the following minimum requirements:
  - (1) The applicant has been licensed by the state pursuant to the Colorado Retail Marijuana Code;

- (2) The applicant has at least \$400,000.00 in liquid assets in the applicant's control and readily available to the applicant, as evidenced by bank statements, lines of credit, or the equivalent to show that the applicant has sufficient resources to operate a retail marijuana store;
- (3) The applicant, and the applicant's officers, directors, owners, agents and employees ~~have no drug related felony conviction, no felony convictions in the last ten years, no drug related local ordinance, petty offense, or misdemeanor convictions in the last five years, and no pending criminal charges of any type~~ **have not been convicted of a felony in the three years immediately preceding his or her application date or who is not currently subject to a sentence for a felony conviction.**
- (4) The applicant must have at least two years of experience operating a licensed marijuana establishment in Colorado within the last four years;
- (5) At least one of the owners, with at least one percent ownership, applying for a license must have been a resident of the state for at least one year prior to the date of the application;
- (6) The applicant must be in good standing with the state licensing authority;
- (7) The applicant shall not have incurred administrative penalties related to the operations of a marijuana establishment in Colorado in the previous three years;
- (8) The applicant and the applicant's officers and executives are in compliance with all state and local laws relating to taxes;
- (9) The applicant must certify that he/she will not employ as a manager or other employee any person ~~with a felony conviction in the last ten years, a drug related local ordinance, petty offense or misdemeanor conviction in the last five years, a drug related felony conviction, or pending criminal charges of any type~~ **who has been convicted of a felony in the three years immediately preceding his or her application date or who is currently subject to a sentence for a felony conviction;**
- (10) The applicant must prevent the odor of marijuana from being detected by any person at the exterior of the retail marijuana store or perceptible at any adjoining use or business of the retail marijuana store and shall install an air filtration system to filter the odor of marijuana, if necessary;
- (11) The applicant's security plan must demonstrate that the applicant will implement security measures that exceed the requirements set forth in the Colorado Retail Marijuana Code, the City Code and any rules adopted pursuant thereto. If the security plan includes specialized details of security arrangements it will be protected from disclosure as provided under the Colorado Open Records Act, C.R.S. § 24-72-204(2)(a)(VIII). If the city finds that such documents are subject to inspection, it will attempt to provide at least 24-hour notice to the applicant prior to such disclosure;

- (12) An applicant shall submit an operating plan. The operating plan may include a staffing plan that will provide and ensure adequate staffing and experience for all accessible business hours and adequate security and theft prevention; an operations manual that demonstrates compliance with the Colorado Retail Marijuana Code, and the City Code; proactive consumer education practices; a description of an employee training program; and a list of best operational practices; and
- (13) An applicant shall submit a business plan. The business plan shall clearly demonstrate the applicant's ability to operate in a highly regulated industry, and may include a scope of work for the planning and development of the proposed business; a scope of work for capital improvements for the proposed business; an estimate of first-year revenues; an estimate of first-year operating expenses and evidence that the applicant will have the resources necessary to pay for those expenses; and a description of the applicant's history of compliance in another highly regulated industry.

Section 4. The City Code of the City of Aurora, Colorado, is hereby amended to add Section 6-319, which shall read as follows:

**Sec. 6-319 – Delivery of retail marijuana authorized.**

- (a) **Retail marijuana stores and marijuana transporters licensed to operate in the City are authorized to deliver retail marijuana and retail marijuana products to residences within the City, and to residences within any other jurisdiction that would allow delivery of retail marijuana from outside their jurisdiction.**
- (b) **The City will allow the delivery of retail marijuana and retail marijuana products to be delivered into the City from outside jurisdictions in which the marijuana store has been licensed to deliver these products by the state and the local jurisdiction from which they reside.**
- (c) **Retail marijuana and retail marijuana product deliveries are authorized between the hours of 8:00 a.m. and 10:00 p.m., of which completion of delivery must be done by 10 p.m.**
- (d) **The delivery of retail marijuana and retail marijuana product is limited to no more than 1 ounce of retail marijuana, no more than 8 grams of retail marijuana concentrate, or retail marijuana products containing no more than 80 ten milligram servings of THC, per customer, per business day.**
- (e) **No delivery is allowed in the City until the retail marijuana store or the retail marijuana transporter is properly permitted to deliver through the jurisdiction allowing the retail marijuana delivery. Aurora delivery permits must be obtained through the Aurora Marijuana Enforcement Division. A permit shall not be issued until the applicable permit fees have been paid. The fee for each permit shall be set forth in a schedule of fees recommended**

by the local licensing authority and approved by the City Manager as regulated in Section 2-587 of the Code.

(f) **The City recognizes that ensuring social equity, under C.R.S. Title 44-10-308, to applicants of delivery licenses is a shared purpose of the State and the City. In supporting the pursuit of social equity, the City provides that:**

**1) For the first 36-months of this program, a City transporter license and delivery permit granted to a retail marijuana transporter, as defined under C.R.S. Title 44-10-103, shall only go to social equity applicants through a program to be established by the City Manager. After the 36-month period expires, any applicant qualified under the state and local rules may apply for and receive a transporter license and delivery permit from the City; and**

**2) The City Manager shall establish a grant program to fund 75% of the fees, listed in subsection (e) above, for social equity licensees. This grant will be for a 24-month period following the permit application. After the 24-month period expires, grant funds shall not be available for this purpose.**

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. 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 \_\_\_\_\_, 2020.


PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:  
  
\_\_\_\_\_

SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

*Daniel L Money*   
\_\_\_\_\_  
DANIEL L. MONEY, Senior Assistant City Attorney



# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ZONING 9.99 ACRES OF LAND, MORE OR LESS, GENERALLY LOCATED WEST OF GUN CLUB ROAD BETWEEN THE EAST 5TH AND EAST 6TH AVENUE ALIGNMENTS, WITHIN THE COUNTY O

**Item Initiator:** Heather Lamboy, Planning Supervisor

**Staff Source:** Heather Lamboy, Planning Supervisor

**Legal Source:** Dan Money, Assistant City Attorney

**Outside Speaker:** Diana Rael, Norris Design

**Council Goal:** 2012: 5.6--Continue to plan for high quality neighborhoods with a balanced housing stock

### COUNCIL MEETING DATES:

**Study Session:** N/A

**Regular Meeting:** 12/7/2020

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

- |   |  |
|---|--|
| <input type="checkbox"/> Approve Item as proposed at Study Session              | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting       | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting | <input type="checkbox"/> Information Only                            |

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** Planning and Zoning Commission

**Policy Committee Date:** 11/10/2020

### 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 |



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**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 case was heard by the Planning & Zoning Commission at its November 10, 2020 meeting. There were no comments from the public. The Planning Commission voted 6-0 to recommend approval to the City Council.

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

Vista Creek Investments LP is requesting an initial zoning to Mixed-Use Regional (MU-R) for approximately 9 acres of undeveloped land located west of Gun Club Road between the E 5<sup>th</sup> Avenue and E 6<sup>th</sup> Avenue alignments, which is north of E 6<sup>th</sup> Parkway. The parcel is currently vacant. This initial zoning request is being requested with an annexation for the same area and is an enclave surrounded by properties already within city boundaries. Surrounding properties are currently zoned Mixed-Use Regional (MU-R) on the east, north, and west sides. Residential development is located to the east which is part of the Cross Creek Development.

This proposed initial zoning and related annexation would result in consistent zoning and jurisdiction in this developing area of Aurora. Consistent zoning and jurisdiction help to clarify expectations for development responsibilities, as well as maintenance of public infrastructure and provision of services.

The proposed MU-R zone district is compatible with the surrounding zoning and the intent for future development is consistent with the goals outlined for the Urban District Neighborhood Placetype in Aurora Places.

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**QUESTIONS FOR COUNCIL**

Does the Council want to zone Vista Creek to MU-R?

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**LEGAL COMMENTS**

An application for initial zoning, rezoning, and changes 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, after a public hearing, finds that the following criteria have been met.

(1) 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

(2) 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  
(Money)

---

**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Type Text Here

---

**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** Type Text Here

## City of Aurora Planning and Zoning Commission Case Report

### Vista Creek – Initial Zoning Development Application Number: DA-2248-00 Case Manager: Heather Lamboy

November 10, 2020

#### **Project Summary:**

Vista Creek Investments LP is requesting an initial zoning to Mixed-Use Regional (MU-R) for approximately 9 acres of undeveloped land located west of Gun Club Road between the E 5<sup>th</sup> Avenue and E 6<sup>th</sup> Avenue alignments, which is north of E 6<sup>th</sup> Parkway. The parcel is currently vacant. This initial zoning request is being requested with an annexation for the same area and is an enclave surrounded by properties already within city boundaries. Surrounding properties are currently zoned Mixed-Use Regional (MU-R) on the east, north, and west sides. Residential development is located to the east which is part of the Cross Creek Development.

This proposed initial zoning and related annexation would result in consistent zoning and jurisdiction in this developing area of Aurora. Consistent zoning and jurisdiction help to clarify expectations for development responsibilities, as well as maintenance of public infrastructure and provision of services.

The proposed MU-R zone district is compatible with the surrounding zoning and the intent for future development is consistent with the goals outlined for the Urban District Neighborhood Placetype in Aurora Places.

#### **Applicant's Request:**

Initial Zoning to Mixed-Use Regional (MU-R)

#### **Neighborhood Comments:**

Fourteen (14) adjacent property owners and four (4) registered neighborhood organizations were notified of the application. No comments were received throughout the review process and no neighborhood meeting was held.

#### **Consistency with Comprehensive Plan:**

Aurora Places, the City's Comprehensive Plan, is designed to serve as a foundation for decision-making related to growth and development in Aurora. This plan describes future development and land use in terms of "placetypes." Placetypes characterize specific areas based on defining character, scale, form, and function. This site area is within the placetype of "Urban District" in Aurora Places.

The intent of the Urban District Placetype is to create highly active urban districts as locations for knowledge-based businesses, desired retail, unique entertainment and local entrepreneurs and for people who desire convenient urban areas to live and work. These areas are intensely developed, mixed-use places to attract talented workers and higher-paying jobs. While the site is relatively small (approximately 9 acres), it can be contemplated as complimentary to the larger surrounding area where mixed-use development will occur. Therefore, the proposed initial zoning is consistent with defining features described in the Urban District placetype.

The Aurora Places Plan also provides goals, policies and practices centered on the seven core principles, including Housing for All. One goal from this principal is to address barriers to the development of diverse housing variety and neighborhood choices across the city. Another goal is to decrease barriers to homeownership. The integration of this tract of land into the city with the intent of developing additional mixed-use development, including housing, in the future for the community seeks to address this goal.

**Summary of Staff Recommendation:**

Recommend Approval of the Initial Zoning to Mixed-Use Regional (MU-R) to the Planning and Zoning Commission for recommendation to City Council (see last page of report for details).

**Detailed Case Analysis**

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**Public Notification:**

Legal notice appeared in the Aurora Sentinel on October 29, 2020. The applicant has submitted verification of mailing public hearing notices to adjacent property owners and proof of posting.

**Community Referrals:**

Referrals were provided to the following registered neighborhood organizations within one mile of the project: Thunderbird Estates, Cross Creek HOA, E-470 Neighbors, and Murphy Creek Gun Club Neighbors.

**Conformance with Code Criteria:**

**1. Initial Zoning Criteria**

*Section 146-5.4.1.C of the Unified Development Ordinance (UDO) states an application for initial zoning, rezoning, and changes 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: (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.*

- The initial zoning and related annexation are needed to integrate the current enclave into the surrounding City of Aurora zoning to result in consistent zoning and jurisdiction in this developing area. Consistent zoning and jurisdiction help to clarify expectations for development responsibilities as well as maintenance of public infrastructure and provision of services.
- The proposed zoning district is supported by Aurora Places as part of the “Urban District” Placetype and helps meet the goals of providing available and attainable housing as well as opportunities to live close to employment opportunities for the community.

- The potential size, scale, height, density, and multi-modal traffic impacts of the proposed initial zoning to MU-R are compatible with the current impacts associated with the same surrounding MU-R zoning.
- The initial zoning will be a benefit to the surrounding neighborhoods and will be progress toward meeting general employment and housing goals outlined in the Comprehensive Plan.

**Applicant Information:**

Owner/Applicant: Nevin Gun Club / Vista Creek Investments LP  
 Agent/Project Manager: Diana Rael, Norris Design

**Exhibits:**

Exhibit A Vicinity Map  
 Exhibit B Applicant’s Letter of Introduction  
 Exhibit C Initial Zoning Exhibit  
 Exhibit D Placetype Map

**Project Statistics**

**Land Use Analysis**

Item	Existing	Permitted/Required	Proposed
Zoning	Unincorporated Arapahoe County – A-1 Zoning	Primarily low-density residential and agricultural uses	MU-R, Mixed-Use Regional
Land Use	Vacant	N/A	Zoning for future housing development within city limits
Parcel Size	9.12 acres	N/A	No change

**Surrounding Properties**

Direction	Zoning	Use
North	MU-R (Mixed-Use Regional)	Undeveloped land
East	MU-R (Mixed-Use Regional)	Multifamily in Cross Creek Master Planned area
West	MU-R (Mixed-Use Regional)	E-470 and undeveloped land in Aurora One Master Planned area (proposed)
South	MU-R (Mixed-Use Regional)	Undeveloped land in Lamar Landing Master Plan (proposed)

## **Staff Recommendation:**

### **Agenda Item 5d: Initial Zoning to MU-R, Mixed-Use Regional**

Staff recommends that the Planning and Zoning Commission recommend approval to the City Council for the Vista Creek Initial Zoning to the MU-R District in accordance with Section 146-5.4.1.C of the Unified Development Ordinance for the following reasons:

- The initial zoning and related annexation are needed to integrate the current enclave into the surrounding City of Aurora zoning to result in consistent zoning and jurisdiction in this developing area. Consistent zoning and jurisdiction help to clarify expectations for development responsibilities as well as maintenance of public infrastructure and provision of services.
- The proposed zoning district is supported by Aurora Places as part of the “Urban District” Placetype and helps meet the goals of providing available and attainable housing as well as opportunities to live close to employment opportunities for the community.
- The potential size, scale, height, density, and multi-modal traffic impacts of the proposed initial zoning to MU-R are compatible with the current impacts associated with the same surrounding MU-R zoning.
- The initial zoning will be a benefit to the surrounding neighborhoods and will be progress toward meeting general employment and housing goals outlined in the Comprehensive Plan.









September 22, 2020

**City of Aurora, Planning Department**

15151 East Alameda Parkway  
Aurora, Colorado 80012

**Re: Vista Creek Initial Zoning - Letter of Introduction**

On behalf of Vista Creek Investments, LP., we are pleased to submit this request for initial zoning for parcel number 1975-12-1-00-008, referred to as the Vista Creek annexation.

**CONTEXT**

The parcel is located in the Northeast 1/4 of Section 12, Township 4 South, Range 66 West of the 6<sup>th</sup> Principal Meridian, County of Arapahoe, State of Colorado; generally lying south of E 6<sup>th</sup> Avenue and between Gun Club Road and E-470. It consists of one parcel containing 9.12 acres which are currently vacant. The parcel is surrounded land in City of Aurora, all of which are zoned Mixed Use Regional (MUR), but are currently used for agriculture or vacant, with the exception of the land directly east, which includes the first phase of the Cross Creek Framework Development Plan / Master Plan, a Multifamily development.

**INITIAL ZONING**

The subject property is currently located in unincorporated Arapahoe County. As part of the annexation, the applicant requests the parcel be initially zoned to the Mixed-Use Regional (MUR) zone district, based on consistent, surrounding zoning and as recommended by Aurora planning staff. The applicant intends to submit a Master Plan and Site Plan for a Multifamily Residential community, should the annexation and initial zoning be approved. The Mixed-Use Regional Zone District is described as follows:

*The MU-R district is intended to serve "image making" areas in Aurora such as gateways, major arterial street and highway intersections, and regional activity centers. The MU-R district allows for a mix of medium- to high-density residential and regional commercial uses, as well as other uses...*

**APPROVAL CRITERIA**

Section 146-4001(C) of the City of Aurora Municipal Code lists the following approval criteria for initial zoning:

1. *The applicant has demonstrated that the proposed initial zoning or rezoning is consistent with the spirit and intent of the city's comprehensive plan and with other policies and plans adopted by the city council.* Aurora Places, the City's Comprehensive Plan became effective in October 2018. The plan includes Planning and Annexation Boundaries; the proposed annexation / initial zoning falls within both the 'Planning Area' and "Annexation Area' noted on the map. The initial zoning meets the intent of the city's comprehensive plan in regard to all Community Principles. The site falls within the Urban District Placetype and plans for future residential development are in line with primary land uses within the placetype.

One of the Core Principles defined in Aurora Places is Housing for All, which includes the following principle: "High-quality housing options enable people across all socioeconomic levels, cultural identities and stages of life to establish and manage households". Recommended practices include:

- Provide appropriate locations for multiple housing types in urban districts, including both affordable and luxury options, because the concentration of services, retail, entertainment and employment and the multiple transportation choices are desired by households of all incomes.
- Create vibrant and highly desirable neighborhoods through superior housing design and neighborhood layout, with varied design along streets and quality landscaping and architecture throughout.
- Ensure that neighborhoods are effectively connected to safe, attractive pedestrian, bicycle and public transit routes, especially those with affordable and senior housing.





- Encourage the construction or rehabilitation of homes for downsizing households, including single-story, shared housing, multigenerational and other senior-friendly housing types.
2. *The applicant has demonstrated that the proposed initial zoning or rezoning is compatible with surrounding development or that, through utilization of appropriate planning controls and techniques, the initial zoning or rezoning can be made compatible with surrounding development.*  
The initial zoning, as Mixed-Use Regional, is compatible with surrounding zoning and identical to the majority of abutting properties. The proposed zone district provides opportunities for additional Aurora residents to live within the planned future community. Further, annexation and initial zoning of this property will fill a gap in future housing needs within this growing Aurora neighborhood.
  3. *A need exists to correct an error.*  
Not applicable.
  4. *The city council and the planning commission are authorized to consider the past performance of an applicant in their consideration of any rezoning. The city council may deny any rezoning if the applicant or developer thereof is determined to be in violation of any requirements, conditions or representations on a prior development.*  
Not applicable.

The following team has been assembled to complete this application and is available to address any questions or comments.

**Applicant:**

Vista Creek Investments, LP  
37 Kodiak Crescent Suite 300  
Toronto, Ontario M3J 3E5 Canada  
416.849.3484  
Contact: David Meyerowitz  
david.meyerowitz@strategiccapiatal.com

**Land Owner:**

Gail M. Hartley Exempt Trust  
2000 South Colorado Blvd.  
Tower Two, Suite 700  
Denver, CO 80222

**Civil Engineer:**

CORE Consultants  
1950 W Littleton Blvd  
Littleton, CO 80120  
303.703.444  
Contact: Ron Hansen  
hanson@corecivil.com

**Applicant's Representative:**

Otten Johnson  
950 17th Street, Suite 1600  
Denver, Colorado 80202  
303.575.7555  
Contact: Jim Johnson  
jjohnson@ottenjohnson.com

**Planner:**

Norris Design  
1101 Bannock Street  
Denver, Colorado 80204  
303.892.1166  
Contact: Diana Rael  
drael@norris-design.com

**Surveyor:**

Gillians Land Consultants  
PO Box 746358  
Arvada, Colorado 80006  
303.972.6640  
Contact: Robert Harris  
surveyglc@msn.com

We look forward to working with the City of Aurora on the review and eventual approval of this application. Feel free to contact me directly should you have any comments, questions and/or requests for additional information.

Sincerely,

**Norris Design**

Diana Rael, PLA  
Principal

**EXHIBIT A**

SHEET 1 OF 2

NORTHEAST 1/4 OF SECTION 12,  
TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M.,  
COUNTY OF ARAPAHOE, STATE OF COLORADO

**LAND DESCRIPTION: PROPERTY TO BE ANNEXED**

A PARCEL OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M., AND IN THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 4 SOUTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE BEARINGS FOR THIS DESCRIPTION ARE BASED UPON THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 12, BEARING S00°19'16"E, PER THE CITY OF AURORA HORIZONTAL CONTROL MAP 07-T, A DISTANCE OF 2648.48 FEET, MONUMENTED ON THE NORTH END BY A FOUND 2" ALUMINUM CAP IN RANGE BOX, PLS 23527 AND ON THE SOUTH END BY A FOUND 3" BRASS CAP, PLS 16419, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

BEGINNING AT THE SOUTHEAST CORNER OF ORDINANCE NO. 90-130 AND THE SOUTHWEST CORNER ORDINANCE NO. 87-69;

THENCE ON THE SOUTH LINE OF SAID ORDINANCE NO. 87-69, N89°30'04"E, A DISTANCE OF 60.00 FEET;

THENCE ON THE WEST LINE OF ORDINANCE NO. 87-120, S00°19'16"E, A DISTANCE OF 631.92 FEET;

THENCE ON THE NORTH LINE OF ORDINANCE NO. 90-130, S89°18'10"W, A DISTANCE OF 692.99 FEET;

THENCE N00°20'41"W, A DISTANCE OF 470.85 FEET;

THENCE ON THE EAST LINE OF A RULE AND ORDER RECORDED MARCH 1, 1999, UNDER RECEPTION NO. A90334383, N11°21'34"E, A DISTANCE OF 164.70 FEET;

THENCE ON THE SOUTH LINE OF SAID ORDINANCE 90-130, N89°17'02"E, A DISTANCE OF 599.84 FEET, TO THE POINT OF BEGINNING, CONTAINING 435,363 SQUARE FEET OR 9.99 ACRES, MORE OR LESS.

*Gillians*

GILLIANS LAND CONSULTANTS  
P.O. BOX 746358  
ARVADA, CO 80006-6358  
303-972-6640 www.gillianslc.com

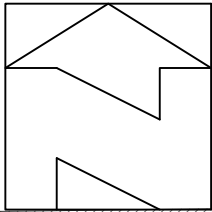
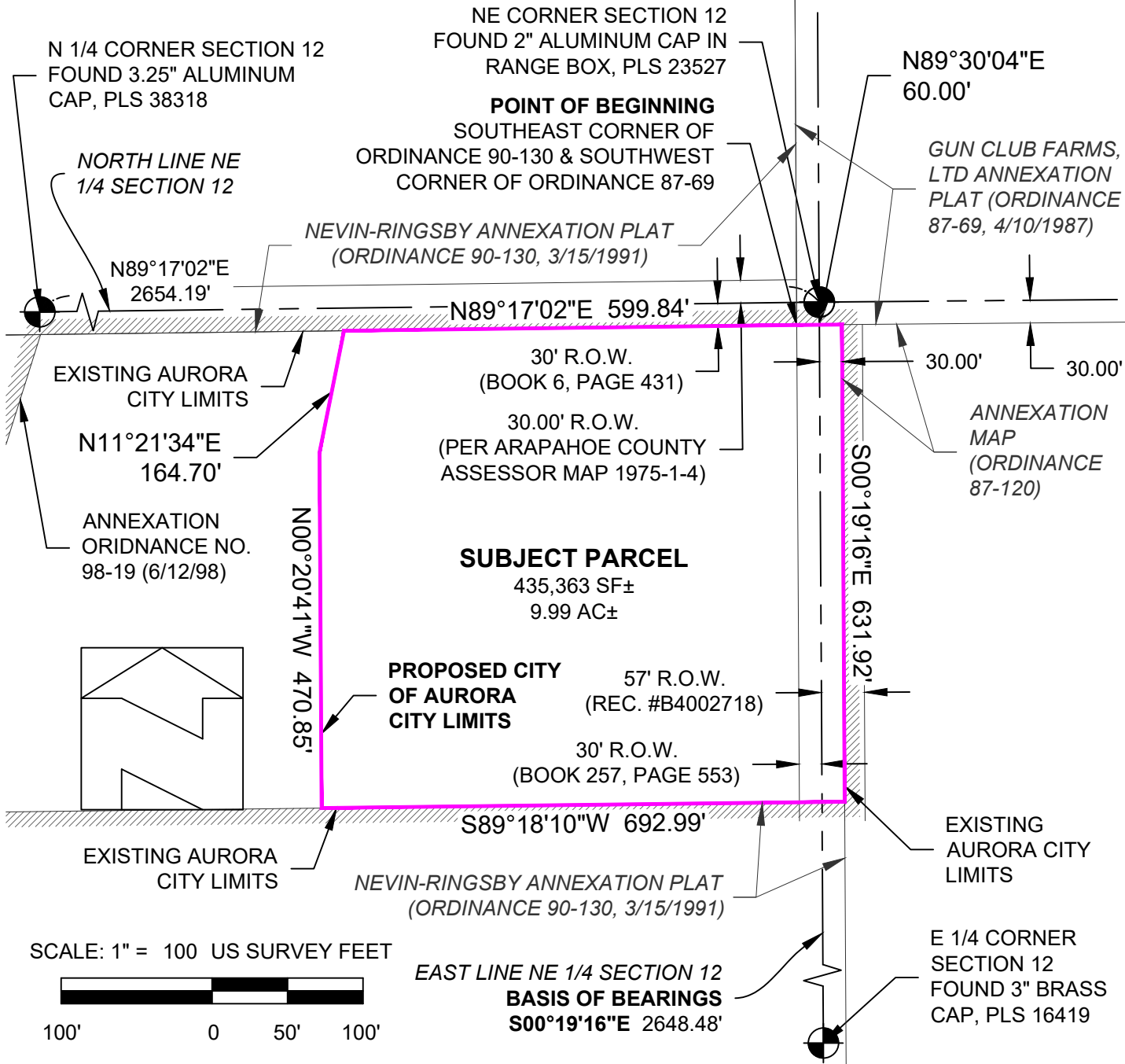
JOB NO.: 20040  
DRAWN: ALB  
ISSUE DATE: 9/30/2020  
FILE: ANNEX-EXH

ROBERT E. HARRIS  
COLORADO P.L.S. 37601  
FOR & ON BEHALF OF  
GILLIANS LAND CONSULTANTS



# EXHIBIT A

SHEET 2 OF 2



SCALE: 1" = 100 US SURVEY FEET



100' 0 50' 100'

THIS IS NOT A MONUMENTED LAND SURVEY, LAND SURVEY PLAT OR IMPROVEMENT LOCATION CERTIFICATE. IT IS INTENDED ONLY TO DEPICT THE ATTACHED LAND DESCRIPTION.

# Gillians

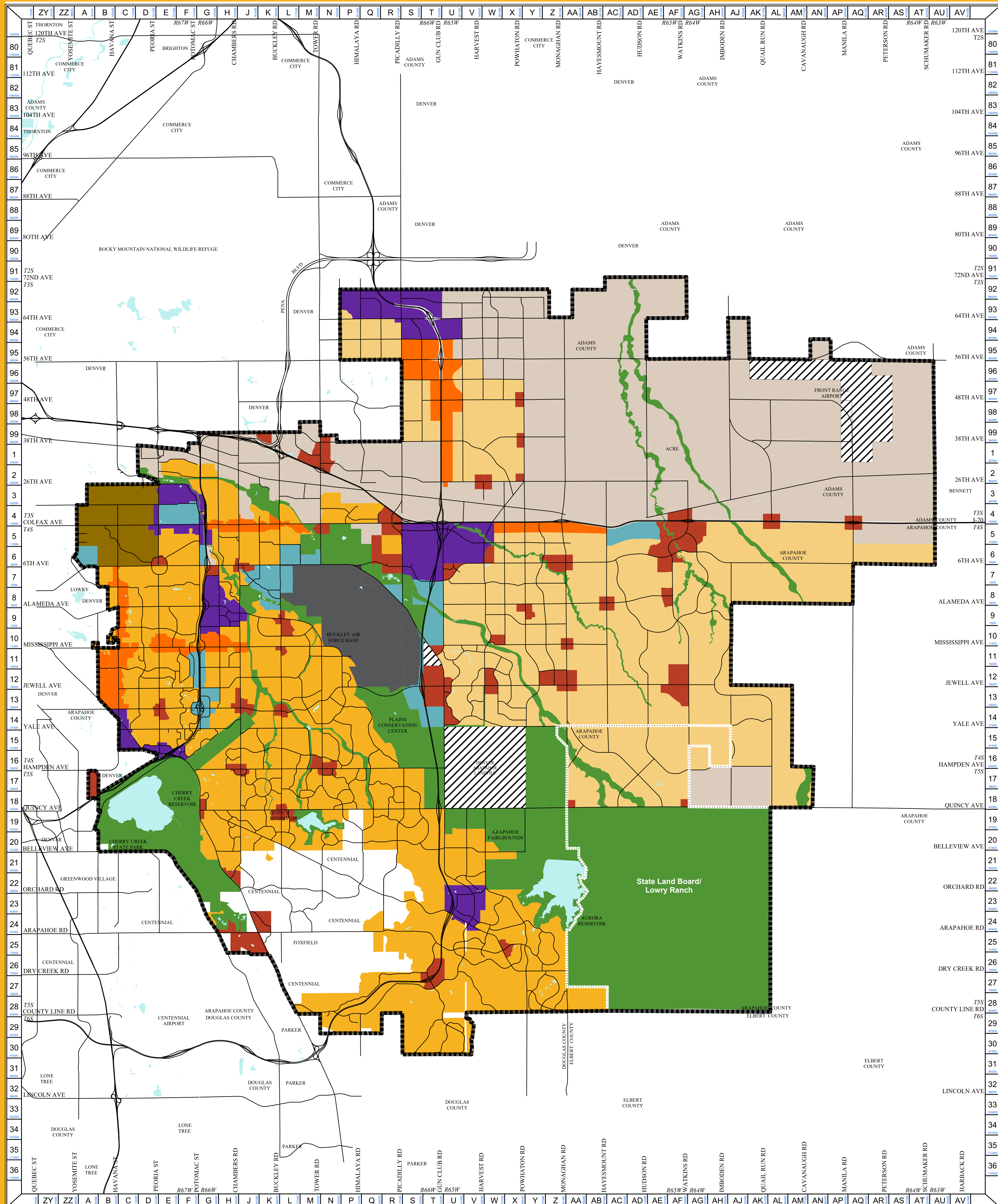
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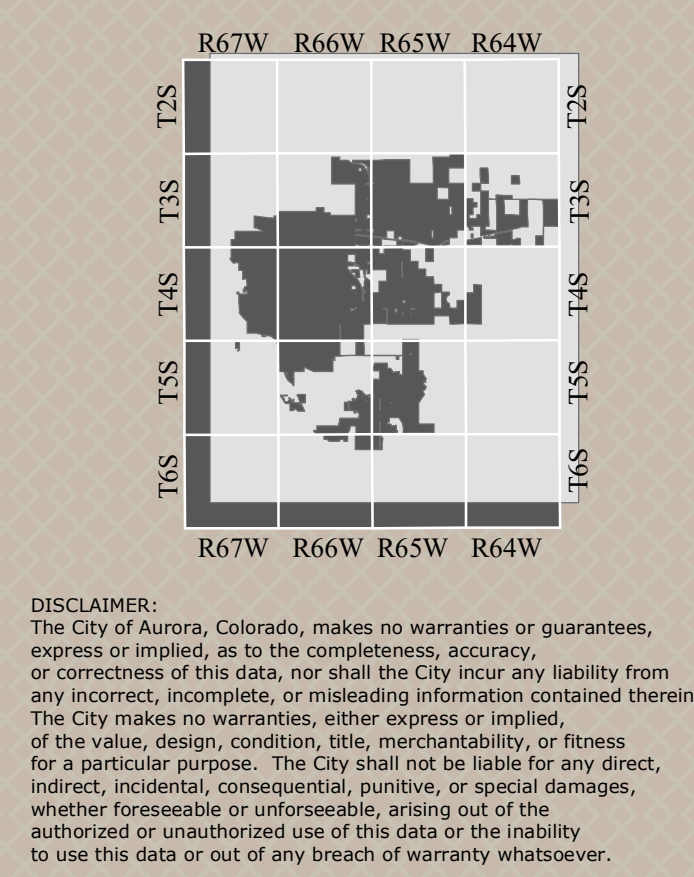
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 FOR & ON BEHALF OF  
 GILLIANS LAND CONSULTANTS







**Planning and Development Services**  
 15151 E. Alameda Pkwy  
 Aurora CO 80012 USA  
 www.Auroragov.org  
 303.739.7250  
 GIS@auroragov.org



# City of Aurora, Colorado

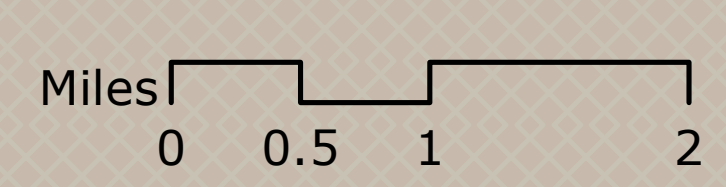
## Comprehensive Plan PlaceTypes Map

January 29, 2020

*Aurora*  
 Worth Discovering!



Legend	
	Planning Area Boundary
	State Land Board Property
	Buckley AFB
	City Corridor
	Commercial Hub
	Emerging Neighborhood
	Established Neighborhood
	Industrial Hub
	Innovation Campus
	Original Aurora
	Special Use
	Urban District
	Urban Green Space
	Unincorporated County
	Other City
	Aurora





November 10, 2020

**AGENDA ITEM 5d:**

Hearing and consideration of Vista Creek – Initial Zoning

Applicant: Vista Creek Investments LP  
Location: Southwest Corner of Gun Club road and 6<sup>th</sup> Avenue  
DA Number: DA-2248-00  
Case Numbers: 2020-2005-00  
City Staff: Heather Lamboy

Vista Creek Investments LP is requesting an initial zoning to Mixed-Use Regional (MU-R) for approximately 9 acres of undeveloped land located west of Gun Club Road between the E 5<sup>th</sup> Avenue and E 6<sup>th</sup> Avenue alignments, which is north of E 6<sup>th</sup> Parkway. The parcel is currently vacant. This initial zoning request is being requested with an annexation for the same area and is an enclave surrounded by properties already within city boundaries. Surrounding properties are currently zoned Mixed-Use Regional (MU-R) on the east, north, and west sides. Residential development is located to the east which is part of the Cross Creek Development.

This proposed initial zoning and related annexation would result in consistent zoning and jurisdiction in this developing area of Aurora. Consistent zoning and jurisdiction help to clarify expectations for development responsibilities, as well as maintenance of public infrastructure and provision of services.

The proposed MU-R zone district is compatible with the surrounding zoning and the intent for future development is consistent with the goals outlined for the Urban District Neighborhood Placetype in Aurora Places.

**Testimony Given at the Hearing:**

Heather Lamboy, Case Manager, gave a presentation of the item, including staff recommendation.

Commissioner Turcios asked whether this case was only an initial zoning and no development was being proposed. Ms. Lamboy confirmed that, at this time, the request was only for an initial zoning which is related to an annexation application.

Commissioner Lyon asked whether there was anything planned for the site in the near future.

Diana Rael, Norris Design, 1101 Bannock Street, Denver CO, representing the applicant, stated that the applicant is working with a developer and they are currently developing a Master Plan for the site. She stated that it is likely that an application for a Master Plan and Site Plan would be submitted in the next several months.

There was no public comment.

November 10, 2020

**Planning Commission Results**

A MOTION WAS MADE BY COMMISSIONER JETCHICK AND SECONDED BY COMMISSIONER HOGAN.

RECOMMEND APPROVAL TO THE CITY COUNCIL THE VISTA CREEK INITIAL ZONING TO THE MU-R DISTRICT IN ACCORDANCE WITH SECTION 146-5.4.1.C OF THE UNIFIED DEVELOPMENT ORDINANCE FOR THE FOLLOWING REASONS:

1. THE INITIAL ZONING AND RELATED ANNEXATION ARE NEEDED TO INTEGRATE THE CURRENT ENCLAVE INTO THE SURROUNDING CITY OF AURORA ZONING TO RESULT IN CONSISTENT ZONING AND JURISDICTION IN THIS DEVELOPING AREA. CONSISTENT ZONING AND JURISDICTION HELP TO CLARIFY EXPECTATIONS FOR DEVELOPMENT RESPONSIBILITIES AS WELL AS MAINTENANCE OF PUBLIC INFRASTRUCTURE AND PROVISION OF SERVICES.
2. THE PROPOSED ZONING DISTRICT IS SUPPORTED BY AURORA PLACES AS PART OF THE "URBAN DISTRICT" PLACETYPE AND HELPS MEET THE GOALS OF PROVIDING AVAILABLE AND ATTAINABLE HOUSING AS WELL AS OPPORTUNITIES TO LIVE CLOSE TO EMPLOYMENT OPPORTUNITIES FOR THE COMMUNITY.
3. THE POTENTIAL SIZE, SCALE, HEIGHT, DENSITY, AND MULTI-MODAL TRAFFIC IMPACTS OF THE PROPOSED INITIAL ZONING TO MU-R ARE COMPATIBLE WITH THE CURRENT IMPACTS ASSOCIATED WITH THE SAME SURROUNDING MU-R ZONING.
4. THE INITIAL ZONING WILL BE A BENEFIT TO THE SURROUNDING NEIGHBORHOODS AND WILL BE PROGRESS TOWARD MEETING GENERAL EMPLOYMENT AND HOUSING GOALS OUTLINED IN THE COMPREHENSIVE PLAN.

**Further Discussion:**

No further discussion occurred.

MOTION PASSED UNANIMOUSLY.

ORDINANCE NO. 2020 - \_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, ZONING 9.99 ACRES OF LAND, MORE OR LESS, GENERALLY LOCATED WEST OF GUN CLUB ROAD BETWEEN THE EAST 5<sup>TH</sup> AND EAST 6<sup>TH</sup> AVENUE ALIGNMENTS, WITHIN THE COUNTY OF ARAPAHOE, STATE OF COLORADO, TO MIXED-USE REGIONAL DISTRICT AND AMENDING THE ZONING MAP ACCORDINGLY (VISTA CREEK INITIAL ZONING)

WHEREAS, the applicant has requested that 9 acres of land, more or less, located west of Gun Club Road between the East 5<sup>th</sup> and East 6<sup>th</sup> Alignment, within the County Arapahoe, State of Colorado, be zoned Mixed-Use Regional (MU-R); and

WHEREAS, Section 146-5.4.1.C.3 of the City Code provides that all applications for the initial zoning 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 November 10, 2020, following a public hearing, the Planning and Zoning Commission voted to recommend the zoning 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 zoning 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 Regional, and the City zoning map is hereby amended in accordance with said zoning.

Section 3. All ordinances or parts of ordinances of the City in conflict herewith are expressly repealed.

Section 4. 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 \_\_\_\_\_, 2020.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

*Daniel L Money* \_\_\_\_\_  
DANIEL L. MONEY, Senior Assistant City Attorney



# EXHIBIT A

NORTHEAST 1/4 OF SECTION 12,  
TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M.,  
COUNTY OF ARAPAHOE, STATE OF COLORADO

## LAND DESCRIPTION: PROPERTY TO BE ANNEXED

A PARCEL OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M., AND IN THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 4 SOUTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE BEARINGS FOR THIS DESCRIPTION ARE BASED UPON THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 12, BEARING S00°19'16"E, PER THE CITY OF AURORA HORIZONTAL CONTROL MAP 07-T, A DISTANCE OF 2648.48 FEET, MONUMENTED ON THE NORTH END BY A FOUND 2" ALUMINUM CAP IN RANGE BOX, PLS 23527 AND ON THE SOUTH END BY A FOUND 3" BRASS CAP, PLS 16419, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

BEGINNING AT THE SOUTHEAST CORNER OF ORDINANCE NO. 90-130 AND THE SOUTHWEST CORNER ORDINANCE NO. 87-69;

THENCE ON THE SOUTH LINE OF SAID ORDINANCE NO. 87-69, N89°30'04"E, A DISTANCE OF 60.00 FEET;

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THENCE ON THE EAST LINE OF A RULE AND ORDER RECORDED MARCH 1, 1999, UNDER RECEPTION NO. A90334383, N11°21'34"E, A DISTANCE OF 164.70 FEET;

THENCE ON THE SOUTH LINE OF SAID ORDINANCE 90-130, N89°17'02"E, A DISTANCE OF 599.84 FEET, TO THE POINT OF BEGINNING, CONTAINING 435,363 SQUARE FEET OR 9.99 ACRES, MORE OR LESS.

# Gillians

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303-972-6640 www.gillianslc.com

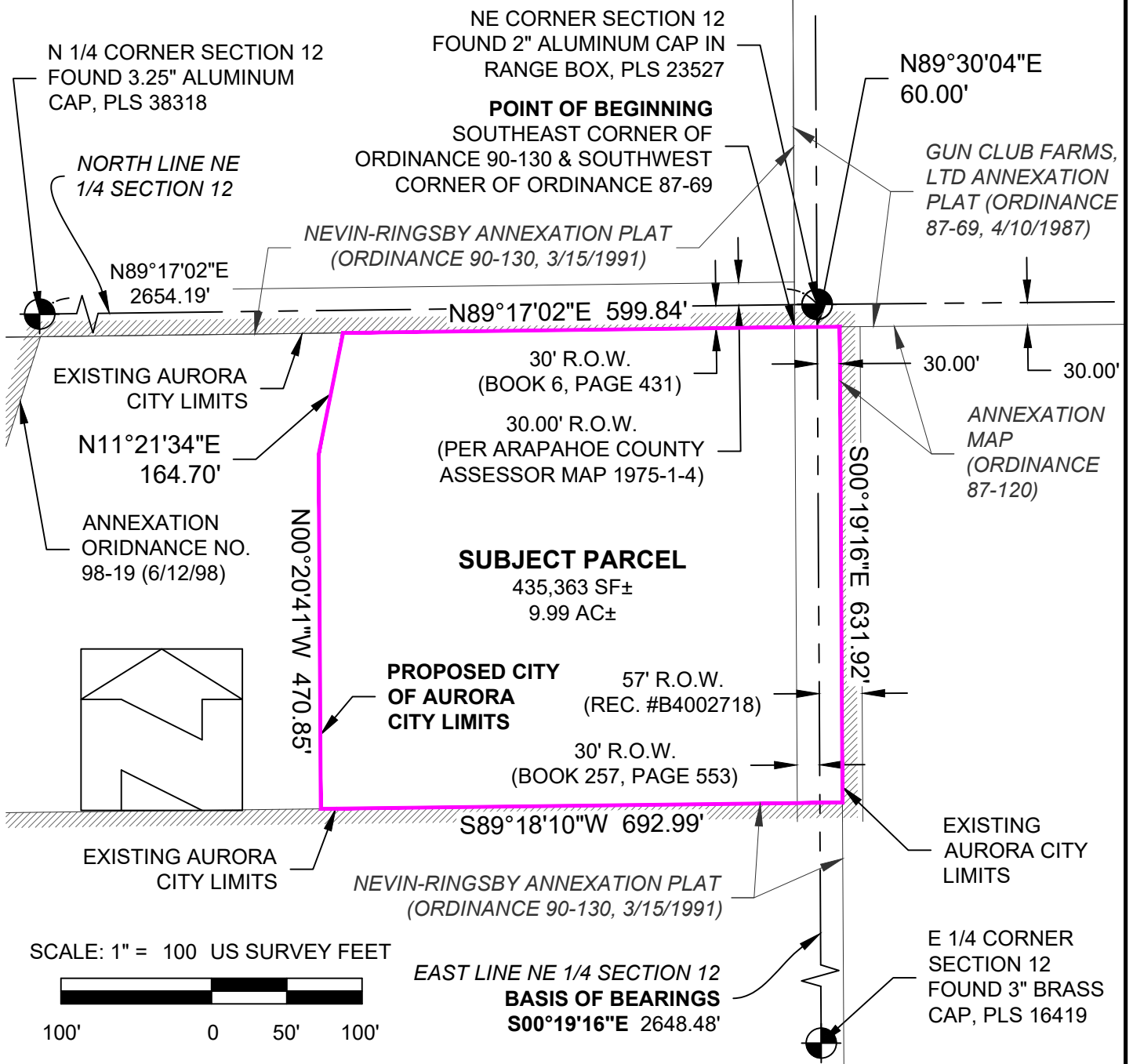
JOB NO.: 20040  
DRAWN: ALB  
ISSUE DATE: 9/30/2020  
FILE: ANNEX-EXH

ROBERT E. HARRIS  
COLORADO P.L.S. 37601  
FOR & ON BEHALF OF  
GILLIANS LAND CONSULTANTS



# EXHIBIT A

SHEET 2 OF 2



THIS IS NOT A MONUMENTED LAND SURVEY, LAND SURVEY PLAT OR IMPROVEMENT LOCATION CERTIFICATE. IT IS INTENDED ONLY TO DEPICT THE ATTACHED LAND DESCRIPTION.

# Gillians

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JOB NO.: 20040  
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FILE: ANNEX-EXH

ROBERT E. HARRIS  
COLORADO P.L.S. 37601  
FOR & ON BEHALF OF  
GILLIANS LAND CONSULTANTS





# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** CONSIDERATION OF AN ORDINANCE ANNEXING A PARCEL OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M., AND IN THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 4 SOUTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF ARAPAHOE

**Item Initiator:** Jacob Cox, Senior Development Project Manager

**Staff Source:** Jacob Cox, Senior Development Project Manager

**Legal Source:** Brian Rulla, Assistant City Attorney

**Outside Speaker:** Jim Johnson, Attorney, Otten Johnson Robinson Neff + Ragonetti PC

**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:** N/A

**Regular Meeting:** 11/16/2020

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

- |   |  |
|---|--|
| <input type="checkbox"/> Approve Item as proposed at Study Session              | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting       | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <input checked="" type="checkbox"/> Approve Item as proposed at Regular Meeting | <input type="checkbox"/> Information Only                            |

**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 checked="" type="checkbox"/> Minutes Not Available |

---

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

A petition for annexation was filed with the City Clerk for annexation of a 9.9 acre parcel located at the southwest corner of Gun Club Road and East 6th Avenue (see attached vicinity map).

City Council made a finding of substantial compliance regarding this annexation on September 21, 2020.

---

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

The parcel falls within the City's Annexation Boundary and meets contiguity requirements. There are no formal development plans at this time in conjunction with this annexation request.

The Initial Zoning Ordinance will be presented to City Council at the next meeting following the Annexation Ordinance. The initial zoning follows the City's Comprehensive Plan and will be zoned Mixed Use Corridor (MU-C). The MU-C district is intended to enable sustainable development of new medium-scale mixed-use centers. The annexor anticipates development of the property as a multifamily, residential development with between 25 to 35 units per acre and/or a commercial/industrial development, together with related amenities and requisite parking.

Per the property representatives, it appears from the title commitment that the minerals have been severed and are owned by High West Resources and leased to Low Country Resources (see attached memo). There is no Request for Notice of Surface Development or a surface use agreement recorded against the property. And, the COGCC website shows no evidence of pending or approved drill site applications for the property.

The annexation process follows state law, and this annexation will be considered over three City Council meetings. Consideration of this resolution is part of item #3 listed below:

1. At the September 21, 2020 meeting, City Council approved a Resolution making a finding that the annexation petition is in substantial compliance with statutory requirements. The City also set the hearing date.
2. City Council conducts the Public Hearing, considers approval of a Resolution making a finding that the land is eligible for annexation, and considers Introduction of the Annexation Ordinance.
3. City Council considers the Annexation Ordinance on final reading and the Annexation Agreement will be presented for Council consideration.

---

**QUESTIONS FOR COUNCIL**

Does City Council wish to approve this Ordinance?

---

**LEGAL COMMENTS**

The City Council has determined that the annexation of lands to the city shall be shown not to create any additional cost or burden on the then-existing residents of the city to provide such public facilities in any newly annexed area. "No annexation shall be accepted until the city council, upon the recommendation of the city manager, determines that the current requirements for such public facilities in the area proposed to be annexed have been fulfilled and that the future requirements for such public facilities can be fulfilled." City Code Section 146-301(B). Contiguity may be established by annexation of one or more parcels in a series which may be considered simultaneously. (Colo. Rev. Stat. §31-12-104(1)(a)). A municipality is not legally required to annex area pursuant to landowner's annexation petition, but may impose additional terms and conditions for annexation in accordance with Annexation Act. Superior v. Midcities Co., 933 P.2d 596 (Colo.1997). An annexation agreement based upon the City's model agreement will be presented for approval by motion at the time of final passage of this ordinance.

(Rulla)

---

**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Annexation obligates the City to provide municipal services and utilities upon development. The fiscal impact of this development will be offset by various development and impact fees paid at time of development, as well as future taxes generated by the potential development of commercial uses on this property.

---

**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** Annexation and connection to the City's utility system will permit the property to develop more efficiently than would be possible in Arapahoe County.

ORDINANCE NO. 2020- \_\_\_\_\_

A BILL

FOR AN ORDINANCE ANNEXING A PARCEL OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M., AND IN THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 4 SOUTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF ARAPAHOE, STATE OF COLORADO (Vista Creek) 9.99 ACRES

WHEREAS, the City Council of the City of Aurora, Colorado, has found a petition for annexation of a certain parcel of land, as described in Exhibit A attached hereto, signed by the owners of one hundred percent of the area to be annexed, to be in substantial compliance with Section 31-12-107(1), Colorado Revised Statutes; and

WHEREAS, after notice pursuant to Section 31-12-108, Colorado Revised Statutes, the City Council has held a public hearing on the proposed annexation to determine if the annexation complies with Sections 31-12-104 and 31-12-105, Colorado Revised Statutes; and

WHEREAS, the City Council has by resolution determined that the requirements of Sections 31-12-104 and 31-12-105, Colorado Revised Statutes, have been met, that an election is not required, and that no additional terms or conditions are to be imposed on the annexed area.

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

Section 1. That the annexation of the territory located in the County of Arapahoe, State of Colorado, as described in Exhibit A attached hereto and incorporated herein, to the City of Aurora, Colorado, be and the same is hereby ordained and approved, and said territory is hereby incorporated in and made a part of the City of Aurora, Colorado.

Section 2. That the annexation of such territory to the City of Aurora, Colorado, shall be complete and effective on the effective date of this ordinance, except for the purpose of General Property Taxes, and shall be effective as to General Property Taxes on and after the first day of January 2021.

Section 3. That the Petition for Annexation contained a request that an annexation agreement satisfactory to both petitioners and the City be agreed upon on or before the date of the second reading of this ordinance, and that this ordinance annexing said territory is expressly made subject to the approval of an annexation agreement, as requested.

Section 4. That the City Clerk is authorized and directed to:

- A. File one copy of the annexation map with the original of the annexation ordinance in the office of the City Clerk of the City of Aurora, Colorado;
- B. File three certified copies of the annexation ordinance and map of the area annexed containing a legal description of such area with the County Clerk and Recorder.

Section 5. 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.

INTRODUCED, READ, AND ORDERED PUBLISHED this \_\_\_\_ day  
of \_\_\_\_\_, 2020.


PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_ day  
of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
BRIAN J. RULLA, Assistant City Attorney

**Exhibit A**  
**(Legal description of property to be annexed)**

A PARCEL OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M., AND IN THE

NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 4 SOUTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF ARAPAHOE, STATE OF COLORADO,

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF ORDINANCE NO. 90-130 AND THE SOUTHWEST CORNER ORDINANCE NO. 87-69;

THENCE ON THE SOUTH LINE OF SAID ORDINANCE NO. 87-69, N89°30'04"E, A DISTANCE OF 60.00 FEET;

THENCE ON THE WEST LINE OF ORDINANCE NO. 87-120, S00°19'16"E, A DISTANCE OF 631.92 FEET;

THENCE ON THE NORTH LINE OF ORDINANCE NO. 90-130, S89°18'10"W, A DISTANCE OF 692.99 FEET;

THENCE N00°20'41"W, A DISTANCE OF 470.85 FEET;

THENCE ON THE EAST LINE OF A RULE AND ORDER RECORDED MARCH 1, 1999, UNDER RECEPTION NO. A90334383, N11°21'34"E, A DISTANCE OF 164.70 FEET;

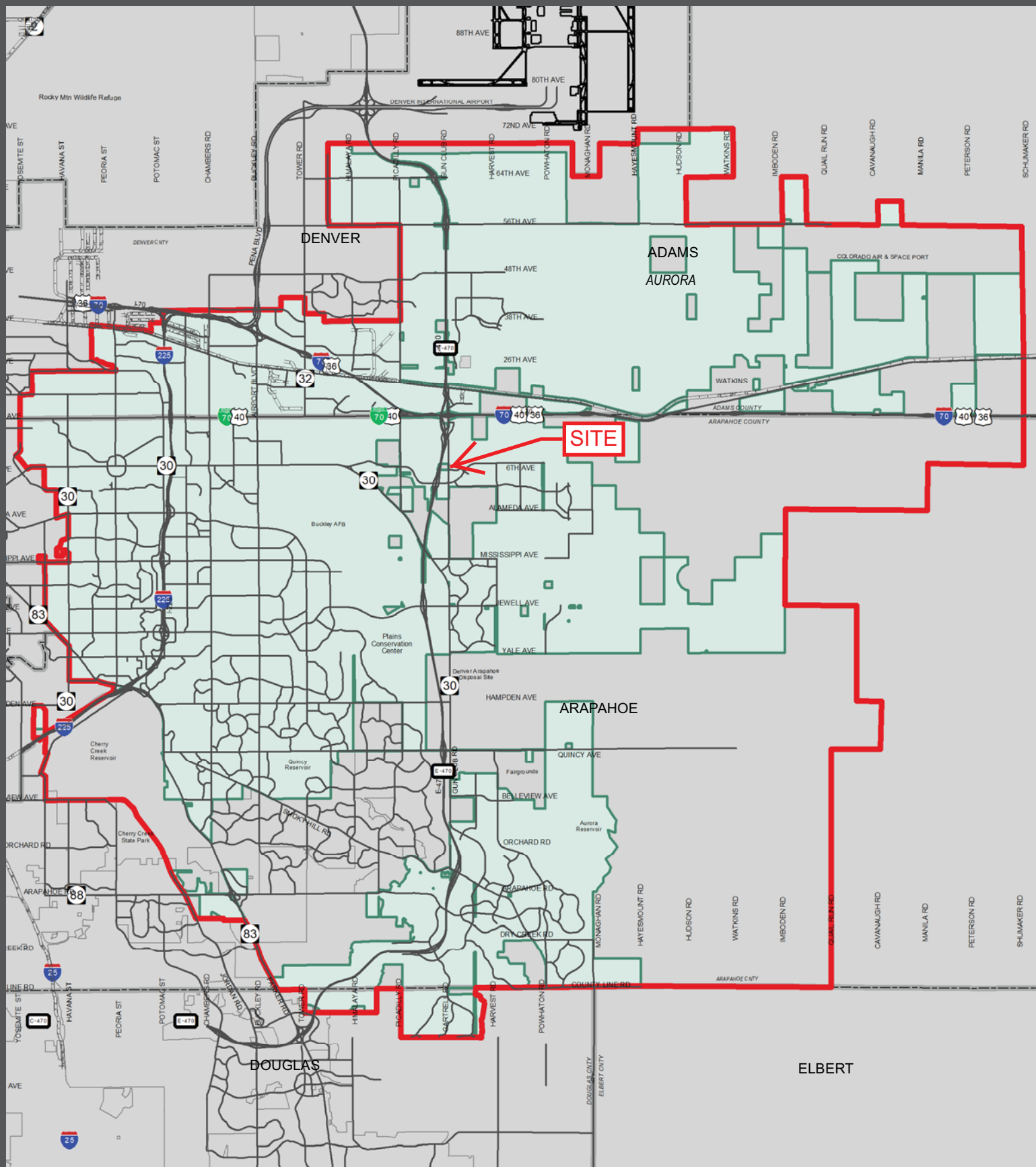
THENCE ON THE SOUTH LINE OF SAID ORDINANCE 90-130, N89°17'02"E, A DISTANCE OF 599.84 FEET, TO THE POINT OF BEGINNING,

CONTAINING 435,363 SQUARE FEET OR 9.99 ACRES, MORE OR LESS.









**Planning & Development Services**

15151 E. Alameda Parkway  
 Aurora CO 80012 USA  
 AuroraGov.org  
 303.739.7250  
 GIS@auroragov.org

**City of Aurora, Colorado**

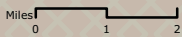
2020 Annexation Boundary

January 15, 2020

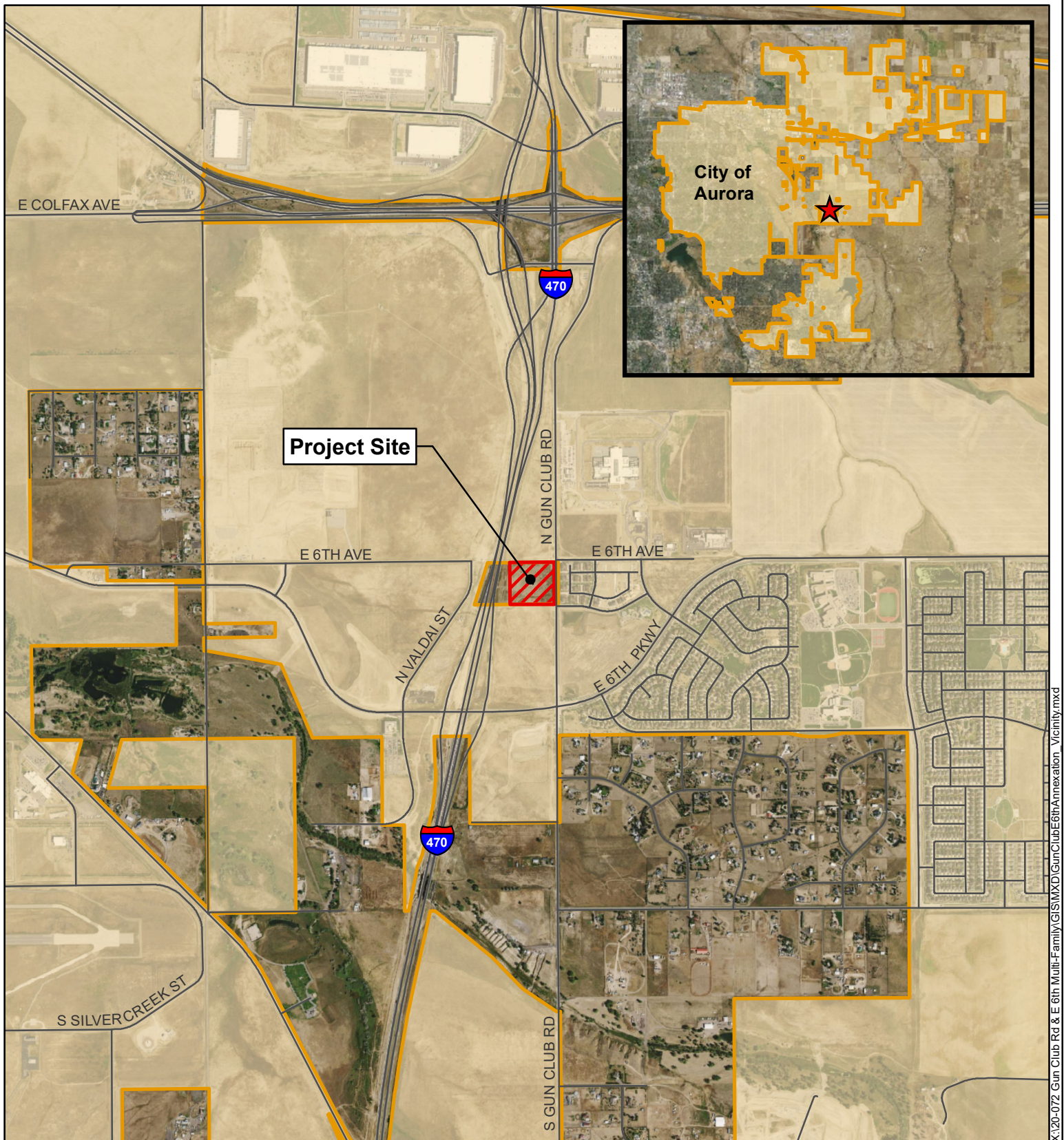


**Legend**

- Planning Area Boundary
- Aurora
- Other Jurisdictions










X:\20-072 Gun Club Rd & E 6th Multi-Family\GIS\MXD\GunClubE6thAnnexation\_Vicinity.mxd

**Vista Creek Annexation**

**Vicinity Map**  
 Arapahoe County, Colorado  
 0 1,000 2,000  
 Feet  
 1" = 2,000'

**Legend**

-  City of Aurora Existing Boundary
-  Proposed Annexation Property
-  Street

Date: 4/29/2020  
 CORE Project #: 20-072



MEMORANDUM OF OIL AND GAS LEASE

THE STATE OF §  
COLORADO §  
COUNTY OF ARAPAHOE § KNOW ALL MEN BY THESE PRESENTS THAT:

THAT, for and in consideration of Ten and No/100 Dollars and other valuable consideration (\$10.00) paid by **High West Resources, Ltd**, hereinafter called "Lessee", whose address is **P.O. Box 11819 Denver, Colorado 80211**, to **Low Country Resources, LLC, a Delaware Limited Liability Company**, whose address is **c/o National Corporate Research, LTD, 850 New Burton Road, #201, Dover, DE 19904**, hereinafter called "Lessor". Lessor has and does hereby GRANT, LEASE and LET exclusively unto Lessee for the purposes of exploring, prospecting and drilling for and producing oil, gas and other gaseous and liquid hydrocarbons from the following described land in Arapahoe County, Colorado, to-wit:

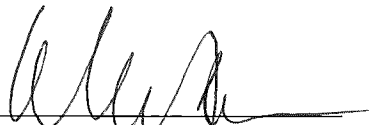
TOWNSHIP 4 SOUTH, RANGE 66 WEST, 6<sup>TH</sup> P.M.  
Section 12: The NE/4NE/4NE/4 LESS and EXCEPT the north 30 feet and east 30 feet thereof.

and containing 9.32 acres, more or less

Upon and subject to all the terms and provisions set forth in that certain Paid Up Oil and Gas Lease dated July 24, 2017 (the "Effective Date") covering said land and providing for a primary term of three (3) years with an option to extend for an additional three (3) years, an executed copy of which is in the possession of each of the parties, Lessor and Lessee, and which is incorporated herein by reference and made a part hereof as if set forth at length herein, and to which reference is made for all purposes.

This Memorandum is signed by Lessor as of the date of acknowledgment of their signatures, but is effective for all purposes as of the Effective Date stated above.

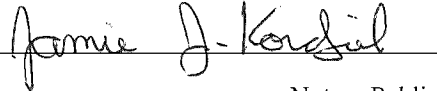
LESSOR:

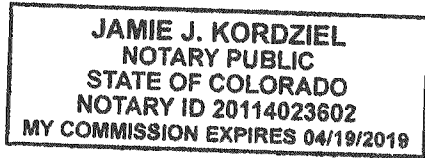
  
By: **Darrin Rynders, Manager**

STATE OF Colorado )  
COUNTY OF Denver )<sup>ss.</sup> ACKNOWLEDGMENT (CORPORATE)

On this 7<sup>th</sup> day of August, 2017, before me, a notary public, personally appeared **Darrin Rynders** known to me to be the **Manager** of **Low Country Resources, LLC a Delaware Limited Liability Company**, that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal the day and year above written.

My Commission Expires 4-19-2019   
Notary Public



Address: 2000 S. Colo-Bldg, Tower 2, Suite 700  
Denver, CO 80222

**MINERAL DEED**

THIS MINERAL DEED (this "Deed"), dated effective as of July <sup>TH</sup> 27, 2017 (the "Effective Time"), is from THOMAS HARTLEY and GAIL HARTLEY, AS TENANTS IN COMMON, and (Collectively, "Grantor"), 13990 W. 44<sup>th</sup> Avenue, Suite A, Golden, Colorado, 80405-7254 of Jefferson County, State of Colorado, to LOW COUNTRY RESOURCES, LLC, a Delaware Limited Liability Company c/o National Corporate Research, LTD., ("Grantee") 850 New Burton Road, #201, Dover, DE 19904. Grantor and Grantee shall be referred to herein, collectively as the "Parties".

**Recitals**

A. Grantor owns both the fee surface estate and the fee mineral estate in, to and under the Lands (as defined herein).

B. The Parties desire to have Grantor sever and convey to Grantee the mineral estate, and reserve unto Grantor the surface estate, in accordance with the terms and conditions hereof.

**Deed**

IN CONSIDERATION OF TEN DOLLARS (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby assigns, transfers, conveys, bargains and sells to Grantee all of Grantor's right, title and interest in and to all of the oil, gas and other minerals of every kind and character in, under and that may be produced from the following lands, situated in the County of Adams, State of Colorado:

**Township 4 South, Range 66 West, 6<sup>th</sup> P.M. Section 12: The NE/4NE/4NE/4 Less and Except the north 30 feet and east 30 feet thereof. ("Lands")**

including, without limitation, all mineral, leasehold, royalty and overriding royalty interests in, to, under or burdening the above-described lands, the right of ingress, egress and access to and from the above-described lands at all times for the purpose of mining, drilling, exploring, developing, producing and operating the oil, gas and other mineral rights, the rights to use so much of the surface estate of the above-described lands as may reasonably be necessary for producing, storing, handling, transporting and marketing the oil, gas and other minerals therefrom, and the right to remove grantee's property from the above-described lands (collectively, the "Conveyed Interests").

EXCEPTING AND RESERVING unto Grantor, and Grantor's successors and assigns, all of Grantor's right, title and interest in and to the surface estate covered by the lands, subject to and burdened by the Conveyed Interests.

THESE CONVEYED INTERESTS ARE ACCEPTED "AS IS, WHEREIS, WITH ALL FAULTS, AND WITHOUT RECOURSE." THE PARTIES HEREBY EXPRESSLY DISCLAIM, RELEASE AND WAIVE ANY AND ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY, AT COMMON LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY COVENANTS OR WARRANTIES IMPLIED UNDER LAW BY THE USE OF THE WORD "ASSIGN", "TRANSFER", "CONVEY", "BARGAIN", "SELL" OR OTHER WORDS OF CONVEYANCE ARE HEREBY EXPRESSLY WAIVED, RELEASED AND DISCLAIMED BY THE PARTIES, GRANTOR AND GRANTEE HEREBY AGREE THAT, TO THE EXTENT REQUIRED BY APPLICABLE LAW, THE DISCLAIMERS CONTAINED IN THIS ASSIGNMENT ARE "CONSPICUOUS" FOR THE PURPOSES OF SUCH APPLICABLE LAW.

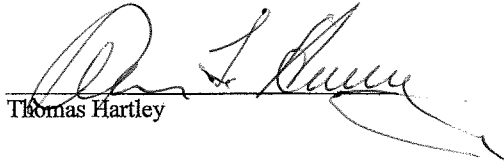
This Deed shall be binding upon and inure to the benefit of the Parties, and their respective successors and assigns. Instruments on file in the public records which are referenced in this Deed are hereby incorporated by reference herein for all purposes.

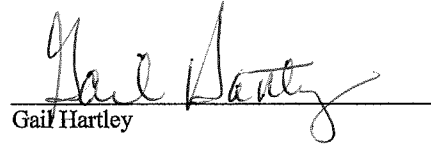
[signature and acknowledgement page follows]



EXECUTED on the date below, to be effective for all purposes as of the Effective Time.

Witness my hand this 14 day of July, 2017.

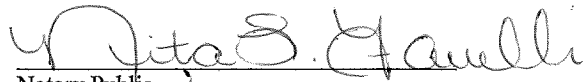
  
Thomas Hartley

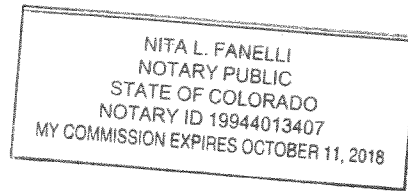
  
Gail Hartley

STATE OF COLORADO )  
COUNTY OF Jefferson ) SS

The foregoing instrument was acknowledged before me this 14 day of July, 2017,  
by Thomas Hartley and Gail Hartley.

WITNESS my hand and official seal.

  
Notary Public  
My commission expires: 10/11/2018



### MINERAL DEED

THIS MINERAL DEED (this "Deed"), dated effective as of July <sup>7<sup>th</sup></sup> ~~14~~, 2017 (the "Effective Time"), is from THOMAS HARTLEY and GAIL HARTLEY, AS TENANTS IN COMMON, and (Collectively, "Grantor"), 13990 W. 44<sup>th</sup> Avenue, Suite A, Golden, Colorado, 80405-7254 of Jefferson County, State of Colorado, to LOW COUNTRY RESOURCES, LLC, a Delaware Limited Liability Company c/o National Corporate Research, LTD., ("Grantee") 850 New Burton Road, #201, Dover, DE 19904. Grantor and Grantee shall be referred to herein, collectively as the "Parties".

#### Recitals

A. Grantor owns both the fee surface estate and the fee mineral estate in, to and under the Lands (as defined herein).

B. The Parties desire to have Grantor sever and convey to Grantee the mineral estate, and reserve unto Grantor the surface estate, in accordance with the terms and conditions hereof.

#### Deed

IN CONSIDERATION OF TEN DOLLARS (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby assigns, transfers, conveys, bargains and sells to Grantee all of Grantor's right, title and interest in and to all of the oil, gas and other minerals of every kind and character in, under and that may be produced from the following lands, situated in the County of Arapahoe, State of Colorado:

**Township 4 South, Range 66 West, 6<sup>th</sup> P.M. Section 12: The NE/4NE/4NE/4  
Less and Except the north 30 feet and east 30 feet thereof. ("Lands")**

including, without limitation, all mineral, leasehold, royalty and overriding royalty interests in, to, under or burdening the above-described lands, the right of ingress, egress and access to and from the above-described lands at all times for the purpose of mining, drilling, exploring, developing, producing and operating the oil, gas and other mineral rights, the rights to use so much of the surface estate of the above-described lands as may reasonably be necessary for producing, storing, handling, transporting and marketing the oil, gas and other minerals therefrom, and the right to remove grantee's property from the above-described lands (collectively, the "Conveyed Interests").

EXCEPTING AND RESERVING unto Grantor, and Grantor's successors and assigns, all of Grantor's right, title and interest in and to the surface estate covered by the lands, subject to and burdened by the Conveyed Interests.

THESE CONVEYED INTERESTS ARE ACCEPTED "AS IS, WHEREIS, WITH ALL FAULTS, AND WITHOUT RECOURSE." THE PARTIES HEREBY EXPRESSLY DISCLAIM, RELEASE AND WAIVE ANY AND ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY, AT COMMON LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY COVENANTS OR WARRANTIES IMPLIED UNDER LAW BY THE USE OF THE WORD "ASSIGN", "TRANSFER", "CONVEY", "BARGAIN", "SELL" OR OTHER WORDS OF CONVEYANCE ARE HEREBY EXPRESSLY WAIVED, RELEASED AND DISCLAIMED BY THE PARTIES, GRANTOR AND GRANTEE HEREBY AGREE THAT, TO THE EXTENT REQUIRED BY APPLICABLE LAW, THE DISCLAIMERS CONTAINED IN THIS ASSIGNMENT ARE "CONSPICUOUS" FOR THE PURPOSES OF SUCH APPLICABLE LAW.

This Deed shall be binding upon and inure to the benefit of the Parties, and their respective successors and assigns. Instruments on file in the public records which are referenced in this Deed are hereby incorporated by reference herein for all purposes.

[signature and acknowledgement page follows]

EXECUTED on the date below, to be effective for all purposes as of the Effective Time.

Witness my hand this 14 day of July, 2017.

[Signature]  
Thomas Hartley

[Signature]  
Gail Hartley

STATE OF COLORADO )  
COUNTY OF Jefferson ) SS

The foregoing instrument was acknowledged before me this 14 day of July, 2017,  
by Thomas Hartley and Gail Hartley.

WITNESS my hand and official seal.

[Signature]  
Notary Public  
My commission expires: 10/11/2018

NITA L. FANELLI  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 19944013407  
MY COMMISSION EXPIRES OCTOBER 11, 2018





# CITY OF AURORA

## Council Agenda Commentary

**Item Title:** CONSIDERATION OF AN ANNEXATION AGREEMENT BETWEEN THE CITY OF AURORA AND GAIL M. HARTLEY EXEMPT MARITAL TRUST FOR A CERTAIN PARCEL OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M., AND IN THE NORTHWEST 1/4

**Item Initiator:** Jacob Cox, Senior Development Project Manager

**Staff Source/Legal Source:** Jacob Cox, Senior Development Project Manager/ Brian Rulla, Assistant City Attorney

**Outside Speaker:** Jim Johnson, Attorney, Otten Johnson Robinson Neff + Ragonetti PC

**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:** N/A

**Regular Meeting:** 12/7/2020

Dual Listed Why is this item dual listed?[Click or tap here to enter text.](#)

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

- Approve Item as proposed at Study Session  Information Only
- Approve Item and Move Forward to Regular Meeting
- Approve Item as proposed at Regular Meeting
- Approve Item with Waiver of Reconsideration

### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** N/A

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

- Recommends Approval  Does Not Recommend Approval
- Forwarded Without Recommendation  Recommendation Report Attached
- Minutes Attached  Minutes Not Available

---

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

A petition for annexation was filed with the City Clerk for annexation of a 9.9 acre parcel located at the southwest corner of Gun Club Road and East 6th Avenue (see attached vicinity map).

City Council made a finding of substantial compliance regarding this annexation on September 21, 2020. City Council approved the resolution and adopted the first reading of the annexation ordinance regarding the proposed annexation on November 16, 2020.

---

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

The proposed annexation agreement spells out the respective obligations of the city and the Annexor regarding development of the annexed parcel. These obligations run with the land and will govern subsequent development on the property. The agreement follows the city's model annexation agreement with a few non-substantive changes that staff deem to be acceptable.

The annexation process follows state law, and this annexation will be considered over three City Council meetings. Consideration of this agreement is part of item #3 listed below:

1. At the September 21, 2020 meeting, City Council approved a Resolution making a finding that the annexation petition is in substantial compliance with statutory requirements. The City also set the hearing date.
2. At the November 16, 2020 meeting, City Council conducted the Public Hearing, approved a Resolution making a finding that the land is eligible for annexation, and adopted Introduction of the Annexation Ordinance.
3. City Council considers the Annexation Ordinance on final reading and the Annexation Agreement will be presented for Council consideration.

---

**QUESTIONS FOR COUNCIL**

Does City Council wish to approve this Annexation Agreement?

---

**LEGAL COMMENTS**

A municipality is not legally required to annex area pursuant to landowner's annexation petition, but may impose additional terms and conditions for annexation in accordance with Annexation Act. Superior v. Midcities Co., 933 P.2d 596 (Colo.1997). This Annexation Agreement memorializes those conditions. The agreement is based upon the City's model agreement. (Rulla)

---

**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** Annexation obligates the City to provide municipal services and utilities upon development. The fiscal impact of this development will be offset by various development fees paid at time of development, as well as future taxes generated by the potential development of commercial uses on this property.

---

**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** Annexation and connection to the City's utility system will permit the property to develop more efficiently than would be possible in Arapahoe County.



**ANNEXATION AGREEMENT  
(VISTA CREEK)**

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between GAIL M. HARTLEY EXEMPT MARITAL TRUST (“Annexor”), and the City of Aurora, a home rule municipal corporation of the Counties of Adams, Arapahoe, and Douglas, State of Colorado (the “City”).

**RECITALS**

Annexor owns the property described in Exhibit “A,” attached hereto (the “Property”) and has filed a petition to annex the Property to the City.

In consideration of the foregoing premise and the covenants, promises, and agreements of each of the parties hereto, to be kept and performed by each of them, IT IS AGREED:

**1. DEFINITIONS**

**1.1** “Annexor” shall mean and refer to Annexor, and its heirs, successors, assigns, and designees.

**1.2** “Approvals” shall mean any ordinances, resolutions and/or other written instruments as may be required to effect approval of the annexation, this Agreement and any related zoning approvals in a form that is substantially consistent with the applications Petitioner submits in connection with the Petition.

**1.3** “Capital Impact Fee” shall mean the City’s fee established by City Council that shall be levied and assessed on a per-unit basis (residential uses) as a condition of issuance of a building permit for the purpose of defraying the projected impacts on capital facilities of the City caused by proposed development.

**1.4** “City” shall mean the City of Aurora, Colorado.

**1.5** “City Code” shall mean the City Code of the City of Aurora, Colorado.

**1.6** “City Council” shall mean and refer to the City Council of the City.

**1.7** “Crossings” shall mean and refer to all bridges, culverts, or other types of facilities or structures used to cross roadways, drainage ways, or storm drainage areas.

**1.8** “Drainage Master Plan” shall mean the overall plan developed by the Director of the Water Department that 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 storm water flows, and cost control measures regarding the construction, operation and maintenance of drainage facilities.

**1.9** “Freeboard” shall mean the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could

contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.”

**1.10** “Legal Challenge” shall mean either any third party commences any legal proceeding or other action that directly or indirectly challenges the City’s annexation of the Property or the City’s granting of the Approvals; or any third party submits a petition for a referendum seeking to reverse or nullify any of the Approvals.

**1.11** “Major Drainage Facility” shall mean those drainage facilities as defined in Section 138-361 of the City Code that provide conveyance or detention of storm water from areas equal to or greater than 160 acres in area as identified in the City’s Drainage Master Plan.

**1.12** “Minor Drainage Facility” shall mean those drainage facilities as defined in Section 138-361 of the City Code that provide conveyance or detention of storm water from areas less than 160 acres in area.

**1.13** “Park Development Fee” shall mean the City’s fee established by City Council, payable at the time building permit issuance, that the City charges to offset the costs to the City of improvements to public park lands that are required to address the impacts to such parks from development on the Property.

**1.14** “Petition” shall mean the Petition for Annexation (Vista Creek) that Annexor executed on June 18, 2020, and submitted to the City on August 19, 2020.

**1.15** “Sewer Interceptor Development Fee” shall mean the City’s fee established City Council, payable at the time of subdivision platting, that the City charges for extension by the City of sewer interceptor lines and other improvements necessary to provide sanitary sewer service to development on the Property.

**1.16** “Sewer Interceptor Lines” shall mean and refer to sewer lines larger than twelve inches (12”) in diameter.

**1.17** “Siren Fee” shall mean the City’s fee established by City Council, payable at the time of subdivision platting, that the City charges for providing public safety warning sirens to serve the Property.

**1.18** “Streets” shall mean and refer to local, residential, commercial, collector, minor, and principal arterial streets, highways, expressways, and roadways.

**1.19** “Storm Drainage Development Fee” shall mean the City’s fee established by City Council, payable at the time of subdivision platting, that is 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 major facilities in accordance with the Drainage Master Plan.

**1.20** “Water Transmission Lines” shall mean and refer to water lines larger than twelve inches (12”) in diameter.

## **2. STREETS**

**2.1** Annexor shall dedicate free and clear of all liens and encumbrances of any kind, all rights-of-way for public streets for the full width thereof, as required by the City. Annexor shall design and fully improve to City standards all public streets within the Property, and one-half of all streets lying on or abutting the exterior boundaries of the Property, without cost to the City. Such dedication of streets shall occur at the time of City approval of each subdivision plat within the Property; however, Annexor agrees to dedicate such rights-of-way at an earlier time when determined by the City to be required for commencement of construction of such streets or for extension of utilities. An earlier dedication shall not relieve Annexor of its obligation to improve streets as provided herein.

**2.2** Annexor agrees to convey to the City an easement in gross adjoining arterials, highways, and expressways to provide necessary cut and fill to establish the grade on a one-foot incline for every three-feet (3') of distance. Said easement shall be released to Annexor at such time as the adjacent property is filled and maintained at grade.

**2.3** Annexor agrees to include the Property in districts or other mechanisms established by the City for improvement of roadways.

**2.4** Annexor will pay or escrow the proportional share of the traffic signalization cost of perimeter and internal streets necessitated by the associated development as determined by an approved traffic impact analysis or by the City traffic engineer at such time as is required by City Code.

## **3. WATER AND SEWER**

**3.1** The Annexor will be required to install Water Transmission Lines, water pump stations, Sewer Interceptor Lines, sewer pump stations, stormsewer infrastructure and required ancillary facilities required to serve the Property in accordance with the most recent respective citywide utility master plan if the infrastructure is not yet in place. Annexor agrees to dedicate all necessary unobstructed right-of-way for utility easements needed for water, sewer and stormwater infrastructure to serve the Property, or for regional infrastructure through or on the Property, per the requirements outlined in Chapter 138 of City Code. Annexor shall grant additional temporary construction easements for installation of water and sewer infrastructure where required by the City. Annexor agrees to develop and provide to the City for review and approval prior to platting of the Property a master utilities plan for the annexed area. The master utilities plan shall describe collection facilities and distribution facilities.

**3.2** Subject to Section 3.3 herein, the City shall provide water and sewer service to the Property after notification of need by Annexor as required for development of the Property but not before the timing identified in the most recent respective water, wastewater or stormwater master plan. Annexor agrees to pay to City all applicable fees per the most recent published fee schedule and timing established therein. The fee amount shall be that in effect at the time of payment. Annexor further agrees to make additional payments on the balance of the sewer interceptor fee as may be required from time to time to extend sewer interceptor lines to serve the Property as needed for development. In the event, however, that the total amount of such fees is insufficient to fund

extension of the line, Annexor shall advance the necessary funds to pay for the total cost to design and construct extension of water transmission and sewer interceptor line extensions. Annexor may proceed under a separate agreement with City for payback of costs in excess of fees.

**3.3** There shall be no duty or obligation upon the City to furnish water or sanitary sewer facilities to the area sought to be annexed until such time as, in the sole discretion of City, sufficient acreage has been annexed and fees paid to pay for extension of water and sewer facilities and to provide services to a sufficient number of inhabitants within the areas so as to make the construction and establishment of such services feasible. The City's obligation to provide water is subject to any water restrictions and rate modifications that the City Council enacts under its general police power including, but not limited to, drought management plans and regulations adopted by the City Council and/or the Director of the Water Department pursuant to City Code.

**3.4** Notwithstanding the fees provided in this Article III, if provision of water and sewer services requires payment of fees or charges to regional or metropolitan service agencies or other third party authorities, Annexor shall provide such funds as and when required by such service agency.

**3.5** Annexor will pay connection fees as are required by the City at the time identified in the most recently published fee schedule. Annexor agrees that all promises of water and sanitary sewer service made by this agreement are subject to any water and sewer tap allocation program of the City, and are uniformly applied subject to any other general restrictions of the City, or regional service agencies, relating to the provision of water and sanitary sewer service.

**3.6** Accompanying the Petition for Annexation, Annexor shall deliver to City copies of a special warranty deed for the non-tributary and not non-tributary water within the Dawson-Arkose, Denver, Arapahoe, and Laramie-Fox Hills aquifers that lie beneath Annexor's Property in the form attached hereto as Exhibit B, along with an affidavit executed by Annexor indicating the original fully executed deed conveying ownership, right and title to the ground water will be delivered to an escrow agent prior to scheduling of the final reading and approval of the annexation by City Council, and which will be delivered to the City upon the effective date of the annexation ordinance thirty (30) days following publication of City Council's final action on the Approvals. In addition to standard warranties of a deed of this type, the special warranty deed shall specifically warrant that the grantor has not divested of any ownership, right or title to the subject non-tributary and not non-tributary ground water prior to its conveyance to the City. The special warranty deed shall be substantially in the form of the sample deed attached hereto, and shall be held in escrow until the annexation is approved by City Council.

**3.7** Annexor grants in perpetuity to the City the sole and exclusive right to claim, own, withdraw, appropriate, and use any and all water within the Dawson-Arkose, Denver, Arapahoe, and Laramie-Fox Hills aquifers underlying the Property. Annexor irrevocably consents in perpetuity, pursuant to Section 37-90-137(4) of the Colorado Revised Statutes, as now existing or later amended, to the withdrawal, appropriation, and use by the City of all such water, and agrees to execute any additional or supplemental consents thereto that may be required for the City to withdraw, appropriate, or use said water.

**3.8** Annexor agrees that if it does not have the sole and exclusive right to any or all of the non-tributary and not non-tributary water that lies beneath the Property and for this reason or for other reasons, cannot comply with the requirements set forth in paragraphs 3.6 and 3.7, above, Annexor will satisfy the following requirements:

**3.8.1** Accompanying the Petition, Annexor will deliver to the City an affidavit by the Annexor stating the Annexor's current knowledge of the ownership of the nontributary and not nontributary ground water underlying the Property that cannot be conveyed to the City.

**3.8.2** Prior to the scheduling of the City Council meeting for final reading and approval of the annexation ordinance, Annexor shall deliver the following to the City:

**3.8.2.1** A report containing the following information to be prepared by a person skilled in the knowledge of water rights: 1) the amount of ground water underlying the Property available for appropriation using parameters and information developed by the State Engineer, as well as more site specific information, if available; 2) the amount of ground water underlying the Property that was appropriated prior to July 6, 1973; 3) a description of any decreed rights to ground water underlying the Property and 4) any other information relevant to the use and ownership of the ground water underlying the Property

**3.8.2.2** The monetary value of the ground water underlying the Property that is unavailable to Annexor for conveyance to the City by Special Warranty Deed. This excludes ground water appropriated by entities other than Annexor and within the purview of C.R.S. §§ 37-90-137(5) and 37-90-107(7)(b). The value shall be determined based on the amount of ground water underlying the Property as determined in the report prepared pursuant to subparagraph 3.8.2.1., above, and the ground water values as determined by the Water Department. The ground water values are set forth in the current City of Aurora fee schedule.

**3.8.2.3** For annexations of ten acres or less in total area, the Annexor has the option to satisfy the requirements of subparagraph 3.8.2.1 and 3.8.2.2., above, or pay to the City a sum equal to the values set forth in the current City of Aurora fee schedule.

**3.9** The Director of the Water Department shall make a determination if Annexor has satisfied the requirements set forth in paragraphs 3.5 through 3.8., above, and in his/her sole discretion may modify the requirements if justified by special circumstances.

**3.10** Annexor shall not drill water wells upon the Property without the prior approval of the City Council. To the extent that the City wishes to drill wells on the Property, the location of such wells shall not affect materially the development plan. Annexor agrees to convey necessary easements to City for wells.

#### **4. STORM DRAINAGE**

**4.1** Annexor shall pay the fees required by the most recently published fee schedule and at the timing identified therein.. The amount payable shall be pro rata based upon the total acreage of each plat.



**4.2** In the event Annexor desires to complete the development of any portion of the annexed lands prior to completion of the Major Drainage Facilities by the City, Annexor may make those improvements at its own expense. At its option, and subject to a separate agreement, the City may agree to reimburse Annexor at a future date for Annexor's cost, or a portion thereof, for construction of said improvements.

**4.3** Annexor shall be responsible for the design and construction of Minor Drainage Facilities as identified in the corresponding Major Basin Master Drainage Study, outfall systems plan, or local master drainage study.

**4.4** It shall be the responsibility of Annexor, at its sole expense, to provide adequate drainage, control, and conveyance of storm water as described in Section 138-366 of the City Code. Annexor shall dedicate all land within the 100-year floodplain plus the additional area needed to provide conveyance of runoff for two feet of freeboard above the base flood elevation and/or the channel stability width as identified by Urban Drainage and Flood Control District, whichever is greater including a maintenance trail corridor at the time of platting of any property located adjacent to the floodplain.

## **5. CROSSINGS**

**5.1** The parties mutually agree that whenever it is found and determined by the City that a crossing of drainage way, existing or proposed roadway, railroad, or any impediment to a roadway is required within the Property, the City shall specify design criteria, and Annexor shall construct the crossing, including transition improvements, in conjunction with the development of the Property. The crossings required for the described Property shall be constructed in conformance with City standards.

**5.2** If a crossing is required on the exterior boundary of the Property, Annexor shall be responsible for its proportionate share of the construction cost as determined by the City.

## **6. PUBLIC LAND DEDICATION**

**6.1** Annexor agrees to dedicate land to the City to be used for public purposes, or pay cash-in-lieu of land if required by the City. The dedication of public land intended for parks and open space purposes shall comply with the requirements of the City Code as may be subsequently amended by the City Council. Land dedicated for public uses other than parks and open spaces shall equal one percent (1%) of residentially-zoned property and two percent (2%) of the property zoned non-residential. Dedication of public land for parks and open space purposes shall occur, by subdivision plat or separate document at the discretion of the City, at time of first subdivision plat within the Property or in accordance with timing/phasing requirements specified in a planning document for the Property approved by the City. All dedicated lands shall be platted by Annexor at the time of dedication in accordance with the City's subdivision regulations. The external boundaries of the dedicated land shall be monumented on the ground as required by the City Code.

**6.2** In the event Annexor dedicates land within the Property pursuant to Section 6.1, Annexor shall meet all the standards for acceptance by the City as enumerated herein. All such dedicated or conveyed real property shall be dedicated for the perpetual use and benefit of the public by the dedication language of the relevant subdivision plat or shall be conveyed to the City

by general warranty deed free and clear of mortgages, deeds of trust, and other liens of whatever sort, and be free and clear of other restrictions, reservations, exceptions, covenants, easements, rights-of-way, severed mineral interests and other encumbrances (except easements of record), and other encumbrances or natural conditions, except for those to which the City had no reasonable objection in light of the intended use of the site, at no monetary cost to the City. Said land shall have zoning to permit the intended use.

**6.3** In the event the City requires cash-in-lieu of land dedication pursuant to Section 6.1, Annexor shall pay money to the City in an amount equal to the fair market value of the land required for parks and open spaces. Said fair market value shall be based on the amount of land as if vacant, zoned for the intended use(s) and with public improvements, including but not limited to water, sanitary sewer, storm drainage, streets, curb, gutter and sidewalk, available to the perimeter of the property being valued.

**6.4** Promptly upon applying for any subdivision plat within the Property, the approval of which will trigger any cash-in-lieu of land dedication payment, Annexor shall notify the City and commence negotiations to agree upon the amount of said payment. If available, Annexor shall submit to the City a copy of an appraisal from a certified general appraiser on the subject land current within six months of the date of submittal. If the parties cannot agree upon the amount of any cash-in-lieu payment required by this Agreement, each party shall appoint an appraiser of its choosing, whose fees shall be paid by the appointing party. If the two appraisers thus appointed cannot agree on the amount, they shall jointly appoint a third appraiser whose fees shall be paid half by Annexor and half by the City. The amount shall be the average of the two appraisal amounts (out of three appraisals) that are closest to one another in value. Until the amount is established as provided in this Section 6.4, the City shall not approve the plat that triggers the cash-in-lieu payment at issue to proceed to final approval. The City agrees to respond with reasonable promptness in all matters regarding determination under this Section 6.4 so as to minimize the platting delay, if any, to Annexor.

**6.5** Annexor agrees that if between the time of annexation and subdividing, any of the described Property is rezoned from a nonresidential to a residential classification, or a residential zoned area is rezoned to a higher density, the City may require additional land dedications or cash-in-lieu of land dedication at the time of subdivision platting.

**6.6** To the extent the described Property is to be zoned residential, Annexor shall dedicate land for public schools as required by City Code Section 147-48. All land dedication or cash-in-lieu of land dedication for schools shall be due at the time of the platting of the first residential subdivision. Land dedicated for schools shall comply with the requirements of City Code.

**6.7** Annexor agrees that lands to be dedicated for parks and open spaces and public purposes shall include all site and public improvements including, but not limited to water, sanitary sewer, storm drainage, streets, curb, gutter and sidewalk. Annexor shall install such improvements when determined by the City to be necessary. (Alternatively, if determined by the City at the time of conveyance that the improvements are not needed at that time, then Annexor shall enter into a separate agreement specifying when and how the improvements will be made). No lands to be dedicated for public purposes shall be disturbed by Annexor in any manner to disrupt the natural

landscape, unless first approved by the City. Annexor agrees that all lands donated to the City shall not be used as a borrow pit or fill area. Any sites dedicated for public purposes, but disturbed due to grading of adjacent sites, or lands within the flood plain disturbed due to storm drainage improvements, must be successfully planted or seeded by Annexor with native grasses acceptable to City to prevent erosion.

**6.8** Annexor agrees to pay to City the Park Development Fee.

## **7. URBAN SERVICES**

**7.1** Annexor agrees, pursuant to City Code Section 146-301, that the annexation of the Property to the City shall not create any additional cost or impose additional burden on the existing residents of the City to provide such public facilities and services to the Property after annexation. Annexor agrees that it shall be responsible for mitigating such impacts through compliance with standards and payment of fees that are adopted by the City Council, and that are generally applied and uniform in application to similarly situated properties. The standards and fees will be used to provide adequate public facilities and services to the development. Annexor shall pay the Capital Impact Fee for residential development as established by ordinance for the dwellings to be constructed within the Property.

**7.2** Annexor shall petition for exclusion from any fire protection district that is reflected within the County Assessor's "Certificate of Taxes Due" upon completion of the annexation and approval of zoning. Annexor will use reasonable efforts to complete the exclusion and obtain the exclusion order before the first subdivision plat for the Property is approved by the City. At no cost to the City, the City agrees to cooperate and assist with Annexor's efforts to complete exclusion from the fire protection district. City shall provide fire protection upon exclusion of the Property from the district. It is expressly understood that the City may be unable to provide fire protection to any of the annexed land prior to the installation of required fire hydrants by Annexor.

**7.3** If the area of the herein described annexation lies wholly or partially within a legally constituted water, sanitation, or water and sanitation district, there shall be no obligation on the part of the City to provide such utilities services to the areas within any such district, unless it is done by mutual agreement between the City and such district. However, if requested by the City, Annexor shall petition for exclusion from the district. In the event of exclusion, the City shall assume responsibility for service to the annexed area, and Annexor shall comply with all applicable utilities service provisions contained herein.

**7.4** Annexor shall pay the Siren Fee established by City Council, at the time of subdivision plat approval to be used by the City to fund emergency warning sirens in the area. If requested by City, Annexor shall provide a minimum of ten (10) foot by ten (10) foot easement to locate the siren and tower.

## **8. GENERAL PROVISIONS**

**8.1** Subject to Section 8.5 below, this agreement shall be recorded with the Clerk and Recorder in Arapahoe County, Colorado, shall run with the land, and shall be binding upon and inure to the benefit of the heirs, successors, and assigns of the parties hereto. Annexor shall have the right to assign or transfer all or any portion of its interest, right, obligations under this

Agreement to third parties acquiring an interest or estate in the Property, or of any improvements now or hereafter located on the Property, provided that to the extent Annexor assigns any of its obligations under this Agreement, the assignee of such obligations shall expressly assume such obligations. The express assumption of any of Annexor's obligations under this Agreement by its assignee or transferee shall, upon written notice to the City, thereby relieve Annexor of any further obligations under this Agreement with respect to the matter so assumed. Annexor shall notify the City of assignments and the names of assignees. Every part of the Property shall at all times remain subject to all the obligations of this Agreement with respect to each and every part of the Property.

**8.2** In order to facilitate construction of improvements and subject to the City's rights of review and approval under the laws of the State of Colorado and the City Code, City will consider the creation of one or more districts including, but not limited to special and general improvement districts authorized pursuant to Title 31, C.R.S., and special districts authorized pursuant to Title 32, C.R.S., to provide for the financing of public improvements. Annexor agrees that any special district established within the Property shall not levy, charge, or collect a sales tax, nor shall such district apply for or request Colorado Conservation Trust Funds as supplemented by the state lottery.

**8.3** By entering into this Agreement, the City does not repeal any existing codes or ordinances, nor does the City intend to waive, limit, or impair its legislative, governmental, or police powers to adopt ordinances and regulations that apply to the Property. No term or provision of this Agreement shall prohibit the enactment by the City Council or future City Councils of any fee, assessment, or ordinance applicable to the Property that is of general application to properties similarly situated.

**8.4** No right or remedy of disconnection of the described Property from the City shall accrue from this Agreement, other than that provided by City Code Section 146-307. In the event the Property or any portion thereof is disconnected at Annexor's request, City shall have no obligation to serve the disconnected Property and this Agreement shall be void and of no further force and effect as to such Property.

**8.5** Pursuant to the terms and conditions of the Petition, neither Annexor nor the City will cause or permit this Agreement to be recorded prior to the 30<sup>th</sup> day after publication following City Council's approval of the final ordinance(s), resolutions and/or other final action(s) granting the Approvals.

**8.5.1** If annexation of the Property, any portion thereof, and/or any of the other Approvals is subjected to a Legal Challenge (whether by referendum or court action), the City and Annexor will be bound during the pendency of the Legal Challenge only by those provision of this Agreement that govern the parties' obligations prior to recording of this Agreement as contemplated in Section 8.1 above; provided, however, all provisions of this Agreement that govern the parties' obligations after recording of this Agreement as contemplated in Section 8.1 above together with the duties and obligations of each party, shall be suspended pending the outcome of the Legal Challenge.

**8.5.2** If a Legal Challenge results in a final, non-appealable invalidation of the Property's annexation, then this Agreement and all provisions contained herein shall be null and void and of no further effect.

**8.5.3** If a Legal Challenge to any of the other Approvals results in a final, non-appealable invalidation of such Approval(s), the City and Annexor shall cooperate to cure the legal defect that resulted in such invalidation such that annexation of the Property may be made legally effective in accordance with the terms and conditions of the Petition.

**8.5.3.1** Upon such cure this Agreement shall be deemed to be an agreement to annex the Property to the City pursuant to Section 31-12-121 of the Colorado Revised Statutes. As and when the Property becomes eligible for annexation as determined by City, Annexor shall reapply for annexation by submitting a petition for annexation in a form that is materially consistent with the Petition.

**8.5.3.2** If the City and Annexor are unable to cure the legal defect such that annexation of the Property may be made legally effective in accordance with the terms and conditions of the Petition, then the City and the Annexor shall cooperate to execute and record any necessary documents providing that the annexation is not effective.

**8.5.4** If a Legal Challenge to annexation of the Property or to any of the other Approvals results in a final, non-appealable validation of the annexation or other Approvals, Annexor and the City shall be bound by all terms and provisions of this Agreement and, in accordance with the terms of the Petition, this Agreement shall be legally binding on the Property from and after the date on which this Agreement is recorded in pursuant to Section 8.1 above.

**8.6 [Intentionally Deleted]**

**8.7** It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

**8.8** All fees recited in this Agreement shall be subject to amendment by the City Council. Any amendment to fees shall be incorporated into this Agreement as if originally set forth herein. Nothing in this Agreement shall prevent, prohibit, diminish, or impair the City's home rule governmental authority to adopt fees or regulations to address the impacts of development.

**8.9** Annexor agrees to include the Property in special and general improvement districts as may be organized by the City at any time pursuant to the provisions of Title 31, Article 25, Parts 5 and 6, of the Colorado Revised Statutes.

**8.10** This Agreement, together with the other Approvals, embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained in the instruments comprising the Approvals. Except with respect to the Petition and the other Approvals, this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. Except as provided in Section 8.8 above, there shall be no modification of this Agreement except in writing, executed with the same formalities as this instrument. This Agreement may be enforced in any court of competent jurisdiction.

**8.11** This Agreement shall terminate and expire upon the completion of the development of the Property and satisfaction of all the obligations herein. Thereafter, so long as the Property is located within the municipal boundaries of the City, it shall continue to be subject to the charter, ordinances, and rules and regulations of the City.

**8.12** It is expressly understood and agreed that enforcement of the terms and conditions this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, their heirs, successors, and assigns, and nothing contained in this Agreement shall give or allow any claim or right of action by any other or third person under this Agreement. It is the express intention of the parties that any person other than the parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

**8.13** Any and all obligations of the City for water, sewer, and drainage improvements shall be the sole obligation of the City's Utility Enterprise and as such, shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation of the City within the meaning of any constitutional, statutory, or charter limitation. Any and all obligations of the City for public improvements other than water, sewer, and storm drainage improvements shall be subject to annual appropriation by the City Council.

**8.14** In the event of breach or default by the City, the sole remedies hereunder shall be the equitable remedies of specific performance or injunction. Annexor hereby waives any rights to money damages for any such breach or default.



**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

A PARCEL OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6TH P.M., AND IN THE

NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 4 SOUTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF ARAPAHOE, STATE OF COLORADO,

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF ORDINANCE NO. 90-130 AND THE SOUTHWEST CORNER ORDINANCE NO. 87-69;

THENCE ON THE SOUTH LINE OF SAID ORDINANCE NO. 87-69, N89°30'04"E, A DISTANCE OF 60.00 FEET;

THENCE ON THE WEST LINE OF ORDINANCE NO. 87-120, S00°19'16"E, A DISTANCE OF 631.92 FEET;

THENCE ON THE NORTH LINE OF ORDINANCE NO. 90-130, S89°18'10"W, A DISTANCE OF 692.99 FEET;

THENCE N00°20'41"W, A DISTANCE OF 470.85 FEET;

THENCE ON THE EAST LINE OF A RULE AND ORDER RECORDED MARCH 1, 1999, UNDER RECEPTION NO. A90334383, N11°21'34"E, A DISTANCE OF 164.70 FEET;

THENCE ON THE SOUTH LINE OF SAID ORDINANCE 90-130, N89°17'02"E, A DISTANCE OF 599.84 FEET, TO THE POINT OF BEGINNING,

CONTAINING 435,363 SQUARE FEET OR 9.99 ACRES, MORE OR LESS.



**EXHIBIT B**  
**FORM SPECIAL WARRANTY DEED**

**SPECIAL WARRANTY DEED**

This Deed is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_, whose address is \_\_\_\_\_, \_\_\_\_\_ County, Colorado \_\_\_\_\_ (“Grantor”) and the City of Aurora, Colorado, a Colorado municipal corporation of the State of Colorado, acting by and through its Utility Enterprise, whose address is 15151 East Alameda Parkway, Suite 3600, Aurora, Arapahoe County, Colorado 80012 (“Aurora”).

**WITNESSETH**

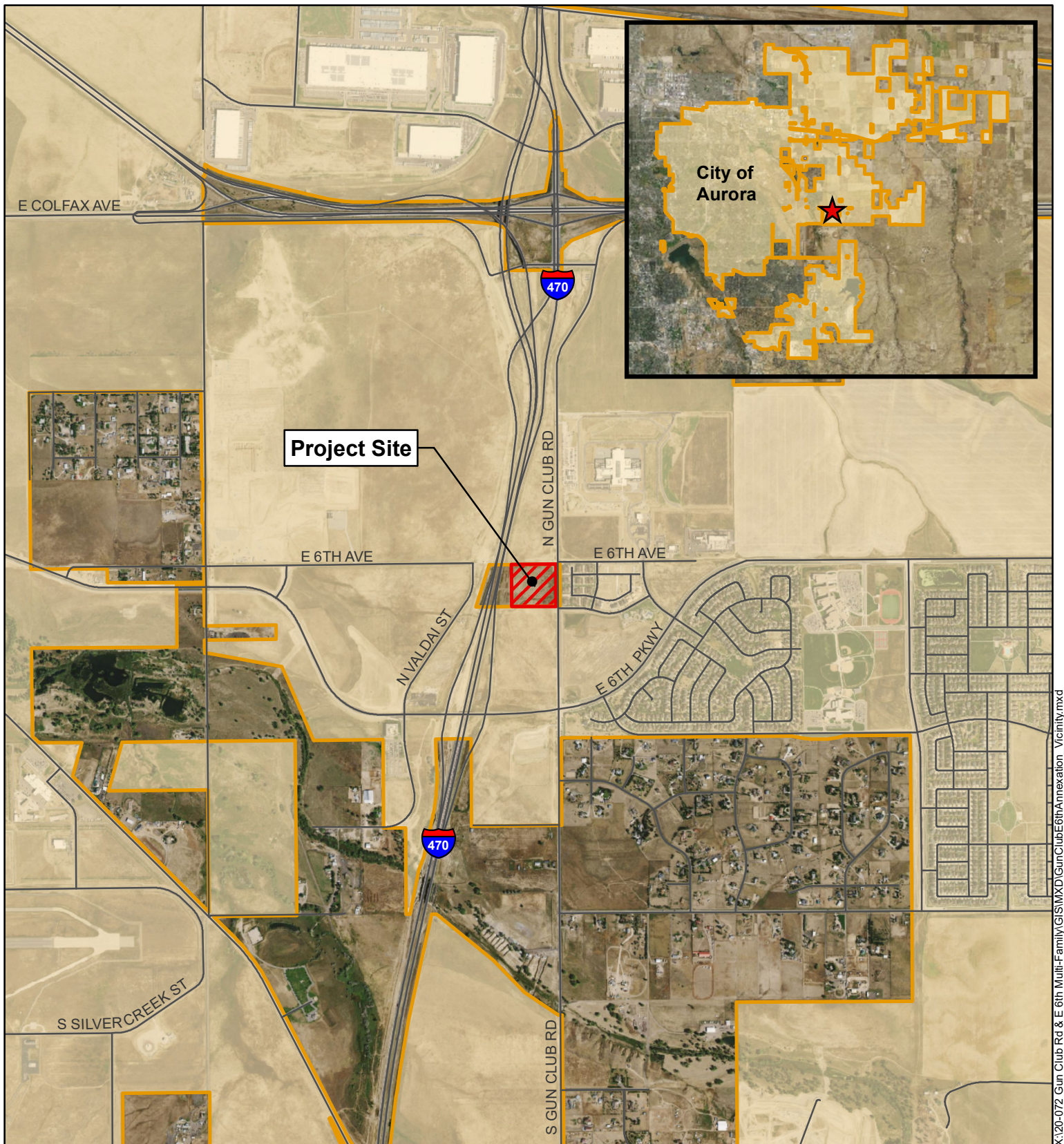
That Grantor for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, in hand paid by Aurora, the receipt, adequacy, and sufficiency of which is hereby acknowledged, hereby sells and conveys to Aurora the following real property, being water rights and rights to water that are located in the County of \_\_\_\_\_, State of Colorado, to wit:

All ground water from non-tributary and not non-tributary sources in the Dawson (A.K.A. Dawson-Arkose), Denver, Arapahoe and Laramie-Fox Hills Aquifers, including but not limited to water and water rights in any upper and lower aquifers, if any such aquifers are so subdivided, lying under approximately \_\_\_\_\_ acres of land owned by the Grantor, being more particularly described in Exhibit \_\_\_\_\_ attached hereto and made a part hereof.

Together with all appurtenances and the Grantor warrants the title to the same against all persons claiming under it, forever, provided; however, Grantor does not warrant the quantity or quality of water available through the exercise of the above conveyed water rights and rights to water. Grantor further specifically warrants that it has not divested itself of the subject non-tributary and not non-tributary water rights and right to water prior to its conveyance to the City, and the water rights are not decreed and no wells have been permitted or constructed to withdraw this water.

The proposed buyer of the underlying real property, Vista Creek Investments, LP, a Colorado limited partnership, by separate agreement has indemnified Grantor for any and all claims demands, actions, and causes of action (“Claims”) that Aurora asserts against Grantor to the extent such Claims directly or indirectly relate to any warranties given in this conveyance.








X:\20-072 Gun Club Rd & E 6th Multi-Family\GIS\MXD\GunClubE6thAnnexation\_Vicinity.mxd

**Vista Creek Annexation**

**Vicinity Map**  
 Arapahoe County, Colorado  
 0 1,000 2,000  
 Feet  
 1" = 2,000'

**Legend**

-  City of Aurora Existing Boundary
-  Proposed Annexation Property
-  Street

Date: 4/29/2020  
 CORE Project #: 20-072





City of Aurora

### COUNCIL AGENDA CONTINUATION PAGE

<p><b>Item Title:</b></p> <p>RECONSIDERATION OF RESOLUTION 2020-22 – Review of the powers granted to the City Manager by Resolution 2020-22. The powers granted to the City Manager which are set forth in the Disaster Declaration shall remain in place until a majority of Council votes to end the Declaration.</p>
<p><b>Item Initiator:</b> Jim Twombly, City Manager</p>
<p><b>Staff Source:</b> Matt Chapman, Fire Battalion Chief</p>
<p><b>City Attorney Signature:</b></p>
<p><b>City Manager/Deputy City Manager Signature:</b></p>
<p><b>Date of Change/Update:</b> May 29, 2020</p>

#### ITEM SUMMARY

On March 18, 2020 the City Manager signed a Disaster Declaration because of the serious emergency conditions the City of Aurora was facing due to the outbreak of COVID-19. There were two primary purposes the City Manager considered in the decision to declare a disaster. First, little was known about what demands would be placed on the City to react and keep our residents and employees safe. Both the Governor and President had issued state of emergency orders. The effects and impacts of the virus were quickly unfolding and the impacts on local governments were unknown. Given the powers provided to the City Manager under City Code Section 38-33 regarding Disaster Declaration, the ability to exercise those powers in an expeditious manner was viewed as critical.

In addition, “Stay at Home” Orders were adopted by both the Tri-County Health and the Governor during the week following March 18th. The City was committed to enforcement of those orders which closed “Non-Essential” businesses. At the same time, the City did not want to burden the City’s Police Department with that enforcement in order to allow them to continue their normal public safety duties. The Declaration allowed the City to use personnel from the City’s Finance, Neighborhood Services and Parks, Recreation and Open Space Departments for that enforcement duty.

The current state of the pandemic has changed to the point that the City Manager recommends that the Disaster Declaration be terminated. The powers granted to the City Manager in City Code under Disaster Declaration are no longer needed. There is more information known today about the pandemic itself related to spread, testing, contact tracing, importance of social distancing, mask wearing, and sanitizing. Colorado as a state has greatly improved numbers relating to the virus: hospitalizations are at the lowest



level since March 29; new patients admitted to hospitals yesterday, May 28th, with the virus are at the lowest level since the state began tracking that number; testing is at an all-time high and supplies are available to test the 8,500 people per day that public health experts say is necessary to monitor the outbreak.

The Governor's orders are allowing businesses to re-open and relaxing "Safer at Home" Orders while following guidance provided by the Colorado Department of Public Health and Environment, informed by the Centers for Disease Control and Prevention. The City has appointed a Recovery Manager and a Recovery Committee to review plans for the safe opening or reestablishing services provided by the City. Municipal courts will reopen safely for business June 1st.

In summary, the reasons for implementing the disaster Declaration are either no longer present or have been mitigated and are able to be managed to an extent not possible before. There is concern about a second wave and it would be prudent to reserve the extensive powers of the Disaster Declaration for such an occurrence, should it happen.

## **Disaster Declaration**

**WHEREAS**, the City Code of the City of Aurora, Section 38-33 gives the City Manager the authority to declare that a state of disaster exists when a disaster has occurred or the threat of disaster is imminent; and

**WHEREAS**, the state of disaster shall continue until the City Manager finds that the threat of danger has passed or the disaster has been dealt with to the extent that disaster conditions no longer exist; and

**WHEREAS**, no state of disaster may continue for longer than seven days unless renewed by the consent of the majority of the City Council; and

**WHEREAS**, the City of Aurora, Colorado is experiencing serious emergency conditions as a result of the outbreak of COVID-19, causing a public health incident; and

**WHEREAS**, on March 10, 2020, Governor Polis declared a state of epidemic disaster emergency in Colorado; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak to be a pandemic; and

**WHEREAS**, on March 13, 2020, President Trump issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency; and

**WHEREAS**, on March 13, 2020, the City of Aurora declared a local state of emergency due to the outbreak of COVID-19; and

**WHEREAS**, this incident has required a change in operations and policy for the City of Aurora in order to respond to the public health incident; and

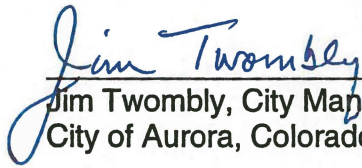
**WHEREAS**, the City Manager of the City of Aurora, Colorado hereby finds, determines, and declares a Proclamation of a State of Disaster is necessary for the preservation and protection of the public health, safety, and welfare of the inhabitants of the City of Aurora, Colorado; and

**WHEREAS**, the state of disaster may be lifted when public health incident is mitigated; and

**WHEREAS**, this declaration of disaster shall remain in effect until the City Manager finds that the threat of danger has passed or the disaster has been dealt with to the extent that disaster conditions no longer exist or for seven days, unless and until such declaration is renewed by the consent of the majority of the City Council.

**NOW THEREFORE, I proclaim there to be State of Disaster.**

Dated this 18 day of March, 2020.

  
\_\_\_\_\_  
Jim Twombly, City Manager  
City of Aurora, Colorado

Approved as to form:

  
\_\_\_\_\_



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Mayor Pro Tem Selection
<b>Item Initiator:</b> Susan Barkman, Interim City Clerk
<b>Staff Source/Legal Source:</b> Susan Barkman, Interim City Clerk/Dave Lathers, Assistant City Attorney
<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:** 12/7/2020

Dual Listed

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

- |   |  |
|---|--|
| <input type="checkbox"/> Approve Item as proposed at Study Session              | <input type="checkbox"/> Approve Item with Waiver of Reconsideration |
| <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                            |

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### 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          |
-



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**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.)

Based on Council Rules this item moves straight to the regular meeting at the first meeting of December.

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

The Council Rules state that the Council may select a Mayor Pro Tem to serve a 1 year term for 2021 at the first meeting in December. The Mayor Pro Tem shall serve as chair of the meeting if the Mayor is absent, makes policy committee assignments and works with city staff to plan City Council workshops. Additionally the Mayor Pro Tem represents Aurora on the Metro Wastewater Board and chairs the City Council Rules Ad Hoc Committee and serve on the Council Appointee Evaluation and Compensation Committee and reviews proclamations.

Council Members are required to submit their name in writing by November 15<sup>th</sup> to the Mayor and Council for consideration. Council Members Bergan, Lawson and Murillo have all submitted their names for consideration.

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## QUESTIONS FOR COUNCIL

Who shall serve as Mayor Pro Tem in 2021?

## LEGAL COMMENTS

The Mayor Pro-Tem shall be elected from among the members of City Council at the first regular meeting of City Council in December. A Council Member who is interested in serving as Mayor Pro-Tem shall give written notification to the other Council Members on or before November 15 of each year. (Rules of Order and Procedure for the Aurora City Council C(1))

At the first meeting of the council following every regular municipal election, the council shall choose by a majority vote for a term of one year one of its members as mayor pro tem. (§2-32, City Code) (Lathers)

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## PUBLIC FINANCIAL IMPACT

YES       NO

**If yes, explain:**

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## PRIVATE FISCAL IMPACT

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:**

**APPENDIX F**  
**BOARD/COMMISSION SELECTION PROCESS**  
**APPOINTMENTS AND NOMINATIONS**

A. Appointments:

1. When the number of applicants is equal to the number of available openings, the motion shall be for appointment:

“I move to appoint (individual(s)) to (name of board).”

2. The motion must be seconded.

3. At this point, the vote is for appointment and having achieved six votes, no further action need be taken.

4. A motion for appointment may include the names of all persons under consideration for appointment.

B. Nominations:

1. When the number of applicants is greater than the number of available openings, the first step shall be to nominate a person. Nominations do not require a second:

“I move to nominate (individual) to (name of board).”

2. Multiple nominations can be made by motion.

3. When all the applicants have been nominated, there shall be a motion to close the nominations with a second.

4. Upon an affirmative vote to close the nominations, the Mayor shall call for a vote on the nominations.

5. Voting shall occur as follows:

a. Each person’s nomination shall be voted on separately, in the order nominated.

b. Each Council Member gets one vote.

c. Nominees receiving six votes shall be considered eligible for appointment. (It may take several rounds to reach this threshold. At each round, the applicant receiving the fewest votes is removed from consideration.)

6. When the number of persons nominated equals the number of available openings, then one motion can be made (and seconded) to appoint those persons to the board:

“I move to appoint (individual(s)) to (name of board).”

Please Note: When the number of applicants is greater than the number of available openings, it is possible to make a motion to appoint instead of a motion to nominate. If that motion is seconded, then the appointment process takes precedence over the nomination process.



# CITY OF AURORA

## Council Agenda Commentary

<b>Item Title:</b> Judicial Vacancy-Appointment of New Associate Judge & Relief Judges, Re-Appointment of Current Judges
<b>Item Initiator:</b> Judge Shawn Day
<b>Staff Source/Legal Source:</b> Michele Moore/Angela Garcia
<b>Outside Speaker:</b> n/a
<b>Council Goal:</b> 2012: 1.5--Maintain an unbiased, independent municipal court

### COUNCIL MEETING DATES:

**Study Session:** n/a

**Regular Meeting:** 12/7/2020

Dual Listed Why is this item dual listed?[Click or tap here to enter text.](#)

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

- Approve Item as proposed at Study Session  Information Only
- Approve Item and Move Forward to Regular Meeting
- Approve Item as proposed at Regular Meeting
- Approve Item with Waiver of Reconsideration  
Why is a waiver needed?[Click or tap here to enter text.](#)

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### PREVIOUS ACTIONS OR REVIEWS:

**Policy Committee Name:** N/A

**Policy Committee Date:** n/a

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

- Recommends Approval  Does Not Recommend Approval
- Forwarded Without Recommendation  Recommendation Report Attached
- Minutes Attached  Minutes Not Available
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**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.)

Executive Session November 23, 2020/Judicial Vacancy-Appointment and Re-Appointments of Current Judges

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

Judicial Vacancy-Appointment of New Associate Judge & Relief Judges, Re-Appointment of Current Judges- Discussion, floor vote

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**QUESTIONS FOR COUNCIL**

Does Council wish to approve this item at the regular meeting?

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**LEGAL COMMENTS**

The Presiding Judge submits a list of at least two nominees to City Council and to the City Clerk for each vacant position. (AMC 50-72(c)). The City Clerk has the list of nominees published in at least two newspapers whose general circulation includes the city no later than 15 prior to the making of the judicial appointment by the City Council. (It is recommended that the position type, full or permanent part-time, be noted in the publication.) Any person or organization may submit to City Council confidential recommendations and endorsements regarding any nominee prior to the making of the judicial appointment by City Council. No anonymous recommendations or comments shall be considered. (AMC 50-72(c)). (Garcia)

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**PUBLIC FINANCIAL IMPACT**

YES       NO

**If yes, explain:** n/a

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**PRIVATE FISCAL IMPACT**

Not Applicable       Significant       Nominal

**If Significant or Nominal, explain:** n/a

# MEMORANDUM

## Aurora Municipal Court Office of the Presiding Judge



14999 E. Alameda Parkway  
Aurora, CO 80012

Phone 303-739-6535  
FAX 303-739-6532

**To:** Honorable Mayor Mike Coffman; Mayor Pro-Tem Nicole Johnston; Council Member Crystal Murillo; Council Member Marsha Berzins; Council Member Juan Marcano; Council Member Alison Coombs; Council Member Francoise Bergan; Council Member Allison Hiltz; Council Member Angela Lawson; Council Member Dave Gruber; Council Member Curtis Gardner

**From:** Shawn Day, Presiding Judge

**Date:** November 24, 2020

**Subject:** Judicial Vacancy-Appointment of New Associate Judge & Relief Judges, Re-Appointment of Current Judges

**CC:** Michele D. Moore

Greetings Mayor, Mayor Pro Tem and Members of City Council,

Thank you for the opportunity to meet with you on November 23<sup>rd</sup> to discuss the appointment and re-appointment of Judges. After our discussion, I offer up the following 5-step action plan for the December 7<sup>th</sup> Regular City Council Meeting:

### Step One:

Appoint ONE new Associate Judges from the list of four nominees (Associate Judge: 4-year term)

-Nominees: Peter Frigo, Robert Garvey, Marques Ivey or Karen Steinhauser

**-December 7<sup>th</sup> Council Meeting Action: Motion to Appoint ( nominee's name ) as Associate Judge, a second, discussion, floor vote**

### Step Two:

Appoint ALL FOUR (4) new Relief Judges from submitted list (Relief Judges: 2-year terms)

-Nominees: Michelle LeFlore, Rebekah Watada, Mark Solomon and Marques Ivey- (If not selected as a new Associate Judge)

**-December 7<sup>th</sup> Council Meeting Action: Motion to Appoint ( All four nominee's names ) as Relief Judges, a second, discussion, floor vote**

### Step Three:

Re-Appoint Judge Shawn Day as Presiding Judge (4-year term)

**-December 7<sup>th</sup> Council Meeting Action: Motion to Re-Appoint Judge Shawn Day as Presiding Judge, a second, discussion, floor vote**

### Step Four:

Re-appoint the following Associate Judges (4-year terms)

1. Judge Dion Arguelles
2. Judge Kristopher Colley
3. Judge Daniel Kopper

**-December 7<sup>th</sup> Council Meeting Action: Motion to Re-Appoint Judge Dion Arguelles, Judge Kristopher Colley and Judge Daniel Kopper as Associate Judges, a second, discussion, floor vote**

**Step Five:**

Re-Appoint the following Relief Judges (2-year terms)

1. Judge James Anderson
2. Judge Peter Frigo- **(If not appointed as the new Associate Judge)**
3. Judge Robert Garvey – **(If not appointed as the new Associate Judge)**
4. Judge Jonathan Lucero
5. Judge Tricia McCarthy
6. Judge Karen Steinhauser – **(If not appointed as the new Associate Judge)**

**-December 7<sup>th</sup> Council Meeting Action: Motion to Re-Appoint ( Each Judge's name or names )  
as Relief Judges, a second, discussion, floor vote**

I hope the above action plan provides some help. Please let me know if you any questions or if you would like to amend the plan in anyway. All of the above appointments would take effect January 1, 2021. Subject to your approval, I am proposing the swearing in ceremony would take place January 4, 2021 or the first scheduled Regular City Council meeting in 2021.

Thank you very much for your consideration in this very important process. I look forward to the December 7<sup>th</sup> Council meeting. Have a great Thanksgiving!

Respectfully,



Shawn Day  
Presiding Judge