



NOTICE OF COUNCIL MEETING

MONDAY, February 26, 2024

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

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

View or Listen Live

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Cable Channels 8 and 880 in Aurora

Call: 885-695-3475

In-person Participation

Members of the public may participate in-person at the Aurora Municipal Center, Paul Tauer Aurora City Council Chamber, 15151 E. Alameda Pkwy. The building will open at 4:45 p.m. on the day of the council meeting.

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

Call-in Participation

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

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

Translation/Accessibility

The city provides closed captioning services on Cable Channels 8 and 880. The Aurora Municipal Center is wheelchair accessible with entry ramps and accessible parking located on the west and east side of the building. Please make your request for accommodations or assistance by noon on the Friday preceding the Monday meeting by contacting the City Clerk's Office at 303-739-7094.

If you are in need of an interpreter, please contact the Office of International and Immigrant Affairs at 303-739-7521 by Monday, February 26, 2024 at 9:00 a.m. (Si necesita un intérprete, comuníquese con la oficina de asuntos internacionales e inmigrantes en 303-739-7521 por el domingo anterior a la reunión del

For more information regarding public meetings, please contact the City Clerk's Office at (303) 739-7094 or by email at CityClerk@auroragov.org or visit www.auroragov.org.



City of Aurora, Colorado

MONDAY, February 26, 2024

EXECUTIVE SESSION OF THE AURORA CITY COUNCIL

(Closed to the Public)

AURORA ROOM

3:35 p.m.

STUDY SESSION OF THE AURORA CITY COUNCIL

(Open to the Public via live stream in the Paul Tauer Aurora City Council Chamber)

AURORA ROOM

5:15 p.m.

REGULAR MEETING OF THE AURORA CITY COUNCIL

(Open to the Public)

PAUL TAUER AURORA CITY COUNCIL CHAMBER

6:30 p.m.



AGENDA

Regular Meeting of the Aurora City Council

Monday, February 26, 2024

6:30 p.m.

Paul Tauer Aurora City Council Chamber

15151 E Alameda Parkway

Aurora, CO 80012

Pages

1. CALL TO ORDER
2. ROLL CALL
3. INVOCATION/MOMENT OF SILENCE
4. PLEDGE OF ALLEGIANCE
5. EXECUTIVE SESSION UPDATE
6. APPROVAL OF MINUTES
 - 6.a February 12, 2024 Meeting Minutes
7. PROCLAMATIONS OR CEREMONIES
8. PUBLIC INVITED TO BE HEARD
(non-agenda related issues only)
9. ADOPTION OF THE AGENDA
10. CONSENT CALENDAR - MOTIONS

6

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

- 10.a Motions

10.b Planning Matters

10.c Appointments to Boards and Commissions

10.c.1 Consideration to Appoint Two (2) Members to the Aurora Fox Arts Center Advisory Board

15

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

11. CONSENT CALENDAR - RESOLUTIONS AND ORDINANCES

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

11.a Resolutions

11.a.1 Arapahoe County Intergovernmental Agreement (IGA) for the High Line Canal Colfax Underpass

29

R2024-14 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S APPROVAL OF THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, AND THE BOARDS OF COUNTY COMMISSIONERS FOR ADAMS COUNTY AND ARAPAHOE COUNTY, STATE OF COLORADO, FOR THE HIGHLINE CANAL TRAIL UNDERPASS NEAR EAST COLFAX AVENUE AND NORTH LAREDO STREET

Nicole Ankeney, Planning, Design and Construction Manager, Parks, Recreation and Open Spaces / Tim Joyce, Assistant City Attorney

11.a.2 Purchase and Sale Agreement for One and a Half (1.5) Shares of Stock in the Platte Valley Irrigation Company

45

R2024-15 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE CONTRACT FOR PURCHASE OF THE PLATTE VALLEY IRRIGATION COMPANY STOCK BETWEEN THE CITY OF AURORA AND M&M EXCAVATION COMPANY

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

- 11.a.3 **Resolution Regarding the Transportation for Those Experiencing Homelessness and Migrants Into Aurora Without an Agreement to Address the Financial Impact and Coordination of Services** 90

R2024-16 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REGARDING THE SYSTEMATIC TRANSPORTATION OF MIGRANTS AND THOSE EXPERIENCING HOMELESSNESS INTO AURORA FROM OTHER MUNICIPALITIES WITHOUT COMMUNICATION AND COORDINATION TO ADDRESS THE FINANCIAL IMPACT AND IMPACT ON CITY SERVICES

Sponsors: Danielle Jurinsky, Council Member / Steve Sundberg, Council Member

George Koumantakis, Client Services Manager, Office of the City Attorney

- 11.a.4 **Restore the Independence of the Indigent Defense Counsel** 101

R2024-17 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, TO REPEAL RESOLUTION 2023-118 AND TO HALT EFFORTS TO SOLICIT PROPOSALS TO CONTRACT PURSUANT TO RFP R-2384 IN ORDER TO RESTORE THE INDEPENDENCE OF INDIGENT DEFENSE COUNSEL AND PREVENT DETRIMENTAL IMPACT TO THE CITY OF AURORA

Sponsor: Alison Coombs, Council Member

George Koumantakis, Client Services Manager, Office of the City Attorney

- 11.a.5 **Aurora Ceasefire** 184

R2024-18 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, CALLING FOR AN IMMEDIATE AND PERMANENT CEASEFIRE IN GAZA AND OCCUPIED WEST BANK, IMMEDIATE, UNHINDERED HUMANITARIAN AID INTO GAZA, AND RELEASE OF ALL ISRAELI HOSTAGES AND ARBITRARILY DETAINED PALESTINE CITIZENS

Sponsor: Alison Coombs, Council Member

George Koumantakis, Client Services Manager, Office of the City Attorney

11.a.6 Enforcing Motor Vehicle Registration Laws in Municipal Courts

191

R2024-19 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, URGING THE STATE OF COLORADO GENERAL ASSEMBLY TO PASS LEGISLATION IN 2024 TO ALLOW CITIES IN COLORADO THE ABILITY TO ASSIST THE STATE IN ENFORCING MOTOR VEHICLE REGISTRATION LAWS

A waiver of reconsideration is being requested due to the timing of the Legislative session. Time is of the essence to get this resolution to the Legislature for them to have time to act in this year's session.

Sponsors: Stephanie Hancock, Council Member / Mike Coffman, Mayor

Pete Schulte, Public Safety Client Group Manager, City Attorney

11.b Finalizing of Ordinances

Ordinances approved unanimously at first reading

11.b.1 Iliff Station Rezone - Zoning Map Amendment

196

2024-01 CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, FOR A ZONING MAP AMENDMENT TO REZONE APPROXIMATELY 0.87 ACRES OF LAND TO MEDIUM-DENSITY MULTIFAMILY DISTRICT (R-3), LOCATED AT THE NORTHWEST CORNER OF EAST WESLEY PLACE AND SOUTH DILLON STREET

Liz Fuselier, Planner, Planning and Development Services / Lena McClelland, Assistant City Attorney

12. PUBLIC HEARINGS

Public hearings with or without related ordinances

13. INTRODUCTION OF ORDINANCES

13.a Retail Theft Repeat Offenders

219

2024-04 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS OF THE CITY CODE PERTAINING TO MANDATORY MINIMUM SENTENCES FOR RETAIL THEFT IN THE AURORA MUNICIPAL CODE TO CONTINUE TO COMBAT THEFTS IN THE CITY

Sponsor: Danielle Jurinsky, Council Member

Pete Schulte, Client Services Manager, City Attorney

13.b Amending Sections Pertaining to Mandatory Minimum Sentences for Theft of Services

229

2024-05 FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS OF THE CITY CODE PERTAINING TO MANDATORY MINIMUM SENTENCES FOR THEFT OF SERVICES IN THE AURORA MUNICIPAL CODE TO COMBAT THE INCREASE IN “DINE AND DASH” THEFTS IN THE CITY

Sponsor: Danielle Jurinsky, Council Member

Pete Schulte, Client Services Manager, City Attorney

14. FINALIZING OF ORDINANCES

Ordinances not approved unanimously at first reading

15. ANNEXATIONS

16. RECONSIDERATIONS AND CALL UPS

17. GENERAL BUSINESS

18. REPORTS

18.a Mayor

18.b Council

19. ADJOURNMENT

MINUTES

Regular Meeting of the Aurora City Council

Monday, February 12, 2024

1. **RECONVENE REGULAR MEETING OF FEBRUARY 12, 2024, AND CALL TO ORDER**

Mayor Coffman reconvened the regular meeting of the City Council for February 12, 2024, at 6:30 p.m.

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

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

COUNCIL MEMBERS ABSENT: Zvonek

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

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

Mayor Coffman led the prayer for the February 12, 2024 Council Meeting.

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

5. **EXECUTIVE SESSION UPDATE**

Mayor Coffman provided an update on the Executive Session.

6. **APPROVAL OF MINUTES**

6.a. January 22, 2024 Meeting Minutes

Motion by Gardner, second by Bergan, to approve the minutes of the January 22, 2024 meeting.

Voting Aye: Mayor Coffman, Bergan, Gardner, Hancock, Jurinsky, Lawson, Medina, Murillo, Sundberg

Abstain: Coombs

7. **PROCLAMATIONS OR CEREMONIES**

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

7.a. Animal Services - Animal Showcase

7.b. Lunar New Year

Mayor Coffman proclaimed February 10, 2024 as Lunar New Year.

7.c. Amazing Auroran Award - Thoa Nguyen

Mayor Coffman read a land acknowledgment.

8. PUBLIC INVITED TO BE HEARD

(non-agenda-related issues only)

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

9. ADOPTION OF AGENDA

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

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

10. CONSENT CALENDAR – MOTIONS

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

10.a. Motions

10.b. Planning Matters

10.c. Appointments to Boards and Commissions

10.c.1 Consideration to Appoint Three (3) Members of the Citizens Advisory Committee on Housing and Community Development

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

10.c.2 Consideration to Appoint One (1) Member to the Veterans Affairs

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

10.c.3 Consideration to Appoint One (2) Members and Reappoint Two (2) Members to the Aurora Immigrant and Refugee Commission

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

10.c.4 Consideration to Appoint One (1) Member and Reappoint Three (3) Members to the Citizens' Water Advisory Commission

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

10.c.5 Consideration to Appoint Three (3) Members to the Civic Engagement

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

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

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

11. CONSENT CALENDAR - RESOLUTIONS AND ORDINANCES

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

11.a. Resolutions

11.a.1 Lloyd Land and Water Acquisition

R2024-08 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE CONTRACT TO BUY AND SELL REAL ESTATE FOR LAND AND WATER RIGHTS BETWEEN THE CITY OF AURORA AND BRUCE LLOYD

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

11.a.2 Agricultural Lease with Buderus Farms in Weld County

R2024-09 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE AGRICULTURAL LEASE BETWEEN THE CITY OF AURORA, COLORADO AND BUDERUS FARMS OF CERTAIN CITY-OWNED LAND IN WELD COUNTY

Tom Clark, Senior Real Estate Specialist, Public Works / Michelle Gardner, Senior Assistant City Attorney

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11.a.3 Agricultural and Grazing Lease with Jeffrey Will Richardson in Weld County

R2024-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE FARM, GRAZING AND PROPERTY LEASE BETWEEN THE CITY OF AURORA, COLORADO AND JEFFREY "WILL" RICHARDSON OF CERTAIN CITY-OWNED LAND IN WELD COUNTY

Tom Clark, Senior Real Estate Specialist, Public Works / Michelle Gardner, Senior Assistant City Attorney

11.a.4 Conveyance of a Portion of Tract C, Green Valley Ranch Subdivision Filing No. 9, to Windler Operations Metropolitan District, a Quasi-Municipal Corporation and Political Subdivision of the State of Colorado

R2024-11 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE CONVEYANCE OF CERTAIN CITY-OWNED PROPERTY CONTAINING 1,179 SQUARE FEET (0.027 ACRES) TO WINDLER OPERATIONS METROPOLITAN DISTRICT AS A DIRECT SALE TO LOGICAL POTENTIAL PURCHASER

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

11.a.5 Supporting Modular Construction as Part of Affordable Housing

R2024-12 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, IN SUPPORT OF MODULAR CONSTRUCTION AS A SEPARATE HOUSING CATEGORY TO INCREASE ATTAINABLE HOUSING IN COLORADO

A waiver of reconsideration is being requested in order to timely address the State legislature on Proposition 123 - Colorado Affordable Housing Financing Fund.

Sponsors: Mike Coffman, Mayor / Françoise Bergan, Council Member

Michelle Gardner, Senior Assistant City Attorney

CM Bergan explained that it did not go through committee after planning to do so due to the legislation moving so quickly and the importance of having it brought right to the floor. She said housing affordability was critical and she was working with staff and a developer of modular housing to see how they could reduce housing cost and increase supply without sacrificing quality standards. She thanked the city manager, mayor, deputy city manager and staff for looking at the duplicative costs they

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have in the inspection and permit fees and the plan review process. She expressed they wanted to reduce those costs and this resolution would be a model for the state and municipalities and asked council to support it. She said it also would help them all work together to bring affordable housing to the people of Colorado and significantly reduce the cost.

Mayor Coffman thanked CM Bergan for her work on it. He explained modular housing was largely assembled in a factory setting and much more efficient.

CM Hancock shared that she toured the factory and visited a modular home community and they were beautifully put together. She stated they brought housing down to affordability standards.

CM Lawson commented it would add an extra addition to the housing crisis they had in the city, but hoped they were not gobbled up by investors because affordability could then not be sustainable.

CM Bergan added that CM Hancock and CM Sundberg were able to tour the manufactory facility to see the actual product and encouraged others to do so.

Motion by Bergan, second by Hancock to approve the adoption of 11.a.5

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

11.b. Finalizing of Ordinances

CM Bergan asked to pull 11.a.5.

Motion by Gardner, second by Sundberg, to approve the Consent Calendar – Motions with item 11.a.5 removed.

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

12. PUBLIC HEARINGS

12.a. Iliff Station Rezone - Zoning Map Amendment

2024-01 A PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, FOR A ZONING MAP AMENDMENT TO REZONE APPROXIMATELY 0.87 ACRES OF LAND TO MEDIUM- DENSITY MULTIFAMILY DISTRICT (R-3), LOCATED AT THE NORTHWEST CORNER OF EAST WESLEY PLACE AND SOUTH DILLON STREET

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Liz Fuselier, Planner, Planning and Development Services / Lena McClelland, Assistant City Attorney

Mayor Coffman opened the public hearing.

Liz Fuselier presented a summary of the item.

CM Hancock stated they talked about it in the TAPS Committee and the idea of the project was to create affordability for young professionals in the police/nurse income bracket so they would be more affordable. She said they also discussed the traffic potential hazards there and concluded it would not cause any traffic pressure in the area.

Mayor Coffman closed the public hearing.

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

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

13. **INTRODUCTION OF ORDINANCES**

14. **FINALIZING OF ORDINANCES**

15. **ANNEXATIONS**

15.a. Allen Parcel Annexation Substantial Compliance

R2024-13 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO FINDING A PETITION FOR ANNEXATION OF A CERTAIN PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 2 AND THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ARAPAHOE, STATE OF COLORADO, TO BE IN SUBSTANTIAL COMPLIANCE WITH SECTION 31-12-107(1), C.R.S., AND GIVING NOTICE OF A PUBLIC HEARING ON THE PROPOSED ANNEXATION (Allen Annexation) 41.028 ACRES

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

Jacob Cox presented a summary of the item.

Motion by Gardner, second by Hancock to approve 15.a.

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

16. **RECONSIDERATION AND CALL UPS**

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CM Murillo stated she wanted to reconsider the ordinance from January 22nd regarding the rule changes on seating and asked the city attorney to advise on the correct way to reconsider the item.

Motion by Murillo, second by Medina, to approve motion to reconsider.

CM Murillo commented that after reviewing the minutes and conversation, she wanted to ask the city attorney if there were any issues related to that conversation.

City Attorney said he was happy to answer the question but should there be a reconsideration after a majority vote that would be heard at the next meeting. He said the single subject was considered for the two seating items and amendment to the sexual harassment and discrimination section of Appendix I and was done as an updating of the council rules, which was one subject.

CM Murillo stated the purpose was defined as focusing on who can and cannot be on the dais and an amicable decision to swap seats, but she was concerned that conversation started to focus on one particular council member and their child. She asked if there was any liability or concerns they should be considering on that.

Mayor Coffman said first was the motion to reconsider and then they would have the discussion at the next regular meeting.

CM Bergan asked about the details on the reconsideration process.

City Attorney noted reconsiderations were under B5 of the council rules and the member needed to be on the prevailing side and get a majority vote.

CM Bergan asked what qualified reconsideration. She said she knew they had to have new information that had not been presented but wanted to know if there was anything else.

City Attorney stated it had to be new information and had to be made at the appropriate time.

CM Bergan asked if there was new information to give on the subject.

CM Murillo said she wanted a legal opinion from the city attorney to address the concerns on the scope of what it said on paper versus the dialogue that occurred. She was concerned they were opening themselves up to legal liability focusing on one council member.

Mayor Coffman expressed it was ambiguous what was new information, but CM Murillo was on the prevailing side and has the ability to offer a motion of reconsideration.

CM Jurinsky urged her colleagues to vote no on a reconsideration.

CM Murillo inquired if they could get a legal opinion on the risk of how that conversation unfolded.

City Attorney explained they could do it as part of the motion for reconsideration, but any council member also had a right to ask for a legal opinion even if the motion did not pass.

CM Bergan expressed it was something to discuss with the city attorney to make sure they were within legal standing, but not part of new information for reconsideration.

CM Gardner commented that the discussions were moving outside of the motion to reconsider and now going beyond the question of reconsideration.

Voting Aye: Mayor Coffman, Coombs, Medina, Murillo

Voting Nay: Bergan, Gardner, Hancock, Jurinsky, Lawson, Sundberg

17. **GENERAL BUSINESS**

17.a. Determination of Final Candidates to be Interviewed for the Planning and Zoning Commission

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

CM Gardner proposed reopening the application period and do additional outreach to get more applicants. He said they only had two so far.

CM Bergan agreed it would be better to have more outreach.

Motion by Gardner, second by Murillo, to continue receiving applicants until March 11th.

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

18. **REPORTS**

18.a. Report by the Mayor

Mayor Coffman stated he had a conversation with the governor concerning Buckley and there was no plan right now to replace the aircraft, which would cause the runway to close. He explained to the governor it was an issue of statewide concern and when the space command issue came up they were in support and enlisted to do certain things, but he did not see the effort on the issue. He said the governor vowed to incorporate them in some type of plan and hopes he follows through with that. Mayor Coffman also spoke about the Fitzimmons Innovation Committee and said the executive director for the Anschutz Medical Campus would be resigning at the end of the year. He said he had

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been in conversations with the city manager about how to move a study forward to ask if they needed look at a public-private partnership to move bioscience along in the campus.

18.b. Reports by the Council

CM Jurinsky announced the Waterwise Event would be on May 18th at the Waterwise Garden. She said there would be many vendors at the event with many landscaping companies and hoped to see a lot of Aurorans at the event.

CM Murillo announced the Ward 1 Town Hall on February 22nd at Moorhead Rec Center.

CM Medina announced his Town Hall is February 13th, 6:30-8pm, at the Central Library where they will be having presentations by PROS, Parks and Recreation, and Art in Public Places.

CM Hancock appointed Michael A. Hancock to the BAC.

CM Lawson stated the FSIR Committee met twice since the Colorado Legislative Session began and have taken positions on 17 bills. She said the City was supporting federal legislation on finding innovative ways to address street racing. She hoped people would tune into the next FSIR meeting, February 16th. She announced two Ward 5 Town Halls, one on February 24th from 10 to 11:30am at Heather Gardens and the other on February 27th from 6:30 to 8pm at the Central Rec Center.

CM Bergan said she was continuing to work on the Opioid Governance Committee and the Walk In Crisis Center and Detox Subcommittee. She stated they opened up the executive direction search regarding E-470 and finance director search. She also **extended support to CM Jurinsky’s court date.**

Council members Gardner, Coombs, and Sundberg did not have a report.

19. **ADJOURNMENT**

Mayor Coffman adjourned the regular meeting of the City Council.

MIKE COFFMAN, MAYOR

ATTEST:

KADEE RODRIGUEZ, CITY CLERK

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CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to Appoint Two (2) Members to the Aurora Fox Arts Center Advisory Board
Item Initiator: Rich Cowden, Executive Producer, Library and Cultural Services
Staff Source/Legal Source: Kadee Rodriguez, City Clerk / Tim Joyce, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

COUNCIL MEETING DATES:

Study Session: 2/12/2024

Regular Meeting: 2/26/2024

2nd Regular Meeting (if applicable): N/A

Item requires a Public Hearing: Yes No

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

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name, title, department / Legal source name and title
- Outside speaker name and organization
- Estimated time (For Study Session items only, indicate combined time needed for presentation and discussion)

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

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

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

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

Recommends Approval

Does Not Recommend Approval

Forwarded Without Recommendation

Minutes Not Available

Minutes Attached

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

The Aurora Fox Arts Center Board shall have the responsibility and function of advising the city council and director of library and cultural services on such matters as shall pertain to the planning, regulation, maintenance, repair and operation of the Aurora Fox Arts Center.

The Aurora Fox Arts Center Board is made up of fifteen (15) members who are residents of Aurora and registered electors. Members serve a 3-year term and may serve up to two (3) terms. All eligible applications received within the last year are forwarded to the Board to be considered for interviews.

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

The Aurora Fox Arts Center currently has 5 vacancies. The Commission received 2 applications and interviews were conducted in September of 2023.

Among the applicants were:

Jamie Lewis

Fern Berger

Upon conducting interviews, the Aurora Fox Arts Center Board respectfully recommends the appointment of the following candidates:

Jamie Lewis – 1st term beginning 11/15/2023 and ending on 11/14/2026

Fern Berger – 1st term beginning 11/15/2023 and ending on 11/14/2026

FISCAL IMPACT

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

Revenue Impact

Budgeted Expenditure Impact

Non-Budgeted Expenditure Impact

Workload Impact

No Fiscal Impact

REVENUE IMPACT

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

N/A

BUDGETED EXPENDITURE IMPACT

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

N/A

NON-BUDGETED EXPENDITURE IMPACT

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

N/A

WORKLOAD IMPACT

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

N/A

QUESTIONS FOR COUNCIL

Does council wish to appoint Jamie Lewis and Fern Berger to the Aurora Fox Arts Center Advisory Board?

LEGAL COMMENTS

All boards and commissions shall be appointed by Council. (City Charter, art III, sec. 3-11 and art. IX, sec. 9-1) The Aurora Fox Arts Center (AFAC) Board shall have the responsibility and function of advising City Council on the planning, regulation, maintenance, repair and operation of the AFAC. (Aurora, Colo. Code § 34-91). The Board shall consist of fifteen members, ten of which shall be residents of the City. The other five members may include nonresident owners of property or businesses in the City or nonresidents employed in the City. Persons appointed to the board shall have an active interest in promoting the arts, activities and programs of the Aurora Fox Arts Centers. (Aurora, Colo. Code § 34-92). (TJoyce)



MEMORANDUM

TO: Mayor Coffman and Members of City Council

FROM: Jessica Johnson, Board Chair, Aurora Fox Arts Center

THROUGH: Kadee Rodriguez, City Clerk
Joanna McNeal, Library and Cultural Services Department, Interim Director

DATE: January 25th, 2024

SUBJECT: New Appointment to the Aurora Fox Arts Center Advisory Board

The Aurora Fox Arts Center Advisory Board (AFACAB) consists of fifteen (15) voting members appointed by the Aurora City Council. Five (5) vacancies currently exist.

Summary

Jamie Lewis applied to the Aurora Fox Arts Center Advisory Board on August 17, 2023, and was interviewed in September 2023 by the Chair and Co-Chair of the Board. Ms. Berger attended the January 8th board meeting, where the Aurora Fox staff discussed various topics including the current and upcoming theater seasons, fundraising opportunities, and community outreach.

Ms. Lewis has strong ties to the Aurora Community and is a regular patron of the Fox Theater and other theaters around the metro area. She works with other boards and non-profits, and her knowledge of fundraisers and such will be an asset to the Fox Advisory Board. Her current schedule affords her time to participate on the Aurora Fox Arts Center Advisory Board without hesitation.

Fern Berger applied to the Aurora Fox Arts Center Advisory Board on September 18, 2023, and was interviewed on September 26, 2023 by the Chair and Co-Chair of the Board. Ms. Berger attended the January 8th board meeting, where the Aurora Fox staff discussed

various topics including the current and upcoming theater seasons, fundraising opportunities, and community outreach.

Ms. Berger has long ties to the Aurora community and is a regular patron of the Fox Theater and other theaters around the metro area. She worked for many years at the Mile High Flea Market. She wants to help get more people interested in theater and Fox. Her current schedule affords her time to participate on the Aurora Fox Arts Center Advisory Board without hesitation.

The Aurora Fox Arts Center Advisory Board strongly supports the appointment of Jamie Lewis and Fern Berger as Members on the Aurora Fox Arts Center Advisory Board.

Aurora Fox Arts Center Vacancy Interview Questions Include the Following:

1. What do you know about the Aurora Fox?
2. Why are you interested in joining the Board?
3. What skills, connections, resources or expertise will you provide?
4. What is your comfort level with public speaking, fundraising or asking outside entities to support the Fox?
5. Do you have any worries or concerns about joining the board?
6. Do you have personal aspirations that could be enhanced by board service?
7. How much time can you commit per month?
8. At times, the shows may contain content or ideas that may push social norms or boundaries, or involves diverse lifestyles. Are you comfortable with this?

Aurora Fox Arts Center Board

Applicant Package - Ward 4

Aurora Fox Arts Center Board - Ward 4

Term: 15 Nov 2023 - 14 Nov 2026

Positions Available: 6

Number of applicants in this package: 1

- Lewis, Jamie

Date Received: 08/17/2023

Registered Voter & Resident of Aurora
09/25/2006 Ward: 4 County: Arapahoe

Tristen Sheptock

Name : Lewis, Jamie

Address : [REDACTED]

Email : [REDACTED]

Board Name : Aurora Fox Arts Center Board

Date of Birth :

[REDACTED]

Home Phone Number :

[REDACTED]

Work Phone Number :

[REDACTED]

How long have you lived in Aurora? :

1 year this time (but lived in aroura from ages 8-18)

Are you registered to vote? :

Yes

Years of Education Completed :

completed master's degree

Degree(s) Received :

BA and MA

College(s) Attended :

University of Colorado (Boulder and Denver campuses)

Employer Name :

Investments & Wealth Institute

Employer Address :

5619 DTC Parkway Suite 600 Greenwood Village, CO 80111

Current Position :

Director of Technology

Years with Current Employer :

10

Work Experience :

Technology, Online Education (design and technology)

Certification(s) :

ITIL 4 Foundations

How are you involved in your community? :

My mother and I have been Fox Theatre subscribers for a number of years. Now that I live in Aurora I want to do more than just use the many cultural services.

List your interests and activities. :

I subscribe to DCPA Broadway series and the Fox theater. I attend other Denver Center performances, the Colorado Ballet and Colorado symphony. I like to craft, including painting. I also like to read and play video games.

Do you presently serve in any other appointed position on a board, commission or committee? :

No

If yes, enter the board name and position :

n/a

Are you currently a member and seeking reappointment on the board you are applying for? :

No

Why do you desire this appointment? :

My admiration for the arts along makes this appointment the perfect place for me to participant more fully in the community. I also work for a 501(C)(6), so I am familiar with the work of nonprofits, boards, and committees.

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

I have a fairly flexible schedule and an employer that sees the benefits of staff working on commissions, boards, etc.

Do you have any conflicts of interest that should be disclosed? :

No

If yes, please explain :

n/a

Reference 1: Full Name, Phone Number and Address :

Elissa Motley

[REDACTED]

Reference 2: Full Name, Phone Number and Address :

Mary Corbin

[REDACTED]

Reference 3: Full Name, Phone Number and Address :

I need to confirm with another person, but I will be happy to provide if we move forward.

How did you hear about us? :

News Aurora (water bill newsletter)

By clicking APPLY and submitting this application, I certify that the forgoing information is true and correct :

Jamie A Lewis

Time of Submission :08/17/23 3:31:47 PM

Attachments:

- JLewis Dec2022.pdf

Jamie Lewis

Technology Leader

PROFILE

I am a keen observer of how technology intersects with people's ability to do their jobs efficiently and happily. I love technology road maps and thinking about what's possible. In my life, I've always been a super-user of software and hardware. I see things like a user but can talk the more technical talk.

CONTACT

[REDACTED]

[REDACTED]

Greater Denver Metro Area

[REDACTED]

EDUCATION

May 1993

BA

Psychology

University of Colorado - Boulder

May 2013

MA

Information and Learning

Technologies; eLearning Design and Implementation

University of Colorado - Denver

Certifications

ITIL 4 Foundation Level
Earned May 2021

ITIL 4 Strategist Direct, Plan and Improve
Earned November 2021

ITIL 4 Strategic Leader
In progress

PROFESSIONAL EXPERIENCE

Director of Technology

Investments & Wealth Institute - Greenwood Village, CO

April 2018 – Present

- Ensure that the Institute's technology meets the needs of both staff and members by following technology trends in general, in financial services, and other associations.
- Manage a budget (estimated to be \$850,000 in 2023) of fixed cost line items, plus a programming projects budget (estimated to be over \$400,000 in 2023).
- Develop and articulate the IT roadmap for approval by IWI's executive team and board of directors.
- Manage a small staff of IT professionals. This team handles internal helpdesk needs and project manages development projects with outside vendors.
- Currently leading projects to update/refresh the customer-facing website and member dashboard.

Associate Director of Online Learning

Investments & Wealth Institute - Greenwood Village, CO

January 2017 – April 2018

- Implemented a new learning management system in 2017.
- Managed the operations side of the online education business to ensure participant success.
- Partnered with IT to have APIs created between our system of record (netFORUM Enterprise) and the learning management system to handle registrations and continuing education credits upon course completion.

Other Investments & Wealth Institute (formerly IMCA) Roles

- Online Learning and Assessment-Based Certificate Programs Manager, March 2016 - January 2017
- Education and Product Development Manager, February 2013 - December 2015

KEY SKILLS

- Project management
 - Problem-solving
 - Team leadership
 - Process mapping
 - Association Management systems
 - CRM usage
 - CSM usage
 - Requirements gathering
 - Ecosystem mapping
 - Strategic thinking
 - Budget management
 - eLearning Technology
-

Director of Curriculum and Learning Exchange

The eLearning Guild - Santa Rosa, CA (remote)

May 2015 – January 2016

- Worked with subject matter experts to develop curriculum for the professional development of learning and instructional technology practitioners.
- Project lead for the Learning Exchange, the Guild's community learning and sharing platform.
- Oversaw the day-to-day running of the Guild Academy.
- From January 2015 - April 2015, I was the Instructional Design project manager putting the Learning Exchange into place.

Senior Instructional Designer - National Training

Archstone - Greater Denver Area

March 2008 – February 2013

- Determined project scope by conducting needs assessments with operation teams and other subject matter experts.
- Identified learning objectives, created course outlines, and provided training requirements.
- Designed and developed eLearning courses using Captivate and Articulate; created job aids/performance support aids using Microsoft Office tools.
- Designed a learning portal using SharePoint that allowed learners to access training materials.
- Managed multiple projects at different development stages with different subject matter experts.
- Researched and helped select a Learning Management System.
- Started the implementation of the selected Learning Management System (Saba).

Curriculum Management Specialist

Accenture - Greater Denver Area

September 2006 – March 2008

- Provide advice to client groups regarding curriculum paths.
- Create deployment plans for new curriculum efforts to coordinate posting to the learning management system, curriculum maps, certification impacts, delivery issues (equipment/instructors), and communication needs.
- Catalog and price all courses deployed to the LMS.
- Add new certificates and components on the LMS to support certification programs.

Senior Instructional Design Analyst

Accenture - Greater Denver Area

September 2003 – September 2006

- Create instructor-led and web-based training courses for companies in various industries.
- Follow the Center's process for designing, producing, accepting, and deploying all courses.

- Work individually and in small teams to complete courses on time and within budget.
- Act as a resource to other designers regarding instructional design, Center process, and Center tools.
- Interact with clients (subject matter experts and stakeholders) to gather course content and ensure courses meet the client's needs and standards.
- March 2006: Perform project management function for courses, interacting with key stakeholders, and managing three developers in addition to my other responsibilities, including managing budgets and timeframes; the typical cost to client averages \$80,000 for a web-based course with an assessment, conducting content reviews, coaching developers; raising and mitigating potential risks to projects.

Other Roles

- Instructional Designer, Contractor staffed at Accenture
May 2003 - September 2003
- Trainer, Arioso
October 2011 - April 2003
- Trainer, Accenture
May 2001-September 2001
- Trainer, Arioso
May 2000 - April 2001
- Agency Technology Specialist, Safeco insurance
January 1999 - May 2000
- Agency Services Representative (Agency Tech Support), Safeco Insurance
May 1997 - January 1999

Aurora Fox Arts Center Board
Applicant Package - Ward To Be Determined

1

Aurora Fox Arts Center Board - Ward 1

Term: 15 Nov 2023 - 14 Nov 2026

Positions Available: 6

Number of applicants in this package: 1

- Berger, Fern

Date Received: 09/18/2023

Registered Voter & Resident of Aurora

04/02/1984 Ward: 1 County: Adams

Tristen Sheptock

Name: Berger, Fern

Address: [REDACTED]

Email: [REDACTED]

Board Name: Aurora Fox Arts Center Board

Date of Birth:

[REDACTED]

Home Phone Number:

[REDACTED]

Work Phone Number:

N/A

How long have you lived in Aurora?:

32 years

Are you registered to vote?:

Yes

Years of Education Completed:

16

Degree(s) Received:

BA + some post graduate

College(s) Attended:

Northeastern University Hofstra University

Employer Name:

Retired

Employer Address:

N/A

Current Position:

N/A

Years with Current Employer:

I retired 4 months ago from the Mile High Flea Market after 35 years

Work Experience:

Personnel Coordinator/ Administrative Assistant

Certification(s):

N/A

How are you involved in your community?:

Voting, attending town halls

List your interests and activities.:

Theater, reading, healthy lifestyle

Do you presently serve in any other appointed position on a board, commission or committee?:

No

If yes, enter the board name and position:

N/A

Are you currently a member and seeking reappointment on the board you are applying for?:

No

Why do you desire this appointment?:

I grew up in the NY metro area and attended the theater from an early age. I was a member of the National Thespian Society in HS. I believe live theater is something that should be available to all people of all ages. I have lived in the Denver metro area for 50 years and have supported all the local Theaters large and small, by attending their productions. I frequently attend productions at the Aurora Fox and am committed to seeing the continuation of the quality and quantity of shows being produced.

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

6 days or more a month

Do you have any conflicts of interest that should be disclosed?:

No

If yes, please explain:

N/A

Reference 1: Full Name, Phone Number and Address:

Shelly Maki

Reference 2: Full Name, Phone Number and Address:

Bobbie Johnson

Reference 3: Full Name, Phone Number and Address:

Debb Lehecka

How did you hear about us?:

Newspaper

By clicking APPLY and submitting this application, I certify that the forgoing information is true and correct:

Fern Berger

Time of Submission: 09/14/23 1:00:08 PM



CITY OF AURORA

Council Agenda Commentary

Item Title: Arapahoe County Intergovernmental Agreement (IGA) for the High Line Canal Colfax Underpass (Resolution)
Item Initiator: Nicole Ankeney, Planning, Design, and Construction Manager, Parks, Recreation and Open Spaces
Staff Source/Legal Source: Nicole Ankeney, Planning, Design and Construction Manager, Parks, Recreation and Open Spaces / Tim Joyce, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 3.0--Ensure excellent infrastructure that is well maintained and operated.

COUNCIL MEETING DATES:

PFQL Policy Committee: 1/25/2024

Study Session: 2/12/2024

Regular Meeting: 2/26/2024

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

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated time (For Study Session items only, indicate combined time needed for presentation and discussion)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S APPROVAL OF THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, AND THE BOARDS OF COUNTY COMMISSIONERS FOR ADAMS COUNTY AND ARAPAHOE COUNTY, STATE OF COLORADO, FOR THE HIGHLINE CANAL TRAIL UNDERPASS NEAR EAST COLFAX AVENUE AND NORTH LAREDO STREET

Nicole Ankeney, Planning, Design and Construction Manager, Parks, Recreation and Open Spaces / Tim Joyce, Assistant City Attorney

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

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

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Parks, Foundations & Quality of Life

Policy Committee Date: 1/25/2024

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

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

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

The Parks, Foundations and Quality of Life Policy Committee unanimously supports the High Line Canal Trail underpass at Colfax Avenue east of Laredo Street as well as the resolution and intergovernmental agreement with Arapahoe County to design and construct the project (draft meeting minutes attached).

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

In partnership with the High Line Canal Conservancy, Arapahoe County Open Spaces completed a study of crossings of roadways and the High Line Canal Trail in Arapahoe County. The study identified seven locations with the greatest need for a new trail underpass to improve safety for trail users and motorists, including an underpass east of the intersection of East Colfax Avenue and North Laredo Street ("Project"), on the boundary of Arapahoe and Adams Counties in the City of Aurora.

As a result of the underpass study and the benefits a new underpass would provide at the Project location, the parties (Arapahoe County, City of Aurora, and Adams County) wish to pursue the Project subject to the terms of this Agreement.

Funding for the Project will include local match contributions by the parties as well as federal Transportation Improvement Program funding provided through the Denver Regional Council of Governments.

The parties desire to cooperatively participate in funding the local match for the design, right-of-way acquisition, utility relocation, and construction needed for the Project.

The parties agreed to fund the local match of \$2,400,000 required for the project. The total cost of the project is estimated to be \$12,000,000. The local match of \$800,000 is currently in org 62027 – HL Canal Underpass TIP Match - CPF.

In the event of a cost overrun the parties may, but are not obligated to, increase their contributions to share in the responsibility of the overrun in the same proportions as their original contributions shown below.

The total partner contribution for the project Design and Construction.

Entity	Contribution	Percentage
Arapahoe	\$800,000	33.33%
Aurora	\$800,000	33.33%
Adams	\$800,000	33.33%
Grant TOTAL	\$2,400,000	

The partner (City of Aurora and Adams County) contribution schedule is shown below.

	Payment Amount	Payment Deadline
Design	\$133,333	Dec 31, 2025
Right-of-Way Acquisition	\$66,667	Dec 31, 2025
Utility Relocation	\$66,667	Dec 31, 2026
Construction	\$533,33	Dec 31, 2027

Total:	\$800,000	
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FISCAL IMPACT

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

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

REVENUE IMPACT

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

N/A

BUDGETED EXPENDITURE IMPACT

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

The entire local match budget of \$800,000 is currently budgeted in Org 62027– Capital Project Fund.

NON-BUDGETED EXPENDITURE IMPACT

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

N/A

WORKLOAD IMPACT

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

N/A. Arapahoe County Public Works Department personnel will be responsible for project delivery.

QUESTIONS FOR COUNCIL

Does the City Council support moving forward the Resolution and the Intergovernmental Agreement between Arapahoe County and City of Aurora for the High Line Canal Underpass Project at Colfax Avenue, east of Laredo Street to the February 26th, 2024, City Council meeting?

LEGAL COMMENTS

City Council may, by resolution, enter into contracts or agreements with other governmental units or special districts for the joint use of buildings, equipment or facilities, and for furnishing or receiving commodities or services. (City Charter, art. X, sec. 10-12). Upon authorization by a majority vote of the members of City Council voting thereon, the Mayor shall execute all intergovernmental agreements to which the City is a party. (Aurora, Colo. Code section 2-31(b)(2)) (TJoyce)

RESOLUTION NO. R2024- ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL’S APPROVAL OF THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, AND THE BOARDS OF COUNTY COMMISSIONERS FOR ADAMS COUNTY AND ARAPAHOE COUNTY, STATE OF COLORADO, FOR THE HIGHLINE CANAL TRAIL UNDERPASS NEAR EAST COLFAX AVENUE AND NORTH LAREDO STREET.

WHEREAS, the Board of County Commissioners of the County of Arapahoe and the High Line Canal Conservancy completed a study of crossings of roadways and the High Line Canal Trail in Arapahoe County; and

WHEREAS, the study identified the need for an underpass east of the intersection of East Colfax Avenue and North of Laredo Street on the boundary of Arapahoe and Adams Counties (the “Project”); and

WHEREAS, the Project will include local match contributions by the Parties as well as the Federal Transportation Improvement Program funding provided through the Denver Regional Council of Governments; and

WHEREAS, the Parties desire to cooperatively fund the local match for the design, right-of-way acquisition, utility relocation, and construction of the needed Project.

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

Section 1. The Intergovernmental Agreement between the City of Aurora, Colorado, and the Boards of Commission for the Counties of Adams and Arapahoe, State of Colorado, for the Highline Canal Trail underpass near East Colfax Avenue and North Laredo Street 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.

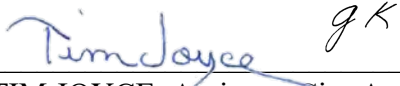
RESOLVED AND PASSED this ____ day of _____, 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

 *gk*

TIM JOYCE, Assistant City Attorney

**INTERGOVERNMENTAL AGREEMENT
FOR THE HIGH LINE CANAL TRAIL UNDERPASS
NEAR EAST COLFAX AVENUE AND NORTH LAREDO STREET (COLFAX #1)**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into _____, 2023 (“Effective Date”), by and among the CITY OF AURORA, a municipality and political subdivision of the State of Colorado (“Aurora”), THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ADAMS, STATE OF COLORADO, a body corporate and political subdivision of the State of Colorado (“Adams”), and THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ARAPAHOE, STATE OF COLORADO, a body corporate and political subdivision of the State of Colorado (“Arapahoe”).

RECITALS

- A. The parties, as Colorado governmental entities, are constitutionally and statutorily empowered pursuant to Colo. Const., Article XIV, § 18, and C.R.S. § 29-1-201, *et seq.*, to cooperate or contract via intergovernmental agreement with one another to provide functions, services, or facilities authorized to each cooperating government.
- B. In partnership with the High Line Canal Conservancy, Arapahoe completed a study of crossings of roadways and the High Line Canal Trail in Arapahoe County. The study identified seven locations with the greatest need for a new trail underpass to improve safety for trail users and motorists, including an underpass east of the intersection of East Colfax Avenue and North Laredo Street (“Project”), on the boundary of Arapahoe and Adams Counties in the City of Aurora.
- C. As a result of the underpass study and the benefits a new underpass would provide at the Project location, the parties wish to pursue the Project subject to the terms of this Agreement.
- D. Funding for the Project will include local match contributions by the parties as well as federal Transportation Improvement Program funding provided through the Denver Regional Council of Governments.
- E. The parties desire to cooperatively participate in funding the local match for the design, right-of-way acquisition, utility relocation, and construction needed for the Project.
- F. The parties enter into this Agreement to set forth their mutual understanding and agreement regarding completion of the Project.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties covenant and agree as follows:

AGREEMENT

1. RECITALS. The recitals above are incorporated as though fully set forth in this Agreement.

2. PROJECT.

A. Scope. The Project will design and construct an underpass at the intersection of the High Line Canal Trail and Colfax Avenue, approximately 800 feet east of North Laredo Street. The Project also includes utility relocation and right-of-way acquisition. The underpass is anticipated to be a box culvert structure.

B. Project Implementation. The parties understand and agree that Arapahoe, in coordination with Aurora and Adams, and any and all other applicable entities as necessary, shall be primarily responsible for facilitating, overseeing, and completing the Project. The parties shall meet and confer in good faith as frequently as is reasonably necessary in order to cooperatively and collaboratively complete the Project.

C. Completion of Project. All parties will use reasonable efforts to complete the Project as described in this Agreement. Nothing in this Agreement in any way obligates the parties to contribute to or complete the Project beyond the extent of the Project as described in this Agreement.

D. Communication. Arapahoe shall keep accurate records of the progress of the Project and shall provide status reports to Aurora and Adams on a regular basis (at a minimum, quarterly), including progress updates, notice of any material problems related to the Project, and a record of expenses and payments made to any contractors. Status reports shall include updates to the expended costs of the Project and the remaining costs projected to be expended through Project completion; they also shall note any variances from the estimated costs of the Project as well as any adjustments to the schedule for Project completion.

3. FUNDING.

A. General. The parties agree to fund the local match of \$2,400,000.00 required for the Project as provided in this section. As of the Effective Date, the total cost of the Project is estimated to be \$12,000,000.00 (“Estimated Project Cost”).

B. Allocated Shares of Local Match for Estimated Project Cost. The parties understand and agree that the local match for the total costs to complete the Project will be funded in the allocations detailed below, based on the Estimated Project Cost:

Party	Local Match for Estimated Project Cost
Arapahoe	\$800,000.00
Aurora	\$800,000.00
Adams	\$800,000.00
Total	\$2,400,000.00

C. Partner Contributions. Aurora and Adams each agree to transfer to Arapahoe its share listed above of the local match for the Estimated Project Cost (collectively, “Partner Contributions”) for the express limited purpose of funding the Project, in accordance with the following schedule:

	Payment Amount	Payment Deadline
Design	\$133,333.00	December 31, 2025
Right-of-Way Acquisition	\$66,667.00	December 31, 2025
Utility Relocation	\$66,667.00	December 31, 2026
Construction	\$533,333.00	December 31, 2027
Total:	\$800,000.00	

D. Use of Partner Contributions and Accounting. Arapahoe expressly agrees the Partner Contributions shall only be used for the limited purpose of funding actual Project costs. Arapahoe shall maintain or cause to be maintained full and complete records of actual Project costs incurred and funds committed and expended by Arapahoe for actual Project costs in accordance with generally accepted accounting principles.

E. Cost Overruns and Underruns.

(i) If Arapahoe becomes aware that Project costs may exceed the Estimated Project Cost, Arapahoe will provide Aurora and Adams with written notice as soon as is reasonably possible.

(ii) In the event the actual Project costs exceed the Estimated Project Cost, the parties shall share responsibility for the cost overruns in the same proportions as their original contributions shown in paragraph 3.B., in order to fund the total amount of the Project costs.

(iii) In the event the actual Project costs are less than the Estimated Project Cost upon final acceptance of the Project, each party will be entitled to a refund of its proportionate share of the difference between the total actual Project costs and the Estimated Project Cost (“Project Savings”). Within 60 days of final acceptance of the Project, Arapahoe shall transfer to Aurora and Adams their respective shares of the Project Savings, as applicable.

4. APPROPRIATIONS. It is expressly understood and agreed that any and all financial obligations described under this Agreement are subject to annual appropriations of the respective parties and do not establish debts or other multi-fiscal year obligations.

5. OWNERSHIP AND MAINTENANCE OF PROJECT ELEMENTS. All right-of-way, improvements, facilities, and appurtenances associated with the Project, if any, will be owned, operated, and maintained by Arapahoe, Aurora, Adams, or a third party as mutually agreed in one or more separate agreements to be entered into at a later date. Any and all designs, plans, drawings, or other documents prepared by or for Arapahoe to complete the Project pursuant to this Agreement shall be considered the joint property of the parties.

6. BREACH AND ENFORCEMENT. It is specifically understood that, by executing this Agreement, subject to section 4 of this Agreement, each party commits itself to perform pursuant to the terms and conditions contained in this Agreement and that the failure of any party to fulfill any obligation set forth in this Agreement shall constitute a breach of this Agreement. The parties agree that this Agreement may be enforced in law or in equity for specific performance, injunctive, or other appropriate relief, as may be available according to the laws of the State of Colorado.

7. TERM OF AGREEMENT AND TERMINATION.

A. Term. This Agreement shall be effective as of the Effective Date and shall terminate upon the earlier of: (1) completion and closeout of the Project including all applicable warranty periods, final accounting of the Project costs being provided by Arapahoe to Aurora and Adams, and payment of any Project Savings; or (2) termination for default pursuant to this section.

B. Default. Each party shall have the right to terminate this Agreement after 60 days' written notice to the other parties in the event of a material default that is not cured. However, termination shall not be effective if the defaulting party has taken reasonable actions to cure the breach before the effective date of the termination and pursued such actions diligently to a successful completion within 60 days from inception of the actions. If such actions are not successful within such period, any non-defaulting party shall have the right to terminate this Agreement upon written notice to the other parties.

C. Funds. In the event of termination of this Agreement for any reason, Arapahoe shall settle all accounts related to the Project and shall invoice Aurora and/or Adams for any work completed prior to termination for which Aurora and/or Adams has not paid its respective share. Subject to section 3(E)(iii) of this Agreement, Arapahoe shall remit to Aurora and Adams any portion of their respective contributions that has not been applied to the Project, as well as Aurora's and Adams' pro rata shares of any monies recovered from or refunded by any Project contractors, as applicable.

8. MISCELLANEOUS.

A. Assignment. None of the parties may assign this Agreement or parts of this Agreement or any rights under this Agreement without the express written consent of the other parties. Any attempt to assign this Agreement in the absence of such written consent shall be null and void.

B. No Partnership or Agency. Notwithstanding any language in this Agreement or any representation or warranty to the contrary, the parties shall not be deemed or constitute partners, joint venture participants, or agents of the others. Any actions taken by a party pursuant to this Agreement shall be deemed actions as an independent contractor of the other parties.

C. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the parties. It is the express intention of the parties that any person or entity other than the parties shall be deemed to be only an incidental beneficiary under this Agreement.

D. Governmental Immunity. Nothing in this Agreement or in any actions taken by the parties or their respective elected officials, directors, officers, agents, and employees pursuant to this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

E. Notices. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to any party by another party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the party to whom it is addressed or, in lieu of such personal services, when received in the United States mail, first-class postage prepaid addressed, or when received by email to:

If to Arapahoe:

Director, Public Works & Development
Arapahoe County Lima Plaza
6924 S. Lima Street
Centennial, CO 80112
bweimer@arapahoe.gov

With copy to:

Director, Open Spaces
Arapahoe County Lima Plaza
6934 S. Lima Street, Suite A
Centennial, CO 80112
scarter@arapahoe.gov

With copy to:

County Attorney
Arapahoe County Administration Building
5334 S. Prince Street
Littleton, CO 80120
jchristofferson@arapahoe.gov

If to Aurora:

Nicole Ankeney, Manager of Planning, Design & Construction,
Parks, Recreation & Open Space
15151 E. Alameda Pkwy.
Aurora, CO 80012
nankeney@auroragov.org

If to Adams:

Director, Parks, Open Space & Cultural Arts
9755 Henderson Road
Brighton, CO 80601

Any party may change its address for the purpose of this section by giving written notice of such change to the other parties in the manner provided in this section.

F. Headings. The headings and captions in this Agreement are intended solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

G. Controlling Law and Venue. This Agreement shall be construed in accordance with the laws of the State of Colorado. In the event of any dispute under this Agreement, the exclusive venue for dispute resolution shall be the District Court for and in Arapahoe County, Colorado.

H. No Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in this Agreement, nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default under this Agreement.

I. Binding Contract. This Agreement shall inure to and be binding on the successors and permitted assigns of the parties.

J. Entire Contract. This Agreement constitutes the entire agreement among the parties with regard to the Project. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement with regard to the Project are of no force and effect.

K. Contract Modification. This Agreement may not be amended, altered, or otherwise changed except by a written agreement by the parties.

L. Severability. The invalidity or unenforceability of any portion or previous version of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and, in such event, the parties shall negotiate in good faith to replace such invalidated provision in order to carry out the intent of the parties in entering into this Agreement.

M. Counterpart Execution. This Agreement may be executed in multiple counterparts; all counterparts shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Documents executed, scanned, and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related to this Agreement, with such scanned and electronic signatures having the same legal effect as original signatures.

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 its representative to execute this Agreement.

THE CITY OF AURORA

Mayor Coffman

Date: _____

Attest: _____
Kadee Rodriquez, City Clerk

Approved as to form: _____
Tim Joyce, Assistant City Attorney

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF ADAMS

By: _____

Title: _____

Attest: _____

Title: _____

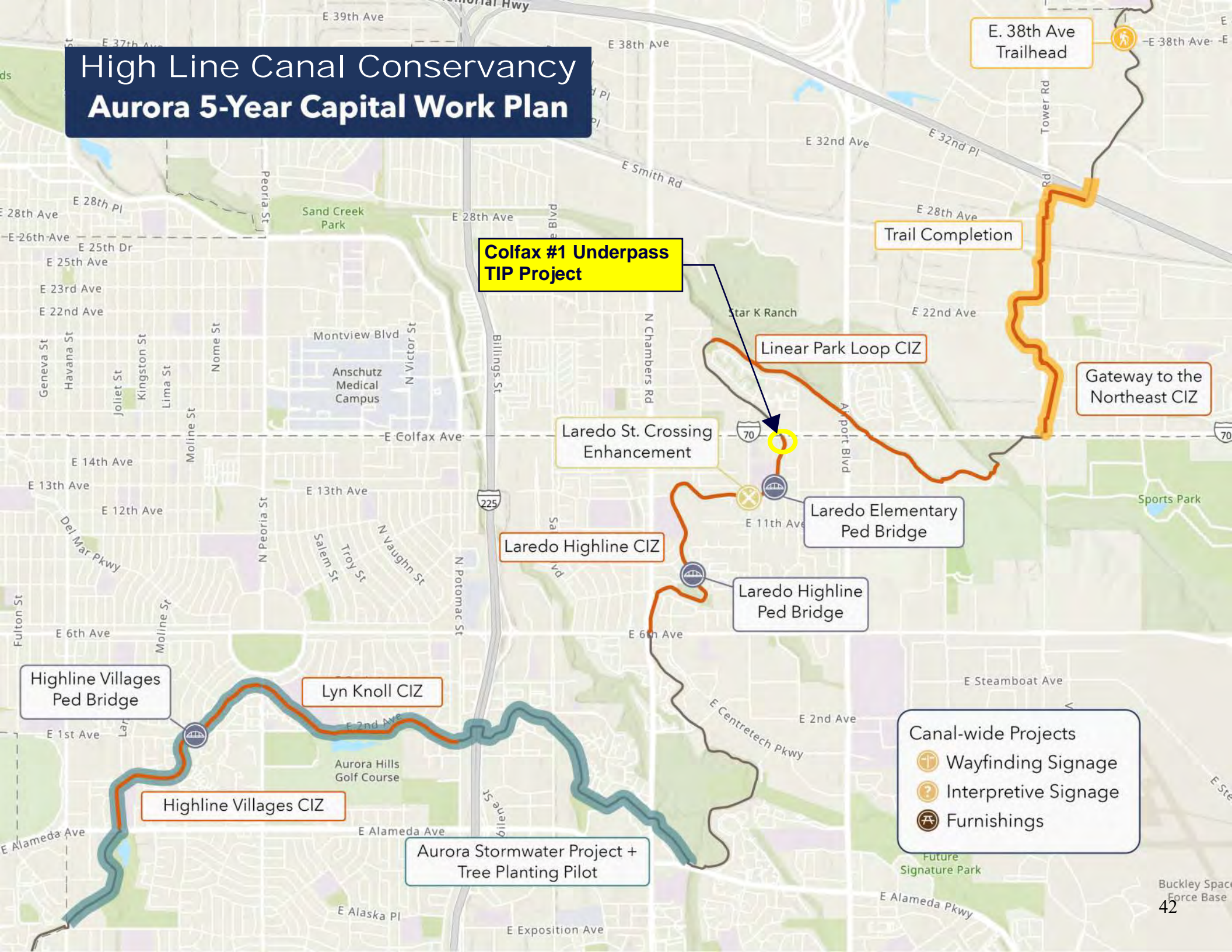
Date: _____

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF ARAPAHOE

By: _____
Shannon Carter, Open Spaces Director,
on behalf of the Board of County Commissioners
pursuant to Resolution No. 23-038

Date: _____

High Line Canal Conservancy Aurora 5-Year Capital Work Plan



**Colfax #1 Underpass
TIP Project**

**E. 38th Ave
Trailhead**

Trail Completion

Linear Park Loop CIZ

**Gateway to the
Northeast CIZ**

**Laredo St. Crossing
Enhancement**

**Laredo Elementary
Ped Bridge**

Laredo Highline CIZ

**Laredo Highline
Ped Bridge**




Lyn Knoll CIZ

**Highline Villages
Ped Bridge**

Highline Villages CIZ

**Aurora Stormwater Project +
Tree Planting Pilot**

Canal-wide Projects

-  Wayfinding Signage
-  Interpretive Signage
-  Furnishings

Parks, Foundations, and Quality of Life (PFQL) Meeting
January 25, 2024

Members Present: Council Member Ruben Medina, Chair; Council Member Crystal Murillo, Vice-Chair; Council Member Alison Coombs

Others Present: L. Perry, B. Bell, B. Green, N. Ankeney, J. Bixenman, T. Tully, D. Wickman, J. Sack, T. Joyce, W. Levine, L. Morales, A. Valles Morales, S. Brainard

1. CALL TO ORDER

Council Member (CM) Medina welcomed everyone and called the meeting to order.

2. APPROVAL OF MINUTES

The November 26, 2023, minutes were approved.

3. ANNOUNCEMENTS (None)

Brooke Bell, PROS Director, announced that Brian Green had been named as the Deputy Director of Operations, Parks, Open Space, and Forestry for PROS. Brian is actively recruiting for the vacant manager positions under him. PROS is also actively recruiting for the position of Deputy Director of Recreation and Golf. Brooke also thanked staff for running the open house at Southeast Recreation Center on Saturday, January 20th. Over 1,000 people visited the recreation center between 8:00am and noon on Saturday. The open house featured a local radio station and a lot of great activities. PROS staff is really working on marketing the Southeast Recreation Center and increasing public interest. Three more open houses are planned for the year.

4. AGENDA ITEMS

4.a. Consideration to Approve a Resolution for an IGA between the City of Aurora and Arapahoe County for the High Line Canal Underpass Near Intersection of East Colfax Avenue and North Laredo Street (Colfax #1)

Summary of Issue and Discussion:

Nicole Ankeney, Manager of Planning, Design and Construction, presented a Resolution Supporting the IGA for the High Line Canal Underpass at East Colfax Avenue and North Laredo Street. Staff refers to this crossing as Colfax #1 because there are four different potential crossings of Colfax. This project started several years ago when staff partnered with the Highline Canal Conservancy to do a study to determine which of the potential roadway crossings would be the most viable for construction. Colfax #1 was determined to be the most viable option. City staff partnered with Arapahoe County and Adams County to submit a TIP (transportation improvement program) grant application for Federal funding for the project. The application was submitted nearly a year ago and the funding was granted to Arapahoe County, who will manage the grant funds. In conjunction with Arapahoe County and Adams County, City staff have since put together the IGA and project funding details. Overall, the project is approximately \$12 million in cost. The TIP funding is very significant and allows staff to maximize the scope of the project. A match of \$2.4 million is required, and will be split equally between Arapahoe County, Adams County, and the City of Aurora. The portion of the cost that the city of Aurora is responsible for comes to roughly \$800,000. Ms. Ankeney covered the schedule for the distribution of funds. The funds for Design and Right-of-Way Acquisition will be due in December of 2025, the funds for Utility Relocation will be due in December of 2026, and the funds for Construction will be due in December of 2027.

Committee Discussion:

CM Murillo recalled when staff was requesting input on different improvements and commented that it is exciting to see this project move forward in the process. CM Coombs commented that she is happy to see the project finally coming to fruition and is excited about the connectivity that the project will create for citizens. CM Medina stated that he is glad to see the project moving forward and that it is a great opportunity for the city. He thanked staff for being diligent and resourceful in putting the project details together.

Outcome:

The Committee unanimously approved moving the item to Study Session.

Follow-up Action:

This item will move forward to Study Session.



CITY OF AURORA

Council Agenda Commentary

Item Title: Purchase and Sale Agreement for one and a half (1.5) Shares of Stock in the Platte Valley Irrigation Company
Item Initiator: Daniel Gallen, Water Resources Project Manager, Aurora Water
Staff Source/Legal Source: Alexandra Davis, Assistant General Manager of Water Supply and Demand, Aurora Water / Stephen Cann, Sr. Asst City Attorney
Outside Speaker: N/A
Council Goal: 2012: 3.3--Pursue a water resource aquisition and delivery plan

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: 2/26/2024

2nd Regular Meeting (if applicable): N/A

Item requires a Public Hearing: Yes No

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

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name, title, department / Legal source name and title
- Outside speaker name and organization
- Estimated time (For Study Session items only, indicate combined time needed for presentation and discussion)

Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, regarding the contract for purchase of the Platte Valley Irrigation Company Stock between the City of Aurora and M&M Excavation Company.

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

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

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

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

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

N/A

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

Water Resources staff has negotiated the Contract for Purchase and Sale of Water Rights of one and a half (1.5) shares of stock in the Platte Valley Irrigation Company. These shares are expected to yield an average of 59 acre-feet of consumptive use water per year. Staff has negotiated a purchase price of \$1,162,500.00 for the water. This purchase price corresponds to a unit cost of \$19,703 per acre-feet which is consistent with market guidelines and goals set forth in the Water Resource Acquisition Plan. This purchase has an expected closing date in March 2024. The water will be leased back for agricultural uses under the ditch until the water right is changed and converted to municipal uses.

FISCAL IMPACT

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

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

REVENUE IMPACT

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

N/A

BUDGETED EXPENDITURE IMPACT

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

Funding for this purchase and sale agreement will come from the Capital Improvement Program, Water Fund in the amount of \$1,162,500.00.

ORG: 52381 (Water Rights Acquisition-WA)

NON-BUDGETED EXPENDITURE IMPACT

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

N/A

WORKLOAD IMPACT

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

N/A

QUESTIONS FOR COUNCIL

Does Council APPROVE A RESOLUTION regarding the Contract for the Purchase of the Platte Valley Irrigation Company Stock (water rights) between the City and M&M Excavation Company?

LEGAL COMMENTS

Aurora City Code section 138-28 authorizes the City's Utility Enterprise to acquire, construct, operate, maintain, improve and extend water, wastewater and storm drainage facilities within or without the corporate boundaries of Aurora, and to make contracts, acquire lands, and do all things that are necessary or convenient therefore. All water rights acquisitions of \$1,000,000 or more must be approved by formal City Council action and signed by the Mayor (Business Policy Memorandum No. 4-14)(Best).

RESOLUTION NO. R2024- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO,
APPROVING THE CONTRACT FOR PURCHASE OF THE PLATTE VALLEY
IRRIGATION COMPANY STOCK BETWEEN THE CITY OF AURORA AND M&M
EXCAVATION COMPANY

WHEREAS, the City of Aurora, acting by and through its Utility Enterprise (the “City”) desires to acquire ditch company stock from M&M Excavation Company (“Seller”), the owner of unencumbered marketable title to the historically irrigated land and one and one-half (1 ½) shares in The Platte Valley Irrigation Company , represented by Certificate Number 1267, as well as the water derived therefrom and including all beneficial rights, title, and interests in all water, water rights, ditches, ditch rights, reservoirs, reservoir rights, canals, canal rights, headgates, and all other assets, rights, title, or interests represented by the subject stock (the “Water Rights”); and

WHEREAS, the City intends to purchase the Water Rights and has need for the water represented by the Water Rights for the purpose of supplying water for municipal uses to the City’s inhabitants; and

WHEREAS, the contemplated purchase price for both the Water Rights is one million one hundred sixty-two thousand five hundred (\$1,162,500.00); and

WHEREAS, Aurora City Code Section 138-28 authorizes the City’s Utility Enterprise to acquire, construct, operate, maintain, improve and extend water, wastewater, and storm drainage facilities within or without the corporate boundaries of Aurora, and to make contracts, acquire lands, and do all things that are necessary or convenient therefore. All water rights acquisitions of \$1,000,000 or more must be approved by formal City Council action and signed by the Mayor (Business Policy Memorandum No. 4-14); and

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

Section 1. The Contract to for Purchase of the Platte Valley Irrigation Company Stock (water rights) between the City and M&M Excavation Company is hereby approved by City Council.

Section 2. Council hereby directs staff and legal counsel to take all steps necessary to prosecute all necessary water court and ancillary proceedings allowing for the City’s Utility Enterprise’s use of the water as part of the municipal system.

Section 3. 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 4. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

RESOLVED AND PASSED this _____ day of _____, 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

Ian J Best *RLA*

IAN BEST, Assistant City Attorney

Contract for Purchase of The Platte Valley Irrigation Company Stock

This Contract for Purchase of The Platte Valley Irrigation Company Stock ("Contract") is entered into this ___ day of _____, 2024, by and between M&M Excavation Co., a Colorado corporation, whose principal place of business is located at 25490 County Road 58, Greeley, CO 80631 ("Seller"), and the City of Aurora, Colorado, a home rule municipal corporation of the counties of Adams, Arapahoe, and Douglas acting by and through its Utility Enterprise whose address is 26791 E Quincy Ave, Aurora Colorado 80016 ("Buyer"). Seller and Buyer shall be referred to herein as "Party", and collectively as "Parties".

Recitals and Representations

WHEREAS, Seller represents that it is the owner of marketable title to the Historically Irrigated Land (as defined below) and one and one-half (1 ½) shares of stock in The Platte Valley Irrigation Company (the "Ditch Company"), as represented by Share Certificate Number 1267 and issued June 18, 2014 (the "Subject Stock"), the water derived therefrom, and all beneficial rights, title, and interests in all water, water rights, ditches, ditch rights, reservoirs, reservoir rights, canals, canal rights, headgates, and all other assets, rights, title, or interests represented by the Subject Stock (collectively with the Subject Stock, hereinafter referred to as the "Subject Water Rights"), and

WHEREAS, Seller represents that the water derived from the Subject Water Rights is and has been used to irrigate the real property described in Exhibit A-1 attached hereto (the "Historically Irrigated Land"); and

WHEREAS, Buyer is a Colorado municipal corporation, and as such has a need and necessity for the Subject Water Rights for the purposes of supplying water for municipal and other uses to the inhabitants of the City of Aurora, Colorado (the "City") and others; and

WHEREAS, Buyer is desirous of purchasing the Subject Water Rights and certain covenants to cooperate in a water court application to change the Subject Water Rights upon the terms and conditions as hereinafter described.

NOW THEREFORE, in consideration of the foregoing recitals and representations and in consideration of the covenants, promises, payments and agreements herein set forth the adequacy, sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

1. Sale and Purchase. Subject to the terms and conditions hereinafter provided, Seller hereby agrees to sell the Subject Water Rights and make Seller's covenants and obligations hereunder to Buyer.

2. Purchase Price. The "Purchase Price" for the Subject Stock, Subject Water Rights and Seller's covenants and obligations hereunder is One Million One Hundred Sixty-Two Thousand Five Hundred & 00/100 Dollars (\$1,162,500.00).

3. Title and Title Review.

3.1 The Parties agree that in order to consummate the transaction contemplated by this Contract, title to the Subject Water Rights must be unencumbered and marketable in Seller so the Subject Stock may be delivered free, clear and unencumbered in any way to Buyer and that Buyer's obligations under this Contract are specifically conditioned and contingent on Seller possessing such title at Closing. The Parties further agree that Seller (or any other party executing a Dry-Up Covenant (as defined in Section 7 below)) must have sufficient right, title and interest in the Historically Irrigated Land so as to be able to deliver a sufficient and appropriate Dry-Up Covenant subject only to those matters of title approved by Buyer in writing prior to Closing. Notwithstanding any other provisions of this Contract, if Seller does not have such free and unencumbered and marketable title in the Subject Stock or is unable to deliver a satisfactory Dry-Up Covenant to Buyer as of the Closing Date (as defined in Section 5.1 below), Buyer may terminate this Contract, in which case all earnest money, partial payments and any other funds placed in escrow, if any, with Escrow Agent (as defined in Section 5.1 below) by Buyer shall be immediately refunded to Buyer.

3.2 On or before the date that is five (5) business days after the Effective Date (as defined in Section 40 below), Seller shall deliver to Buyer: (i) a complete copy of the certificate(s) for the Subject Stock (front and back); (ii) a copy of any and all leases or other possessory interests held by third parties in the Historically Irrigated Land or the Subject Water Rights and written disclosure of any such other leases or possessory interests of which Seller has knowledge; and (iii) written consent in a form acceptable to Buyer from Seller consenting to Buyer's review of the Ditch Company records as relates to the ownership and status of the Subject Stock. Buyer may, at Buyer's expense, obtain a current title insurance commitment (the "Commitment") for an American Land Title Association ("ALTA") easement holder's policy (the "Title Policy"), written by the Title Company (as defined in Section 5.1 below) in the amount of the Purchase Price, agreeing to insure good and marketable title in the easement interest created by the Dry-Up Covenant. Buyer agrees it will be responsible for the costs of any evaluation of any materials necessary to determine the status of the Subject Stock and Historically Irrigated Land. Seller hereby further consents to Buyer's lawful actions in obtaining information related to notes, mortgages, deeds of trust, encumbrances, liens, taxes or any other claims upon the Subject Water Rights or Historically Irrigated Land and agrees to provide to Buyer such other documents that are in Seller's possession or control as Buyer may reasonably request to prove Seller owns the Subject Stock and that Seller can deliver the same free and clear of all encumbrances at Closing. Buyer may cause the Commitment to be updated by the Title Company within five (5) days prior to the Closing. Any exceptions on such updated Commitment that were not included on the initial Commitment reviewed and approved by Buyer shall each be considered an impermissible encumbrance on Seller's marketable title to the Historically Irrigated Land, in which case Buyer shall have the right, in its sole discretion to either: (i) terminate this Contract; or (ii) proceed to Closing and waive such objections or defects in writing. In the event Seller causes any encumbrance to attach to the Property after the issuance of the Commitment, Buyer shall have the option to apply a portion of the Purchase Price to pay off or otherwise cure any such encumbrance in the event Buyer elects to proceed to Closing.

3.3 If in Buyer's sole opinion, Seller's title to the Subject Stock is not unencumbered and merchantable or Seller is unable to deliver a Dry-Up Covenant for the

Historically Irrigated Land as provided for under this Contract, Buyer shall give notice thereof in writing to Seller on or before the day scheduled for Closing. Seller will then have ten (10) business days to correct the defects. Except as provided for in the last sentence of Section 3.2 above, Seller shall have no obligation to cure any title defect. If at the end of such ten (10) business day period, title is not rendered unencumbered and merchantable, in Buyer's sole good faith opinion, then Buyer shall have the right, in its sole discretion to either: (i) terminate this Contract; or (ii) proceed to Closing and waive such objections or defects in writing. Buyer shall make its election among the options described above on or before the fifth business day following the end of such ten (10) business day period. In the event that Buyer elects to proceed to Closing the date scheduled for the Closing shall be extended a reasonable number of days. No such defect or objection shall be deemed cured or waived unless Buyer so specifies in writing.

3.4 Seller hereby discloses to Buyer and Buyer hereby acknowledges that Seller has been in negotiations with the owner (the "Neighbor") of certain property located directly north of the Historically Irrigated Land regarding the potential conveyance of a portion of the Historically Irrigated Land consisting of no more than the northern most 39 feet of the Historically Irrigated Land in settlement of a dispute with the Neighbor regarding possessory rights to such area. In connection with the proposed conveyance, Seller may cause a vacation of the recorded exemption parcel referenced in the legal description of the Historically Irrigated Land prior to the Closing. If Seller causes such vacation to occur prior to the Closing, the legal description of the Historically Irrigated Land used on the Dry-Up Covenant shall include both the current description (under Exhibit A-1) and a metes and bounds description of said parcel substantially consistent with the description set forth on Exhibit A-2 attached hereto. Seller shall not convey any portion of the Historically Irrigated Land to the Neighbor or any other party prior to the Closing.

3.5 Buyer reserves the right to cause a licensed surveyor to prepare a metes and bounds description and depiction of the Historically Irrigated Land for use on the Dry-Up Covenant and Title Policy. If Buyer elects to prepare such a new legal description, Buyer shall provide written notice of its proposed alternative legal description to Seller. If Seller agrees to Buyer's proposed alternative legal description of the Historically Irrigated Land, the Parties will modify such legal description for all purposes under this Contract. If Seller does not agree to Buyer's proposed alternative legal description, Buyer may terminate this Contract.

4. Due Diligence Period. The due diligence period runs beginning on the Effective Date, until the date that is sixty (60) days thereafter (the "Due Diligence Period"). During the Due Diligence Period, Buyer may terminate this Contract for any reason or no reason.

5. Closing.

5.1 Closing Date. The closing on this Contract (the "Closing") is scheduled to occur on the day that is thirty (30) days following the end of the Due Diligence Period or such other date as mutually agreed to by the Parties as the same may be extended as provided for in Section 3.3 (the "Closing Date") at the offices of Stewart Title Company at 1275 58th Ave. Unit C Greeley, CO 80634 or such other company as selected by Buyer ("Escrow Agent" and "Title Company") or such other escrow agent or title company as the Parties may mutually agree.

5.2 Closing Deliveries.

5.2.1 At Closing, Buyer shall deliver or cause to be delivered to Escrow Agent: (1) the Purchase Price; (2) an executed counterpart of the Water Use Agreement (as defined below); (3) Title Company's settlement statement for the Closing; and (4) such affidavits, instruments, agreements or other documents as may reasonably be required to complete the transactions contemplated under this Contract and/or satisfy the Title Company's requirements for issuance of the Title Policy.

5.2.2 On or before the Closing Date, Seller shall deliver to the Escrow Agent each of the following items:

- (a) The original certificate(s) for the Subject Stock;
- (b) A special warranty deed for the Subject Water Rights from Seller to Buyer with respect to the Subject Stock substantially in the form attached hereto as Exhibit C (the "Deed");
- (c) A share assignment agreement for the Subject Stock from Seller to Buyer and, to the extent that title to the Subject Stock is held by a lender or other third party, an assignment from such third party either to Seller or Buyer, all in forms mutually agreed upon by the Parties and acceptable to the Ditch Company, which assignment shall include the appointment of an officer of the Ditch Company as attorney-in-fact with authority to change the ownership records of the Ditch Company with respect to the Subject Stock (the "Share Assignment");
- (d) An executed Dry-Up Covenant as required under this Contract;
- (e) An Estoppel as required under this Contract;
- (f) An executed counterpart of the Water Use Agreement for Seller's use of the Subject Water Rights substantially in the form of the Water Use Agreement attached hereto as Exhibit D (the "Water Use Agreement");
- (g) Title Company's settlement statement for the Closing; and
- (h) Such affidavits, instruments, agreements or other documents as may reasonably be required to complete the transactions contemplated under this Contract and/or satisfy the Title Company's requirements for issuance of the Title Policy to Buyer.

5.2.3 Each Party shall further execute and deliver such documentation as may be reasonably requested by Escrow Agent or Title Company. Seller shall, at Seller's expense, cause the Title Company to issue the Title Policy promptly after the Closing.

6. Ditch Assessments. Seller agrees to fully pay and continue to pay, or cause to be paid, any and all ditch assessments associated with and accruing to the Subject Stock through and including the Closing Date. At Closing, Buyer agrees to assume any such future obligations for assessments incurred from and after the Closing Date.

7. Dry-Up Covenant. Seller shall deliver to Buyer at Closing a Dry-Up Covenant and Easement substantially in the form attached hereto as Exhibit B (the "Dry-Up Covenant") which shall provide for the dry up of the Historically Irrigated Land on the terms and conditions set forth therein. If the Historically Irrigated Land is subject to one or more mortgages or otherwise secured or encumbered, then the Seller shall cause the holder or holders of such monetary encumbrances to either (a) duly execute and deliver to Buyer a consent and subordination to the Dry-Up Covenant in a form acceptable to Buyer and sufficient for the Title Company to remove such security instruments from exceptions to the Title Policy; or (b) release such monetary encumbrances in a such form and manner as sufficient to permit the Title Company to remove such security instruments from exceptions to the Title Policy.

8. Colorado Big Thompson Water. As a condition precedent to Buyer's obligations to proceed to Closing under this Contract, Seller shall provide an estoppel from the Ditch Company substantially in the form attached hereto as Exhibit D or such other form as approved by Buyer prior to the expiration of the Due Diligence Period.

9. Commissions. Seller will be solely responsible for any and all real estate or other commissions incurred in connection with the transactions contemplated under this Contract including any fees or commissions payable to Terry Wiedeman. Seller agrees to indemnify and hold Buyer harmless from the claims of any person or entity for real estate commissions, finder's fees, or any similar fees in connection with the transactions contemplated under this Contract. Buyer represents and warrants that it has not engaged the services of any broker regarding this transaction.

10. Closing Costs/Escrow Charges. Buyer shall pay the transfer costs, if any, imposed by the Ditch Company with respect to the transfer of the Subject Stock. The Parties will each pay one-half of the closing costs of the Escrow Agent and applicable recording costs.

11. Status and Authority of Seller. Seller hereby represents and warrants the following: (a) Seller has full power and authority to enter into this Contract and to carry out the transactions contemplated by this Contract, and (b) this Contract and its execution and delivery to Buyer will not result in a breach of, or constitute a default under, any indenture, loan or credit agreement, mortgage, deed of trust or other agreement to which Seller is a party or otherwise bound.

12. Additional Representations and Warranties of Seller. In addition to Seller's other representations and warranties contained in this Contract, Seller hereby represents, warrants, and

agrees that as of the Effective Date, and on the date of Closing, except as may be caused or created by Buyer:

12.1 Seller affirms the representations including those contained in the Recitals and Representations to this Contract;

12.2 Seller is, or as of the Closing shall be, the sole owner of the unencumbered marketable title to the Subject Stock and the Subject Water Rights;

12.3 The water derived from the Subject Stock has been historically used to irrigate the Historically Irrigated Land;

12.4 There is no pending judicial, municipal or administrative proceedings with respect to, or in any manner affecting the Historically Irrigated Land or in which Seller is or to Seller's knowledge will be a party, including proceedings for or involving condemnations, eminent domain, or to the best of Seller's knowledge threatened, which in any manner affects the Subject Stock or Historically Irrigated Land except as disclosed with respect to the Neighbor in Section 3.4;

12.5 The execution and delivery of this Contract and the performance of all obligations hereunder by Seller do not and will not require any consent or approval of any third party, and do not and will not result in a breach of, or constitute a default under, any indenture, loan or credit agreement, mortgage, deed of trust or other agreement; and

12.6 Seller has received no written notice of any violations of any law, code, ordinance, rule or regulation or insurance policy affecting the Subject Stock.

13. Seller's Covenants.

13.1 Seller shall provide information and records of water use concerning the Subject Water Rights to be used by Buyer in the change of water rights process in Water Court. Seller shall testify truthfully on behalf of Buyer without subpoena or payment of witness or expert witness fees at any deposition, motions hearing or trial involving the Subject Water Rights. Seller on behalf of itself, its officers, directors, employees, agents or any party controlling, controlled by or under common control with Seller agrees not to file a statement of opposition to any application filed by Buyer to change the Subject Water Rights or to any application to use the Subject Water rights as an augmentation source or source of exchange.

13.2 Between the Effective Date and the Closing Date, Seller shall promptly (but prior to the Closing) notify Buyer in writing of any fact, event, circumstance or action known to Seller (i) which, if known on the Effective Date, would have been required to be disclosed or (ii) the existence or occurrence of which would cause any of Seller's representations or warranties under this Contract not to be correct and complete. Buyer may elect, within three (3) business days after receipt of Seller's notice but prior to the Closing, to terminate this Contract by giving written notice to Seller and Escrow Agent.

14. Notices. All notices, requests, demands, or other communications (collectively, "Notices") hereunder shall be in writing and given by (i) established express delivery service that

maintains delivery records requiring a signed receipt, (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested to the Parties at the following address, or at such other address as the Parties may designate by Notice in the above manner.

To Buyer: City of Aurora
15151 East Alameda Parkway, Suite 5300
Aurora, CO 80012-1555
Attn: City Attorney

with copy to City of Aurora
26791 E Quincy Ave
Aurora CO 80016
Attn: General Manager, Aurora Water

with copy to Brownstein Hyatt Farber Schreck, LLP
675 15th Street, Suite 2900
Denver, CO 80202
Attn: Dulcinea Z. Hanuschak, Esq.

To Seller: M&M Excavation, Co.
c/o Terry Miller
25490 County Road 58
Greeley, CO 80631

with a copy to: Witwer, Oldenburg, Barry & Groom, LLP
822 7th St., Ste. 760
Greeley, CO 80631
Attn: Patrick M. Groom, Esq.

Notices shall be effective (x) the next day following the date sent by an established express delivery service that maintains delivery records requiring a signed receipt, (y) upon receipt by the addressee of a hand delivery, or (z) three (3) days following the date of mailing via certified or registered mail, postage prepaid, return receipt requested.

15. No Warranty Concerning Tax Status. Although this Contract does not contemplate the payment of interest by Buyer, in the event that any interest would be paid, Buyer makes no warranty nor guarantee that any such interest paid as a result of any transaction would be excusable from gross income or federal, state or local income tax purposes.

16. Amendment. This Contract may be modified, amended, changed or terminated in whole or in part only by written agreement duly authorized and executed by each of the Parties with the same formality as this Contract and restating this Contract, as so amended, in its entirety.

17. Waiver. Any waiver of any breach of any provision of this Contract by any Party shall not constitute a continuing waiver of any subsequent breach of said Party, for either breach of the same or any other provision of this Contract.

18. Entire Agreement. This Contract represents the entire agreement 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 Contract.

19. Headings for Convenience Only. Paragraph headings and titles contained herein are intended for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Contract.

20. Binding Effect and Assignability. This Contract and the rights and obligations created hereby shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns, if any. Seller may not assign its rights or delegate its duties hereunder without the prior written consent of Buyer, which Buyer may withhold in its sole discretion. Any assignment of the Contract by Buyer shall be in writing duly authorized and executed by the Parties with the same formality as this Contract and restating this Contract, as so amended, in its entirety memorialized by a restatement of this Contract in its entirety. Buyer shall be entitled to assign its rights and obligations hereunder without the consent of Seller.

21. Governing Law and Venue. This Contract and its application shall be construed in accordance with the law of the State of Colorado. Should it be necessary to initiate court proceedings concerning this Contract, the Parties agree that venue shall be in the District Court for Arapahoe County, Colorado.

22. Survival of Representations. Each and every representation, warranty, covenant, promise, and payment contained in this Contract shall not merge in any deed, assignment, covenant, escrow agreement, easement, lease or any other document, but shall survive each nevertheless at the Closing, and be binding and obligatory upon each of the Parties for a period of one year from the date of Closing.

23. Recording. Following the execution of this Contract between Seller and Buyer, Buyer may cause a memorandum of this Contract to be recorded with the Weld County Clerk and Recorder's Office. Notwithstanding this provision, at Closing, Buyer shall record the Deed and Dry-Up Covenant with the Weld County Clerk and Recorder's Office.

24. Multiple Originals. This Contract may be simultaneously executed in any number of counterparts, each of which shall be deemed an original, but all of which constitute the same agreement.

25. Definitions and Interpretations. Except as otherwise provided herein nouns, pronouns and variations thereof shall be deemed to refer to the singular or plural, and masculine or feminine, as the context may require. Any reference to a policy, procedure, law, regulation,

rule or document shall mean such policy, procedure, law, regulation, rule or document as it may be amended from time to time.

26. No Construction Against Drafter. This Contract has been prepared by the combined efforts of Seller and Buyer and their respective legal counsel as Seller and Buyer so desired, accordingly the Parties agree there shall be no construction against the drafter of this Contract should any dispute arise.

27. Sole Obligation of Utility Enterprise.

27.1 This Contract shall never constitute a general obligation or other indebtedness of the City of Aurora (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.

27.2 In the event of a default by the City's Utility Enterprise of any of its obligations under this Contract, Seller 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 Contract shall be construed as creating a lien upon any revenues of the Utility Enterprise or the City.

28. Conveyance to City of Aurora. Seller hereby acknowledges and agrees that any deliveries required to be made to Buyer hereunder may, at Buyer's request, be modified to provide for delivery directly to and in the name of the City of Aurora, Colorado.

29. Specific Performance. Remedies available to both Parties regarding any action concerning this Contract will include, but not be limited to, the remedy of specific performance.

30. No Attorney's Fees and Costs. In the event of any litigation, mediation, arbitration or other dispute resolution proceedings arising out of or related to this Contract, each Party agrees to be responsible for its own attorney's fees and other professional fees, costs and expenses associated with any such proceedings.

31. Non-Severability; Effect of Invalidity. Each Section in this Contract is intertwined with the others and are not severable unless by mutual consent of Buyer and Seller or as provided for below. If any provision or portion of this Contract 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 is not destroyed or rendered ineffective thereby, the remainder of this Contract, 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.

32. Intent of Contract. This Contract is intended to describe the rights and responsibilities of and between Buyer and Seller and are not intended to, and shall not be deemed to, confer rights upon any person or entities other than signatories hereto, or to limit, impair, or enlarge in any way the powers, regulatory authority and responsibilities of Buyer or any other governmental entity not a party hereto.

33. Non-Business Days. If any date for any action under this Contract is on a Saturday, Sunday or a day that is a "holiday" as such term is defined in C.R.C.P. 6, then the relevant date shall be extended automatically until the next business day.

34. Further Assurances. Buyer and Seller will make, execute and deliver such documents and undertake such other and further acts in good faith as may be reasonably necessary to complete the transactions contemplated under this Contract.

35. Recitals and Exhibits. The recitals and exhibits attached hereto are hereby incorporated into this Contract.

36. Ratification by the City Council. The City Manager of the City of Aurora approves this Contract pursuant to Chapter 2, Article III, Section 2-62(b) of the Code of Ordinances of the City of Aurora, subject to the ratification of the City Council of the City of Aurora ("City Council"). Buyer's obligations under this Contract are expressly contingent and conditioned on such ratification of this Contract by City Council by way of an ordinance or such other means as Buyer determines is necessary in accordance with the Aurora City Code, Charter, or applicable policies.

37. Authority of the City Attorney. By its ratification of this Contract as provided for in Section 36 above, City Council authorizes the City Attorney of the City of Aurora, without further action by City Council, to (i) make any such amendments or other modifications of this Contract as City Attorney may deem necessary for the purpose of extending deadlines provided for in this Contract or effecting non-substantive administrative modifications to this Contract; and (ii) exercise any elections of Buyer as provided for under this Contract; provided, however, that City Attorney may not make any such amendment or modification which is reasonably expected to increase the amount of the Purchase Price payable by Buyer hereunder.

38. Signatures. The parties agree that Buyer may execute this Contract using a digital image (including but not limited to an image in the form of a PDF, JPEG, GIF file) and the same shall be deemed as a true and correct original.

39. Joint and Several Liability. If Seller consists of two or more persons or entities, then such parties shall be jointly and severally liable for Seller's covenants, representations, warranties and other obligations under this Contract and requests or demands from any one person or entity comprising Seller shall be deemed to have been made of all such persons or entities.

40. Effective Date. The "Effective Date" shall be the date on which Seller executes this Contract.

41. 1031 Exchange. Seller may consummate the sale of the Subject Stock as part of a so-called like kind exchange (the "Exchange") pursuant to §1031 of the Internal Revenue Code of 1986, as amended, provided that: (a) the Closing shall not be delayed or affected by reasons of the Exchange, nor shall the consummation or accomplishment of the Exchange be a condition precedent or condition subsequent to Seller's obligations under this Contract; (b) Seller shall effect the Exchange through an assignment of this Contract, or its rights under this Contract, to a qualified intermediary, provided that such assignment shall not release Seller of its obligations hereunder; and (c) Buyer shall not be required to take an assignment of the purchase agreement for other property or be required to acquire or hold title to any real property for purposes of consummating the Exchange. Buyer shall reasonably cooperate in connection with the Exchange, but shall not be required to incur any additional expense or obligation (contingent or otherwise) in connection therewith. Seller shall indemnify, defend and hold harmless Buyer from and against any and all costs (including, without limitation, attorneys' fees), expenses, liabilities, losses and damages incurred by reason of the execution and/or delivery of any Exchange documents, or by reason of participating in the Exchange. The foregoing indemnity shall survive the Closing.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have set their hands and seals this day and year indicated below.

Buyer:

CITY OF AURORA, COLORADO,
ACTING BY AND THROUGH ITS
UTILITY ENTERPRISE

Mike Coffman, Mayor

Date

ATTEST:

Kadee Rodriguez, City Clerk

Date

APPROVED AS TO FORM FOR AURORA:



Stephen Cann, Assistant City Attorney

1/25/2024
Date

24045611
ACS#



Dulcinea Z. Hanuschak, Special Water Counsel

1/24/2024
Date

STATE OF COLORADO)
) ss
COUNTY OF ARAPAHOE)

The foregoing instrument was acknowledged before me this ____ day of _____, 202_,
by Mike Coffman 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)

SELLER:

M&M Excavation Co.,
a Colorado corporation

By: *Terry Miller*
Terry Miller, President

Date: 1/8/24

STATE OF COLORADO)

) ss

COUNTY OF WELD)

The foregoing Contract was acknowledged before me this 8th day of Jan. 2024 by Terry Miller as President of M&M Excavation Co., a Colorado corporation.

Witness my hand and official seal. *Laura Y. Bankston*
Notary Public

My commission expires: 5/17/2027

(SEAL)



Exhibit – A-1
to
Contract for Purchase of The Platte Valley Irrigation Company Stock

Historically Irrigated Land

Parcel B as shown on 2nd Amended Recorded Exemption No. 1055-16-3-RE34, recorded November 18, 1991 at Reception No. 2269508 and being a portion of the West 1/2 of the Southwest 1/4 of Section 16, Township 4 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

Exhibit – A-2
to
Contract for Purchase of The Platte Valley Irrigation Company Stock
Alternative Metes and Bounds Description of Historically Irrigated Land

A parcel of land situate in the West Half (W1/2) of the Southwest Quarter (SW1/4) of Section Sixteen (16), Township Four North (T.4N.), Range Sixty-Five West (R.65W.) of the 6th P.M., County of Weld, State of Colorado being more particularly described as follows:

COMMENCING at the Southwest corner of said Section 16 and assuming the West line of the Southwest Quarter (SW1/4) of said Section 16, as monumented by a #6 rebar with an illegible 2.5" aluminum cap at the South end and by a #6 rebar with an illegible 3.25" aluminum cap at the North end, as bearing North 00°28'37" West being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983, a distance of 2651.10 feet with all other bearings contained herein relative thereto;

The lineal dimensions as contained herein are based upon the U. S. Survey Foot.

THENCE North 89°29'44" East along the South line of the W1/2 of the SW1/4 of said Section 16 a distance of 449.34 feet to the Southeast corner of Lot A, 2nd Amended Recorded Exemption No. 1055-16-3-RE 34 recorded November 18, 1991 at Reception No. 02269508 of the recorded of Weld County and to the **POINT OF BEGINNING**;

Thence along the easterly and northerly lines of said Lot A by the following Two (2) course and distances:

THENCE North 00°28'01" West a distance of 655.67 feet;

THENCE North 69°57'20" West a distance of 479.91 feet to the West line of the SW1/4 of said Section 16;

THENCE North 00°28'37" West along said West line a distance of 1826.98 feet to the North line of the SW1/4 of said Section 16;

THENCE North 89°31'50" East along said North line a distance of 1315.47 feet to the East line of the W1/2 of the SW1/4 of said Section 16;

THENCE South 00°29'46" East along said East line a distance of 1289.62 feet to the approximate centerline of the Evans No. 2 Ditch as delineated on the said plat of 2nd Amended Recorded Exemption No. 1055-16-3-RE 34;

Thence along said centerline and along the Westerly line of that parcel of land described in Warranty Deed recorded December 2, 1991 at Reception No. 02270793 of the records of Weld County by the following Eight (8) course and distance:

THENCE South 78°02'23" West a distance of 228.50 feet to a Point of Curvature (PC);

THENCE along the arc of a curve concave to the Southeast a distance of 253.15 feet, said curve has a radius of 258.43 feet, a delta angle of 56°07'35" and is subtended by a chord bearing South 49°58'36" West a distance of 243.15 feet to a Point of Tangency (PT);

THENCE South 21°54'48" West a distance of 375.95 feet to a PC;

THENCE along the arc of a curve concave to the East a distance of 108.29 feet, said curve has a radius of 149.57 feet, a delta angle of 41°28'58" and is subtended by a chord bearing South 01°10'19" West a distance of 105.94 feet to a PT;

THENCE South 19°34'10" East a distance of 166.82 feet to PC;

THENCE along the arc of a curve concave to the West a distance of 134.38 feet, said curve has a radius of 150.08 feet, a delta angle of 51°18'11" and is subtended by a chord bearing South 06°04'56" West a distance of 129.94 feet to a PT;

THENCE South 31°44'01" West a distance of 254.74 feet;

THENCE South 27°47'37" West a distance of 232.72 feet to the South line of the W1/2 of the SW1/4 of said Section 16;

THENCE South 89°29'44" West along said South line a distance of 102.59 feet to the **POINT OF BEGINNING**;

Said parcel contains 56.218 Acres (2,448,864 square feet), more or less (+/-), and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.

Exhibit – B
to
Contract for Purchase of The Platte Valley Irrigation Company Stock

Form of Dry-Up Covenant and Easement

When recorded return to:

Dry-Up Covenant and Easement

This Dry-Up Covenant and Easement ("Covenant") dated as of this ____ day of _____, 202_, is granted by &M Excavation Co., a Colorado corporation, whose principal place of business is located at 25490 County Road 58, Greeley, CO 80631 ("Grantor") for the benefit of Grantee (as defined in the Recitals below).

Recitals

A. Grantor is the owner of real property located in Weld County, Colorado, described in the attached Exhibit A (the "Property").

B. Grantor acknowledges that one and one-half (1 ½) shares of stock in The Platte Valley Irrigation Company (the "Ditch Company"), as represented by Share Certificate Number 1267 and issued June 18, 2014 (the "Subject Stock") as of the date of this Covenant (the "Shares"), have historically been used to irrigate the Property.

C. Pursuant to a Contract for Purchase of The Platte Valley Irrigation Company Stock between Grantor and the City of Aurora Colorado, a home rule municipal corporation of the counties of Adams, Arapahoe, and Douglas, acting by and through its Utility Enterprise ("Aurora"), Grantor has conveyed or shall convey the Shares and the water derived therefrom ("Water Rights") to Aurora and/or its designees.

D. For purposes of this Covenant, "Grantee" shall mean any one or more parties holding title, from time to time, to any of the shares representing the Water Rights.

E. Grantor acknowledges that the Water Rights are intended to be utilized within areas other than the Property, and for augmentation or exchange purposes, and that in order to effect such uses, the Water Rights will need to be changed in an appropriate proceeding before the District Court, Water Division No. 1 ("Water Court") or pursuant to administrative approval by the Colorado Division of Water Resources, to change the place and/or type of use of the Water Rights.

F. The Water Rights have historically been used, in part, for the irrigation of the Property. Grantor understands that the Water Court and State Engineer may require, as a term and condition of such change, that the Property must be dried up and not further irrigated with the Water Rights as a term and condition of allowing such change.

G. Grantor agrees to execute this Covenant affirming the permanent removal from irrigation of the Property, and cessation of all other consumptive uses of the Water Rights on the Property, under the terms of this Covenant, a covenant running with and burdening the Property.

Agreement

NOW THEREFORE, Grantor, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby covenant and agree as follows:

1. Grantor hereby grants and covenants that it shall not cause or suffer the use of any of the Water Rights or any other water derived from The Platte Valley Irrigation Company to be used in or on the Property for any purpose whatsoever.

2. Grantor hereby grants to Grantee a non-exclusive, perpetual easement for, over and across the Property for the purposes of providing a reasonable means for Grantee and its agents to access the Property, travel upon the Property, and to take all actions reasonably necessary to accomplish the dry-up of the Property and demonstrate to the satisfaction of the Colorado Division of Water Resources and the Water Court that permanent dry-up has occurred. Those actions on the Property shall be at Grantee's expense and may include, but are not limited to (a) the construction of drainage and conveyance ditches, (b) the removal and filling in of all or portions of irrigation ditches or farm laterals except and unless Grantor is irrigating the Property with the Water Rights pursuant to a lease as provided for under Section 4(f) below and such ditch or lateral is required for use of the Water Rights, and inspection and monitoring of ponds including but not limited to sump ponds, head stabilization ponds or other water storage structures for which the Water Rights have been used to divert water to the Property or to replace evaporative depletions, (c) monumenting the dried-up acreage, and (d) the revegetation of the Property as required by a decree of the Water Court or any land use approval by a state, county or other local government with the power to impose a revegetation duty on Grantee or its assigns. In the event Grantee in their sole discretion determines that successful revegetation requires limitation of grazing or other land use limitations on the Property until the Property is successfully revegetated, Grantee may require the owner or user of the Property to limit grazing or other land uses. In addition, Grantee shall be allowed to construct, maintain and monitor stream or ditch gauging devices and observation wells or lysimeters, conduct soil evaporation and plant transpiration tests, conduct vegetative studies and surveys all at Grantee's expense. Grantee shall provide to Grantor reasonable advance notice of Grantee's exercise of said easement. Grantee shall minimize interruption of Grantor's operations on the Property, shall consult with Grantor prior to taking such actions in order to minimize disruption of Grantor's use of and enjoyment of the Property and the proposed location of any observation holes or drainage facilities shall be approved by Grantor before construction which approval shall not be unreasonably withheld. Grantor hereby further grants to Grantee a non-exclusive, perpetual right

to utilize any easements attributable to the Property for access to the Property whether existing as of the date of this Covenant or accruing to the Property after the date of this Covenant.

3. This Covenant shall burden, attach to and run with the Property, and shall be binding not only upon Grantor, but also upon its heirs, successors and assigns and any other persons or entities which may acquire an ownership or leasehold interest in all or any portion of the Property. The terms and provisions of this Covenant shall not expire and shall be perpetual. This Covenant may be enforced by Grantee or by any party having any right, title or interest in the Water Rights or by the State Engineer of the State of Colorado, at any time in any action at law or in equity.

4. Grantor shall be entitled to use the Property for any purposes consistent with this Covenant, including, but not limited to, the mining and removal of sand, gravel and other minerals, dry-land grazing and/or dry-land farming, and recreational, residential, commercial, and industrial purposes. Unless otherwise required by any decree changing the Water Rights, or allowing such rights to be exchanged, this Covenant shall not prohibit Grantor or their successors and assigns from: (a) irrigating the Property with water rights which may in the future be transferred to such lands and for such use through an appropriate Water Court proceeding; (b) irrigating the Property with water from any wells located on the Property as long as the well use is authorized pursuant to a Water Court-approved plan for augmentation using augmentation sources other than the Water Rights subject of this Covenant; (c) irrigating the Property with water approved for use in a Temporary Substitute Supply Plan using replacement sources other than the Water Rights subject of this Covenant; (d) irrigating the Property with water which is not tributary to the South Platte River basin, or with not-nontributary water that is duly augmented; (e) irrigating the Property with treated water supplied by a municipality or a water district; (f) irrigating the Property with the Water Rights pursuant to a lease of such water to Grantor from any one or more parties comprising the Grantee; and (g) utilizing water for domestic and livestock watering purposes from a well or wells located on the Property that are permitted and exempt from administration by the Colorado State Engineer.

5. Upon transfer of the Water Rights by Grantee to any party, that party shall succeed to Grantee's rights and responsibilities under this Covenant and shall have the right to enforce the terms of Covenant against Grantor or, if the Property has been conveyed by Grantor to others, against the then current owner of the Property.

6. Grantor warrants that no other person or entity has any fee ownership monetary interest in the Property[other than the lienholder who has executed the consent and subordination attached hereto]. [*To be used if applicable under §7(a) of the Contract*].

7. Grantor shall reasonably cooperate with Grantee to demonstrate the dry-up of the Property, including, but not limited to, providing affidavits or testimony attesting to the dry-up of the Property.

8. This Covenant shall be recorded in the office of the Weld County, Colorado Clerk and Recorder.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Grantor has executed this Covenant on the date set forth above.

GRANTOR:

M&M Excavation Co.,
a Colorado corporation

By: **EXHIBIT – DO NOT EXECUTE** _____

Name: _____

Title: _____

Date: _____

The foregoing Dry-Up Covenant and Easement was acknowledged before me this ____ day of _____ 202__ by _____, a _____.

Witness my hand and official seal. _____

Notary Public

My commission expires: _____

(SEAL)

APPROVED AS TO FORM:

REVIEWED BY:

Stephen Cann,
Sr. Asst. City Attorney

Hector Reynoso,
Manager- Real Property Services

REVIEWED BY:

Dawn Jewell,
South Platte Water Resource Manager

FAID Number: _____

Exhibit – A
to
Dry-Up Covenant and Easement
Legal Description of Property

[to be inserted]

Exhibit – C
to
Contract for Purchase of The Platte Valley Irrigation Company Stock

Form of Special Warranty Deed

When recorded return to:

Special Warranty Deed
(Water Rights)

This Special Warranty Deed, made this _____ day of _____, 202_, between M&M Excavation Co., a Colorado corporation, whose principal place of business is located at 25490 County Road 58, Greeley, CO 80631 ("Grantor"), and the City of Aurora, Colorado, a home rule municipal corporation of the counties of Adams, Arapahoe, and Douglas, acting by and through its Utility Enterprise, whose address is 26791 E Quincy Ave, Aurora CO 80016 ("Grantee").

WITNESSETH, that Grantor, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto Grantee and Grantee's heirs and assigns forever all of the water rights described below (the "Water Rights"):

- (a) The water rights represented by one and one-half (1 ½) shares of the capital stock of The Platte Valley Irrigation Company, a mutual ditch company organized and existing under the laws of Colorado, which share(s) are evidenced by Stock Certificate No. 1267 and issued June 18, 2014 (the "Shares") and the water derived therefrom.
- (b) All beneficial right, title and interest, if any, in all water, water rights, ditches, ditch rights, reservoirs, reservoir rights, canals, canal rights, headgates and all other assets, rights, title or interests represented by said Shares, and in addition, and in no way limited by the foregoing, any and all other right, title or interest in The Platte Valley Irrigation Company represented by said Shares.

TOGETHER with all and singular hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title interest, claim and demand whatsoever of Grantor, either in law or equity, of, in and to the above bargained Water Rights, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said Water Rights above bargained and described with the appurtenances, unto Grantee and Grantee's heirs and assigns forever, and Grantor, for Grantor and Grantor's successors and assigns, does covenant and agree that Grantor shall **WARRANT AND FOREVER DEFEND** the above-bargained Water Rights in the quiet and peaceable possession of Grantee and Grantee's successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under Grantor.

IN WITNESS WHEREOF, Grantor has executed this Deed on the date set forth above.

GRANTOR:

M&M Excavation Co.,
a Colorado corporation

By: **EXHIBIT – DO NOT EXECUTE** _____
 Name: _____
 Title: _____
 Date: _____

STATE OF COLORADO)
) ss.
 COUNTY OF _____)

The forgoing Special Warranty Deed was acknowledged before me this ____ day of _____ 202__, by _____ a/an _____.

Witness my hand and official seal. _____
 Notary Public

My commission expires: _____

(SEAL)

FAID Number: _____

Exhibit – D
to
Contract for Purchase of The Platte Valley Irrigation Company Stock

Form of Estoppel
ESTOPPEL CERTIFICATE
_____, 202_

TO: CITY OF AURORA, COLORADO
Utility Enterprise
26791 E Quincy Ave
Aurora, Colorado 80016

RE: The Platte Valley Irrigation Company Stock Certificate No. 1267

This Estoppel Certificate (the “**Estoppel**”) is made by the undersigned on behalf of The Platte Valley Irrigation Company (“**Company**”) with reference to Share Certificate No. 1267 for one and one-half (1½) shares of capital stock in the Company (the “**Certificate**”). M&M Excavation Co., a Colorado corporation (“**Shareholder**”) and the City of Aurora, Colorado, a home rule municipal corporation of the Counties of Adams, Arapahoe and Douglas, Acting by and through its Utility Enterprise (“**Aurora**”), have entered into a Contract for Purchase of The Platte Valley Irrigation Company Stock (the “**Contract**”) providing for the purchase of the shares represented by the Certificate (the “**Sale Shares**”). Pursuant to the terms of the Contract and as a condition precedent to the closing of the transactions contemplated thereunder, Aurora and its successors and assigns will be relying on this Estoppel. All undefined, capitalized but undefined terms used in this Estoppel will have the meaning ascribed thereto in the Company’s Amended and Restated Bylaws dated November 11, 2022 (the “**Bylaws**”).

Estoppel. The undersigned states and certifies to Aurora and its successors and assigns that the following statements are true and correct with regard to the Certificate:

(a) Shareholder has paid in full any and all assessments due and payable for the Sale Shares as of the date of this Estoppel.

(b) As of the date of this Estoppel, the above referenced share Certificate is validly issued and outstanding in the name of the Shareholder and the board of the Company has no policies preventing transfer to Aurora subject to the normal transfer procedures and fees applicable to all shares of Company stock.

(c) The Company holds an allotment contract with the Northern Colorado Water Conservancy District, a political subdivision of the State of Colorado (“**Northern Water**”) for water derived from the Colorado Big Thompson Project and has allotted 30 units of water from the project (“**C-BT Units**”) to each share of the Company stock. The Company Board of Directors represents, warrants, states and certifies to Aurora and its successors and assigns that all C-BT Units associated with the Certificates that were allocated to the Company for use by its stockholders have been transferred to entities outside of the Company ditch system. Further, the Board of Directors represents, warrants, states and certifies to Aurora and its successors and assigns that, for each of the previous transfers, Shareholder or its predecessors in interest fully complied with the Bylaws and Northern Colorado Water Conservancy

District's requirements regarding transfers of said C-BT units to third parties, and therefore acknowledge the following to be true:

(i) Shareholder or its predecessor(s) in interest, as Transferring Shareholder(s), properly and fully executed the Company's standard forms and agreements as necessary to seek approval from the Company for the transfers of the C-BT units and provided all such documentation necessary to support the then-proposed transfer of the C-BT units;

(ii) Shareholder or its predecessor(s) in interest, as Transferring Shareholder(s), paid all transaction costs associated with the transfer, including but not limited to the Per Share Equity Contribution as required under Section 4.1(d) of the Company's bylaws which contributions are attributable to each of the shares represented by the Certificate pursuant to Section 4.1(d) of the Company's bylaws;

(iii) Shareholder or its predecessor(s) in interest, as Transferring Shareholder(s), obtained approval by the Company Board of Directors for the transfer of the C-BT units;

(iv) PVIC obtained approval from the Northern Colorado Water Conservancy District for the Company's application to change the Company's allotment contract, consistent with Bylaw 4.2.

(d) The term of the Indemnification Agreement executed by Shareholder or its predecessor(s) in interest pursuant to Section 4.1(h) of the Company's then-current bylaws in support of its petition to transfer C-BT Units attributable to the Sale Shares has expired and is no longer in force or effect and, accordingly, upon transfer to Aurora of the Sale Shares or any other shares attributable to the Certificate Aurora will not be considered an All Interest Holder of Record for purposes of Bylaw 4, including but not limited to Bylaw 4.1(f).

(e) Upon delivery of the Certificate, a share assignment from Lien Holder and Shareholder to Aurora, the Company will issue a new certificate to Aurora for the Sale Shares which certificate: (i) pursuant to the Company's 5/9/2018 policy resolution regarding Section 4(j) of the Company's bylaws, will not reference the Indemnification Agreement; and (ii) will include a legend that reads as follows:

The share represented by this certificate does not entitle the shareholder to the entire beneficial use of Colorado – Big Thompson water allocated through the Northern Colorado Water Conservancy District for beneficial use upon the lands of the Company's shareholders. While the share under this certificate was originally entitled to 30 CBT units, these units are restricted as to use, encumbrances, options, and transferability pursuant to: (i) agreements executed in previous transactions; (ii) and the bylaws of the Company. The CBT units associated with the share represented by this certificate has been transferred, and the share is no longer entitled to delivery of CBT water.

President

Authority. The terms of this Estoppel have been approved by the Company's Board of Directors and the undersigned has the power and authority to execute this Estoppel and to bind the Company as to the representations made herein.

IN WITNESS WHEREOF, the undersigned has caused this Estoppel to be duly executed as of the date set forth above.

THE PLATTE VALLEY IRRIGATION COMPANY

By: _____ **EXHIBIT – DO NOT EXECUTE** _____
Name: _____
Its: _____

ATTEST:

Secretary

Exhibit – E
to
Contract for Purchase of The Platte Valley Irrigation Company Stock

Form of Water Use Agreement

Water Use Agreement between the City of Aurora and M&M Excavating Co. to Use Water Shares from The Platte Valley Irrigation Company

This Water Use Agreement ("Agreement") is entered into this [REDACTED] day of [REDACTED], 2024, by and between the City of Aurora, Colorado, a home rule municipal corporation of the counties of Adams, Arapahoe, and Douglas, acting by and through its Utility Enterprise ("Aurora"), whose address is 26791 E Quincy Ave, Aurora Colorado 80016, and M&M Excavation Co., a Colorado corporation ("Farmer"), whose address is 25490 County Road 58, Greeley, CO 80631. Aurora and Farmer shall be referred to herein as "Party" and collectively as the "Parties".

Witnesseth

WHEREAS, Aurora is the owner of one and one-half (1½) shares of stock in The Platte Valley Irrigation Company ("Ditch Company"), represented, as of the date of this Agreement, by Share Certificate Number 1267 and issued June 18, 2014 ("Subject Shares") and the water derived therefrom. The Subject Shares or the water derived therefrom are hereinafter referred to collectively as the "Subject Water" or the "Subject Water Rights".

WHEREAS, Farmer wishes to use the water attributable to the Subject Water Rights for agricultural irrigation of real property that Farmer has the right to farm, which property is described in Exhibit A attached hereto ("Irrigated Land"); and

WHEREAS, Aurora desires that Farmer use the Subject Water Rights for agricultural irrigation purposes until Aurora is prepared to use the Subject Water Rights the purpose of supplying water for municipal and other uses for the inhabitants of the City of Aurora and others; and

WHEREAS, Aurora and Farmer desire to enter into an agreement whereby Aurora shall provide the Subject Water Rights to Farmer when such water is available in priority and when it can be used without causing injury to any other vested water user; and

WHEREAS, this Agreement will be of mutual benefit and convenience to Aurora and Farmer.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree on all the terms and conditions set forth below.

Agreement

1. **Term of Agreement.**

1.1 The Term of this Agreement shall commence on the Effective Date, as defined below in Section 15.3, and continue until [December 31, 2028], unless this Agreement is continued for Additional Years (“Term”), pursuant to subparagraph 1.2 below. The termination of this Agreement upon the expiration of the Term shall not release Farmer from any obligations or liabilities incurred pursuant to the payment, use covenants, accounting responsibilities and pledge or encumbrance terms of this Agreement, as set forth below. Farmer hereby agrees, following the termination of this Agreement, to execute any documentation requested by Aurora for the purposes of documenting such termination and to consent to the recording of such documentation in the real property records for the Irrigated Land.

1.2 Subject to availability and at Aurora’s discretion, Farmer may request and Aurora may agree to continue this Agreement for additional one (1) year extensions after the end of the initial Term described in the preceding sentence, each additional year hereinafter referred to as an “Additional Year.” Farmer’s written request to continue this Agreement for each Additional Year must be received by Aurora no later than February 1 of the new Additional Year, and shall be effective only upon Aurora’s written consent. The continuance of the Term for Additional Years shall be expressly subject to each of the terms and conditions set forth in this Agreement.

2. **Use of Subject Water.** Farmer agrees to use the Subject Water Rights solely for agricultural irrigation purposes on the Irrigated Land. Farmer shall not use any water other than the Subject Water for the agricultural irrigation of the Irrigated Land without the prior written permission of Aurora.

3. **Quantity of Water.** Farmer agrees to take and put to beneficial use the entire amount of the Subject Water in accordance with the terms of this Agreement. Aurora makes no representations regarding the quantity of water available from the Subject Water Rights.

4. **Water Quality.** Aurora does not make any representation of the quality of the Subject Water. Aurora does not represent that the Subject Water will be acceptable for Farmer's use without treatment.

5. **Sublease of Subject Water.** Farmer may allow use of the Subject Water to a tenant farmer on the Irrigated Land on an annual basis, subject to prior written approval of Aurora, which approval will not be unreasonably withheld. Such use shall not relieve or release Farmer from any of its obligations under this Agreement, it being expressly understood and agreed that Farmer shall remain primarily liable for all payments required under Paragraph 9, below, in connection with the use of the Subject Water within the time required under Paragraph 10 below, and for the full and faithful observance of the covenants, terms and conditions contained herein.

6. **Water Accounting Responsibilities.** Farmer shall report its use of the Subject Water to any Ditch Company ditch rider, the water commissioner (if the Ditch Company and/or water commissioner require), and to Aurora in such form and at such times as required by the Ditch Company and/or water commissioner and/or Aurora. Farmer's reports shall include the

acres irrigated, the crops grown, the date irrigation commences, and the date irrigation ceases as well as any other matters as reasonably requested by Aurora in connection with the use of the Subject Water or supplementation of the same. If the installation of measuring devices is hereafter requested by the division or state engineer or required by any subsequent Water Court decree, Farmer shall upon the installation of such devices, further report to Aurora the amount of water diverted and used for irrigation on the Irrigated Land.

7. **Requirement to Maintain Structures.** Farmer shall be responsible for the maintenance of any headgates and measuring devices necessary to divert the Subject Water from the Ditch Company onto the Irrigated Land. Should Farmer fail to properly maintain any headgates or measuring devices, Aurora may, without limiting any other remedies available to Aurora, perform maintenance and repairs, as deemed necessary in Aurora's sole discretion, and seek reimbursement of actual costs from Farmer. Aurora may also, at its sole discretion, lock the headgate until such time as proper maintenance or repairs have been completed by Farmer of Aurora.

8. **Delivery of Subject Water.** Delivery of the Subject Water shall be determined by the Ditch Company pursuant to its obligation to deliver water on a pro rata basis to share owners. Farmer agrees that Aurora is not responsible for reduced or curtailed deliveries.

9. **Consideration.** Farmer shall be responsible for payment of all Ditch Company assessments and dues associated with the Subject Shares. Aurora will pay the Ditch Company directly and invoice Farmer in arrears. Payment shall be due in full within thirty (30) days of date of the invoice. Farmer shall pay the entire said amount regardless of whether Farmer uses or has used any amount of the Subject Water.

10. **Payment.** All billing shall be done on forms designated by Aurora for that purpose. Aurora will invoice Farmer no later than thirty (30) days after receiving notice of assessments and dues. Payment by Farmer shall be due no later than thirty (30) days of the date of invoice ("Due Date"). Failure by Aurora to submit invoices in a timely manner or at all shall not be deemed a waiver of the payment Due Date, nor should such failure excuse payment of the ditch assessments and dues by Farmer. In the event of failure to make payments by the Due Date, this Agreement shall be in default by Farmer and in addition to the provisions and remedies set forth in Paragraph 13, the following shall apply:

10.1 For payments not received by Aurora within thirty (30) days of the Due Date, Farmer will be assessed a late fee of ten percent (10%) of the payment amount past due or One Thousand Dollars (\$1000.00), whichever amount is less; and

10.2 For payments not received by Aurora within sixty (60) days of the Due Date, Farmer will be assessed an additional late fee of ten percent (10%) of the payment amount due or One Thousand Dollars (\$1,000.00), whichever amount is less. This late fee is to be added to the late fee assessed under subparagraph 10.1 of this Paragraph 10. Further, delivery of the Subject Water Rights by Aurora will cease and the headgate or headgates will be locked until receipt by Aurora of the full past due amount including accrued late fees; and

10.3 For payments not received by Aurora within ninety (90) days of the Due Date, this Agreement will terminate. The Farmer will be responsible for any past due amounts, including accrued late fees.

10.4 Only in the event of special circumstances, as determined in Aurora's sole discretion, will Aurora reduce or waive the penalties set forth in this Paragraph 10 for failure to make payments by the Due Date.

11. **Pledge or Encumbrance.** Farmer shall not pledge or otherwise encumber this Agreement or the Subject Water for any purpose including, without limitation, securing debt, augmenting past, present or future well depletions or repaying obligations to any ditch company or water conservancy district.

12. **Condemnation.** If any entity with the power of eminent domain, initiates or gives notice that it intends to initiate condemnation proceedings with respect to any interest in all or a portion of the Irrigated Land, Farmer shall notify Aurora in writing within five (5) days, and provide Aurora copies of all correspondence, pleadings, and other documents regarding the proposed condemnation. At Aurora's election, the Parties shall then jointly defend any condemnation proceedings to the extent permitted by law, each at its own expense, upon the grounds, among others, that Irrigated Land is committed to public use pursuant to the Agreement.

13. **Default and Remedies.**

13.1 **Default.** The occurrence of any one or more of the following events shall constitute a default and breach of this Agreement by Farmer.

13.1.1 The failure by Farmer to observe or perform any of the covenants, conditions or provisions of this Agreement to be observed or performed by Farmer under this Agreement.

13.1.2 The failure by Farmer to use the Subject Water as provided in Paragraph 2, above, in which case Aurora may withhold and cease delivery of the Subject Water.

13.1.3 The failure by Farmer to make such reports and accounting as required under Paragraph 6 of this Agreement, in which case Aurora may retain a consultant to complete the required accounting, and Farmer shall be responsible for the costs of such accounting including fees payable to such consultant for completion of such accounting.

13.1.4 The failure by Farmer to timely pay Aurora for Ditch Company assessments and dues provided for under Paragraphs 9 and 10, above, without waiving the default or limiting the liability of Farmer for payment of the same.

13.1.5 Farmer's use of the Subject Water in a manner that causes damage to the interests of a third party or Aurora as the owner of the Subject Water.

13.2 **Remedies.** The remedies listed above are not Aurora's exclusive remedies but are in addition to any other rights or remedies that Aurora may have by reason of such default

or breach. In the event that Aurora withholds the Subject Water due to the default of Farmer under this Agreement, then Aurora may terminate this Agreement, and shall be permitted to use the Subject Water or to enter into new agreements with other water users for use of the Subject Water.

14. **Sole Obligation of Aurora.**

14.1 This Agreement shall never constitute a general obligation or other indebtedness of the City of Aurora, or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City of Aurora within the meaning of the Constitution and laws of the State of Colorado or of the Charter and ordinances of the City of Aurora.

14.2 In the event of a default by Aurora of any of its obligations under this Agreement, Farmer shall have no recourse for any amounts owed to it against any funds or revenues of the City of Aurora 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 of Aurora.

15. **Miscellaneous.**

15.1 **No Rights Conferred.** Except as otherwise provided in this Agreement, the Parties acknowledge that any and all water leased hereunder is 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 the Subject Shares or the Subject Water Rights upon Farmer, nor shall any future needs Farmer has for water enable Farmer to make claim against Aurora for any of Aurora's Subject Shares, Subject Water Rights, or any other water or water rights. Farmer further acknowledges the statutory prohibition against vesting of a right for a continued lease expressed in Section 31-35-201, C.R.S., applies in these circumstances.

15.2 **No Opposition to Aurora Water Court Matters.** For the duration of the Term, Farmer shall not oppose any application to the Water Court for Water Division 1 filed by Aurora except to claim injury. In the event Farmer believes it necessary to file a statement of opposition in a Water Division 1 application filed by Aurora due to injury concern, Farmer will first confer with Aurora prior to filing the statement of opposition.

15.3 **Effective Date.** This Agreement shall be in full force and effect from the date of its execution by Aurora.

15.4 **Entire Agreement of the Parties.** This writing constitutes the entire Agreement between the Parties, and supersedes all prior written or oral agreements, negotiations,

representations, and understandings of the Parties with respect to the subject matter contained herein.

15.5 **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. In the event of default under Paragraph 13, above, Aurora may terminate this Agreement by written Notice as set forth in this Paragraph 15.

15.6 **Enforcement.** The Parties agree that this Agreement may be enforced in law or in equity for specific performance, injunctive, or other appropriate relief, including damages, as may be available according to the laws of the State of Colorado. It is specifically understood that by executing this Agreement each Party commits itself to perform pursuant to the terms hereof, and that any breach hereof resulting in any recoverable damages shall not thereby cause the termination of any obligations created by this Agreement unless such termination is requested by the Party not in breach.

15.7 **Governing Law and Venue.** This Agreement and its application shall be construed according to the laws of the State of Colorado, and as applicable, Aurora's rules and regulations. Venue for the trial of any action arising out of any dispute hereunder shall be in the Arapahoe County District Court.

15.8 **Failure to Perform Due to Force Majeure.** Subject to the terms and conditions in this Section, no 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*, as that term is specifically defined herein; provided that: A) the non-performing Party gives the other Party prompt written Notice describing the particulars of the occurrence of the *force majeure*; B) the suspension of performance is of no greater scope and of no longer duration than is required by the *force majeure* event or condition; and C) the non-performing Party proceeds with reasonable diligence to remedy its inability to perform, and provides weekly progress reports to the other Party describing the actions taken to remedy the consequences of the *force majeure* event or condition. As used herein *force majeure* shall mean any delay or failure of a Party to perform its obligations under this Agreement caused by events beyond the Party's reasonable control, and without the fault or negligence of the Party, including, without limitation A) changes in state or federal law or administrative practice concerning, water rights administration, water quality or stream flow requirements, B) changes in state water rights administrative practice concerning the use or reuse of the Subject Water through leases or other agreements to others for use at locations other than Aurora, Colorado, including, but not limited to, challenges to retained dominion and control, C) acts of God, D) sudden actions of the elements such as floods, earthquakes, hurricanes, or tornadoes, E) sabotage, F) vandalism beyond that which can be reasonably prevented by the Party, G) terrorism, H) war, I) riots, J) fire, K) explosion, L) severe cold or hot weather, M) snow, N) drought [a condition more severe than that which occurred in the years 2002-2003 in the South Platte River Basin] O) other extreme weather conditions, P) blockades, Q) insurrection, R) strike, slow down or labor disruptions (even if such difficulties could be resolved by conceding to the demands of a labor group); S) actions by federal, state, municipal, or any other government or agency (including but not limited to, the adoption or change in any rule or regulation or environmental constraint imposed by federal, state or local government bodies) but only if such requirements, actions, or failures to act prevent or delay

performance, T) inability, despite due diligence, to obtain required licenses, permits or approvals, and, U) changes of law relating to financial obligations, revenues and budgetary matters concerning Colorado local governments and their enterprises. In the event a *force majeure* event or condition prevents Aurora from delivering any of the agreed upon amounts of Subject Water to Farmer, Aurora will not be entitled to any payment for the Subject Water that is not delivered. In no event will any delay or failure of performance caused by any conditions or events of *force majeure* extend this Agreement beyond its stated Term. In the event any delay or failure of performance on the part of the Party claiming *force majeure* continues for an uninterrupted period of more than ninety (90) days from its occurrence or inception as noticed pursuant to this Paragraph, the Party not claiming *force majeure* may, at any time following the end of such ninety (90) day period, terminate this Agreement upon written Notice to the Party claiming *force majeure*, without further obligation except as to costs and balances incurred prior to the effective date of such termination.

15.9 **Intent of Agreement.** This Agreement is intended to describe the rights and responsibilities of and between the Parties and is not intended to, and shall not be deemed to, confer rights upon any persons or entities not named as Parties, nor to limit in any way the powers and responsibilities of Aurora, Farmer, or any other entity not a party hereto.

15.10 **Non-Severability.** Each Paragraph in this Agreement is intertwined with the others and are not severable.

15.11 **Effect of Invalidity.** If any portion of this Agreement is held invalid or unenforceable for any reason by a court of competent jurisdiction as to either Party or as to both Parties, the entire Agreement will terminate.

15.12 **Assignment.** Neither Aurora nor Farmer may assign its rights or delegate its duties hereunder without the prior written consent of the other Party.

15.13 **Binding Effect; Successors and Assigns.** This Agreement and the rights and obligations created hereby shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns if any are allowed. The Parties intend that Aurora shall not incur any liability other than those liabilities directly running to Farmer or assigns permitted under this Agreement, if any. Farmer covenants and agrees to indemnify, save and hold harmless Aurora from all liability, cost or expense of any kind, including Aurora's costs of defense, to any other party, arising in connection with or relating in any way to the execution, delivery or performance of any allowed assignment or any related document by the parties thereto or to the consummation of any transaction in connection with such documents.

15.14 **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.

15.15 **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.

15.16 **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.

15.17 **Notice.** Any and all notices, demands or the communications desired or required to begin under any provision of this Agreement shall be given in writing and delivered personally or sent by registered or certified mail, postage pre-paid, return receipt requested to the Parties at the following addresses, or at such other address as the Parties may designate by notice in the above manner.

To Aurora: City of Aurora
26791 E Quincy Ave
Aurora CO 80016
Attn: General Manager

with a copy to: City of Aurora
15151 East Alameda Parkway, Suite 5300
Aurora, CO 80012-1555
Attn: City Attorney

To Farmer: M&M Excavation, Co.
c/o Terry Miller
25490 County Road 58
Greeley, CO 80631

Notices shall be effective (i) the next day following the date sent by an established express delivery service which maintains delivery records requiring a signed receipt, (ii) upon receipt by the addressee of a hand delivery, (iii) three (3) days following the date of mailing via certified or registered mail, postage prepaid, return receipt requested. Notwithstanding the foregoing, the Parties may communicate with respect to Term extensions and miscellaneous matters by e-mail as follows; to Aurora to Dan Gallen at dgallen@auroragov.org; and to Farmer at [redacted][*to be inserted*] or such other address as the Parties may designate by notice in the manner provided for in this Paragraph.

15.18 **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.

15.19 **Commissions and Fees.** Each Party shall be solely responsible for the payment of any and all real estate commissions or other commissions or fees that it incurs with respect to this Agreement.

15.20 **No Attorneys’ 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 attorneys' and other professional fees, costs and expenses associated with any such proceedings.

15.21 **No Fees and Expenses and Apportionment.** Each of the Parties will bear its own expenses in connection with the transactions contemplated by this Agreement.

15.22 **No Construction Against Drafter.** The Parties agree they jointly drafted this Agreement with each having the opportunity to obtain the advice of legal counsel and equal opportunity to contribute to its content.

15.23 **Signatures.** The Parties agree that either Party may execute this Agreement using a digital image (including but not limited to an image in the form of a PDF, JPEG, GIF file, DocuSign, SignNow or other e-signature), and the same shall be deemed as a true and correct original.

[Signature pages follow]

CITY OF AURORA, COLORADO,
ACTING BY AND THROUGH ITS
UTILITY ENTERPRISE

Marshall P. Brown, General Manager

Date

APPROVED AS TO FORM FOR AURORA:

Stephen Cann, Assistant City Attorney

Date

ACS #

Dulcinea Hanuschak, Special Counsel

Date

STATE OF COLORADO)
) ss
COUNTY OF ARAPAHOE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024,
by Marshall P. Brown, General Manager, 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)

FARMER:

M&M Excavation Co.,
a Colorado corporation

By: _____
Terry Miller, President

Date: _____

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____,
20____, by _____.

Witness my hand and official seal. _____
Notary Public

My commission expires: _____

(SEAL)

Exhibit A
to
Water Use Agreement

Legal Description of Irrigated Land

Parcel B as shown on 2nd Amended Recorded Exemption No. 1055-16-3-RE34, recorded November 18, 1991 at Reception No. 2269508 and being a portion of the West 1/2 of the Southwest 1/4 of Section 16, Township 4 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.



M&M Acquisition

Aurora Water

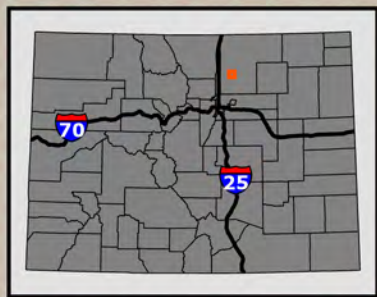
15151 E. Alameda Pkwy, Aurora, CO 80012 USA
www.auroragov.org | 303-579-2990
gwhitney@auroragov.org



Aurora is Worth Discovering!

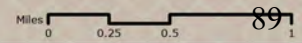


January 25, 2024



Legend	
	South Platte River
	PVIC Ditch
	M&M Excavation Co Parcel

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CITY OF AURORA

Council Agenda Item Continuation Page

Item Title: Continuation Page Migrant – Homelessness Resolution
Item Initiator: Council Member Jurinsky/Council Member Sundberg
Staff Source: N/A
Legal Source: Groege Koumantakis Client Group Manager
Outside Speaker: N/A
Date of Change: 2/16/2024

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: 2/26/2024

ITEM SUMMARY *(Brief description of changes or updates with documents included.)*

This resolution was approved to move forward at the FSIR Committee meeting on 2/16/2024. There were concerns stated at the meeting about the resolution. The sponsors of the legislation have redrafted the resolution to address those concerns.

RESOLUTION NO. R2024- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REGARDING THE SYSTEMATIC TRANSPORTATION OF MIGRANTS AND THOSE EXPERIENCING HOMELESSNESS INTO AURORA FROM OTHER MUNICIPALITIES WITHOUT COMMUNICATION AND COORDINATION TO ADDRESS THE FINANCIAL IMPACT AND IMPACT ON CITY SERVICES.

WHEREAS, on May 15, 2017, the City of Aurora (Aurora) declared, in Resolution R2017-28, Aurora is not a sanctuary city or a “sanctuary jurisdiction” as that term is used in the Executive Order, *Enhancing Public Safety in the Interior of the United States*; and

WHEREAS, Aurora is proud of its identity as the most diverse and global city in the state, values and has a strong working relationship with our immigrant communities, and takes seriously the health, safety, welfare, and constitutional rights of all its residents; and

WHEREAS, Aurora is aware of the federal government’s failure to take responsive steps to address the systematic issues of the ongoing migrant crisis, securing the border, and to enact immediate comprehensive immigration reform; and

WHEREAS, some jurisdictions, including Aurora, have received a large-scale influx of new migrants, many of which have been transported to the City of Aurora by other municipalities without notice and an opportunity to address the financial impact; and

WHEREAS, Aurora is a municipality that is part of three counties and does not have the same financial resources and responsibilities counties have in the State of Colorado, such as a health and human services department; and

WHEREAS, Aurora appreciates those organizations, corporations, and non-profit entities already located in Aurora that are using private philanthropy, budgeted state and federal funding, and other sources of non-Aurora funding to provide services to those migrants that have arrived in Aurora on their own volition and not transported to Aurora by other entities; and

WHEREAS, Aurora is a municipality that dedicates significant staffing and spends considerable amounts of money to provide temporary housing or temporary shelter options and services to individuals experiencing homelessness; and

WHEREAS, the Aurora City Council has found that organizations who are transporting migrants or individuals experiencing homelessness into Aurora for temporary housing have not communicated with the City about their plans to transport migrants or individuals experiencing homelessness to Aurora, which results in financial hardship on the City and burdens available City resources.

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

Section 1. The City Council affirms remaining a Non-Sanctuary City and asserts the City does not currently have the financial capacity to fund new services related to this crisis and demands that other municipalities and entities do not systematically transport migrants or people experiencing homelessness to the City for temporary housing without the City first being given an opportunity to coordinate such assistance with those other municipalities. We call on the federal government to perform its constitutional duty and secure our nation's borders. We want to express our appreciation with the State and local governments and other organizations who are dealing with this crisis.

Section 2. This resolution shall not be interpreted to impact Resolution No. R 2017-28 that declared that the City was not a sanctuary city or jurisdiction that was resolved and passed on May 15, 2017.

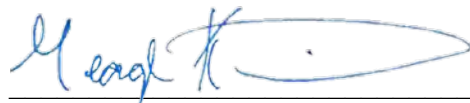
RESOLVED AND PASSED this ____ day of _____, 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



GEORGE KOUMANTAKIS, Manager of Client Services



CITY OF AURORA

Council Agenda Commentary

Item Title: Resolution Regarding the Transportation for Those Experiencing Homelessness and Migrants Into Aurora Without An Agreement To Address The Financial Impact and Coordination of Services
Item Initiator: Danielle Jurinsky, Council Member / Steve Sundberg, Council Member
Staff Source/Legal Source: George Koumantakis, Manager of Client, Office of the City Attorney
Outside Speaker: None
Council Goal: 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: 2/26/2024

2nd Regular Meeting (if applicable): 3/11/2024

Item requires a Public Hearing: Yes No

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

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name, title, department / Legal source name and title
- Outside speaker name and organization
- Estimated time (For Study Session items only, indicate combined time needed for presentation and discussion)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REGARDING THE TRANSPORTATION OF MIGRANTS AND THOSE EXPERIENCING HOMELESSNESS INTO AURORA WITHOUT AN AGREEMENT TO ADDRESS THE FINANCIAL IMPACT AND COORDINATION OF SERVICES.

Sponsors: Danielle Jurinsky, Council Member / Steve Sundberg, Council Member
George Koumantakis, Client Services Manager, Office of the City Attorney

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

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

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Federal, State & Intergovernmental Relations

Policy Committee Date: 2/16/2024

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

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

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

Council Members Jurinsky and Sundberg presented this resolution at the FSIR meeting on 2/16/2024 and it was moved forward to the Regular Council Meeting on 2/26/2024.

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

This is a Resolution Regarding the Transportation for Those Experiencing Homelessness and Migrants Into Aurora Without An Agreement To Address The Financial Impact and Coordination of Services

FISCAL IMPACT

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

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

REVENUE IMPACT

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

BUDGETED EXPENDITURE IMPACT

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

NON-BUDGETED EXPENDITURE IMPACT

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

WORKLOAD IMPACT

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

QUESTIONS FOR COUNCIL

Does Council wish to approve this item?

LEGAL COMMENTS

Pursuant to City Code Section 2-32, City Council has the power conferred by the State Constitution, statute, or City Charter, and such as it shall deem necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the City and the inhabitants thereof.

The Council may, by resolution, enter into contracts or agreements with other governmental units or special districts for the joint use of buildings, equipment or facilities, or for furnishing or receiving commodities or services (Charter §10-12).

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)). (Koumantakis)

RESOLUTION NO. R2024- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REGARDING THE TRANSPORTATION OF MIGRANTS AND THOSE EXPERIENCING HOMELESSNESS INTO AURORA WITHOUT AN AGREEMENT TO ADDRESS THE FINANCIAL IMPACT AND COORDINATION OF SERVICES.

WHEREAS, on May 15, 2017, the City of Aurora (Aurora) declared, in Resolution R 2017-28, Aurora is not a sanctuary city or a “sanctuary jurisdiction” as that term is used in the Executive Order, *Enhancing Public Safety in the Interior of the United States*; and

WHEREAS, Aurora is proud of its identity as the most diverse and Global City in the state, values and has a strong working relationship with our immigrant communities and takes seriously the health, safety, welfare, and constitutional rights of all its residents; and

WHEREAS, Aurora urges immediate action by the federal government to take responsive steps to address the systematic issues of the ongoing migrant crisis, secure the border, and enact immediate comprehensive immigration reform; and

WHEREAS, some jurisdictions, including Aurora, have received an influx of migrants; and

WHEREAS, Aurora is not a County and does not have the same responsibilities that a County has and Aurora also does not have the same funding that a County has; and

WHEREAS, Aurora’s financial resources or other local resources are limited and offering sanctuary or support is impossible and creates risks to the health, safety, and welfare of both migrants and the residents of Aurora; and

WHEREAS, Aurora will continue to make decisions guided by fiscal responsibility, adherence to existing legal frameworks, and an unwavering commitment to the residents of Aurora; and

WHEREAS, some political subdivisions, organizations, corporations, or nonprofit entities (organizations) in other jurisdictions in the state have decided to transport or make transportation arrangements for migrants and for individuals experiencing homelessness to leave those jurisdictions and move them into Aurora for temporary housing or services without the consent of Aurora; and

WHEREAS, Aurora will suffer undue financial hardship and suffer an increase in demand for services as a result of these organizations transporting individuals into Aurora; and

WHEREAS, Aurora is a municipality that dedicates significant staffing and spends considerable amounts of money to provide temporary housing or temporary shelter options and services to individuals experiencing homelessness; and

WHEREAS, Aurora does not have adequate affordable housing for all of its residents and is in desperate need of additional financial resources for those individuals; and

WHEREAS, the Aurora City Council (City Council) demands that organizations first enter into an agreement with Aurora before transporting individuals experiencing homelessness or migrants into Aurora for temporary housing or for services to assist the City Council to prepare for any resulting financial hardship or burdens on available resources (agreement); and

WHEREAS, the City Council demands that those who provide direct or indirect assistance to individuals experiencing homelessness or migrants which assistance can include, but is not limited to, providing housing vouchers or other financial assistance to those individuals first enter into an agreement with Aurora prior to providing any services.

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

Section 1. To benefit the residents of the City of Aurora, the City Council demands organizations cease the transportation of migrants and those experiencing homelessness into Aurora without an agreement to address the financial impact and coordination of services.

Section 2. The City Council resolves it will not allocate public funds, services, or staff resources for migrant support.

Section 3. The City Council resolves its support for the federal government to take immediate action to address the systematic issues related to the ongoing migrant crisis, secure the border, and enact comprehensive immigration reform.

Section 4. This resolution shall not be interpreted to impact Resolution No. R 2017-28 that declared that the City was not a sanctuary city or jurisdiction that was resolved and passed on May 15, 2017.

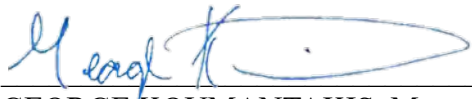
RESOLVED AND PASSED this ____ day of _____, 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "George Koumantakis". The signature is stylized, with a large, sweeping flourish at the end.

GEORGE KOUMANTAKIS, Manager of Client Services

RESOLUTION NO. R2017 - 28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, DECLARING THAT AURORA IS NOT A SANCTUARY CITY

WHEREAS, it is, and has been, the policy and practice of the City of Aurora, Colorado (“Aurora”), to cooperate with federal authorities in the enforcement of all federal laws, including immigration enforcement; and

WHEREAS, for reasons not based in any lawful process or declaration by Aurora, the State of Colorado, or the U.S. Government, Aurora has been unduly placed on the so-called “sanctuary city” lists by out-of-state organizations; and

WHEREAS, Aurora, particularly the Aurora Police Department and Aurora Detention Center, has a strong working relationship with federal law enforcement agencies, including the Department of Homeland Security and Immigration and Customs Enforcement; and

WHEREAS, Aurora has a strong working relationship with, and values its immigrant communities and takes seriously the public safety and constitutional rights of all of its residents; and

WHEREAS, the Executive Order, *Enhancing Public Safety in the Interior of the United States*, dated January 25, 2017 (“Executive Order”), states that “sanctuary jurisdictions” are those jurisdictions that willfully refuse to comply with 8 U.S.C. § 1373; and

WHEREAS, Aurora has complied and intends to continue to comply with 8 U.S.C. § 1373.

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

Section 1. Aurora is not a sanctuary city or a “sanctuary jurisdiction” as that term is used in the Executive Order.

Section 2. Aurora intends to continue to comply with all constitutional and lawful federal immigration laws and regulations, and will continue its practice of non-obstruction with regard to Immigration and Customs Enforcement’s efforts to enforce federal immigration laws and regulations.

Section 3. Aurora’s priority is to enforce local laws and provide the best public safety and other local services it can to all of its residents.

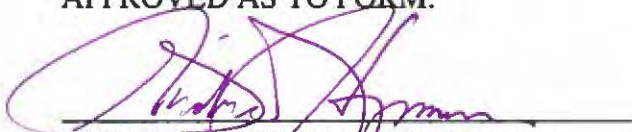
RESOLVED AND PASSED this 15th day of May, 2017.


STEPHEN D. HOGAN, Mayor

ATTEST:


LINDA BLACKSTON, City Clerk

APPROVED AS TO FORM:


MICHAEL J. HYMAN, City Attorney



CITY OF AURORA

Council Agenda Commentary

Item Title: Restore the Independence of the Indigent Defense Counsel
Item Initiator: Council Member Alison Coombs
Staff Source/Legal Source: George Koumantakis, Manager of Client Services, City Attorney’s Office
Outside Speaker: Elizabeth Cadiz, Chief Public Defender
Council Goal: 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: 2/26/2024

2nd Regular Meeting (if applicable): N/A

Item requires a Public Hearing: Yes No

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

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name, title, department / Legal source name and title
- Outside speaker name and organization
- Estimated time (For Study Session items only, indicate combined time needed for presentation and discussion)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, TO REPEAL RESOLUTION 2023-118 AND TO HALT EFFORTS TO SOLICIT PROPOSALS TO CONTRACT PURSUANT TO RFP R-2384 IN ORDER TO RESTORE THE INDEPENDENCE OF INDIGENT DEFENSE COUNSEL AND PREVENT DETRIMENTAL IMPACT TO THE CITY OF AURORA

Sponsor: Alison Coombs, Council Member
George Koumantakis, Client Services Manager, Office of the City Attorney

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

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

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

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

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

Council Member Coombs requested that this item to be added to the February 26, 2024 City Council Meeting.

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

Restore the independence of indigent defense counsel in the Aurora Municipal Court and prevent detrimental impact of RFP process outcome by repealing Resolution 23-118 passed on October 9, 2023 and halt RFP process in advance of the March 8, 2024 proposal deadline.

FISCAL IMPACT

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

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

REVENUE IMPACT

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

BUDGETED EXPENDITURE IMPACT

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

NON-BUDGETED EXPENDITURE IMPACT

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

WORKLOAD IMPACT

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

QUESTIONS FOR COUNCIL

Does the Council wish to support the repeal of Resolution 2023-118 and does the Council wish to halt efforts to solicit proposals to contract pursuant to RFP R-2384?

LEGAL COMMENTS

City Council has the powers that are necessary, requisite, or proper for the government and administration of its local and municipal matters. (City Charter, art. I, sec. 1-3). City Council has the authority to do what is deemed necessary and proper to promote the prosperity, improve the order, comfort and convenience of the City and its inhabitants. (Aurora, Colo. Code sec. 2-32) A resolution is the formal legislative act by which the City Council expresses a position on matters of public policy. Motions to Approve a resolution shall include a Waiver of Reconsideration. A resolution may be used for a statement of policy or other matters which are not required to be adopted by an ordinance. (City of Aurora, Rules of Order and Procedure, Rule F(2)). A resolution involves a ministerial act which relates to some administrative business of the municipality. A resolution involves a "declaration of the will of the municipality in a given matter. *Deighton v. City Council*, 902 P.2d 426, 428 (Colo. App. 1994) (Koumantakis)

RESOLUTION NO. R2024 - ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, TO REPEAL RESOLUTION 2023-118 AND TO HALT EFFORTS TO SOLICIT PROPOSALS TO CONTRACT PURSUANT TO RFP R-2384 IN ORDER TO RESTORE THE INDEPENDENCE OF INDIGENT DEFENSE COUNSEL AND PREVENT DETRIMENTAL IMPACT TO THE CITY OF AURORA

WHEREAS, the United States and Colorado Constitutions provide that an accused person, without financial means to retain private counsel, has the fundamental right to be represented by effective counsel in criminal prosecutions at government expense; and

WHEREAS, the Sixth Amendment requires more than the provision or appointment of counsel—it demands the effective assistance of counsel; and

WHEREAS, the very premise of our adversary system of criminal justice is that partisan advocacy on both sides of a case will best promote the ultimate objective that the guilty be convicted and the innocent go free." Unless the accused receives the effective assistance of counsel, "a serious risk of injustice infects the trial itself." *Cuyler v. Sullivan*, 446 U.S., at 343. *United States v. Cronin*, 466 U.S. 648, 652-656.; and

WHEREAS, municipalities prosecuting criminal violations that carry a potential jail sentence are not excepted from providing this constitutional right; and

WHEREAS, § 13-10-114.5 expressly mandates both the independence and competence of City-funded defense counsel in furtherance of this constitutional guarantee; and

WHEREAS, competent counsel meaning counsel of the same quality the accused would be able to obtain absent indigency; and

WHEREAS, the selection of contract counsel must also be transparent and based on merit; and

WHEREAS, the City of Aurora and its Court are the “outliers” due to: Aurora’s diverse population and size; the volume and kinds of cases handled in Aurora Municipal Court; the size, capacity, budgets and manner of staffing of each department in its Court; and

WHEREAS, the Aurora Public Defender’s Office (APDO) has provided a constitutionally mandated service to this City since 1989; and

WHEREAS, together with the City Attorney, the Judiciary, and departments of Court Administration, the APDO plays a vital role in daily operations and in maintaining a just court; and

WHEREAS, every day, the APDO defends the rights and innocence of members of Aurora’s most vulnerable populations; and

WHEREAS, the Constitutional nature of the service provided by court appointed counsel and its cost is always a downstream cost driven by the actions of other Court actors; and

WHEREAS, the Police initiate the charges by Summons; and

WHEREAS, the City Attorney prosecutes or dismisses, waives jail, makes plea offers, carries the obligation of discovery; and

WHEREAS, the Court appoints the Public Defender and presides over all matters in its Court, authors standing orders, creates procedure; and

WHEREAS, Resolution 2023-118, brought forth and passed by a majority of City Council (Council) on October 9th, 2023, directed two City Council Appointees, the City Manager (CM) and Presiding Judge (PJ) to issue a Request for Proposal (“RFP”) to “evaluate whether court appointed defense counsel could be provided in a more cost-effective manner through a contractual arrangement; and

WHEREAS, the impetus for Resolution 23-118 is found in a recommendation by the Aurora Citizens’ Advisory Budget Committee (CABC) in September of 2022, that called for "a cost-benefit analysis review of the APDO versus having the services and responsibilities fulfilled by the Office of the State Public Defense (OSPD) and/or Alternative Defense Council (OADC)."; and

WHEREAS, a court-wide workload study approved by the Council in spring of 2023 will produce information to the Council for the purpose of pursuing an accurate cost-benefit analysis; and

WHEREAS, the outstanding RFP will not render a reliable result for evaluation purposes; and

WHEREAS, Resolution 23-118 and the outstanding RFP contain many flaws that if permitted to continue will have a detrimental impact; and

WHEREAS, one flaw is that it expressly subjects the right to counsel to judicial and political influence by the City’s elected officials and appointees; and

WHEREAS, it gives the perception that the Presiding Judge has authority over the provision of indigent defense counsel in a way that would not be tolerated were it the prosecution or other private defense counsel; and

WHEREAS, critical content including scope of work, case and jury trial numbers are disputed by APDO; and

WHEREAS, even though purchasing would ordinarily rely upon the department as the subject matter expert; the RFP solicits bids for one annual, all inclusive, “flat fee.”; and

WHEREAS, low bid flat fee contracts result in burdensome back end costs such as increased costs of incarceration pre-trial and post-conviction and postconviction remedies

(appeals) as a result of the disincentive to provide effective representation; and

WHEREAS, in Aurora, a low bid flat fee contract and lessened service level will most impact a disproportionate population of Black/African American individuals, those suffering from untreated mental health or medical conditions ,and those who are innocent; and

WHEREAS a low bid flat fee contract will increase costs of incarceration in the county jails and costs of litigation for appeals heard in Arapahoe County Court; and

WHEREAS, a low bid flat fee contract will threaten the existence of a critical check on law enforcement, prosecution and the judiciary; and

WHEREAS, the outsourcing of this office will jeopardize the continued benefits of the Aurora Sustained program placing a further tax on competency procedures in Aurora and in the state system.; and

WHEREAS, Aurora Sustained (program) was established in 2021 with Aurora Mental Health and Recovery; and

WHEREAS, since then, the program, funded almost entirely through grants awarded by the Colorado Competency fines committee, has successfully connected hundreds of individuals to community mental health resources, and enabled defenders to make evidence-based determinations of clients needing emergency mental health holds and competency evaluations.

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

Section 1. The City Council hereby repeals Resolution 2023-118.

Section 2. The City Council directs the City Manager and Presiding Judge to halt all attempts to solicit bids for R-2384.

Section 3. City Council shall receive a cost-benefit analysis conducted on the basis of data already available in the DOJ-funded 2021 assessment of the Aurora Public Defender’s office conducted by the National Legal Aid and Defender Association, and data to be provided by the NCSC court-wide workload study.

RESOLVED AND PASSED this _____ day of _____ . 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



GEORGE KOUMANTAKIS, Manager of Client Services

- I. Item Title: *RESOLUTION ___ TO REPEAL RESOLUTION 2023-118 AND HALT EFFORTS TO SOLICIT PROPOSALS PURSUANT TO RFP R-2384 IN ORDER TO RESTORE THE INDEPENDENCE OF INDIGENT DEFENSE COUNSEL AND PREVENT DETRIMENTAL IMPACT TO THE CITY OF AURORA*
- II. *Council Goal: 4.0 create a superiorlive and work...*
- III. *Item Details:*
 - a. *Sponsor: Council Member Alison Coombs*
 - b. *Elizabeth Cadiz, Chief Public Defender*
 - c. *(City Attorney)*
- IV. *Action(s) proposed : approve*
- V. *Previous Action: none*
- VI. *History: Councilmember Coombs requested this item to be added to the February 26, 2024 City Council Meeting.*

Concerning Resolution 23-118: passed after requested by proponent Councilmember Zvonek for October 9, 2023 City Council Meeting.

(Resolution 23-118 had no history prior to October 9, 2023)

And see December 11, 2023 Study Session, Information only items:

*5.b Request for Proposal – Indigent Representation Contract Pricing¹
Sponsor: Dustin Zvonek, Mayor Pro Tem Jason Batchelor, Interim City Manager /
George Koumantakis, Client Services Manager, City Attorney*

¹ Summary provided in 12.11.23 study session agenda: Request for proposal to determine if there would be a considerable cost savings to moving the full services of the public defender office to outsource to contracted public defender firms. The RFP includes full services from administrative, investigative, and all legal assistance from prequalified firms for future appointment as Court appointed defense counsel for a period of three years. Legal Comments provided in agenda item: Contracts for the purchase of supplies, services, and construction shall be awarded to the lowest responsive bidder or most advantageous proposal as specified in the Aurora City Code. See, Sec 2-671 et. seq. A.C.C. (Koumantakis)

*7.a Indigent Defense Services Provided by the Aurora Public Defenders²
Sponsor: Alison Coombs, Council Member Elizabeth Cadiz, Chief Public Defender*

VII. *Item Summary*

Restore the independence of indigent defense counsel in the Aurora Municipal Court and prevent detrimental impact of RFP process outcome by repealing Resolution 23-118 passed on October 9, 2023 and halt RFP process in advance of the March 8, 2024 proposal deadline.

VIII. *Fiscal Impact n/a*

IX. *Question: ?*

X. *Legal Comments*

Council shall act only by ordinance, resolution or motion. All legislative enactments must be in the form of ordinances; all other actions, except as herein provided, may be in the form of resolutions or motions. 5-1 Ordinances, resolutions and motions.

Resolution. A resolution may be used for a statement of policy or other matters which are not required to be adopted by ordinance. F.2. Rules of Order and Procedure for the Aurora, Colorado, City Council. (-----).

² Summary provided in 12.11.23 study session agenda: Item for consideration concerning Public Defender Contract Pricing pursuant to resolution 2023-118. Materials in this item support the constitutional adequacy and competence of the existing Aurora Municipal Public Defender; and provide the appropriate and constitutionally required standard for effective representation. This item further informs City Council of the true and proven risk of privatization. The associated item, titled Public Defender Contract Pricing, with history on 10-9-2023, 11-13-2023 and 11-27-2023, has again excluded the Aurora Public Defender Commission. As such, this item has been initiated to ensure that the existing authority to select, hire, and discharge indigent defense counsel as an opportunity to be heard on the matter. Legal comments: Although items may be requested by other parties, Council Members, City Manager, City Attorney, Chief Public Defender, Presiding Judge, and Court Administrator are the only ones who have authority to place 342 items on the Study Session and Regular/Special Meeting agendas. Each such item shall indicate the party requesting the item. B. 2. Rules of Order and Procedure for the Aurora, Colorado, City Council. (Koumantakis).

Substantive changes to a resolution are considered to be a new issue and can be placed on the agenda prior to the expiration of the six (6) month period required for reconsideration. 2.5. Rules of Order and Procedure for the Aurora, Colorado, City Council. (-----).

All purchasing and contracting shall be accomplished in the best interests of the city using the prudent person's standard of care. Purchasing or contracting shall be performed so as to secure for the city the greatest value considering cost, quality, delivery, service and other considerations which reflect overall value comparisons. *Sec. 2-667. General procedures. (a) Purpose*

And see Standards of conduct(j). Every city officer and employee is expressly prohibited from knowingly: (1) Underestimating or exaggerating requirements to certain prospective bidders for the purpose of influencing bids. (2)

Misrepresenting competitor's prices, quality, or service to obtain concessions. *Sec. 2-668. Prohibitions.*

Each municipality shall provide independent indigent defense for each indigent defendant charged with a municipal code violation for which there is a possible sentence of incarceration. Independent indigent defense requires, at minimum, that a nonpartisan entity independent of the municipal court and municipal officials oversee or evaluate indigent defense counsel. C.R.S. § 13-10-114.5, *and see Public Defender Commission. A.C.C. Sec. 50-166. (Code 1979, § 25-60).*

A municipality that contracts directly with one or more defense attorneys to provide counsel to indigent defendants shall ensure that the process to select indigent defense attorneys is transparent and based on merit. C.R.S. § 13-10-114.5.

All boards and commissions shall have such powers and perform such duties as are provided by this Charter or by ordinance. *Charter, 9-1 General provisions. (Ord. No. 87-202, § 33, 11-3-1987)*

Aurora Municipal Code directs the Aurora Public Defender Commission to ensure that indigent clients are represented independently of any political consideration or private interests, provide legal services to indigent persons commensurate with those available to nonindigents, and conduct the office in accordance with ethical and professional standards associated with the defense function. *A.C.C. Sec. 50-166. (Code 1979, § 25-60) Boards, commissions, committees and authorities, § [2-765](#) et seq.*

The Commission shall appoint and discharge, at its discretion, the municipal public defender and his or her assistants and set compensation for the Public Defender, assistants and for any attorney appointed for cause in place of the public defender. *Sec. 50-169. Employment of public defender. (Code 1979, § 25-63; Ord. No. 2005-12, § 88, 4-11-2005), Sec. 50-171. Appointment of other attorney in place of public defender. (Code 1979, § 25-65; Ord. No. 2011-23, § 1, 7-25-2011)*

The caseload and workload of APDO is not within their control, but rather, is a “downstream cost” resulting from summons, existence of incarceration as possible penalty, and appointment. Sec. 50-170. Representation of indigent persons; duties. (Code 1979, § 25-64; Ord. No. 2009-21, § 1, 6-8-2009)

The employment interests of the Presiding Judge are politically influenced in so much as the appointee directly reports to Council; interests of the Presiding Judge as a municipal judge are to remain neutral and refrain from influencing proceedings in support or through the interference with of one side or another. The supervisory authority of the presiding judge extends to the judiciary which shall include the judges, court bailiffs, and court reporters, or that staff which is from time to time assigned to support the municipal court judges. *Charter Sec. 10-4 Municipal court; judges; court administration.* The presiding judge must faithfully perform the duties of municipal judge and grounds for discipline shall include violation of the Colorado Code of Judicial Conduct, *A.C.C. Sec. 50-73. Oath. (Code 1979, § 25-45; Ord. No. 95-52, exhibit A (§ 25-45), 9-11-1995), Sec. 50-74 (b)(1)(g) (Code 1979, § 25-45.1; Ord. No. 2005-12, § 79, 4-11-2005).*

A City Manager is also influenced politically and possesses employment interests and obligations that do not extend to the provision of indigent defense counsel representation. Charter Sec. 7-1 Appointment qualifications. (Ord. No. 87-202, § 28, 11-3-1987), 7-4(g), Powers and duties. (Ord. No. 87-202, § 31, 11-3-1987)

The Aurora Municipal Court is one of five municipal courts that handle domestic violence and that carries particular responsibilities consistent with the state court that would not otherwise be applicable. The Colorado State Public Defender has provided representation through various judicial district offices state wide since its inception over 50 years ago. *Regarding domestic violence See A.C.C. Sec. 50-43. Protections and rights for victims of domestic violence. (Ord. No. 2023-63, § 1, 11-27-2023, which provides in pertinent part that any violation of the municipal code classified as a domestic violence offense, pursuant to C.R.S. Section [18-6-800.3](#), is a misdemeanor for purposes of complying with [18](#) U.S.C. Section [921](#) and requires the Aurora municipal court to: provide the equivalent rights afforded to victims pursuant to C.R.S. Section [24-4.1-303\(3.5\)](#), [\(6\)](#), [\(14.4\)](#), [\(14.5\)](#), and [\(14.7\)](#); issue a municipal protection order pursuant to C.R.S. Sections [18-1-1001\(3\)](#) and [\(5\)](#); set bond consistent with the conditions described in C.R.S. Section [16-4-105\(4\)](#) and [\(4.1\)](#); and impose sentencing that is equivalent to the domestic violence sentences described in C.R.S. Sections [18-6-801\(1\)](#), [\(3\)](#), [\(4\)](#), [\(5\)](#), [\(6\)](#), and [\(8\)](#).*

RESOLUTION NO. R2023 - 118

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, DIRECTING THE CITY MANAGER AND PRESIDING JUDGE TO EVALUATE ALTERNATIVE METHODS OF PROVIDING LEGAL DEFENSE REPRESENTATION FOR INDIGENT PERSONS IN THE AURORA MUNICIPAL COURT

WHEREAS, Section 50-170 of the City code sets forth - Except as otherwise provided, the municipal public defender shall represent as counsel, without charge, except as provided in section 50-171, each indigent person who is under arrest or charged with committing a violation of the Charter or a municipal ordinance; and

WHEREAS, Section 50-171 of the City Code provides that the Court may, on its own motion or upon the application of the municipal public defender or indigent person, appoint an attorney other than the municipal public defender to represent an indigent person at any stage of the proceedings; and

WHEREAS, 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; and

WHEREAS, the City Council desires the City Manager and Presiding Judge to issue a Request for Proposal (“RFP”) to evaluate whether court appointed defense counsel could be provided in a more cost-effective manner through a contractual arrangement.

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

Section 1. The City Council directs the City Manager and Presiding Judge to issue an RFP to evaluate whether court appointed defense counsel could be provided in a more cost-effective manner through a contractual arrangement.

Section 2. The City Council directs the City Manager and Presiding Judge to issue the RFP as soon as practical and, upon completion of the RFP process, the City Manager and/or the Presiding Judge will report back to the Public Safety, Courts, and Civil Service policy committee for review of the RFP results/cost savings.

Section 3. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

RESOLVED AND PASSED this 9th day of October, 2023.




MIKE COFFMAN, Mayor



ATTEST:


KADÉE RODRIGUEZ, City Clerk *Deputy*


APPROVED AS TO FORM:


George Koumantakis, Client Group Manager

City of Aurora

Finance Department
Purchasing Services, Suite 5700
15151 E. Alameda Parkway
Aurora, Colorado 80012
Phone: 303-739-7100



Request for Proposal: R-2384
Class/Item: 918-74, 961-49, 916-50
Date: January 8, 2024

Proposal Deadline: 4:00 P.M. (MT), March 8, 2024, to the Office of Purchasing Services via the Rocky Mountain E-Purchasing System Website

REQUEST FOR PROPOSALS

The City of Aurora ("City") is soliciting proposals from qualified individuals or firms to provide Public Defender Services for the City.

Proposals shall only be submitted electronically through the Rocky Mountain E-Purchasing System (aka BidNet) at <http://www.bidnetdirect.com/colorado> no later than **4:00 p.m. (MT), March 8, 2024**. **No late proposals will be considered.** Please be advised that proposals **MUST** be submitted through BidNet to be considered responsive.

The proposals shall be retained by the City and cannot be returned. If you need assistance with the registration or proposal upload process, you may call BidNet's vendor support at 1-800-835-4603 or e-mail e-procurementssupport@bidnet.com.

Proposals shall consist of:

PUBLIC DEFENDER SERVICES

Pre-Proposal Conference

A non-mandatory pre-proposal conference meeting is scheduled for February 8, 2024 at 11:00 a.m. **via Microsoft Teams**. The purpose of the pre-proposal conference is to provide assistance to interested firms in the interpretation of the Request for Proposals (RFP), Scope of Services, Sample Professional Services Agreement, and other technical and contractual matters. Attendance at the pre-proposal conference is not mandatory but is highly recommended.

Please click on the following link to attend the meeting:

Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 293 312 197 299

Passcode: 3yv9xT

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

[+1 720-388-8447](tel:+17203888447), [381480643#](tel:+1381480643) United States, Denver

Phone Conference ID: 381 480 643#

In the event that this link does not work, interested firms may email Bryn Fillinger at bfilling@auroragov.org and provide an email address to be invited to the Pre-Proposal Conference Teams Meeting.

Please email Bryn Fillinger at bfilling@auroragov.org with the following information if your firm plans on participating in the meeting.

- Name of Company
- Name of Representative
- Representative's Phone Number
- Representative's Email Address

Tentative RFP Schedule

February 8, 2024	Pre-Proposal Conference 11:00 a.m.
February 16, 2024	Deadline for written questions at 4:00 p.m.
March 8, 2024	Proposals due to the Office of Purchasing Services, 4:00 p.m., via the Rocky Mountain E-Purchasing System
April 9, 2024	Selection of short-listed firms or top-ranked firm
Week of April 15, 2024	Interviews conducted with short-listed firms, if necessary
TBD	Selection of top-ranked firm
TBD	Negotiations with top-ranked firm completed
June 2024	Award to top-ranked firm approved by full Council
July 2024	Award actions completed

Selection Process

This RFP is being solicited under a multi-step procurement procedure. The first phase requires all firms to submit proposals addressing those items cited in Section II, Proposal Submittal Requirements, of this RFP. Proposals will be evaluated and ranked based on the evaluation criteria outlined in Section III, Evaluation Criteria. During the second phase, interviews may be held with a short-list of firms, if deemed necessary by the City’s evaluation committee.

In the final phase, negotiations will be held with the firm ranked the highest by the evaluation committee on the basis of the written proposal and interview, if interviews are conducted. The City and the top-ranked firm will then negotiate the details of the final contract, and Council approval will be requested. Upon Council approval, the contract will be signed, and work may begin. Should the City be unable to reach an agreement with the top-ranked firm, negotiations will commence with the next ranked firm. This process will continue until a satisfactory contract is negotiated, or the City exercises its right to reject all proposals.

Proposals will be considered only from firms or individuals who are firmly established in an appropriate business, who are financially responsible, and who have the resources and ability to offer services in a professional and expedient manner. The City may request additional information as deemed necessary. Failure to provide such information may result in the proposal being considered non-responsive.

The City reserves the right to reject any and all proposals, to waive any informalities in the proposals received, and to accept the proposals deemed most advantageous and in the best interests of the City.

MULTIPLE AWARDS

The City may award a contract to a single firm or, at the City’s option, to multiple firms if deemed to be in the best interest of the City.

Period of Award

The purpose of this Request for Proposals is to establish a pre-qualified list of firms for future appointment as Court Appointed Defense Counsel in Municipal Court for a three-year term starting in 2025. This pre-qualified list of firms will effectively expire on December 31, 2027, upon the expiration of said period, the contract will terminate automatically, without notice, written or oral.

Extensions

The City shall have the option to extend the contract for up to an additional four years, in 12-month increments, upon the same terms and conditions as determined by the Presiding Municipal Judge. If the City determines to extend the contract, not later than thirty days prior to expiration, the City shall send a notice in writing to the firm requesting firm pricing for the next twelve month period. After the City receives the firm pricing proposal from the firm, the City will determine whether to extend the contract. All awards and extensions are subject to the City's annual appropriation of funds. The foregoing provisions shall be null and void if the contract has been terminated or revoked during the initial term or any extension thereof. All decisions to extend the contract are at the City's sole option.

Conditions of Award

Terms and conditions of this Request for Proposal shall be incorporated in the award by a Professional Services Agreement (sample attached). No other documents, agreements, contracts or addenda will be a part of this Request for Proposal and/or award unless authorized by the Office of Purchasing Services.

Confidentiality

Please be aware that proposals submitted to the City in response to this RFP shall be subject to the Colorado Open Records Law, Section 24-72-201, et seq., C.R.S. Any privileged or confidential information in the firm's proposal shall be specifically identified as such by the firm. If any information is considered to be confidential, the firm shall agree to indemnify the City for any and all attorney fees the City may incur in defending the withholding of such information by signing and returning the letter found in Section VII of this RFP. Should the City receive a request for the release of any information in the firm's proposal in accordance with the open records law, the City will review the firm's proposal, giving consideration to the portions that the firm indicated contained trade secrets, privileged information, or confidential commercial, financial, geological, or geophysical data, and may release only that information which has not been identified as confidential so long as Section VII has been signed and returned by the firm along with the proposal. Should the firm choose not to sign and return Section VII, all information in the firm's proposal may be considered releasable by the City. Firms will be notified of any open records requests prior to the release of such information. If, in the opinion of City's legal counsel, the City is nonetheless compelled to disclose any portion of such information to anyone or else stand liable for contempt or suffer censure or penalty, the City may disclose such information without liability.

Licenses

The successful firm, without additional expense to the City, shall be responsible for obtaining any necessary licenses and for complying with any applicable federal, state, and municipal laws, codes, and regulations in connection with the prosecution of the services. The successful firm and any subfirms, if applicable, will be required to obtain an Aurora Business License. The successful firm shall provide the Aurora Business License number(s) to Bryn Fillinger, Manager of Purchasing Services, within thirty (30) days of contract award.

Addenda to the RFP

The City of Aurora reserves the right to amend, by an addendum or addenda to this RFP, **at any time and/or a multiple number of times** prior to the date set for receipt of the submission of proposals. Addenda or amendments will only be posted and updated on the Rocky Mountain E- Purchasing System located at www.bidnetdirect.com/colorado. It shall be the responsibility of the firms to obtain all addenda from the Rocky Mountain E-Purchasing System. **Parties obtaining bid information from other sources do so understanding that their information may be incomplete, inaccurate, or out of date and therefore wholly unreliable from a commercial perspective.** Firms registered for the paid bidding notification service shall be notified either by fax or email depending on the service that they have subscribed to. It shall be the responsibility of prospective firms registered for the no charge, no notification service on the Rocky Mountain E-Purchasing System to monitor the Rocky Mountain E-Purchasing System for any addenda. **Failure to do so may lead to reliance on incomplete, inaccurate, or out of date information when submitting proposals subjecting such proposals to automatic**

disqualification from consideration. If revisions are of such a magnitude to warrant, in the City of Aurora’s opinion, the postponement of the date for receipt of proposals, an addendum will be issued announcing the new date.

Questions

Written questions regarding this RFP shall be submitted by e-mail to Kendall Koca Senior Development Project Manager Senior at kkoca@auroragov.org and Bryn Fillinger, Manager of Purchasing Services at bfilling@auroragov.org no later than February 16, 2024, at 4:00 p.m. (MT). Questions received after this date and time may not be addressed. Responses to questions will be issued in an addendum to the RFP.

CONTACTS DURING THE SOLICITATION PROCESS

ANY QUESTIONS, COMMENTS, OR OTHER COMMUNICATIONS SHALL BE DIRECTED TO THE ABOVE INDIVIDUALS. NO OTHER CONTACT SHALL BE MADE REGARDING THIS RFP WITH ANY OTHER CITY STAFF, SELECTION COMMITTEE MEMBERS, COUNCIL MEMBERS, AGENTS, CONSULTANTS, ETC. DURING THE RFP PROCESS. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN THE OFFENDING FIRM BEING REMOVED FROM CONSIDERATION.

Acceptance of the RFP

By submitting a proposal in response to this RFP, the firm accepts all of the conditions described in this RFP, including the Professional Services Agreement, and agrees to abide by all final decisions made by the City.

CITY OF AURORA

Bryn Fillinger, Manager
Purchasing Services

- Attachments:
- Section I Scope of Work
 - Section II Proposal Submittal Requirements
 - Section III Evaluation Criteria
 - Section IV Special Conditions
 - Section V Sample Professional Services Agreement
 - Section VI Request for Business Size Status
 - Section VII Letter of Indemnification for Withholding Confidential Information
 - Section VIII W-9 Request for Taxpayer Identification

SECTION I

SCOPE OF SERVICES

The city of Aurora (City) is seeking proposals from qualified firms to provide public defender services for our municipality. Upon selection, the professional services agreement shall begin on January 1, 2025 and expire on December 31, 2027, unless extended in one-year increments, as determined by the Presiding Municipal Court Judge and compliance with C.R.S. 13-10-114.5.

Scope of Work:

The selected firm(s) will be responsible for providing full legal representation and providing all staffing (administrative, investigators, travel, training, trial evidence transcription services, out of court translation services, etc.) to indigent defendants in criminal cases within the City. This shall include, but not be limited to the following services:

1. Representing defendants at all critical stages of a criminal prosecution. The charged criminal offenses will vary from code offenses where jail is a possible penalty (zoning, animal control violations, nuisances, and building code violations) to criminal charges of all types such as: domestic violence, auto theft, assault, battery, theft, menacing, resisting arrest, etc. The critical stages of each criminal prosecution which require representation shall include but not limited to arraignments, bond hearings, pre-trial conferences, motions hearings, indigency determinations, trials, plea negotiations and appeals.
2. Conducting thorough legal research, analyzing case facts, filing motions, and providing expert advice to defendants, including but not limited to immigration consultation and advisement when required by law.
3. Coordinating competency evaluations with Court contracted doctors when competency is an issue.
4. Maintaining regular communication with clients, meeting with in-custody clients at County jail, attending court hearings, and advocating for their rights.
5. Collaborating with the court officials, and other stakeholders to ensure a fair and efficient legal process, including but not limited to monthly meetings with Presiding Judge, Court Administrator and Chief Deputy City Attorney.
6. Complying with all applicable laws, court rules, regulations, and ethical standards governing the provision of public defender services.
7. Officing on site to be present and available for the court's docket Monday through Fridays plus ½ day on Sundays. The proposal shall include coverage for five full-time divisions + one day for Problem-Solving Courts + one Wednesday for Probation Revocation hearings and Competency hearings + Sunday morning bond hearings. The Court requires coverage per the following:

Division 1:

Monday-all day (arraignments, pretrials, motions hearings, bench trials, sentencing)

Tuesday-all day (Jury trials)

Wednesday-all day (arraignments, pretrials, hearings, bench trials, jury status)

Thursday-all day (Jury trials)

Friday-all day (arraignments, pretrials, motions hearings, bench trials, sentencing)

Division 2:

Monday-all day (arraignments, pretrials, motions hearings, bench trials, sentencing)

Tuesday-all day (Jury trials)

Wednesday-all day (arraignments, pretrials, hearings, bench trials, jury status)

Thursday-all day (Jury trials)

Friday-all day (arraignments, pretrials, motions hearings, bench trials, sentencing)

Division 3:

Monday (In custody arraignments 8am-noon; Bond Return hearings 3pm-5pm)

Tuesday (In custody arraignments 8am-noon; Bond Return hearings 3pm-5pm)

Request for Proposal – R-2384 Public Defender Services

Wednesday (Probation revocation hearings 8am-noon; Bond Return hearings 3pm-5pm)
Thursday (In custody arraignments 8am-noon; Bond Return hearings 3pm-5pm)
Friday (In custody arraignments 8am-noon; Bond Return hearings 3pm-5pm)

Division 4:

Monday-all day (arraignments, pretrials, motions hearings, bench trials, sentencing)
Tuesday-all day (Jury trials)
Wednesday-all day (arraignments, pretrials, hearings, bench trials, jury status)
Thursday-all day (Jury trials)
Friday-all day (arraignments, pretrials, motions hearings, bench trials, sentencing)

Division 6:

Wednesday Only
8am-noon (Probation Revocation hearings)
1:30pm-3pm (Competency hearings)

Division 7:

Monday Only 8am-noon and 1:30pm-4pm
(Problem-Solving Courts: Armed Forces Treatment Court in morning +
Wellness Court in the afternoon)

Division 8:

Monday-all day (In Custody arraignments, pretrial conferences, bond hearings)
Tuesday-all day (In Custody arraignments, pretrial conferences, bond hearings)
Wednesday-all day (In Custody arraignments, pretrial conferences, bond hearings)
Thursday-all day (In Custody arraignments, pretrial conferences, bond hearings)
Friday-all day (In Custody arraignments, pretrial conferences, bond hearings)
Sunday-(In Custody bond hearings 8am-noon)

Non-Divisions:

Monday-Friday: Review applications for court appointed counsel per Colorado Supreme Court Chief Justice Directive 04-04; provide additional coverage in above listed divisions on an as needed basis.

SECTION II

PROPOSAL SUBMITTAL REQUIREMENTS

The proposals should be based on full legal representation for approximately 1,800 to 2000 court-appointed cases annually. The proposals shall anticipate conducting approximately 100 to 115 jury trials to verdict each year. In addition, the proposals should anticipate representing approximately 13 to 15 in-custody defendants each day at the initial arraignment/bond hearing (Monday-Friday) and 6 to 8 in-custody defendants on Sundays. Firms shall submit bids to cover all court divisions as listed above and cover all the court-appointed cases for the year. Submissions shall only be as an annual fee to include all incidentals such as administrative, investigations, and all preparation.

Interested firms shall provide the following information and documents as part of their proposal:

1. **Company/Firm Profile:** Provide an overview of your organization, including its history, experience in providing public defender services and/or municipal criminal defense, and any relevant credentials.
2. **Expertise and Qualifications:** Outline the qualifications and experience of the attorneys who will be assigned to handle cases for the city of Aurora, including any specialized knowledge or certifications.
3. **Case Management Approach:** Describe your approach to managing a caseload effectively and efficiently, including any innovative strategies or technologies utilized.
4. **References:** Provide contact information for at least three references from previous clients or organizations that can vouch for the quality of your public defender services.
5. **Pricing:** Clearly state your proposed pricing structure for the public defender services.
6. **Firm(s) responsible for providing insurance coverage based on the city requirements.**

Miscellaneous Items

Please include the following City forms (these forms do not count towards the page size limits for the total number of pages that the technical proposals are limited to):

1. Open Records Request Form
2. Request for Business Size Status Form
3. Completed W-9, Request for Taxpayer Identification Number and Certification

The City reserves the right to obtain financial data or other supplemental information concerning the firm and/or its proposed sub-consultants.

SECTION III
EVALUATION CRITERIA

1. Proposals will be evaluated based on the following criteria:
2. Experience
3. Expertise of attorneys
4. Proposed case management approach
5. References
6. Pricing

SECTION IV

SPECIAL CONDITIONS

FIRM RESPONSIBILITY FOR PROPOSAL COSTS

The City is not liable for any costs incurred by any firm associated with the preparation of a proposal, the negotiation of a contract, or for services prior to the award of the Agreement.

Selected firms may be asked to present their proposals and/or to demonstrate the ability to provide products or services to the City's representatives in Aurora or at another mutually agreeable location. The firms shall bear all costs of such presentations.

PROPOSALS BINDING UPON FIRMS

Firms are advised that their proposals shall be binding upon the firm for **ninety (90) calendar days** from the proposal due date. A firm may withdraw or modify their proposal any time prior to the proposal due date by a written request, signed in the same manner and by the same person who signed the proposal.

SAMPLE PROFESSIONAL SERVICES AGREEMENT

Included in this package is a sample of the standard "Professional Services Agreement" used by the City. Firms are requested to review this document and comment on any areas of objections and include them in their proposals.

INSURANCE REQUIREMENTS

Attached to the sample "Professional Services Agreement" is a copy of the City's current insurance requirements (Form 410-33).

INDEPENDENT CONTRACTOR

The successful firm is an independent contractor. **THE INDEPENDENT CONTRACTOR IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS. AN INDEPENDENT CONTRACTOR IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONIES EARNED PURSUANT TO THE CONTRACT RELATIONSHIP. ADDITIONALLY, IT IS UNDERSTOOD THAT THE INDEPENDENT CONTRACTOR IS NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS UNEMPLOYMENT COMPENSATION COVERAGE IS PROVIDED BY THE INDEPENDENT CONTRACTOR OR SOME ENTITY OTHER THAN THE CITY OF AURORA, COLORADO.**

SUBLETTING OF CONTRACT

The consulting firm will agree not to assign or sublet the whole or any part of the contract without the prior written consent of the City.

CHANGES IN SCOPE OF SERVICES

The City will agree that any change of scope in the services to be performed after the original contract has been signed shall be documented as a written change order, be accepted by all parties, and made a part of the original contract by amendment.

SECTION V
SAMPLE PROFESSIONAL SERVICES AGREEMENT



PROFESSIONAL SERVICES AGREEMENT

CITY OF AURORA
AURORA, COLORADO

TITLE: _____
FILE NO.: _____
P.O. NO.: _____

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Attachments

- Attachment 1: Scope of Work
- Attachment 2: Milestone Schedule
- Attachment 3: Compensation
- Attachment 4: Insurance Requirements

AGREEMENT

This Agreement is made as of the ____ day of ____, 20, by and between the City of Aurora, Colorado ("City"), and _____("Consultant"), with a principal place of business at_____.

WHEREAS, the City intends that Consultant shall perform professional services for the City; and

WHEREAS, Consultant represents that it has the present capacity, is experienced and qualified to perform professional services for the City as hereinafter provided in this Agreement;

NOW, THEREFORE, in consideration of the promises and mutual covenants and obligations set forth herein, the Parties mutually agree as follows:

Section 1 – Scope of Work

A. Consultant agrees to provide professional services as stated in the scope of work ("Work") specified in **Attachment 1**, attached hereto and incorporated into this Agreement.

B. The City shall have the right to disapprove any portion of Consultant's Work on the Project which does not comply with the requirements of this Agreement. If any portion of the Work is not approved by the City, Consultant shall proceed when requested by the City with revisions to the Work to attempt to satisfy the City's objections. If said revised Work is acceptable, the City will provide prompt written approval. Correction or completion of Work which does not comply with the requirements of this Agreement shall be made without adjustments to the compensation for Consultant's services provided for hereunder unless the revisions are made to Work previously approved for previous tasks, in which case, Consultant's compensation shall be adjusted. It is the intent of the parties that Consultant shall promptly correct any defective, inaccurate or incomplete tasks, deliverables, services or other work, without additional cost to the City. The acceptance of Consultant's services by the City shall not relieve Consultant from the obligation to correct subsequently discovered defects, inaccuracies or incompleteness resulting from Consultant's negligent acts, errors or omissions.

C. Nothing in this Agreement shall be construed as placing any obligation on the City to proceed with any tasks beyond those which have been specifically authorized in writing by the City.

D. The City may, from time to time and in conjunction with Consultant, request changes in the scope of the services of the Consultant to be performed herein. Changes may include, but not be limited to, the type and scope of services provided by Consultant and the quantity or quality of Consultant's staffing for required services. Such changes, including any increase in the amount of the Consultant's compensation, which are mutually agreed upon between the City and Consultant, shall be incorporated in written change orders, amendments or extensions to this Agreement.

Section 2 - Authority

A. _____, ("Project Manager") is the City's Project Manager and the City's authorized representative. The Project Manager is responsible for authorizing and approving all Work performed under this Agreement. All Work to be performed by Consultant shall be authorized in writing by the Project Manager as provided by this Agreement. All communications related to the Project shall be with the Project Manager and, in his absence, a person to be designated by him. The Project Manager is authorized to make decisions on behalf of the City related to the Work. The Project Manager shall be responsible for the day-to-day administration, coordination and approval of Work performed by Consultant, except for approvals which are specifically identified in this Agreement as requiring the approval of City of Aurora's City Council.

B. _____ ("Consultant's Representative") is Consultant's representative for the Work. Consultant's Representative shall have sufficient authority to represent and bind Consultant in those instances when such authority is necessary to carry out Consultant's responsibilities and obligations under the terms of this Agreement.

Section 3 - Schedule

A. In performing professional services pursuant to this Agreement, Consultant acknowledges that timely completion of the Work is critical and time is of the essence. Accordingly, all services to be performed under this Agreement shall be commenced immediately upon execution of this Agreement by the parties hereto, approval by the City as required by applicable law, issuance of a Purchase Order from the City, and in accordance with the milestone schedule set forth in **Attachment 2**, attached hereto and incorporated into this Agreement.

B. The initial term of this Agreement shall run from the date of approval by the Aurora City Council and issuance of a notice to proceed until _____. Subject to the availability of appropriated funds, as provided elsewhere in this Agreement, and agreement between the City and Consultant concerning additional and/or continuing Work, as reflected in additional or revised scope(s) of work, this Agreement may be extended on an annual basis by the City by a written notice to Consultant after approval by the City Council.

Section 4 - Compensation

A. The compensation to be paid Consultant under this Agreement, as provided hereinafter, covers the entire cost of the professional services under this Agreement. The initial compensation of this Agreement shall not exceed _____, (\$0.00) as more fully set forth in **Attachment 3**, attached hereto and incorporated into this Agreement. Consultant agrees to cooperate fully with the City to keep the total compensation within this limit.

B. This Agreement is subject to annual appropriation by the Aurora City Council and, in the absence of appropriated funds, the City may terminate this Agreement. The City has appropriated money for the 20__ fiscal year at least equal to the foregoing annual compensation for this work. The City may, from time to time and in its sole discretion, appropriate additional amounts to reflect extensions of this Agreement beyond the close of the 20__ fiscal year and additional and/or continuing scope(s) of work. Notwithstanding any other language in this Agreement, City shall issue no Change Order or other form of order or directive requiring additional compensable work that will cause the foregoing annual compensation to exceed the amount appropriated unless City gives Consultant written assurance that City has made lawful appropriations to cover the costs of the additional work.

C. Nothing in this Agreement is a pledge of the City's credit, or a payment guarantee by the City to Consultant. The obligation of the City to make payments hereunder shall constitute a currently budgeted expense of the City, and nothing contained herein shall constitute a mandatory liability, charge, or requirement of or against the City in any ensuing fiscal year beyond the then current fiscal year. This Agreement shall never constitute a general obligation or other indebtedness of the City, or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City within the meaning of the Constitution and laws of the State of Colorado or of the Charter and ordinances of the City. In the event of a default by the City of any of its obligations under this Agreement, the Contractor shall have no recourse against any revenues of the City. Notwithstanding any language herein to the contrary, nothing in this Agreement shall be construed as creating a lien against any revenues of the City.

D. The City shall pay Consultant in accordance with the terms of this Agreement as reflected in the Fee Schedule set forth in **Attachment 3**.

E. Consultant shall submit monthly invoices to be approved by the City's Project Manager. Consultant shall submit its monthly invoices no later than close of business on the fourteenth (14th) calendar day of the month after which the work was performed; provided, however, that if that day falls on a weekend or holiday, then monthly invoices shall be submitted no later than close of business on the next regular business day of the month. Upon submission of an approved Consultant invoice, in the proper form, to the City, payment shall be issued. It is to be understood and agreed that the City may require up to thirty (30) days to process payment after date of receipt of invoicing.

Section 5 - Staffing

A. The Consultant personnel listed below are essential to the proper performance of the services under this Agreement:

<u>Name</u>	<u>Title</u>
-------------	--------------

The above-identified individuals are key persons and will be available to perform the Work. Consultant agrees to make key personnel available as required to perform the Work as long as such persons are employed by Consultant. Consultant shall obtain the prior written approval of the City before appointing other Consultant personnel as a substitute(s) for the above-named key personnel. The City reserves the right to reject proposed replacement personnel, or require the replacement of any Consultant personnel; however such City action shall not subject the City to any liability to Consultant nor be used by Consultant as an excuse for failure to meet the requirements of this Agreement.

B. Consultant shall insure the quality, timeliness, and continuity of services are maintained through the duration of the project. Consultant shall avoid changes to the key personnel to the extent possible.

C. Consultant shall inform the City in writing of any non-employee persons or firms it intends to hire to perform any Work required by this Agreement and shall keep the City informed of any changes or additions to this information. The City shall approve in writing any additional firms prior to commencement of Work. Consultant shall be responsible for any Work performed under this Agreement, including that portion of the Work performed by other individuals or firms. Nothing contained herein shall create any contractual relationship between any additional persons and/or firm(s) and the City.

Section 6 - Insurance

A. Consultant shall provide the appropriate certificates of insurance and Worker Compensation documents, at no cost to the City, as described in **Attachment 4**. The Consultant further agrees and understands that they are to maintain and keep in force the appropriate insurance policies throughout the term of this Agreement.

B. Consultant shall be responsible for any injury to persons or damage to property to the extent arising from negligent or otherwise wrongful acts, errors and omissions of Consultant, its agents and employees. If Consultant knows of the damage Consultant shall immediately notify the City. If the City discovers the damage, City will notify Consultant immediately. Repair shall be accomplished under City direction and to City specifications so property is in as good or better condition than before damage. Consultant shall provide the City with a certificate of liability coverage in accordance per the attached form 410-33, **Attachment 4**.

C. The Consultant's policy will be primary and non-contributory with respect to any and all insurance policies purchased by the City.

D. Nothing herein is intended to be construed or shall be construed to be a waiver of the City's governmental immunity under Section 24-10-101 et. seq., C.R.S. as amended.

Section 7 - The City's Responsibilities

A. The City shall:

1. Provide necessary information to Consultant to facilitate Consultant in performing the Work;

2. Give prompt notice to Consultant whenever the City observes or otherwise becomes aware of any deficiencies or discrepancies in the services provided;

3. Furnish, or direct Consultant to provide, at the City's expense, any necessary additional services;

4. Examine all documents submitted by Consultant, and, if requested by Consultant, provide comments and decisions in a timely manner in order to allow the Consultant's work to proceed.

B. Consultant shall not be liable for delays in performing the Work when such delays are caused by the City, the City's other Consultants, or by events which are outside of the control of the Parties and which events could not be avoided by the exercise of due care.

Section 8 - Mutual Obligations

A. This Agreement does not guarantee to Consultant any additional or future work except as expressly authorized herein.

B. This Agreement does not create or imply an exclusive agreement between Consultant and the City.

C. The services and any and all interests contemplated under this Agreement shall not be assigned or otherwise transferred except with the written consent of the City.

D. All documents of any nature prepared by Consultant in connection with the services provided by Consultant under the terms of this Agreement shall become the property of the City.

E. Consultant shall not utilize work product, data, information, results, and materials produced as part of its efforts under this Agreement for any promotional or public relations purposes whatsoever without the express, prior, written consent of the City.

Section 9 - Termination

A. Termination for Cause - In the event a material breach of this Agreement remains uncured following written notice of said breach by City, the City may immediately terminate this Agreement upon written notice specifying the effective date thereof; provided however, the City may, in its discretion and for good cause, allow Consultant to cure any breach or submit an acceptable plan to cure such breach within ten (10) days of such written notice.

B. Termination for Convenience

1. Change in City Policy. The City may terminate this Agreement at any time upon thirty (30) days notice specifying the date thereof, provided Consultant shall be compensated in accordance with this Agreement for all work performed up to the effective date of termination.

2. The City's total liability under this Agreement, inclusive of termination costs, shall not exceed the lesser of total amount of this Agreement or the total amount of funds which have been appropriated specifically for this Agreement.

3. Consultant shall be entitled to reasonable incurred costs for terminating its activities under this Agreement, including those of its sub-consultants, if this Agreement is terminated for the City's convenience; provided however, in no event shall the City's total liability to Consultant exceed the total amount of funds which have been appropriated specifically for this agreement.

C. Effect of Termination

1. Termination Costs. After receipt of written notification that this Agreement has been terminated under this section, Consultant shall incur no further costs other than reasonable termination costs associated with current activities.

2. Ownership of Work Product. In the event of termination, all finished and unfinished Project deliverables prepared by Consultant pursuant to this Agreement shall become the sole property of the City, provided Consultant is compensated in accordance with this Agreement for all work performed in accordance with this Agreement up to the effective date of termination. Consultant shall not be liable with respect to the City's subsequent use of any incomplete work product, provided Consultant has notified the City in writing of the incomplete status of such work product.

3. City's Right to Set-Off and other Remedies. Termination shall not relieve Consultant from liability to the City for damages sustained as the result of Consultant's breach of this Agreement; and the

City may withhold funds otherwise due under this Agreement in lieu of such damages, until such time as the exact amount of damages, if any, has been determined.

4. If this Agreement terminated for cause as provided in this section and it is subsequently determined that the City's termination of this Agreement for cause was improper, then the termination for cause shall be considered to be a termination for convenience and the procedures in this section related to a termination for convenience shall apply.

Section 10 - Miscellaneous Provisions

A. Consultant, at all times, agrees to observe all applicable Federal and State of Colorado laws including but not limited to 8-17.5-102, C.R.S., Ordinances and Charter Provisions of the City of Aurora, and all rules and regulations issued pursuant thereto, which in any manner affect or govern the services contemplated under this Agreement.

B. Consultant shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, age, sex (gender), religion, creed, or physical or mental disability. Consultant:

1. Shall adhere to lawful equal opportunity guidelines in selecting employees, provided that no person is illegally discriminated against on any of the preceding bases. This provision shall govern, but shall not be limited to, recruitment, employment, promotion, demotion, and transfer, and advertising therefor; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship;

2. Shall post, in all places conspicuous to employees and applicants for employment, notices provided by the State of Colorado setting forth the provisions of this nondiscrimination clause. All solicitations and advertisements for employees placed by or on behalf of the Consultant, shall state that Consultant is an equal opportunity employer;

3. Shall cause the foregoing provisions to be inserted in all subcontracts for any work contemplated by this Agreement or deemed necessary by Consultant, so that such provisions are binding upon each sub-consultant;

4. Shall keep such records and submit such reports concerning the racial and ethnic origin of employees and of applicants for employment as the United States, the State of Colorado, the City of Aurora, or their respective agencies may require; and,

5. Shall comply with such rules, regulations and guidelines as the United States, the State of Colorado, the City of Aurora, or their respective agencies may issue to implement these requirements.

C. By executing this agreement, Consultant acknowledges an understanding of and expressly agrees that all work performed under this Agreement is that of an independent contractor. An independent contractor is not a City of Aurora employee and as such is not entitled to Workers' Compensation benefits. Consultant is obligated to pay Federal and state income tax on any monies earned pursuant to the contractual relationship. It is expressly understood between the City of Aurora and Consultant that Consultant, as an independent contractor, is not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by Consultant or some entity other than the City of Aurora, Colorado.

D. All notices, demands, or other documents or instruments required or permitted to be served upon either Party hereto shall be in writing and shall be deemed duly served when delivered in person to an officer or partner of the Party being served, by facsimile transmission or when mailed certified or registered mail, return receipt requested, postage prepaid addressed to parties at the addresses stated below:

City: Office of the City Attorney
15151 East Alameda Parkway
5th Floor
Aurora, Colorado 80012

Consultant Representative:

Section 11 - Examination of Records (This section applies if this Agreement exceeds \$10,000.00.)

A. The Internal Auditor of the City of Aurora, or a duly authorized representative from the City of Aurora shall, until three (3) years after final payment under this Agreement, have access to and the right to examine any of the Consultant's directly pertinent books, documents, papers, or other records involving transactions related to this Agreement.

B. Consultant agrees to include in first-tier sub-consultants under this Agreement a clause to the effect that the City's Internal Auditor, or a duly authorized representative from the City of Aurora shall, until three (3) years after final payment under the subcontract have access to and the right to examine any of the Consultant's directly pertinent books, documents, papers, or other records involving transactions related to the subcontract. "Subcontract," as used in this clause, excludes (1) purchase orders not exceeding \$10,000.00 and (2) subcontracts or purchase orders from public utility services at rates established to apply uniformly to the public, plus any applicable reasonable connection charge.

C. The periods of access and examination as noted above for records relating to (1) litigation or settlement of claims arising from the performance of this Agreement, or (2) costs and expenses of this Agreement to which the City, acting through its duly authorized designee, has taken exception, shall continue until such appeals, litigation, claims, or exceptions are finally resolved.

Section 12 - Indemnification

A. The Consultant shall indemnify, hold harmless and, not excluding City's right to participate, defend the City, its officials, officers, employees, volunteers and agents from and against all liabilities, actions, losses, claims, damages, costs and expenses, including without limitation reasonable attorney fees and costs, expert witness fees, arising out of or resulting in any way from the performance of Consultant's services for the City and caused by negligent acts, errors, and omissions of the Consultant or any person employed by it or anyone for whose act the Consultant is legally liable.

B. The insurance coverage specified in this Agreement constitutes the minimum requirements and these requirements do not lessen or limit the liability of Consultant hereunder. Consultant shall maintain, at its own expense, any additional kinds and amounts of insurance that it may deem necessary under this Agreement.

C. Patents Infringement: The Consultant shall indemnify, defend and hold harmless the City Indemnities from and against all suits or actions for infringement or unauthorized use of any patent, trademark, copyright or trade secret relating to the services under this Agreement. The Consultant's indemnity pursuant to this Section shall apply only when infringement occurs or is alleged to occur from the intended use for which the deliverable material was provided by the Consultant pursuant to this Agreement. Consultant shall not be held liable for any suits or actions of infringement of any patent, trademark, or copyright arising out of any patented or copyrighted materials, methods, or systems specified by the City under the Agreement or Change Order or infringement resulting from unauthorized additions, changes or modifications to the deliverable material made or caused to be made by the City subsequent to delivery by the Consultant. Consultant also agrees to notify the City upon the knowledge of any potential infringement claim, so that the City may provide input on suggested solution.

D. Consultant agrees that it will contractually obligate its sub-consultants to indemnify and hold harmless the indemnitees identified in this Section to the same extent that Consultant is required to indemnify and hold harmless said indemnitees.

In **WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the day and year first above written.

CITY OF AURORA, COLORADO

By: _____

Name: _____

Title: _____

Date: _____, 20____

RISK MANAGEMENT: _____
Risk Manager

APPROVED AS TO FORM: _____
Assistant City Attorney

CONSULTANT

By: _____
(Signature)

Name: _____
(Type or Print)

Title: _____

Date: _____, 20____

Attachment 4

INSURANCE REQUIREMENTS

During the term of this Agreement and until final acceptance by the City of all work covered by the Purchase Order or contract, the Attorney performing services under this agreement shall provide, pay for and maintain in full force and effect the types and minimum limits of insurance indicated below covering the Attorney, its employees, sub-Attorneys or representatives, along with the activities of any and all sub-Attorneys retained by the or the activities of anyone employed by any of them, or their representatives or anyone for whose acts the Attorney may be liable. The Attorney's policy will be primary and non-contributory with respect to any and all insurance policies purchased by the City.

Attorney Malpractice or Professional Liability Insurance. The Attorney shall maintain professional liability insurance with minimum limits of Five Hundred Thousand Dollars (\$1,000,000) per claim, covering claims which arise out of any wrongful act, error, or omission of the Attorney, carried on a claims-made basis, and maintained in full force and effect for the term of this Agreement. Any retroactive date or prior acts exclusion to which such coverage is subject shall pre-date both the date upon which any services hereunder are commenced and the date of this Agreement. In the event that coverage is renewed during the original term of any subsequent term of this agreement, a replacement certificate will be sent to the City within ten (10) days of the expiration date of any previously delivered certificate.

Commercial Property Insurance. The Attorney shall provide Commercial Property insurance against all risks of physical loss or damage to or destruction of the personal property, fixtures, furnishings, and equipment located on the premises. The Attorney acknowledges and agrees that the City will not be responsible for damage to or destruction of any of its personal property used at the premises in accordance with this agreement.

Commercial General Liability Insurance. The Attorney will maintain a Commercial General Liability Insurance policy covering all operations by or on behalf of the Attorney for claims for arising out of personal injury, including bodily injury and death, and property damage, including loss of use thereof, in an amount not less than \$1,000,000 per occurrence/ \$2,000,000 General Aggregate. Coverage will include Products/Completed Operations and Contractual Liability. The Attorney shall name the City as an Additional Insured by endorsement.

Workers' Compensation and Employers Liability Insurance. The Attorney 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 Attorney shall maintain Employers Liability Insurance with minimum limits of: \$100,000 bodily injury for each accident, \$100,000 bodily injury by disease each employee and \$100,000 bodily injury disease aggregate.

If Attorney has no employees, then the Attorney will not be required to provide workers' compensation per Colorado law.

Any Subcontracted Attorney will provide the same insurance required for the Attorney. The Attorney shall ensure that Subcontracted Attorney(s) meet the above requirements before they are permitted to commence work and for the duration of any work performed per this agreement.

Certificates of Insurance. Upon the execution of this Agreement, the Attorney shall provide certificates of insurance to the City of Aurora demonstrating that the minimum coverages required herein are in effect. Attorney agrees that it will notify the City of any coverage reduction, cancellation, non-renewal, or material change to its policies. All certificates of insurance must be kept in force

throughout the duration of the services. If any of Attorney's or its sub-Attorney's coverage is renewed at any time prior to completion of the services, the Attorney shall be responsible for obtaining updated insurance certificates for itself and such sub-Attorneys from the respective insurance carriers and forwarding the replacement certificates to the City within ten (10) days of the expiration date of any previously delivered certificate.

The minimum A.M. Best rating of each primary insurer shall be A- VIII. The Attorney's or subcontracted Attorney's policies will be primary and noncontributory with respect to any and all insurance policies purchased by the City.

SECTION VI
REQUEST FOR BUSINESS STATUS

RFP R-2384

Please provide the information requested below.

The North American Industry Classification System (NAICS) code for this award is 54119.

The small business size standard the City of Aurora designates for this award is \$10.25M
 U.S. dollars Employees

Identify the business size status of your firm based on the above small business size standard:

- Large Business
- Small Business Enterprise

Please identify if your firm is in one of the following categories

- Minority-owned vendor
- Woman-owned vendor
- Minority/woman-owned vendor
- Veteran
- Disabled Veteran
- Other

From what source did you learn about his solicitation to which you are now responding?

- Website;
- Newspaper (please name the paper);
- Fax;
- Automatic notice by E-mail;
- Telephone call from buyer;
- Other (please describe):

Name, address, phone #, e-mail of business, and point of contact preparing this information.

SECTION VII

City of Aurora

Purchasing Services
15151 E. Alameda Parkway, Suite 5700
Aurora, Colorado 80012
Phone: 303-739-7100
www.auroragov.org



Re: **Request under the Colorado Open Records Act**
Request for Proposal Number R-2384 – Public Defender Services

Proposals submitted by firms in response to the City of Aurora's Request for Proposal R-2384 are subject to the Colorado Open Records Act. Should the City receive a request for the release of any information in the firm's proposal in accordance with the open records law, the City will review the firm's proposal, giving consideration to the portions that the firm indicated contained trade secrets, privileged information, or confidential commercial, financial, geological, or geophysical data, and may release only that information which has not been identified as confidential and/or proprietary in your proposal pursuant to C.R.S. 24-72-201.

By having an authorized officer of the company sign below, the firm agrees to indemnify the City of Aurora for any and all attorney fees that the City may incur in defending the withholding of such information.

Firm

By: _____
Signature

Name (Type or Print)

Title

Date

SECTION VIII

W-9

REQUEST FOR TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION

Form W-9 can be found at the following link:

<http://www.irs.gov/uac/Form-W-9,-Request-for-Taxpayer-Identification-Number-and-Certification>

TO: Mayor Mike Coffman and Members of the Aurora City Council – *Via email*

CC: City Manager Jason Batchelor
Presiding Judge Shawn Day
City Clerk, Kadee Rodriguez
Chief Public Defender, Elizabeth Cadiz

FROM: Kimberly J. Simmons
Executive Director
Texas RioGrande Public Defender
Phone: 210-321-9865
Mobile: 208-724-9734
Email: ksimmons@trla.org

December 12, 2023

Re: Privatization of the Aurora Municipal Public Defender

Dear Mayor Mike Coffman and esteemed members of the Aurora City Council,

I am writing to express my deep concern regarding the recent resolution seeking the privatization of the Aurora Municipal Public Defender. As a career public defender, providing both direct representation and administration of public defense services, I caution the city of Aurora in taking this step. While I understand the need for responsible fiscal management, I believe the costs associated with privatization may outweigh the perceived benefits and compromise the efficiency and quality of services provided to the City of Aurora.

I have served in public defense for over 20 years. Just prior to my current position as the Executive Director of a public defense agency in Texas, I served as the Municipal Court Coordinator at the Office of Alternate Defense Counsel in Denver. In that position, I became quite knowledgeable about the municipal courts of Colorado, specifically in the provision of public defense services. I designed and implemented a program to evaluate court-appointed counsel in municipal courts and contracted with several municipal courts to provide counsel to indigent municipal defendants. Through that process, I became familiar with the Aurora Municipal Public Defender's office. In fact, we held (and currently hold) a contract to provide representation in cases where there is a conflict for that office. In pursuing the privatization of public defense services in Aurora, I urge you to consider the recording of an expert panel held on November 15th, 2023 in which I participated, the resources generated for that panel as well as this letter.

Public Defender offices play a crucial role in ensuring access to justice for individuals who cannot afford legal representation. The Aurora Municipal Public Defender's Office is dedicated to upholding the constitutional right to legal counsel and provides a vital service to our justice system. The proposed privatization may inadvertently jeopardize the very principles our legal system is built upon.

Several general considerations merit attention:

- 1) **Costs:** Privatization may initially seem cost-effective, but a comprehensive analysis should take into account the long-term financial implications. The cost of providing constitutionally required, effective representation has been studied for several decades. The results consistently show that flat-fee and managed assigned counsel systems generally cost more than institutional defender offices. Privately operated entities often have profit-driven motives, leading to potential conflicts of interest and increased overall costs. In these systems, the lawyer understands that their personal income is tied to "keeping the judge happy" rather than zealously advocating for their clients and the focus becomes resolving cases, especially in flat-fee systems, because the filing of motions extends the life of the case, thereby reducing the attorney's profit.¹ These systems are less efficient and the quality of services undoubtedly suffers. I saw this during my tenure in Colorado working with municipal courts, especially with larger municipalities. Public defender offices are driven by a commitment to justice rather than profit, and should be considered over private contracts.
- 2) **Quality of Service:** Public defender offices, including the office in Aurora, are staffed by professionals dedicated to public service and have experience handling a diverse range of cases. The privatization of such services may result in a focus on financial motives over the provision of high-quality legal representation. This shift could undermine the rights of individuals who rely on public defenders for competent and effective advocacy.
- 3) **Community Impact:** The privatization of public defender services in Aurora may disrupt the sense of trust and accountability that exists between the community and public institutions. The perception that legal representation is driven by financial motives rather than a commitment to justice may erode public confidence in the fairness of Aurora's justice system.

The City of Aurora has an obligation to provide constitutionally adequate public defense services for as long as the city intends to seek jail for defendants. As the Municipal Court Coordinator in Denver, I saw that municipalities had difficulty overseeing the quality of services with private contracts, overseeing the workloads carried by private contractors, and managing the day-to-day work of the attorneys. Private contractors failed to meet with clients in a timely manner creating a backlog of cases due to requests for continuance, failed to appear at initial appearance resulting in more people

¹ "Fixed annual contract rates for an unlimited number of cases create a conflict of interest between attorney and client, in violation of well-settled ethical proscriptions compiled in Guidelines for Negotiating and Awarding Governmental Contracts for Criminal Defense Services." *The Guarantee of Counsel: Advocacy & Due Process in Idaho's Trial Courts*, January 2010, National Legal Aid & Defender Association, page 8.

being held in custody pre-trial increasing jail costs, and failed to advise clients of the full consequences of a guilty plea, increasing post-conviction filings.

I respectfully urge you, Mr. Mayor, and members of City Council, to carefully consider the long-term consequences of privatizing public defender services. It is imperative that you weigh any potential cost savings against the potential compromise in the quality and efficiency of legal representation for your community members. I do not believe that the City of Aurora would see cost savings, but even if the initial costs decrease, the potential for other costs to increase overtime is not insignificant. The administration of private contracts takes time and manpower. Ensuring representation is provided without conflict requires time and manpower. Finally, devolution of due process in favor of cost containment results in lawsuits against governmental entities. The cost of such potential lawsuits against the City of Aurora if constitutionally required representation is not provided, greatly outweighs any potential cost savings.

“The independence of counsel in municipal courts is vital because municipal courts are vital... There’s nothing lesser about them for the people, the residents, and the defendants who show up in court...We have an adversarial system of justice which means it doesn’t work without competent, zealous defense counsel. The prosecutor can’t do their job, the judge can’t do their job...the competence of counsel is making every piece of the criminal system all the way down through policing, making it possible for us to rely on it.”²

I appreciate your dedication to serving our community, and I trust that you will give due consideration to the concerns raised by myself and several other experts in public defense.

Thank you for your time and commitment to the well-being of the City of Aurora.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kimberly S.', with a long horizontal flourish extending to the right.

Kimberly Simmons
Executive Director
Texas RioGrande Public Defender

² Professor Alexandra Natapoff, Havard Law School, Expert Panel on APDO Privatization, November 15, 2023.

Ernie Lewis
Ed Monahan
Frankfort and Lexington, Kentucky

January 2, 2024

Re: Aurora Public Defender's Office

Dear Mayor Mike Coffman and Members of the Aurora City Council,

We know that full-time public defense provides high public value. We have decades of experience as public defenders. We have a combined 21 years of running Kentucky's full-time public defense program. We strongly encourage you to continue the full-time delivery model of public defense because it:

- Is the most cost-effective as it maximizes efficient representation that is timely provided by specialists located in Aurora;
- Provides the best services over all of the cases which reduces dissatisfied clients and lessens legal actions by client subsequent to the disposition of their case; and
- Promotes confidence in the validity and reliability of the community's criminal legal system.

Governments employ full-time prosecutors, judges, and police for good reasons. These full-time professionals provide cost-effective professional service with critical expertise that is managed for efficiency and quality with staff trained and held accountable for performance. There has never been an attempt to privatize these basic governmental functions.

The full-time method of delivering public defense services is a comparable governmental function, mandated by the Constitution and *Gideon v. Wainright*. The full-time method of delivering public defense services is the preferred way to provide legal representation as recognized by national best practices.

The American Bar Association *Ten Principles of a Public Defense Delivery System* (2023)'s Principle 2 on Funding, Structure, and Oversight is clear that the full-time method of public defense is preferred when the caseload is sufficient to support an office. See also, National Association for Public Defense *Foundational Principles*, Principle 2 (2017).

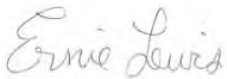
Full-time delivery of public defense services has been the national standard for decades. The ABA *Criminal Justice Standards: Providing Defense Services*, Standard 5-1.2 (1992) states, "When adequately funded and staffed, defender organizations employing full-time personnel are capable of providing excellent defense services. By devoting all of their efforts to legal representation, defender programs ordinarily are able to develop unusual expertise in handling various kinds of criminal cases. Moreover, defender offices frequently are in the best position to supply counsel soon after an accused is arrested."

I, Ed Monahan, was a full-time Kentucky public defender for 37 years and was the chief of the statewide public defense program for nine years. I have provided expert witness evaluations of public defense programs and testimony in litigation for inadequate public defense. As a result of these experiences, I encourage you to maintain the full-time Aurora Public Defender's Office.

I, Ernie Lewis was a full-time Kentucky public defender for 31 years. In the initial part of his career, I helped manage a system that featured assigned and contract counsel. I observed this system as cost-

efficient and low quality. I ran a full-time trial office for 13 years and saw that it was much superior in both efficiency and quality of representation to both the assigned counsel and contract methods. I became Public Advocate in 1996 at a time that 47 counties were covered by the full-time method of delivery and 73 counties by the contract method. The Public Advocacy Commission established the goal of moving to the full-time method of delivery in all of Kentucky's 120 counties, a goal that was achieved by 2005. It was the experience overall that convinced me that the full-time method is the far superior method of delivery. It is this context that leads me to assert strongly that Aurora would be making a big mistake, perhaps a constitutional mistake, if it closed the existing full-time office and moved backwards toward a contract system.

Sincerely,

Handwritten signature of Ernie Lewis in black ink.

Ernie Lewis
Frankfort KY

Handwritten signature of Edward L. Monahan in blue ink.

Ed Monahan
Lexington KY

cc: City Manager, Jason Batchelor
Presiding Judge, Shawn Day
City Clerk, Kadee Rodriguez
Chief Public Defender, Elizabeth Cadiz



December 11, 2023

Dear Honorable Members of the Aurora City Council,

With genuine concern and a commitment to justice, we, at the Denver Justice Project, would like to address the recent decision to privatize the Aurora Public Defender's Office. Despite its portrayal as a cost-saving measure, this decision has the potential to compromise the City of Aurora's core values of justice, fairness, and community well-being. Public defense is essential for individuals in socioeconomically vulnerable positions; ensuring fair representation and potentially having profound implications on the preservation of justice for marginalized communities.

We understand the complexities involved in budgetary considerations, but it is crucial to acknowledge that the Aurora Public Defender's Office constitutes only 0.01% of the Aurora City Budget. Public defender offices provide inherent advantages when it comes to cost-effectiveness, as the nuances of various private defense models—from flat fee contracts to hourly wage systems—indicate potential conflicts of interest, financial inefficiencies, and most importantly, a compromised defense for those accused, ultimately leading to a 20%-30% higher cost for the City and taxpayers. Maintaining public defense as a municipal function reflects not only financial responsibility, but also a commitment to a well-rounded legal system.

Beyond financial considerations, the privatization of the Aurora Public Defender's Office threatens an individual's right to quality legal representation that genuinely serves in their best interest, and weakens the crucial front line of defense against unjust policing practices. Studies demonstrate that representation by public defense leads to 25% shorter sentences, ensuring better outcomes for individuals and upholding justice within the criminal legal system. In the City of Aurora, public defenders showcased their commitment to justice by securing victories in 75% of their jury trials last year. This success rate underscores their dedication to ensuring a fair trial and reinforces the vital role that this Office plays in protecting members of the community.

We sincerely urge the Aurora City Council to rethink this decision, taking into consideration its broad impact on equity and impartiality. The City of Aurora has embraced a set of missions, goals, and values: a commitment to deliver high-quality municipal services and ensure a safe community for its residents. We firmly believe that the choice to privatize undermines those commitments. At the Denver Justice Project, we are dedicated to collaborating with the City of Aurora and exploring innovative strategies that harmonize with our joint mission of promoting safe and healthy communities. Please don't hesitate to reach out.

Sincerely,
Denver Justice Project

December 11, 2023

VIA EMAIL

Aurora City Council
15151 E. Alameda Parkway
Aurora, Colorado 80012

**Re: Letter to Aurora City Council from Colorado Defense Attorneys
Opposing 2023-118**

Dear Aurora City Council Members:

We, the signatories to this letter, oppose Aurora Resolution 2023-118, the effort to privatize the Aurora Public Defender's Office ("APDO") and urge the Aurora City Council to abandon this resolution. Second, we urge you to complete a more detailed study that addresses overlooked factors prior to taking any action.

Our understanding is that the effort to privatize the APDO is due to cost concerns and the belief that the City of Aurora could spend less on indigent defense than the current APDO \$2.5 million annual budget. We do not believe this is possible.

In whatever form it takes, pursuant to the United States and Colorado Constitutions, as well as CRS 13-10-114.5, any municipal indigent defense organization must comply with the requirement of being constitutionally effective, competent, and independent. To be constitutionally effective and competent, a criminal defense attorney must review discovery, meet with their clients, properly advise clients, conduct investigation, consult with experts, present mitigation, resolve cases in plea agreements, prepare for hearings, and litigate trials.

It is constitutionally insufficient to pay an attorney a flat fee regardless of whether the case resolves in a plea bargain or proceeds to trial. Under a flat fee structure, attorneys are incentivized to resolve cases quickly and without regard to guilt or innocence because speed becomes the sole metric for financial profit. Instead, to comply with the law, clients must be able to exercise their rights without regard for what's most expedient for their lawyer.

The cost of retaining qualified practitioners is not trifling. For private cases, criminal defense attorneys charge an average hourly rate of between \$250-\$400. A reasonable estimate for a flat fee for a municipal case is between \$2,500 and \$5,500, prior to trial. At the lower private rate, it would cost \$10,000,000 a year to handle the 4,000 annual cases that the Aurora Public Defender's Office currently handles. Similarly, under the Office of the Alternate Defense Counsel ("OADC") \$95 an hour rate, with an average

estimate of 15-25 hours per case, it would cost at least \$5,700,000 to handle the same 4,000 cases. (Both scenarios are a significant jump from the \$2.5 million currently budgeted on the APDO).

Further, there are many other hidden costs that must be accounted for in privatizing the APDO. Handling 4,000 cases a year, nearly 7 days a week, is not a one or two attorney job. The APDO currently has 11 attorneys, and any bidder would have to employ at least that many. If a private bidder accepted a contract for less than \$2.5 million dollars, it would necessarily result in fewer and less qualified attorneys and more hidden costs than you may anticipate. For example, fewer defense attorneys would result in judges, law enforcement, and clients waiting on the decreased number of defense attorneys to make their way to each courtroom. Fewer defense attorneys would also cause delay in resolving cases because the attorneys would need extra court dates per case to complete obligations. Less qualified or fewer defense attorneys would also result in the hidden costs of increased appeals, more training, and longer and more costly pretrial incarceration. Studies have consistently shown that public defenders are able to decrease pretrial detention, which reduces jail operation costs.

Beyond the direct costs to a case, there are more abstract hidden costs that are easily overlooked. Effective attorneys properly advise their clients, preventing post conviction attacks which clog court dockets and require additional attorneys and legal fees. Effective attorneys litigate motions hearings, which are the only check on police misconduct and serve as training for police. This practice results in a reduction of lawsuits. For example, Georgia, which privatized its indigent defense service based on cost and without regard to quality and subsequently saw a significant increase in civil rights challenges.

These costs do not even account for other essential defense professionals. The public defender's office budget includes investigators, experts, mental health professionals, and other essential workers. All of these workers are necessary for litigation and most help instill rehabilitative options and reduce future crime.

Along with increasing costs, a private attorney bidding for this contract at less than \$2.5 million would only be able to do so by cutting major corners and harming clients. In a recent law review article, poor compensation was the no. 1 cited reason for attorneys neglecting discovery and, in many cases, ignoring discovery altogether. This study indicated that non-public defenders in privatized systems failed to download discovery at all. In other words, attorneys were not even looking at the evidence with which their clients were being charged, but they were pleading them to convictions anyway. The financial incentive to process people, rather than advocate for clients, cuts into the system of justice on many different levels.

The signatories to this letter know the level of commitment that it takes to be an effective criminal defense attorney. To be the last line of defense when the government is coming down on you requires a person who is willing to turn over every piece of evidence to uphold the rights of the accused. Many jurisdictions have previously tried to do what Aurora is contemplating doing, and, almost every one, has turned back. A dedicated, in-house public defender office is better for the entire community. Please abandon 23-118 and preserve the excellent and efficient APDO that currently exists.

[Law Review Article - Georgia PD privatization problems](#)

[Law Review Article - Ignoring discovery](#)

(If you would like to sign, please add any other comments as well as your name and the name of your firm below.)

Signed,

(See Attached Signatures & Additional Comments from 331 Individuals)

cc: Aurora Mayor Mike Coffman

Aurora Municipal Court Chief Judge Day

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/7/2023 22:43:56	Yona Porat
12/7/2023 23:07:31	Shandea Sergent, Colorado State Public Defender
12/7/2023 23:15:49	David Kraut
12/7/2023 23:41:08	Daniel M. Murphy, DANIEL M. MURPHY, PC
12/7/2023 23:46:57	Becca Butler-Dines-Attorney
12/8/2023 3:09:54	RUTH SUMMERS, Law Office of Ruth Summers, Denver, CO.
12/8/2023 5:43:15	Jim Castle, Castle & Castle, P.C.
12/8/2023 6:24:01	Sean Dormer; Dormer Harpring, LLC
12/8/2023 6:32:56	The Law Office of Alaina Almond, LLC
12/8/2023 7:12:18	Danielle McCarthy, Danielle M. McCarthy P.C.
12/8/2023 7:40:39	Kristin M Ladd
12/8/2023 7:56:25	Kevin Benninger, The Juba Law Office
12/8/2023 8:27:37	Timothy Garvey, Dormer Harpring: privatization of government functions is often a short-cited, profit-oriented, mistake. Here, it's more than that. It is morally wrong. Permitting the accused to have access to counsel is a civil right in this country, and for many who serve in that role it is a calling. Giving that role away to the private market is sure to result in worse representation and more wrongful convictions. As a society, our goal should be to ensure that the only people in jail are those who belong there.
12/8/2023 8:47:00	Victoria C. Dorn, Keller Dorn Law, LLC
12/8/2023 9:01:27	David Ostrowski
12/8/2023 9:19:55	Abraham V Hutt Recht Kornfeld, P.C.
12/8/2023 9:22:42	Jessica Meza esq.
12/8/2023 9:24:09	Antonia Diener, Deputy State Public Defender @ Colorado State Public Defender - Boulder Office
12/8/2023 9:24:13	Madison Whitley, Juba Law Office, PLLC
12/8/2023 9:26:00	Michael Carter
12/8/2023 9:28:45	Ashley Cordero
12/8/2023 9:34:08	Stephen B. McCrohan
12/8/2023 9:48:33	Kristi Englekirk, Meza & Associates LLC
12/8/2023 9:57:33	Nicholas Pierce, Amistad Law LLC. I am a private criminal defense contractor and ADC, I used to be a public defender, and I agree that privatization of the PDs office is a mistake.
12/8/2023 10:04:17	Elizabeth Jordan
12/8/2023 10:15:13	Jason Kosloski, licensed Colorado attorney
12/8/2023 10:17:56	Sarah Schulte
12/8/2023 10:22:18	James S. Lamb, Knudson & Associates - Note: Many indigent clients are noncitizens, many of whom are also refugees; unfortunately, Aurora City criminal ordinances can carry devastating immigration consequences for these people. The writer is an immigration lawyer and a member of the executive committee of the Colorado Chapter of the American Immigration Lawyers Associate (writing in his personal capacity).
12/8/2023 10:23:00	Sarah Rockefeller, #51282
12/8/2023 10:43:07	KRISTEN MOUSSALLI, moussalli law, LLC
12/8/2023 10:43:53	Shelby Deeney
12/8/2023 10:47:19	Alexander McShiras Pikes Peak immigration
12/8/2023 11:21:41	Cassandra MacKenzie, Law Office of Cassandra MacKenzie, LLC
12/8/2023 11:26:26	Pamela Carty, Power Law LLC
12/8/2023 11:39:23	Kristin Bailey
12/8/2023 11:49:41	Aaron Thompson, General Counsel, Denver Public Schools
12/8/2023 11:57:01	Joshua Russcol, Chan Law Firm
12/8/2023 12:00:46	Michelle Ahronovitz, Meza and Associates.
12/8/2023 12:14:02	Grace Lundergan, Attorney, Ryan Immigration Group
12/8/2023 13:12:49	John Chase #47570
12/8/2023 13:21:38	Steven Brown, SBrown Law LLC, Atty Reg 55118
12/8/2023 13:50:58	Edwin Hurwitz, Esq, Law Offices of Jon Sirkis, LLC. Justice requires fair and impartial defense for all people brought before the court, whether they have resources or not. The APDO has an excellent record of obtaining fair outcomes for their clients and ensuring that the City Attorney's Office is held to the standard of proving every element of a charge beyond a reasonable doubt.
12/8/2023 14:12:40	Effie Seibold, Office of the Colorado State Public Defender
12/8/2023 14:57:22	Cameron Bedard, Frank Law Office.

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/8/2023 15:08:58	Alexis Mayer, Colorado State Public Defender
12/8/2023 15:11:30	Stephen Wilson, Esq. Law Office of Stephen Wilson, LLC
12/8/2023 15:23:49	James Holley
12/8/2023 15:24:09	Andrea Kremer, Arapahoe County Public Defender
12/8/2023 15:24:20	John Finnegan, Office of the State Public Defender
12/8/2023 15:24:25	Kevin R. Jensen, The Law Firm of Kevin R. Jensen, PLLC
12/8/2023 15:24:33	Jackson Strain, Colorado State Public Defender's Office
12/8/2023 15:24:35	Ericson Morales, Deputy Public Defender, Colorado State Public Defender
12/8/2023 15:24:36	Kate Herold
12/8/2023 15:24:43	Milo Schmitt
12/8/2023 15:24:43	Claire Stephens, admin at Golden Public Defenders Office
12/8/2023 15:24:52	Julieanne Farchione, Office of the State Public Defender-Appellate Division
12/8/2023 15:24:57	Casey Mark Klekas, Colorado State Public Defender -- Appellate Division
12/8/2023 15:25:14	Travis Weiner, Deputy State Public Defender
12/8/2023 15:25:19	Megan Hiserodt, COPD
12/8/2023 15:25:31	Hannah Wilford, Arapahoe County PD Office
12/8/2023 15:25:37	Jason Lamprecht, Colorado State Office of the Public Defender
12/8/2023 15:25:39	Alex Haynes
12/8/2023 15:25:54	Meghan Morris
12/8/2023 15:26:05	Heather Siegel, Colorado State Public Defender
12/8/2023 15:26:08	Garen D. Gervey, Office of the State Public Defender, Golden Regional Office
12/8/2023 15:26:09	Danielle Feland
12/8/2023 15:26:40	Leah Scaduto
12/8/2023 15:26:50	Jessica Corey, OSPD
12/8/2023 15:27:00	Jordan Vinovich, Arapahoe County Public Defender
12/8/2023 15:27:04	Lorie Kerr OSPD
12/8/2023 15:27:15	John Gonglach, Colorado State Public Defenders
12/8/2023 15:27:27	Joseph Archambault
12/8/2023 15:27:35	Jon Grevillius, Office of the State Public Defender.
12/8/2023 15:27:36	Jamie Keairns
12/8/2023 15:28:10	Brandon Olsen, Office of the Colorado State Public Defender -- Douglas County
12/8/2023 15:28:23	Ashley Sullivan, Supervising Deputy Public Defender, Arapahoe County Kayleigh TenBarge - OSPD/Defenders Union of Colorado Member
12/8/2023 15:28:34	The Aurora Muni PDs provide an absolutely essentially and constitutionally required service to the community. They protect some of the most vulnerable members of our society, and they do so effectively and with compassion. To get rid of their agency would be a great disservice to the city of Aurora, your constituents, who rely on their services. Currently, many private attorneys are unwilling to take cases in Aurora due to the fact that you have to actually drive out there to get any discovery. Further, the idea that privatizing the PDs office will save costs is absurd. It currently costs almost \$700 per case to have a state public defender, whereas Alternative Defense Counsel costs almost \$1500 per case. It costs nearly double to have a private attorney. You will be hard pressed to find anyone willing to work for city rates, if they are willing to take cases in Aurora at all. You already have a group of people who care about their work, and do it well. To get rid of them is to fail your duty of upholding the constitution and ensuring that everyone receives competent counsel. I urge you against privatizing Aurora Muni PD.
12/8/2023 15:28:52	Gillian McGann (Colorado State Public Defender)
12/8/2023 15:28:53	Riley Duncan, Office of the State Public Defender
12/8/2023 15:29:11	Magdalena Rosa
12/8/2023 15:29:15	Russell Glass, Denver Trial Office
12/8/2023 15:29:22	Anthony Ryan, OSPD, previously practiced in Aurora Municipal Courts during law school under the student practice act. The APDO is essential to protect against the constitutional violations committed by law enforcement in Aurora as underlined by the report released by the Attorney Generals office regarding Aurora Police Department's abhorrent practices. See here: https://coag.gov/app/uploads/2021/09/Pattern-and-Pracice-Investigation-Report.pdf
12/8/2023 15:29:48	Sabina Schmid (Colorado state Public Defenders, Denver Trial Office)
12/8/2023 15:30:08	Alexandra Douglas

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/8/2023 15:30:12	Sarah Finley, Colorado State Public Defender
12/8/2023 15:30:15	Gregory Mayer- Arapahoe County Public Defenders Office
12/8/2023 15:30:47	Leanne Hamilton, CSPD
12/8/2023 15:31:07	Apoorva Krishnan, OSPD
12/8/2023 15:31:22	Bryan Hall
	Patrick Crane, Colorado State Public Defender, privatization of criminal defense has proven over and over to both be less effective and more expensive. The only way in which such can save money is by incentivizing ineffective assistance because the work is only worth it for private contract attorneys if the work is minimized and cases resolve quickly against client's best interest and contrary to the attorney's ethical mandates.
12/8/2023 15:31:24	
12/8/2023 15:32:23	Nathan Galef-Brown
12/8/2023 15:32:33	Katie Telfer
12/8/2023 15:32:55	Katie Tenuta, Social Work Intern, Golden Public Defenders Office
12/8/2023 15:33:21	Mackenzie Shields, Colorado State Public Defender's Office Appellate Division
12/8/2023 15:33:45	Stephen Woodall, Colorado State Public Defender
12/8/2023 15:33:46	Matt Morriss
12/8/2023 15:34:06	Julian Lounsbury, Office of the Colorado State Public Defender
	Ana Calderon Moran, paralegal, Arapahoe Public Defender's Office. It is right and just to uphold the dignity of the 6th Amendment of the United States Constitution
12/8/2023 15:34:21	Jennifer Voss, Colorado State Public Defender
12/8/2023 15:34:43	Alex Egri
12/8/2023 15:35:50	
12/8/2023 15:36:37	Guadalupe Marquez, Brighton Public Defender's Office
	Meredith Wiles, Colorado State Public Defender. Do not get rid of the Aurora Municipal Public Defenders Office!!!!!!!!!!!!!!
12/8/2023 15:36:47	
12/8/2023 15:36:52	Adam Payne Steigerwald, Att'y Reg. No. 40092
12/8/2023 15:37:00	Olivia Williams, Grand Junction Public Defender's Office
12/8/2023 15:37:26	Zak Brown, Chief Deputy Colorado Public Defender
12/8/2023 15:38:19	Kellan Schmelz
12/8/2023 15:39:05	Brian J. Johnson
12/8/2023 15:39:49	Weston Rasmussen, Office of the Colorado State Public Defender
12/8/2023 15:40:13	Melissa Wilson
12/8/2023 15:40:20	Iris Eytan, Eytan Law Firm
12/8/2023 15:41:04	Skkye Moreno, Durango Public Defender's Office
12/8/2023 15:42:56	Henry Trujillo, CO State Public Defender
12/8/2023 15:43:13	Milena Lopez
12/8/2023 15:43:26	Emma Moore, Colorado State Public Defenders, Fort Collins Office
12/8/2023 15:43:50	Stephanie Lalonde
12/8/2023 15:43:58	Jessica K. Martinez, Montrose Regional Office of the Colorado State Public Defender.
12/8/2023 15:44:25	Austin Michaels, Colorado State Public Defender
12/8/2023 15:45:33	Ena, Denver Trial Office
12/8/2023 15:46:12	Ena Salazar, Denver Trial Office
12/8/2023 15:46:16	Sean Irwin
12/8/2023 15:48:53	Lori Lootens, Boulder Regional Office of the CO Public Defender
12/8/2023 15:50:01	Grady King- Office of the State Public Defender
12/8/2023 15:50:02	Adam Frank, Frank Law Office
12/8/2023 15:51:07	Lauren Stotts
12/8/2023 15:51:17	Tempest Cantrell, Brighton Regional Public Defender's Office
12/8/2023 15:57:30	Andrea Landaverry
12/8/2023 15:58:18	Lucienne Ohanian, OSPD
12/8/2023 16:01:48	Hannah Bennink, Deputy State Public Defender
12/8/2023 16:01:53	Elisa Lipovsky, CO State Public Defender's Office
12/8/2023 16:05:41	Maddy Bullard, Attorney, Arapahoe Office of the State Public Defender
12/8/2023 16:05:54	Mikayla Postma, Brighton Public Defender's Office

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/8/2023 16:07:11	Bacon, James, DO NOT cut cost and cut corners to abandon Constitutionally mandated rights. A robustly funded Public Defender's office would ultimately SAVE money to the municipality of Aurora by minimizing the overuse of the costly jail system and correctional system while still ensuring accountability to the law and to public safety.
12/8/2023 16:11:24	Kristi Martinez
12/8/2023 16:12:07	Jessica A. Pitts, Office of the Colorado State Public Defender, Attorney, Appellate Division
12/8/2023 16:13:20	Edward Bowden
12/8/2023 16:15:29	Dilyn Myers, Office of the Colorado State Public Defender
12/8/2023 16:15:42	Joseph Chase, Shulman Chase LLC
12/8/2023 16:17:33	Moorea Diamond, Esq. Diamond Law LLC
12/8/2023 16:19:54	Margaret Farrell, Colorado State Public Defender
12/8/2023 16:23:29	Emily Brophy, Colorado OSPD Denver
12/8/2023 16:24:22	Eric Vanatta, concerned citizen
12/8/2023 16:28:36	Efosa Akenzua
12/8/2023 16:32:56	Mazlyn Freier, Denver Trial Office of the Colorado Public Defenders
12/8/2023 16:44:21	Wesley Reed-Arapahoe County Public Defender
12/8/2023 16:46:19	Corey Parker, Colorado State Public Defenders, Denver Office
12/8/2023 17:02:45	Jeffrey Simonek
12/8/2023 17:03:29	Megan Schachter, Colorado State Public Defender
12/8/2023 17:03:32	Samuel Carty, Concerned Citizen
12/8/2023 17:08:00	Steven Graziano
12/8/2023 17:15:02	Amelia Power, Power Law
12/8/2023 17:15:07	McNair Shaw
12/8/2023 17:15:13	Elena vigil
12/8/2023 17:20:49	Jesi Jones, Colorado State Public Defender
12/8/2023 17:21:54	Kimberly Chalmers, CO State Public Defender and resident of Aurora
12/8/2023 17:22:03	Marief Rotbart
12/8/2023 17:26:58	Heidi Milliken, Colorado State Public Defender's Office Appellate Division
12/8/2023 17:28:09	DANIEL JAMES SEQUEIRA
12/8/2023 17:29:32	Amanda Bleiler, Colorado State Public Defenders
12/8/2023 17:40:25	Ben Hand-Bender, OSPD (Golden)
12/8/2023 17:40:28	David A Kaplan, Office Head Arapahoe Trial Office, Colorado State Public Defender
12/8/2023 17:45:33	Christina Helregel, State of Colorado Public defender
12/8/2023 17:51:33	Megan McDonald
12/8/2023 18:06:47	Kelly Cunningham
12/8/2023 18:40:36	Jill Allen - Attorney - Office of the Colorado State Public Defender
12/8/2023 18:49:43	River Sedaka
12/8/2023 19:00:05	James Hardy, Executive Board Co-Chair of the Defenders Union of Colorado
12/8/2023 19:00:58	Neil Sandhu, Brownstein Hyatt
12/8/2023 19:12:38	Jason G. Tiplitz, Deputy Public Defender, Colorado State Public Defender's Office
12/8/2023 19:31:41	Ian McDavid, McCabe Law
12/8/2023 20:38:26	Megan Quantock, Colorado State Public Defender
12/8/2023 21:01:52	Cheryl Trine, Trine Law Firm LLC
12/8/2023 21:31:46	Marie Drake, The Drake Law Firm, PC
12/8/2023 22:27:55	Jessica Megan Davis, Esq.
12/8/2023 22:47:53	Rachael Willihnganz
12/8/2023 23:30:21	Ryan A. Dawson-Erdman
12/9/2023 4:33:31	Josiah Cohen, Polansky Law Firm, PLLC
12/9/2023 6:15:07	Galen Trine-McMahan
12/9/2023 6:21:01	Natalie Petrucci, Human Rights First
12/9/2023 6:22:00	Marnie Adams
12/9/2023 7:03:37	Sarah Roisman
12/9/2023 7:46:48	Michael T. Mihm, Esq., Ogborn Mihm LLP

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/9/2023 7:54:51	Glenna Gee-Taylor, OSPD
12/9/2023 7:56:22	Daniel Shaffer
12/9/2023 8:00:44	Jessica Jones, Law Office of Jessica Eve Jones, LLC
12/9/2023 8:12:52	Sid Tikalsky
12/9/2023 8:29:49	Liz DeLay
12/9/2023 8:59:24	Brian Bradford
12/9/2023 9:11:49	Rachel Lanzen
12/9/2023 9:28:28	Brooks Robinson, McCormick Kennedy & Robinson
12/9/2023 9:40:10	Mary Claire Mulligan, Mulligan & Mulligan, PLLC, a 31-year defender
12/9/2023 9:55:00	Amy Okubo, Amy Okubo Law, LLC. This is a terrible idea. Please abandon these efforts. I strongly agree. the proposal will radically encourage litigation regarding the 6th Amendment issues. Leonard I. Frieling atty reg 7656. former judge
12/9/2023 10:00:44	Alan Bickings, Hernandez and Associates
12/9/2023 10:11:07	Chris Gilbert, Christopher K. Gilbert, Esq., LLC
12/9/2023 10:26:38	Kimberly Van Dyke
12/9/2023 10:30:37	Janene K. McCabe
12/9/2023 10:30:47	Josh Patton, Patton Legal Solutions LLC, OADC Contractor: Privatizing a constitutionally required service is not something that should be taken lightly or without having a clear plan in place to provide quality legal services to those accused of crimes. Access to justice issues already harm the integrity of the justice system in Colorado, we should work together to make it better. 23-118 would make it worse.
12/9/2023 10:30:59	Jaenen McCabe, President, Colorado Criminal Defense Bar
12/9/2023 10:31:00	CCDB - Colorado Criminal Defense Bar
12/9/2023 10:31:37	Carrie Vonachen, private defense attorney
12/9/2023 10:38:49	Jim Aber; James McKee Aber, LLC
12/9/2023 10:40:38	Heather M. Arboleda
12/9/2023 10:41:31	Daniel M. Murphy, P.C.
12/9/2023 10:43:04	Stephanie Bowen, CCDB Past President
12/9/2023 10:48:59	Erik Pozek, Arapahoe County Public Defender's Office
12/9/2023 10:50:50	Amber St. Clair, Attorney
12/9/2023 10:54:19	Blain Myhre, Blain Myhre LLC
12/9/2023 10:59:27	Philip Cherner, former President and former Board Member, CCDB
12/9/2023 11:15:54	Cate Dolan, Private Solutions Inc
12/9/2023 11:39:56	Maria Liu, Attorney, Collins, Liu & Associates, LLP
12/9/2023 11:42:44	Kevin Strobel Strobel Law LLC
12/9/2023 11:49:29	Nicole Mooney, Mooney Law Office, PLLC
12/9/2023 11:50:59	Michelle Kellond, Top Tyr LLC
12/9/2023 12:00:34	Tristan Gorman
12/9/2023 12:12:12	Mark Langston, Mark T. Langston, P.C. It is my sincere hope that none of the members of the Aurora City Council, or their friends or loved ones, ever experience the stressful, frightening, potentially life-altering experience of being criminally prosecuted. However, if that were to happen, would you want the defense of your (or their) liberty, reputation, and future opportunities to be placed in the hands of someone who was being paid a few hundred dollars? Please abandon 23-118, not common sense and the constitutional rights of your citizens.
12/9/2023 12:31:08	Mark Langston Former president, Colorado Criminal Defense Bar Criminal law practitioner since 1985
12/9/2023 12:40:54	Tally Zuckerman, Zuckerman Law, LLC
12/9/2023 12:43:28	Jennifer Henslee
12/9/2023 12:43:53	Katie Coffey
12/9/2023 12:55:19	Jenifer Stinson, Stinson Law Office, OADC Contract Lawyer
12/9/2023 13:00:40	Rosa Hannah, El Paso County Public Defenders
12/9/2023 13:05:09	Lisa Sahli, Lisa R. Sahli, Attorney at Law, LLC

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/9/2023 13:33:38	Beale C. Tejada, Crane & Tejada, P.C.
12/9/2023 13:39:04	Jonathan Booker, Hernandez & Associates P.C.
12/9/2023 13:45:04	Erin Domaracki
12/9/2023 14:03:13	Lauren Parsons
12/9/2023 14:04:33	Amanda Rinehart - Office of the State Public Defender, Golden Regional Office
12/9/2023 14:21:56	Colette Tvedt
12/9/2023 14:56:04	Russel Murray Russel Murray III, P.C.
12/9/2023 15:54:56	John Radcliffe
12/9/2023 16:13:37	Morgen Archer, Arapahoe Regional Office- CO Public Defender's Office; Approving privatization will lead to many concerning constitutional violations and bigger costs to the City of Aurora in the long run.
12/9/2023 16:19:04	Casey J. Mulligan, Mulligan & Mulligan PLLC
12/9/2023 16:33:51	Josh Dunn, Arapahoe Public Defender
12/9/2023 16:47:55	Jeri D. Shepherd, Attorney at Law (former Deputy State Public Defender, Greeley, CO
12/9/2023 17:01:44	Michael R. Enwall Bill Trine, now retired. I was appointed by the court to defend alleged criminals before the advent of the state Public Defenders Office in 1965. Lawyers who entered a 'not guilty' plea and asked for a jury trial were often no longer assigned cases. They were also not paid enough to properly prepare for trial or consult with expert witnesses. When the Public Defenders Office was initiated in 1965, it was intended to overcome all of the unconstitutional procedures existing in the Colorado Court system. Aurora Resolution 2023-118 would take us back to the days when criminal defendants with no funds were constantly deprived of competent legal counsel and often forced to plead guilty, even when innocent. I strongly support the statements made in the letter to the City Counsel.
12/9/2023 17:02:38	
12/9/2023 18:06:59	Alexander Yorko
12/9/2023 19:26:57	Jody Visconti Clow, Paralegal
12/9/2023 20:10:31	Tiera Brown (Contractor licensed in DC) Nicole Duncan, Duncan Youth Legal Services, LLC. This would be so harmful to the community. I am a private attorney and do not readily have all the resources I need in order to give adequate defense. Thus, I severely limit my caseload to make sure I have what I need for each client. Each case needs an investigator, and since I represent youth, we also need social workers. This would severely hurt clients, youth, families and absolutely clog the dockets if everyone had to be private like myself. I take ADC contracts because those are the only cases where I can get a fully staffed and funded team, things fully available at the PDs office. Less readily available defenders who will give effective and fierce assistance of counsel not only upholds the Constitutional rights, but guarantees dignity in an already harsh system which is the importance and heart of due process.
12/9/2023 22:08:45	
12/9/2023 22:18:02	Jessica Bernfeld
12/9/2023 22:37:45	Eric Klein, Johnson & Klein Law
12/9/2023 23:39:48	Carly Hamilton, Office of the State Public Defender
12/10/2023 7:41:34	Natacha M. Gutierrez, Law Offices of Natacha M. Gutierrez, LLC.
12/10/2023 8:12:42	Erika Unger, Bread & Roses Legal Center
12/10/2023 9:00:09	Katherine Spicer, Katherine C. Spicer, PC
12/10/2023 9:37:23	Peter Wohelski
12/10/2023 9:49:20	Laura Wolf, Spark Justice Law LLC
12/10/2023 10:15:37	Reppucci Law Firm, P.C.
12/10/2023 10:53:01	Luke W. McConnell, Civil Rights Litigation Group, PLLC Wei Ting Hsing, Hernandez and Associates P.C., The Aurora Public Defender Office are filled with incredibly passionate advocates who are specialized to fearlessly litigate in Aurora Municipal Court. They have the best understanding of the Aurora Municipal Code as well as the inner workings of the court system. They are incredibly vigilant as defenders and I have always admired their zealous advocacy. Privatizing the Aurora Public Defender work would mean losing that expertise, making it challenging for indigent defendants to get the best representation they deserve.
12/10/2023 10:55:17	
12/10/2023 11:03:04	Mari Newman, Newman McNulty LLC
12/10/2023 11:16:31	Sarah Schielke, The Life & Liberty Law Office (Loveland, CO)
12/10/2023 11:18:27	John Holland, HHEGLLC
12/10/2023 11:19:09	David Maxted Maxted Law LLC
12/10/2023 11:20:33	Zachary Reibstein Henry D. Hollithron, Attorney-At-Law Hollithron Advocates, P.C.
12/10/2023 11:29:14	
12/10/2023 11:48:02	Paula Greisen, Greisen Medlock, LLC

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/10/2023 12:39:42	Mandarin A. Bowers, Law Office of Mandarin A. Bowers, P.C.
12/10/2023 12:40:18	Kathryn Glaser, Colorado Public Defender
12/10/2023 12:52:44	Kara L Smith, Deputy State Public Defender
12/10/2023 12:59:30	Angela Banducci, Deputy Colorado Public Defender
12/10/2023 13:26:59	Charlotte Robinson
12/10/2023 13:43:01	Krista Schelhaas, Schelhaas Law LLC
	Gina K. Shimeall Attorney at Law strongly opposes Aurora resolution 2023-118. In addition to the above points delineated in the letter, other issues to consider are those who will be the most disproportionately affected, homeless individuals living with mental health issues. Having worked in Aurora with retired Judge Weinberg for approximately two years setting up the Aurora Municipal Wellness Court after having had the privilege of founding and implementing the Arapahoe District Wellness Court, and as the criminal justice lawyer volunteer on NAMI Colorado Law Line, I know first hand the critical need of dedicated public defenders to help with this most disproportionately affected high needs individuals living with mental health issues. Without an experienced 24/7 public defender office this vulnerable population will increase exponentially cycling in and out of the Aurora's justices system's revolving door. Private council run a business and are not trained in this arena as public defenders are, and can not spend the four and five times the time of a standard criminal case on these high needs and complex mental health cases if city council passes 2023-118 allowing flat fees and contract attorneys.
	We are judged as a society by how we treat our most vulnerable individuals. What kind of city does Aurora want to be known as? If resolution 2023-118 passes Aurora will in fact be the city that is constantly portrayed in repeated news reports in the criminal justice arena.
12/10/2023 14:00:39	Gina K. Shimeall Attorney at Law
12/10/2023 14:09:35	Gina K Shimeall Attorney at Law
12/10/2023 14:35:09	Michelle Gibson
	Eliminating one of the most important resources for indigent defendants in Aurora is immoral, financially illogical, and unconstitutional. I hope the Aurora City Council realizes its mistake soon.
	Thaddeus R. Cwiklinski, Deputy Public Defender Office of the Colorado State Public Defender, Grand Junction
12/10/2023 14:36:39	
12/10/2023 15:04:59	Caitlyn Brogdon
	Hollis Whitson, Samler & Whitson, PC. This proposal would lead to additional litigation challenging the method and quality of representation provided. Experience proves that properly-managed defender organizations are the most cost-effective, efficient, and effective means to delivery these services.
12/10/2023 15:50:41	Ahmuhan Williams, OSPD, this is a bias and ill motivated move to deprive minorities in Aurora of a fair shot at justice.
12/10/2023 17:01:36	
12/10/2023 17:15:59	Stephanie Frisinger, Macted Law LLC
12/10/2023 17:47:22	Holly Lucas
12/10/2023 17:54:11	Ciara Anderson, Rathod Mohamedbhai
12/10/2023 18:37:24	Frank Vigil, Vigil Law Offices PC
12/10/2023 19:36:40	Aurora L. Randolph, ALR Civil Rights LLC
12/10/2023 19:52:59	Kathleen Hennessy, Hennessy Law Office
12/10/2023 19:59:09	Michael R. Ferrell, Esq. The Ferrell Law Firm, PLLC.
12/10/2023 20:20:16	Lynn Hartfield, Law Office of Lynn C. Hartfield, LLC
12/10/2023 21:18:14	Allen S. Whitlock, Whitlock Law LLC
12/10/2023 21:20:33	Rachel Geiman
12/10/2023 21:25:52	Kira Suyeishi
12/10/2023 21:32:58	Katherine Hartigan, Hartigan Law LLC
12/10/2023 22:15:13	Andy McNulty, Newman McNulty
12/11/2023 7:29:25	Libby Bova, Deputy State Public Defender, Denver Trial Office
12/11/2023 7:37:28	Alex Engelson
12/11/2023 7:45:33	Chad GuBrath, Colorado Public Defender's Office
12/11/2023 9:51:30	Mark Brandes, J.D., Licensed in 1989
12/11/2023 9:52:14	Sydney Teague, Civil Rights Attorney, Aurora
12/11/2023 10:04:55	Janet Moore
12/11/2023 10:08:03	Lindsey Webb, Associate Professor, University of Denver Sturm College of Law (signing in my personal capacity)

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/11/2023 10:09:48	Noah Kaplan, Commissioner, Office of the Municipal Public Defender
12/11/2023 10:16:38	Nelson Boyle, 5280 Appellate Group, a division of the Paul Wilkinson Law Firm LLC. Indigent folks who are charged with crimes have Constitutional rights that cannot be met through privatization of public defenders offices. Please read the law review articles linked in the letter.
12/11/2023 10:17:13	Lisa Fine Moses, LFM Defense.
12/11/2023 10:20:36	Amy Travin Amber Richardson, State of CO Public Defenders Office Investigator. Do not harm your most vulnerable, indigent population of Aurora in the name of money. People and freedom is not where you cut costs. When you screw with people's rights then expect for people to fight you with ensuing civil lawsuits based on this decision which is ultimately going to cost the city of Aurora millions per lawsuit. Aurora City Council should be serving to protect your public not removing the most critical service to the most critically needed population in your municipality. The ability to have fair, competent representation based on skill and merit not on what a person is being paid for the entire case, a flat fee equals flat effort! Fund your currently existing APDO and save money or cost money to do your citizens harm at your hands.
12/11/2023 10:21:08	
12/11/2023 10:24:26	Kevin Cheney, Cheney Galluzzi & Howard, LLC
12/11/2023 10:24:32	Kimberly J. Smith, Denver Trial Lawyers
12/11/2023 10:29:56	Damon Brune, Brune Law Office, P.C.
12/11/2023 10:34:23	Alison Gordon, McCabe Law
12/11/2023 10:37:10	David A. Klibaner, Klibaner Law Firm P.C.
12/11/2023 10:38:04	Patrick J. Burke, Patrick J. Burke, P.C. 4943
12/11/2023 10:40:56	Michael David Lindsey, David Lindsey Attorney
12/11/2023 10:45:17	Amy Robertson, Fox & Robertson PC, Denver. Barry Lancaster - Lancaster Law Office Civil rights are not to be set aside as a cost cutting measure... particularly when it will cost MORE to do it. This appears to be a measure straight from the police and or city attorney and will irreparably harm the people of Aurora.
12/11/2023 10:50:11	
12/11/2023 10:51:54	Laura Rovner, Civil Rights Clinic, University of Denver College of Law
12/11/2023 11:00:21	Emily M. Fleischmann
12/11/2023 11:09:33	Igor Raykin
12/11/2023 11:09:51	Matthew Simonsen (Hutchinson Black and Cook, LLC)
12/11/2023 11:14:42	Amy Rogers; Ogborn Mihm, LLP.
12/11/2023 11:21:08	Gregory P. Murphy; Metier Law Firm
12/11/2023 11:38:17	Madison Lips, Killmer Lane LLP
12/11/2023 11:54:27	Arielle Roter, OSPD
12/11/2023 12:04:40	Stephanie Perkins, Perkins Law
12/11/2023 12:14:42	Sabrina Sameshima, nonprofit immigration lawyer serving Aurora residents
12/11/2023 12:21:27	Michael Patrick, The Patrick Law Firm LLC
12/11/2023 12:25:52	Andrew Shulman, Shulman Chase LLC
12/11/2023 12:26:45	David M. Beller, Recht Kornfeld, P.C.
12/11/2023 13:43:40	Tasha Hill, The Hill Law Firm
12/11/2023 13:59:25	Tiffany M. Tran, Tiffany Tran Law
12/11/2023 14:07:54	Jessica Jackson Theresa Murphy, Assistant Public Defender, Maryland Office of the Public Defender. I grew up in Aurora, Colorado, right off of Smoky Hill Road, and it disheartens me to see my hometown trying to skirt justice by privatizing the Public Defender's Office. If the state isn't bringing charges with enough evidence to hold a conviction, then that is that office's problem. You do not get to cheat by doing away with the fierce advocates who are holding you to your burden, and to try and do so is a despicable miscarriage of justice that the Aurora City Council absolutely should not stand for. I would be ashamed to be from Aurora if something like this happened, and I know I can speak for my parents as well, who still reside there. I want to be able to come home each holiday season to a community I can be proud of. I have been a Public Defender in Maryland for 4 years now, and in that time, I have had the opportunity to observe the private attorneys who we panel cases to when our caseload is too big, or there is a conflict. I have observed them to view our clients as a paycheck, I have observed them to postpone cases or pray jury trials just so they do not have to be the ones to work hard for our clients. The people who choose to do public defense have a dedication to this work that cannot be matched by a private attorney, plain and simple. Everyone has the right to an attorney who will fight for their rights, and to do away with the public defender's office would be to do away with justice.
12/11/2023 14:15:58	
12/11/2023 14:38:06	Carly Bovey, Colorado State Public Defenders

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/11/2023 14:38:07	Sara Porat, Boulder Public Defender Office
12/11/2023 14:45:15	Robert DeSoto
12/11/2023 14:48:41	Blake Renner
12/11/2023 14:53:25	Milo Schwab, Ascend Counsel
12/11/2023 14:55:16	Elie Zwiebel, Elie Zwiebel Law and Colorado Juvenile Defender Center
12/11/2023 15:23:31	Ali Grossman, Law Office of Ali Grossman, LLC.
12/11/2023 15:35:25	Margaret Bridget Carey, Law Office of Margaret Carey
12/11/2023 15:55:11	Anthony P. Perko, Perko Law, LLC
12/11/2023 16:03:58	Shawna Mackey Geiger, Past-President CCDB (2010-11); Director of Engagement, Colorado Office of Respondent Parents' Counsel; Board of Regents, National Criminal Defense College



Deborah Richardson, Executive Director
Tim Macdonald, Legal Director

December 8, 2023

SENT VIA EMAIL

Councilmember Crystal Murillo
Councilmember Steve Sundberg
Councilmember Ruben Medina
Councilmember Alison Coombs
Councilmember Francoise Bergan
Councilmember Curtis Gardner
Councilmember Danielle Jurinsky
Councilmember Angela Lawson
Councilmember Dustin Zvonek
Councilmember Stephanie Hancock

Re: City Council Resolution Concerning the Aurora Public Defender's Office

Dear Councilmembers,

On Monday, October 9, 2023, a majority of Aurora City Councilmembers approved a resolution for a Request for Proposals (“RFP”) to contract out the constitutionally required legal representation provided by the Aurora Public Defender’s Office (“Resolution 2023-118”).¹ This resolution is the latest attack by the City of Aurora on the independence of the Public Defender’s Office and should be repealed.

As explained in more detail below, the process contemplated by the Resolution poses significant conflicts of interest and would be inconsistent with state and municipal law. Under current law, the Aurora Public Defender Commission is the only entity with legal authority to contract out the indigent defense services currently provided by the Public Defender’s Office.

Moreover, privatization of indigent defense services will likely cost the City of Aurora millions of dollars long-term. A free-standing public defender office, which the City of Aurora

¹ See Agenda Packet for the October 9, 2023 City Council Meeting at Pages 233-37, “Evaluating Alternative Methods of Providing Legal Defense Representation,” <https://www.auroragov.org/common/pages/DownloadFileByUrl.aspx?key=qGdlgDri9Xew4uap13fe3ZKyt3027dgh6NFQ%2b2eghvBmvRPTrdrgGwQU5kK7MuFH6Kcwn6sKB4fq18WTXXIFJDG3oQXBjclE96KLmkGeFNSnaFkiPtte8pHY6eMVcwuEDwH2HG%2fU4%2f2xq9o8e0rnkim0xMA9iagmiWYcYP8cAqvTQWJxrJI9mVtwsonTTCpi510xNg%3d%3d>.

has had for 30 years, is the gold standard of public defense. The decision to provide any other kind of indigent defense—whether by flat fee or hourly rate—would be a step backwards for the City and its residents.

We write to urge you to repeal the resolution.

I. Under state law and the current municipal code, the authority to contract out indigent defense services lies with the Public Defender Commission

Pursuant to Resolution 2023-118, the RFP is to be handled and overseen by the Presiding Judge, Judge Day, and the Interim City Manager, Jason Batchelor, without the involvement or consent of the Public Defender Commission. The Judge and the City Manager are directed to then share out the results of the RFP with the Council. Implicit in the Resolution is the conclusion that the Council will decide whether to move forward with the Aurora Public Defender’s Office or contract out the City’s indigent defense services.

Councilmembers should be aware that the Public Defender Commission is the only entity with legal authority to make that decision under state law and the current municipal code.

The Public Defender Commission was established by Aurora Municipal Code Sec. 50-166, *et seq.* The municipal code gives the Commission the responsibility to “appoint and discharge the municipal public defender and his or her assistants.” *Id.*; Aur. Mun. Code § 50-169. The Commission must ensure that indigent defendants are “represented independently of any political consideration.” Aur. Mun. Code § 50-166.

Colo. Rev. Stat. § 13-10-114.5 requires each municipality to provide defense counsel for each indigent defendant charged with a municipal code violation for which there is a possible sentence of incarceration. *See* § 13-10-114.5(3)(a). The same statute requires that a nonpartisan entity independent of the municipal court and municipal officials oversee or evaluate indigent defense counsel. *Id.* A municipality could satisfy that requirement through the creation of a local independent indigent defense commission. *Id.* Aurora had previously established the Public Defender Commission, which was deemed to be in compliance with the state statute. *Id.* at 114.5(3)(d)(I). Under Colo. Rev. Stat. § 13-10-114.5(3)(d)(IV), a local indigent defense commission “has the responsibility and exclusive authority to appoint indigent defense counsel” and the “sole authority” to discharge him or her for cause.

Therefore, because Aurora established the Public Defender Commission in its municipal code, and state law gives the Commission the sole and exclusive authority to appoint and discharge indigent defense counsel, City Council cannot contract out indigent defense without a change in law. City Council currently lacks authority to discharge the Public Defender’s Office or appoint a third-party as indigent defense counsel, so the RFP process would be a fruitless waste of time and resources.

It is also worth noting that SB 18-203 intended to insulate indigent defense counsel from the political whims of municipal officials and the judicial economy concerns of municipal judges.² Pursuant to SB 18-203, “independent indigent defense requires, at minimum, that a

² Stakeholders that included the ACLU of Colorado and a group of municipal judges, including Judge Day, drafted SB 18-203. SB 18-203 was motivated in part by the trend of municipal judges appointing criminal defense attorneys who disposed of cases fastest—typically via plea deal. In so doing, municipalities would prioritize judicial economy over zealous advocacy for indigent defendants.

nonpartisan entity independent of the municipal court and municipal officials oversee or evaluate indigent defense counsel.” Resolution 2023-118 directs the presiding judge and the city manager to effectively compare the Public Defender’s Office to alternative methods of providing indigent defense counsel via RFP process. That comparison is fundamentally an evaluation of the Public Defender’s Office, and the presiding judge and city manager are precisely the kinds of partial individuals who should not be tasked with the evaluation of indigent defense counsel.

II. Privatization of public defense would cost the City of Aurora far more while providing less, no matter what model is selected

a. Flat-fee systems are widely rejected by states and the American Bar Association because they financially disincentivize zealous advocacy and lead to constitutional deprivations

Under a flat-fee arrangement, attorneys receive a flat fee per case. Generally, all trial expenses (such as experts or investigators) are paid out of the same flat fee, meaning that a lawyer’s pay is negatively impacted by seeking outside assistance. These arrangements financially incentivize lawyers to do as little work as possible on cases, creating a significant conflict of interest between a client’s right to counsel and the lawyer’s financial interest. The more work done on the case, the lower the hourly rate for the attorney. These arrangements also incentivize attorneys to take on as many cases as possible to supplement their income, detracting from the number of hours that can be spent on any individual case.

Because of the perverse financial incentives established by this structure, flat-fee arrangements are banned in several states across the country and are discouraged by the American Bar Association.³ Idaho and Michigan have banned flat-fee contracts via state statute. *See* Idaho Code § 19-859 (providing contracts with indigent defense attorneys “shall not include any pricing structure that charges or pays a single fixed fee for the services and expenses of the attorney”); *Michigan Indigent Defense Commission Act*, Mich. Comp. Laws § 780.991(11)(2)(b) (providing “[e]conomic disincentives or incentives that impair defense counsel’s ability to provide effective representation must be avoided”). Other states have banned them through judicial order. *See, e.g.*, Washington Court Rule 1.8 (observing that flat-fee contracts create an “acute financial disincentive for the lawyer” and “involve an inherent conflict between the interests of the client and the personal interests of the lawyer”); *In the Matter of the Review of Issues Concerning Representation of Indigent Defendants in Criminal and Juvenile Delinquency Cases*, Case No. ADKT0411 (Nev. Jul. 23, 2015) (Nevada Supreme Court order disallowing flat-fee contracts).

Exemplifying the problems with flat-fee contracts, some municipalities have been held liable for the constitutional deprivations caused by those arrangements. In a class action lawsuit against two Washington cities brought by the ACLU of Washington, the plaintiffs succeeded at

³ According to ABA Principle 2, assigned counsel “should be paid a reasonable fee that reflects the cost of overhead and other office expenses, as well as payment for work.” *Ten Principles of a Public Defense Delivery System* (Aug. 2023), https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-sclaid-ten-princ-pd-web.pdf. That involves separately funding expert, investigative, and other litigation support services. *See* ABA Standing Committee on Legal Aid and Indigent Defendants, *Ten Principles of a Public Defense Delivery System* (2002), https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_tenprinciplesbooklet.authcheckdam.pdf.

trial in demonstrating a systemic deprivation of their Sixth Amendment right to counsel. *Wilbur v. City of Mount Vernon*, 989 F. Supp. 2d 1122 (W.D. Wash. 2013). The federal court held the defendant municipalities liable for the constitutional deprivation under 42 U.S.C. § 1983, finding that the “municipal policymakers ha[d] made deliberate choices regarding the funding, contracting, and monitoring of the public defense system that directly and predictably caused the deprivation.” *Id.* at 1124, 1133. The court called the use of flat-fee contracts an “[i]ntentional choice” that purposefully “left the defenders compensated at such a paltry level that even a brief meeting [with clients] at the outset of the representation would likely make the venture unprofitable.” *Id.* at 1132.

Aurora City Councilmembers should heed the warning provided by the *Wilbur* court and reject a flat-fee contract arrangement:

The Court is sensitive to the Cities' interests in controlling the manner in which they perform their core functions, including the provision of services and the allocation of scarce resources. Having chosen to operate a municipal court system, however, defendants are obligated to comply with the dictates of the Sixth Amendment, and the Court will “not shrink from [its] obligation to enforce the constitutional rights of all persons.”

Id. at 1134 (citing *Brown v. Plata*, 563 U.S. 493, 511 (2011)).

b. Hourly rate, or assigned-counsel, systems cost jurisdictions exorbitant prices without the benefits of a free-standing public defender office

News reports of the financial consequences of hourly rate systems (also known as “assigned-counsel systems”) provide a warning sign for the City of Aurora. For example, Harris County, Texas, spent \$60 million in 2022 to contract with private counsel to provide indigent defense services.⁴ One private attorney was paid over \$1 million. Seven others were paid more than \$400,000. Receiving an hourly fee, private attorneys took on hundreds of cases a piece, calling into question the adequacy of representation in each case. Those services could have been provided at a fraction of the cost by the public defender’s office in the jurisdiction, where the average annual salary of an attorney was \$115,000.

Empirical research across multiple states demonstrates that it is more cost-effective to provide indigent criminal defense through public defense offices than assigned-counsel systems. See Eve Brensike Primus, *Defense Counsel and Public Defense*, Reforming Criminal Justice: Pretrial and Trial Processes, Phoenix, AZ: Academy for Justice, 121, 131-32 (2017) (collecting studies) (projecting cost savings of between \$125 and \$200 per case in New York and Iowa, and cost savings of 23% to 31% per misdemeanor and 8% to 22% per felony in Texas, totaling \$13.7 million statewide).⁵

These cost savings stem in part from the pooled resources and knowledge offered by freestanding public defender offices. Experts recognize that public defender offices offer many

⁴ Neena Satija, “\$1 million from taxpayers to 1 private attorney in 1 year: A look inside Harris County courts,” *Houston Chronicle* (Feb. 27, 2023), <https://www.houstonchronicle.com/news/investigations/article/harris-county-taxpayers-public-private-attorneys-17805594.php>.

⁵ Available at https://repository.law.umich.edu/book_chapters/113.

advantages over contract systems.⁶ They provide more training, mentorship, and supervision of entry-level attorneys. Their coworking relationship catalyzes collaboration, the sharing of information, and the development of collective expertise, which promotes efficiency and improves quality of representation. And their group structure allows them to better utilize investigative, expert, and staff support.

In Aurora's case, the Public Defender's Office provides each of these advantages plus the invaluable benefit of the Aurora Sustained program, a partnership between the Public Defender's Office and Aurora Mental Health and Recovery (AMHR). Aurora Sustained provides daily mental health screenings and other support to individuals interacting with the municipal court throughout the court process. This saves costs for the court by streamlining the competency process and reduces recidivism by connecting individuals with mental health, substance use, or homelessness services.

This institutional expertise makes public defenders not only more cost-effective but ultimately better at their jobs. Studies have shown that public defender offices perform better than assigned-counsel systems. One study of federal criminal cases from 51 districts found that public defenders delivered lower conviction rates and shorter sentences than court-appointed attorneys.⁷ Another study of indigent criminal defense in Philadelphia found that public defenders reduced convictions by 19% and the length of sentences by 24%.⁸

c. Eliminating the Public Defender's Office would likely thwart City Council's stated goal of cost savings by increasing detention and litigation costs

Jurisdictions across the country have demonstrated the burdensome costs associated with providing indigent criminal defense without a fully staffed, freestanding public defender office. Because defense attorneys in flat-fee and assigned-counsel systems obtain worse outcomes for their clients, Aurora can anticipate that moving to either system would lead to higher pretrial detention rates, higher conviction rates, and longer sentences. This, in turn, would cost the City an unquantifiable amount in increased costs of detention both pre- and post-trial.

The City should also be wary of potential litigation costs related to inadequacy of counsel on a systemic level and in individual cases, including attorneys' fees. *See, e.g., Wilbur, supra* page 4 (holding defendant municipalities liable for systemic deprivation of right to counsel under §1983); *Idaho's Public Defense Reform Story*, ACLU of Idaho (Apr. 9, 2021) (ACLU of Idaho class-action lawsuit concerning constitutionality of Idaho's statewide public defense system, which has been pending for 8 years);⁹ *Settlement begins historic reformation of public defense in New York state*, ACLU of New York (Oct. 21, 2014) (settlement reached in ACLU of New York lawsuit concerning constitutionality of New York's public defense system after 7 years of litigation).¹⁰

⁶ *See, e.g., Defense Counsel and Public Defense, supra* page 5; Eve Primus, *Culture as a Structural Problem in Indigent Defense*, Minnesota Law Review 1769, 1806-07 (2016) <https://repository.law.umich.edu/articles/1838>.

⁷ Radha Iyengar, National Bureau of Economic Research, *An Analysis of the Performance of Federal Indigent Defense Counsel* (2007), https://www.nber.org/system/files/working_papers/w13187/w13187.pdf.

⁸ *See* James M. Anderson & Paul Heaton, *How Much Difference Does the Lawyer Make?: The Effect of Defense Counsel on Murder Case Outcomes*, 122 YALE L.J. 154 (2012).

⁹ Available at https://www.acluidaho.org/sites/default/files/field_documents/aclu_tucker_lawsuit_timeline_2021-04-09.pdf.

¹⁰ Available at <https://www.nyclu.org/en/press-releases/nyclu-sues-enforce-public-defense-reforms-new-york-state;> *see also NYCLU sues to enforce public defense reforms in New York state*, ACLU of New York (Dec. 15, 2022),

Additionally, the City should consider its potential exposure to liability for employment-type claims given the Public Defender Office’s history of whistleblowing. In the last three years, the Public Defender’s Office has reported excessive force and unconstitutional arrests by the Aurora Police Department in cooperation with the Attorney General’s investigation that resulted in the finding that APD has a pattern and practice of racially biased policing and use of excessive force, as well as the Consent Decree. The Public Defender’s Office has also shed light on the prosecution’s failure to disclose constitutionally mandated evidence, ultimately filing a grievance against the City after they concealed 14 Brady letters containing evidence of police misconduct bearing on truthfulness.¹¹ Retaliation against public defenders for such advocacy may be actionable in court. *See Montgomery County reaches \$310K settlement in suit brought by former public defenders*, Pottstown Mercury (Mar. 24, 2021) (Pennsylvania county settled wrongful discharge lawsuit brought by former chief and deputy chief public defenders alleging they were fired in retaliation for exposing the county’s “unlawful bail practices” in an amicus brief on behalf of the ACLU of Pennsylvania).¹²

For all the reasons above, the City’s attempt to save money by privatizing the Aurora Public Defender’s Office is likely to lead to worse outcomes for individuals and greater legal and financial risk for the City.

III. Conclusion

In conclusion, Aurora’s freestanding public defender office—which has been an integral part of the community for 30 years—is the gold standard of indigent defense models. It represents huge cost savings for the City of Aurora over either a flat-fee or assigned-counsel model, and Aurora would take a significant step backward by abandoning it. Further, under state law and Aurora’s municipal code, Aurora City Council lacks the legal authority to eliminate the Public Defender’s Office or contract out the indigent defense services that office provides. Aurora City Council should repeal Resolution 2023-118 and properly fund the Aurora Public Defender’s Office.

Sincerely,



Catherine Ordoñez
Policy Counsel
Attorney Reg. No. 52811
ACLU of Colorado

<https://www.nyclu.org/en/press-releases/nyclu-sues-enforce-public-defense-reforms-new-york-state> (subsequent lawsuit against New York State alleging violations of settlement agreement).

¹¹ *See Prosecutors ordered to review cases after Aurora office failed to provide defendants with knowledge of discredited cops*, Colorado Sentinel (Mar. 28, 2022), <https://sentinelcolorado.com/metro/prosecutors-ordered-to-review-cases-after-aurora-office-failed-to-provide-defendants-with-knowledge-of-discredited-cops/>.

¹² Available at <https://www.pottsmmerc.com/2021/03/24/montgomery-county-reaches-310k-settlement-in-suit-brought-by-former-public-defenders-2/>.

Cc Mayor Mike Coffman
Presiding Judge Shawn Day
Interim City Manager Jason Batchelor
Public Defender Commission Members Brown, Kaplan, Williamson, Tobiassen, Ashburn,
McDermott, and Hildebrand

January 19, 2024

Mayor Mike Coffman
Councilor Crystal Murillo
Councilor Steve Sundberg
Councilor Ruben Medina
Councilor Stephanie Hancock
Councilor Angela Lawson
Councilor Francoise Bergan
Councilor Alison Coombs
Councilor Curtis Gardner
Councilor Danielle Jurinsky
Councilor Dustin Dzvonek

Dear Mayor Coffman and Councilmembers,

I write with concern over the City of Aurora's recent RFP seeking contractors to provide public defense services for the city. I am an attorney who has worked to improve public defense systems in the United States since the 1990s. In 2021, when I worked as Director of Defender Research Initiatives at the National Legal Aid & Defender Association (NLADA), I had the opportunity to study the effectiveness of Aurora's municipal public defense system. The work was conducted at no cost to Aurora under a grant to NLADA from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance.

That review found the Aurora Public Defender's Office ("APDO") to be a strong program. Recommendations made in the report for further improvement were swiftly and successfully acted on by the Chief Public Defender, in collaboration with other city actors. In our 2021 evaluation, my co-authors and I praised the city of Aurora's leadership for supporting a model structure.¹ Therefore, it is perplexing to learn that Aurora is seeking to privatize the APDO and utilize contract defenders. After reviewing RFP R-2384, I urge the Aurora City Council to abandon this effort.

With few exceptions, national experts find contract defender systems to be less effective than public defender delivery systems. The Aurora RFP appears to be seeking a replacement program that guarantees to be deficient in comparison with the APDO.

Impetus for the RFP is found in a recommendation by the Aurora Citizens' Advisory Budget Committee (CABC), that called for "a cost-benefit analysis review of the Aurora Public Defender's Office versus

¹ We wrote: "The City of Aurora has established a municipal public defender office that is structured to promote independence from interference by government oversight, which is essential for ensuring the effective assistance of counsel. A Public Defender Commission oversees the Office and is statutorily empowered to appoint and discharge the Chief Public Defender and ensure that clients are represented independently of any political interests. National standards and best practices identify independence as the core structural foundation needed for effective public defense systems. However, defense function independence can only be operational if other government entities embrace its importance. The City of Aurora is to be commended for recognizing this." Marea Beeman, Rosalie Joy, Michael Mrozinski, *Review of the Aurora, Colorado Municipal Public Defense System*, National Legal Aid & Defender Association, September 2021, <https://www.nlada.org/sites/default/files/NLADA-Aurora-Public-Defender-Assessment.pdf>

having the services and responsibilities fulfilled by the Office of the State Public Defense and/or Alternative Defense Council." It appears that no professional analysis was undertaken before the RFP was issued. Releasing an RFP for a critical government service that is not properly data-informed is fundamentally irresponsible.

Concerns with the City's RFP include:

- Defying national trends to better equip defenders to deliver constitutionally effective representation to clients, the RFP does not require bidders to propose plans that adhere to minimum standards,² such as those in the recently updated American Bar Association 10 Principles of a Public Defense Delivery System³ or the recently released national defender workload standards.⁴
- The RFP sets out no quality control measures, such as specified levels of contractor experience, training, supervision, or access to investigators and social workers.
- There is no mention of an anticipated oversight structure, or what would become of the existing Public Defender Commission. Meanwhile, among other things, C.R.S. §§ 13-10-114 requires that "independent indigent defense requires, at minimum, that a nonpartisan entity independent of the municipal court and municipal officials oversee or evaluate indigent defense counsel." The RFP improperly shifts responsibilities of the Public Defender Commission pertaining to procurement, evaluation, and selection of public defense counsel to City officials, the City Attorney, and the Presiding Judge, which will undermine the independent function of public defense counsel in Aurora.
- There is no assurance that a new public defense contract organization will have any voice into pressing municipal court issues. Currently in Aurora, the "Big Four" -- the Presiding Judge, the Court Administrator, the Chief Public Defender, and the Deputy City Attorney for the Criminal Division -- meet as needed to address shared issues and challenges facing the court.
- There is no requirement to track data and to use that data as the basis for assessing the sufficiency of resources or adequacy of performance.

The RFP solicits bids based on a case level that current APDO data show is under-estimated ("1800-2000 cases annually," and "110-115" jury trials) and offers no mechanism to renegotiate contractor resources. APDO records show it closed 2,170 cases in 2023, or 4,132 including cases closed after appearance in-custody at first appearance only. The APDO represented clients in 123 jury trials in 2023 and projects

² See Marea Beeman and Claire Buetow, *Gideon at 60: A Snapshot of State Public Defense Systems and Paths to System Reform*, U.S. Department of Justice, National Institute of Justice and Office for Access to Justice (November 2023), <https://www.ojp.gov/pdffiles1/nij/307325.pdf>

³ American Bar Association, *Ten Principles of a Public Defense Delivery System* (August 2023); https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-sclaid-603-public-defprinciples-2023.pdf.

⁴ Nicholas M. Pace et al., *National Public Defense Workload Study*, RAND Corporation (2023), https://www.rand.org/pubs/research_reports/RRA2559-1.html

closing 2,430 cases post-first appearance, or 4,167 total, in 2024. To effectively serve all clients, the ability to revisit resources before the end of the contract term will be paramount for any new entity.

Data on APDO outcomes show that staff are highly effective advocates. The 2021 NLADA report showed that City attorneys dismissed 47% of charges for APDO-represented clients in 2019 and 59% in 2020. Recent news articles suggest the dismissal rate is even higher now.⁵ A high proportion of dismissals reportedly occur on the day of trial or the week before trial, often due to the City's Attorney's inability to get witnesses to appear at trial.⁶ While the City is purportedly seeking more cost effective and efficient defender operations, case dismissal results speak to a City Attorney program that is not properly managing cases, is wasting court resources in pursuing nonviable cases to trial, and in the process is causing undue stress to many APDO clients.

APDO is a crucial check against government overreach. In contrast to salaried defenders, contract defenders are not likely to prepare every case as though it may proceed to trial, because the incentive for contract defenders is to do as little as possible in each case in order to free up time to work on higher paying retained cases.

Finally, it's not clear whether Aurora sought input into its plans from the communities and individuals that are most likely to require municipal defender services. Individuals who have been and will be served by the APDO include a disproportionate amount of people who engage in behavior that stems from mental health or substance use issues, or relates to housing instability, and leads to criminal legal system entanglement. These precise factors make them less equipped to reach out to the city about a proposed diminution of public defense services, and make it all the more important for their input to be collected.

This letter highlights concerns that jump out from a relatively quick review of the RFP and my general familiarity with Aurora's public defense system. The City's move to abolish the APDO with no assurance that a replacement system will serve clients just as effectively is shortsighted, and I hope it reverses course. Please do not hesitate to contact me if you have questions.

Sincerely,



Marea L. Beeman, Esq.
Public Defense Systems Consultant
65 Oxford Street
Somerville, MA 02143
617-999-4342

cc: City Manager Jason Batchelor, Presiding Judge Shawn Day, City Clerk Kadee Rodriguez, and Chief Public Defender Elizabeth Cadiz

⁵ An October 30, 2023 *Sentinel* opinion column by Doug Wilson stated the APDO had a 74% charge dismissal/acquittal rate in 109 jury trials for the year. <https://sentinelcolorado.com/opinion/doug-wilson-councilmember-zvonek-tries-to-undermine-rights-of-poor-with-wrong-defender-ploy/>

⁶ See NLADA report p. 31.



Aurora Mayor and City Council
15151 E. Alameda Parkway
Aurora, CO 80012

December 21, 2023

New Mexico Law Offices of the Public Defender
301 N. Guadalupe Street
Santa Fe, NM 87501

Dear Mayor Coffman and City Councilors,

As a concerned lawyer from your neighboring state of New Mexico, I've closely observed Colorado and your city's approach to criminal justice issues, including the commendable initiatives like the Crisis Response Team and substantial funding for the Aurora Mental Health Center. The City Council's discussions about the potential privatization of the Aurora Public Defender's Office have surprised me and raised serious concerns.

Understanding that fiscal responsibility is cited as the primary motivation for this consideration, I empathize with the responsibility to use taxpayer money efficiently, having served as the head of the New Mexico Law Offices of the Public Defender for much of the past 10 years. In 2013, the legislature and the citizens of New Mexico created a new Public Defender Department, overseen by an independent Commission, similar to your structure but statewide. I believe that any observer in New Mexico would tell you that we are now a more efficient, more responsive and more responsible agency.

Fiscal responsibility extends beyond mere short-term cost savings. It requires that you spend money well and that the money spent and cost saving measures don't cause unwanted harm. This is especially true when the freedom of members of your community is at stake. While one could devise a program to pay an attorney less for the same amount of work, the human and cultural costs of this change must be included in your consideration.

While considering fiscal responsibility, it's crucial to recognize that public defense, along with policing and prosecution, constitutes a fundamental government function. This framework ensures a necessary tension between branches, preventing any one from becoming overly dominant. Privatizing public defense raises questions about the delicate balance in our government's checks and balances system.

The potential peril in privatizing public defense disproportionately affects your indigent neighbors. Overworked attorneys or those practicing volume public defense may compromise the human experience of fair representation, directly impacting the rights of those accused.



Anticipating that passionate and dedicated attorneys would be on contract in a fully privatized system, the reality is that overwhelming caseloads could hinder their effectiveness. National hiring difficulties for criminal defense work also extend to contracted attorneys.

Because fiscal responsibility requires the effective use of money, quality controls are needed. However unlike procurement of other goods and services on government contract, such as a new construction project or office furniture, criminal defense is politically charged and complex. Assessing the work of a provider is a complicated and nuanced process that is neither easy nor inexpensive, even for a department like mine that has centralized procedures.

Highlighting that the U.S. and Colorado constitutions protect the rights of the accused, the right to "reasonably effective assistance of counsel" is not a trivial matter. Attempting to economize on this vital function – especially while continuing to increase resources for police and prosecutors - jeopardizes the core principles of our justice system.

In light of these concerns, I urge you to not only reconsider but oppose the privatization of the Aurora Public Defender's Office. True fiscal responsibility and community safety requires that we maintain the integrity of our justice system and uphold the constitutional rights of all citizens. Your commitment to this matter directly affects the well-being of your community and the principles we collectively hold dear.

Please let me know if I can provide any information or answer any questions.

Sincerely,

Bennett J. Baur
Chief Public Defender
New Mexico Law Offices of the Public Defender

December 11, 2023

VIA EMAIL

Aurora City Council
15151 E. Alameda Parkway
Aurora, Colorado 80012

**Re: Letter to Aurora City Council from Colorado Defense Attorneys
Opposing 2023-118**

Dear Aurora City Council Members:

We, the signatories to this letter, oppose Aurora Resolution 2023-118, the effort to privatize the Aurora Public Defender's Office ("APDO") and urge the Aurora City Council to abandon this resolution. Second, we urge you to complete a more detailed study that addresses overlooked factors prior to taking any action.

Our understanding is that the effort to privatize the APDO is due to cost concerns and the belief that the City of Aurora could spend less on indigent defense than the current APDO \$2.5 million annual budget. We do not believe this is possible.

In whatever form it takes, pursuant to the United States and Colorado Constitutions, as well as CRS 13-10-114.5, any municipal indigent defense organization must comply with the requirement of being constitutionally effective, competent, and independent. To be constitutionally effective and competent, a criminal defense attorney must review discovery, meet with their clients, properly advise clients, conduct investigation, consult with experts, present mitigation, resolve cases in plea agreements, prepare for hearings, and litigate trials.

It is constitutionally insufficient to pay an attorney a flat fee regardless of whether the case resolves in a plea bargain or proceeds to trial. Under a flat fee structure, attorneys are incentivized to resolve cases quickly and without regard to guilt or innocence because speed becomes the sole metric for financial profit. Instead, to comply with the law, clients must be able to exercise their rights without regard for what's most expedient for their lawyer.

The cost of retaining qualified practitioners is not trifling. For private cases, criminal defense attorneys charge an average hourly rate of between \$250-\$400. A reasonable estimate for a flat fee for a municipal case is between \$2,500 and \$5,500, prior to trial. At the lower private rate, it would cost \$10,000,000 a year to handle the 4,000 annual cases that the Aurora Public Defender's Office currently handles. Similarly, under the Office of the Alternate Defense Counsel ("OADC") \$95 an hour rate, with an average

estimate of 15-25 hours per case, it would cost at least \$5,700,000 to handle the same 4,000 cases. (Both scenarios are a significant jump from the \$2.5 million currently budgeted on the APDO).

Further, there are many other hidden costs that must be accounted for in privatizing the APDO. Handling 4,000 cases a year, nearly 7 days a week, is not a one or two attorney job. The APDO currently has 11 attorneys, and any bidder would have to employ at least that many. If a private bidder accepted a contract for less than \$2.5 million dollars, it would necessarily result in fewer and less qualified attorneys and more hidden costs than you may anticipate. For example, fewer defense attorneys would result in judges, law enforcement, and clients waiting on the decreased number of defense attorneys to make their way to each courtroom. Fewer defense attorneys would also cause delay in resolving cases because the attorneys would need extra court dates per case to complete obligations. Less qualified or fewer defense attorneys would also result in the hidden costs of increased appeals, more training, and longer and more costly pretrial incarceration. Studies have consistently shown that public defenders are able to decrease pretrial detention, which reduces jail operation costs.

Beyond the direct costs to a case, there are more abstract hidden costs that are easily overlooked. Effective attorneys properly advise their clients, preventing post conviction attacks which clog court dockets and require additional attorneys and legal fees. Effective attorneys litigate motions hearings, which are the only check on police misconduct and serve as training for police. This practice results in a reduction of lawsuits. For example, Georgia, which privatized its indigent defense service based on cost and without regard to quality and subsequently saw a significant increase in civil rights challenges.

These costs do not even account for other essential defense professionals. The public defender's office budget includes investigators, experts, mental health professionals, and other essential workers. All of these workers are necessary for litigation and most help instill rehabilitative options and reduce future crime.

Along with increasing costs, a private attorney bidding for this contract at less than \$2.5 million would only be able to do so by cutting major corners and harming clients. In a recent law review article, poor compensation was the no. 1 cited reason for attorneys neglecting discovery and, in many cases, ignoring discovery altogether. This study indicated that non-public defenders in privatized systems failed to download discovery at all. In other words, attorneys were not even looking at the evidence with which their clients were being charged, but they were pleading them to convictions anyway. The financial incentive to process people, rather than advocate for clients, cuts into the system of justice on many different levels.

The signatories to this letter know the level of commitment that it takes to be an effective criminal defense attorney. To be the last line of defense when the government is coming down on you requires a person who is willing to turn over every piece of evidence to uphold the rights of the accused. Many jurisdictions have previously tried to do what Aurora is contemplating doing, and, almost every one, has turned back. A dedicated, in-house public defender office is better for the entire community. Please abandon 23-118 and preserve the excellent and efficient APDO that currently exists.

[Law Review Article - Georgia PD privatization problems](#)

[Law Review Article - Ignoring discovery](#)

(If you would like to sign, please add any other comments as well as your name and the name of your firm below.)

Signed,

(See Attached Signatures & Additional Comments from 331 Individuals)

cc: Aurora Mayor Mike Coffman

Aurora Municipal Court Chief Judge Day

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/7/2023 22:43:56	Yona Porat
12/7/2023 23:07:31	Shandea Sergent, Colorado State Public Defender
12/7/2023 23:15:49	David Kraut
12/7/2023 23:41:08	Daniel M. Murphy, DANIEL M. MURPHY, PC
12/7/2023 23:46:57	Becca Butler-Dines-Attorney
12/8/2023 3:09:54	RUTH SUMMERS, Law Office of Ruth Summers, Denver, CO.
12/8/2023 5:43:15	Jim Castle, Castle & Castle, P.C.
12/8/2023 6:24:01	Sean Dormer; Dormer Harpring, LLC
12/8/2023 6:32:56	The Law Office of Alaina Almond, LLC
12/8/2023 7:12:18	Danielle McCarthy, Danielle M. McCarthy P.C.
12/8/2023 7:40:39	Kristin M Ladd
12/8/2023 7:56:25	Kevin Benninger, The Juba Law Office Timothy Garvey, Dormer Harpring: privatization of government functions is often a short-cited, profit-oriented, mistake. Here, it's more than that. It is morally wrong. Permitting the accused to have access to counsel is a civil right in this country, and for many who serve in that role it is a calling. Giving that role away to the private market is sure to result in worse representation and more wrongful convictions. As a society, our goal should be to ensure that the only people in jail are those who belong there.
12/8/2023 8:27:37	Victoria C. Dorn, Keller Dorn Law, LLC
12/8/2023 8:47:00	David Ostrowski
12/8/2023 9:01:27	Abraham V Hutt Recht Kornfeld, P.C.
12/8/2023 9:19:55	Jessica Meza esq.
12/8/2023 9:22:42	Antonia Diener, Deputy State Public Defender @ Colorado State Public Defender - Boulder Office
12/8/2023 9:24:09	Madison Whitley, Juba Law Office, PLLC
12/8/2023 9:24:13	Michael Carter
12/8/2023 9:26:00	Ashley Cordero
12/8/2023 9:28:45	Stephen B. McCrohan
12/8/2023 9:34:08	Kristi Englekirk, Meza & Associates LLC
12/8/2023 9:48:33	Nicholas Pierce, Amistad Law LLC. I am a private criminal defense contractor and ADC, I used to be a public defender, and I agree that privatization of the PDs office is a mistake.
12/8/2023 9:57:33	Elizabeth Jordan
12/8/2023 10:04:17	Jason Kosloski, licensed Colorado attorney
12/8/2023 10:15:13	Sarah Schulte
12/8/2023 10:17:56	James S. Lamb, Knudson & Associates - Note: Many indigent clients are noncitizens, many of whom are also refugees; unfortunately, Aurora City criminal ordinances can carry devastating immigration consequences for these people. The writer is an immigration lawyer and a member of the executive committee of the Colorado Chapter of the American Immigration Lawyers Associate (writing in his personal capacity).
12/8/2023 10:22:18	Sarah Rockefeller, #51282
12/8/2023 10:23:00	KRISTEN MOUSSALLI, moussalli law, LLC
12/8/2023 10:43:07	Shelby Deeney
12/8/2023 10:43:53	Alexander McShiras Pikes Peak immigration
12/8/2023 10:47:19	Cassandra MacKenzie, Law Office of Cassandra MacKenzie, LLC
12/8/2023 11:21:41	Pamela Carty, Power Law LLC
12/8/2023 11:26:26	Kristin Bailey
12/8/2023 11:39:23	Aaron Thompson, General Counsel, Denver Public Schools
12/8/2023 11:49:41	Joshua Russcol, Chan Law Firm
12/8/2023 11:57:01	Michelle Ahronovitz, Meza and Associates.
12/8/2023 12:00:46	Grace Lundergan, Attorney, Ryan Immigration Group
12/8/2023 12:14:02	John Chase #47570
12/8/2023 13:12:49	Steven Brown, SBrown Law LLC, Atty Reg 55118
12/8/2023 13:21:38	Edwin Hurwitz, Esq, Law Offices of Jon Sirkis, LLC. Justice requires fair and impartial defense for all people brought before the court, whether they have resources or not. The APDO has an excellent record of obtaining fair outcomes for their clients and ensuring that the City Attorney's Office is held to the standard of proving every element of a charge beyond a reasonable doubt.
12/8/2023 13:50:58	Effie Seibold, Office of the Colorado State Public Defender
12/8/2023 14:12:40	Cameron Bedard, Frank Law Office.
12/8/2023 14:57:22	

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/8/2023 15:08:58	Alexis Mayer, Colorado State Public Defender
12/8/2023 15:11:30	Stephen Wilson, Esq. Law Office of Stephen Wilson, LLC
12/8/2023 15:23:49	James Holley
12/8/2023 15:24:09	Andrea Kremer, Arapahoe County Public Defender
12/8/2023 15:24:20	John Finnegan, Office of the State Public Defender
12/8/2023 15:24:25	Kevin R. Jensen, The Law Firm of Kevin R. Jensen, PLLC
12/8/2023 15:24:33	Jackson Strain, Colorado State Public Defender's Office
12/8/2023 15:24:35	Ericson Morales, Deputy Public Defender, Colorado State Public Defender
12/8/2023 15:24:36	Kate Herold
12/8/2023 15:24:43	Milo Schmitt
12/8/2023 15:24:43	Claire Stephens, admin at Golden Public Defenders Office
12/8/2023 15:24:52	Julieanne Farchione, Office of the State Public Defender-Appellate Division
12/8/2023 15:24:57	Casey Mark Klekas, Colorado State Public Defender -- Appellate Division
12/8/2023 15:25:14	Travis Weiner, Deputy State Public Defender
12/8/2023 15:25:19	Megan Hiserodt, COPD
12/8/2023 15:25:31	Hannah Wilford, Arapahoe County PD Office
12/8/2023 15:25:37	Jason Lamprecht, Colorado State Office of the Public Defender
12/8/2023 15:25:39	Alex Haynes
12/8/2023 15:25:54	Meghan Morris
12/8/2023 15:26:05	Heather Siegel, Colorado State Public Defender
12/8/2023 15:26:08	Garen D. Gervey, Office of the State Public Defender, Golden Regional Office
12/8/2023 15:26:09	Danielle Feland
12/8/2023 15:26:40	Leah Scaduto
12/8/2023 15:26:50	Jessica Corey, OSPD
12/8/2023 15:27:00	Jordan Vinovich, Arapahoe County Public Defender
12/8/2023 15:27:04	Lorie Kerr OSPD
12/8/2023 15:27:15	John Gonglach, Colorado State Public Defenders
12/8/2023 15:27:27	Joseph Archambault
12/8/2023 15:27:35	Jon Grevillius, Office of the State Public Defender.
12/8/2023 15:27:36	Jamie Keairns
12/8/2023 15:28:10	Brandon Olsen, Office of the Colorado State Public Defender -- Douglas County
12/8/2023 15:28:23	Ashley Sullivan, Supervising Deputy Public Defender, Arapahoe County Kayleigh TenBarge - OSPD/Defenders Union of Colorado Member
12/8/2023 15:28:34	The Aurora Muni PDs provide an absolutely essentially and constitutionally required service to the community. They protect some of the most vulnerable members of our society, and they do so effectively and with compassion. To get rid of their agency would be a great disservice to the city of Aurora, your constituents, who rely on their services. Currently, many private attorneys are unwilling to take cases in Aurora due to the fact that you have to actually drive out there to get any discovery. Further, the idea that privatizing the PDs office will save costs is absurd. It currently costs almost \$700 per case to have a state public defender, whereas Alternative Defense Counsel costs almost \$1500 per case. It costs nearly double to have a private attorney. You will be hard pressed to find anyone willing to work for city rates, if they are willing to take cases in Aurora at all. You already have a group of people who care about their work, and do it well. To get rid of them is to fail your duty of upholding the constitution and ensuring that everyone receives competent counsel. I urge you against privatizing Aurora Muni PD.
12/8/2023 15:28:52	Gillian McGann (Colorado State Public Defender)
12/8/2023 15:28:53	Riley Duncan, Office of the State Public Defender
12/8/2023 15:29:11	Magdalena Rosa
12/8/2023 15:29:15	Russell Glass, Denver Trial Office
12/8/2023 15:29:22	Anthony Ryan, OSPD, previously practiced in Aurora Municipal Courts during law school under the student practice act. The APDO is essential to protect against the constitutional violations committed by law enforcement in Aurora as underlined by the report released by the Attorney Generals office regarding Aurora Police Department's abhorrent practices. See here: https://coag.gov/app/uploads/2021/09/Pattern-and-Pracice-Investigation-Report.pdf
12/8/2023 15:29:48	Sabina Schmid (Colorado state Public Defenders, Denver Trial Office)
12/8/2023 15:30:08	Alexandra Douglas

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/8/2023 15:30:12	Sarah Finley, Colorado State Public Defender
12/8/2023 15:30:15	Gregory Mayer- Arapahoe County Public Defenders Office
12/8/2023 15:30:47	Leanne Hamilton, CSPD
12/8/2023 15:31:07	Apoorva Krishnan, OSPD
12/8/2023 15:31:22	Bryan Hall
	Patrick Crane, Colorado State Public Defender, privatization of criminal defense has proven over and over to both be less effective and more expensive. The only way in which such can save money is by incentivizing ineffective assistance because the work is only worth it for private contract attorneys if the work is minimized and cases resolve quickly against client's best interest and contrary to the attorney's ethical mandates.
12/8/2023 15:31:24	
12/8/2023 15:32:23	Nathan Galef-Brown
12/8/2023 15:32:33	Katie Telfer
12/8/2023 15:32:55	Katie Tenuta, Social Work Intern, Golden Public Defenders Office
12/8/2023 15:33:21	Mackenzie Shields, Colorado State Public Defender's Office Appellate Division
12/8/2023 15:33:45	Stephen Woodall, Colorado State Public Defender
12/8/2023 15:33:46	Matt Morriss
12/8/2023 15:34:06	Julian Lounsbury, Office of the Colorado State Public Defender
	Ana Calderon Moran, paralegal, Arapahoe Public Defender's Office. It is right and just to uphold the dignity of the 6th Amendment of the United States Constitution
12/8/2023 15:34:21	Jennifer Voss, Colorado State Public Defender
12/8/2023 15:34:43	Alex Egri
12/8/2023 15:35:50	
12/8/2023 15:36:37	Guadalupe Marquez, Brighton Public Defender's Office
	Meredith Wiles, Colorado State Public Defender. Do not get rid of the Aurora Municipal Public Defenders Office!!!!!!!!!!!!!!
12/8/2023 15:36:47	
12/8/2023 15:36:52	Adam Payne Steigerwald, Att'y Reg. No. 40092
12/8/2023 15:37:00	Olivia Williams, Grand Junction Public Defender's Office
12/8/2023 15:37:26	Zak Brown, Chief Deputy Colorado Public Defender
12/8/2023 15:38:19	Kellan Schmelz
12/8/2023 15:39:05	Brian J. Johnson
12/8/2023 15:39:49	Weston Rasmussen, Office of the Colorado State Public Defender
12/8/2023 15:40:13	Melissa Wilson
12/8/2023 15:40:20	Iris Eytan, Eytan Law Firm
12/8/2023 15:41:04	Skkye Moreno, Durango Public Defender's Office
12/8/2023 15:42:56	Henry Trujillo, CO State Public Defender
12/8/2023 15:43:13	Milena Lopez
12/8/2023 15:43:26	Emma Moore, Colorado State Public Defenders, Fort Collins Office
12/8/2023 15:43:50	Stephanie Lalonde
12/8/2023 15:43:58	Jessica K. Martinez, Montrose Regional Office of the Colorado State Public Defender.
12/8/2023 15:44:25	Austin Michaels, Colorado State Public Defender
12/8/2023 15:45:33	Ena, Denver Trial Office
12/8/2023 15:46:12	Ena Salazar, Denver Trial Office
12/8/2023 15:46:16	Sean Irwin
12/8/2023 15:48:53	Lori Lootens, Boulder Regional Office of the CO Public Defender
12/8/2023 15:50:01	Grady King- Office of the State Public Defender
12/8/2023 15:50:02	Adam Frank, Frank Law Office
12/8/2023 15:51:07	Lauren Stotts
12/8/2023 15:51:17	Tempest Cantrell, Brighton Regional Public Defender's Office
12/8/2023 15:57:30	Andrea Landaverry
12/8/2023 15:58:18	Lucienne Ohanian, OSPD
12/8/2023 16:01:48	Hannah Bennink, Deputy State Public Defender
12/8/2023 16:01:53	Elisa Lipovsky, CO State Public Defender's Office
12/8/2023 16:05:41	Maddy Bullard, Attorney, Arapahoe Office of the State Public Defender
12/8/2023 16:05:54	Mikayla Postma, Brighton Public Defender's Office

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/8/2023 16:07:11	Bacon, James, DO NOT cut cost and cut corners to abandon Constitutionally mandated rights. A robustly funded Public Defender's office would ultimately SAVE money to the municipality of Aurora by minimizing the overuse of the costly jail system and correctional system while still ensuring accountability to the law and to public safety.
12/8/2023 16:11:24	Kristi Martinez
12/8/2023 16:12:07	Jessica A. Pitts, Office of the Colorado State Public Defender, Attorney, Appellate Division
12/8/2023 16:13:20	Edward Bowden
12/8/2023 16:15:29	Dilyn Myers, Office of the Colorado State Public Defender
12/8/2023 16:15:42	Joseph Chase, Shulman Chase LLC
12/8/2023 16:17:33	Moorea Diamond, Esq. Diamond Law LLC
12/8/2023 16:19:54	Margaret Farrell, Colorado State Public Defender
12/8/2023 16:23:29	Emily Brophy, Colorado OSPD Denver
12/8/2023 16:24:22	Eric Vanatta, concerned citizen
12/8/2023 16:28:36	Efosa Akenzua
12/8/2023 16:32:56	Mazlyn Freier, Denver Trial Office of the Colorado Public Defenders
12/8/2023 16:44:21	Wesley Reed-Arapahoe County Public Defender
12/8/2023 16:46:19	Corey Parker, Colorado State Public Defenders, Denver Office
12/8/2023 17:02:45	Jeffrey Simonek
12/8/2023 17:03:29	Megan Schachter, Colorado State Public Defender
12/8/2023 17:03:32	Samuel Carty, Concerned Citizen
12/8/2023 17:08:00	Steven Graziano
12/8/2023 17:15:02	Amelia Power, Power Law
12/8/2023 17:15:07	McNair Shaw
12/8/2023 17:15:13	Elena vigil
12/8/2023 17:20:49	Jesi Jones, Colorado State Public Defender
12/8/2023 17:21:54	Kimberly Chalmers, CO State Public Defender and resident of Aurora
12/8/2023 17:22:03	Mariel Rotbart
12/8/2023 17:26:58	Heidi Milliken, Colorado State Public Defender's Office Appellate Division
12/8/2023 17:28:09	DANIEL JAMES SEQUEIRA
12/8/2023 17:29:32	Amanda Bleiler, Colorado State Public Defenders
12/8/2023 17:40:25	Ben Hand-Bender, OSPD (Golden)
12/8/2023 17:40:28	David A Kaplan, Office Head Arapahoe Trial Office, Colorado State Public Defender
12/8/2023 17:45:33	Christina Helregel, State of Colorado Public defender
12/8/2023 17:51:33	Megan McDonald
12/8/2023 18:06:47	Kelly Cunningham
12/8/2023 18:40:36	Jill Allen - Attorney - Office of the Colorado State Public Defender
12/8/2023 18:49:43	River Sedaka
12/8/2023 19:00:05	James Hardy, Executive Board Co-Chair of the Defenders Union of Colorado
12/8/2023 19:00:58	Neil Sandhu, Brownstein Hyatt
12/8/2023 19:12:38	Jason G. Tiplitz, Deputy Public Defender, Colorado State Public Defender's Office
12/8/2023 19:31:41	Ian McDavid, McCabe Law
12/8/2023 20:38:26	Megan Quantock, Colorado State Public Defender
12/8/2023 21:01:52	Cheryl Trine, Trine Law Firm LLC
12/8/2023 21:31:46	Marie Drake, The Drake Law Firm, PC
12/8/2023 22:27:55	Jessica Megan Davis, Esq.
12/8/2023 22:47:53	Rachael Willihnganz
12/8/2023 23:30:21	Ryan A. Dawson-Erdman
12/9/2023 4:33:31	Josiah Cohen, Polansky Law Firm, PLLC
12/9/2023 6:15:07	Galen Trine-McMahan
12/9/2023 6:21:01	Natalie Petrucci, Human Rights First
12/9/2023 6:22:00	Marnie Adams
12/9/2023 7:03:37	Sarah Roisman
12/9/2023 7:46:48	Michael T. Mihm, Esq., Ogborn Mihm LLP

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/9/2023 7:54:51	Glenna Gee-Taylor, OSPD
12/9/2023 7:56:22	Daniel Shaffer
12/9/2023 8:00:44	Jessica Jones, Law Office of Jessica Eve Jones, LLC
12/9/2023 8:12:52	Sid Tikalsky
12/9/2023 8:29:49	Liz DeLay
12/9/2023 8:59:24	Brian Bradford
12/9/2023 9:11:49	Rachel Lanzen
12/9/2023 9:28:28	Brooks Robinson, McCormick Kennedy & Robinson
12/9/2023 9:40:10	Mary Claire Mulligan, Mulligan & Mulligan, PLLC, a 31-year defender
12/9/2023 9:55:00	Amy Okubo, Amy Okubo Law, LLC. This is a terrible idea. Please abandon these efforts. I strongly agree. the proposal will radically encourage litigation regarding the 6th Amendment issues. Leonard I. Frieling atty reg 7656. former judge
12/9/2023 10:00:44	Alan Bickings, Hernandez and Associates
12/9/2023 10:11:07	Chris Gilbert, Christopher K. Gilbert, Esq., LLC
12/9/2023 10:26:38	Kimberly Van Dyke
12/9/2023 10:30:37	Janene K. McCabe
12/9/2023 10:30:47	Josh Patton, Patton Legal Solutions LLC, OADC Contractor: Privatizing a constitutionally required service is not something that should be taken lightly or without having a clear plan in place to provide quality legal services to those accused of crimes. Access to justice issues already harm the integrity of the justice system in Colorado, we should work together to make it better. 23-118 would make it worse.
12/9/2023 10:30:59	Jaenen McCabe, President, Colorado Criminal Defense Bar
12/9/2023 10:31:00	CCDB - Colorado Criminal Defense Bar
12/9/2023 10:31:37	Carrie Vonachen, private defense attorney
12/9/2023 10:38:49	Jim Aber; James McKee Aber, LLC
12/9/2023 10:40:38	Heather M. Arboleda
12/9/2023 10:41:31	Daniel M. Murphy, P.C.
12/9/2023 10:43:04	Stephanie Bowen, CCDB Past President
12/9/2023 10:48:59	Erik Pozek, Arapahoe County Public Defender's Office
12/9/2023 10:50:50	Amber St. Clair, Attorney
12/9/2023 10:54:19	Blain Myhre, Blain Myhre LLC
12/9/2023 10:59:27	Philip Cherner, former President and former Board Member, CCDB
12/9/2023 11:15:54	Cate Dolan, Private Solutions Inc
12/9/2023 11:39:56	Maria Liu, Attorney, Collins, Liu & Associates, LLP
12/9/2023 11:42:44	Kevin Strobel Strobel Law LLC
12/9/2023 11:49:29	Nicole Mooney, Mooney Law Office, PLLC
12/9/2023 11:50:59	Michelle Kellond, Top Tyr LLC
12/9/2023 12:00:34	Tristan Gorman
12/9/2023 12:12:12	Mark Langston, Mark T. Langston, P.C. It is my sincere hope that none of the members of the Aurora City Council, or their friends or loved ones, ever experience the stressful, frightening, potentially life-altering experience of being criminally prosecuted. However, if that were to happen, would you want the defense of your (or their) liberty, reputation, and future opportunities to be placed in the hands of someone who was being paid a few hundred dollars? Please abandon 23-118, not common sense and the constitutional rights of your citizens. Mark Langston Former president, Colorado Criminal Defense Bar Criminal law practitioner since 1985
12/9/2023 12:31:08	Tally Zuckerman, Zuckerman Law, LLC
12/9/2023 12:40:54	Jennifer Henslee
12/9/2023 12:43:28	Katie Coffey
12/9/2023 12:43:53	Jenifer Stinson, Stinson Law Office, OADC Contract Lawyer
12/9/2023 12:55:19	Rosa Hannah, El Paso County Public Defenders
12/9/2023 13:00:40	Lisa Sahli, Lisa R. Sahli, Attorney at Law, LLC
12/9/2023 13:05:09	

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/9/2023 13:33:38	Beale C. Tejada, Crane & Tejada, P.C.
12/9/2023 13:39:04	Jonathan Booker, Hernandez & Associates P.C.
12/9/2023 13:45:04	Erin Domaracki
12/9/2023 14:03:13	Lauren Parsons
12/9/2023 14:04:33	Amanda Rinehart - Office of the State Public Defender, Golden Regional Office
12/9/2023 14:21:56	Colette Tvedt
12/9/2023 14:56:04	Russel Murray Russel Murray III, P.C.
12/9/2023 15:54:56	John Radcliffe
12/9/2023 16:13:37	Morgen Archer, Arapahoe Regional Office- CO Public Defender's Office; Approving privatization will lead to many concerning constitutional violations and bigger costs to the City of Aurora in the long run.
12/9/2023 16:19:04	Casey J. Mulligan, Mulligan & Mulligan PLLC
12/9/2023 16:33:51	Josh Dunn, Arapahoe Public Defender
12/9/2023 16:47:55	Jeri D. Shepherd, Attorney at Law (former Deputy State Public Defender, Greeley, CO
12/9/2023 17:01:44	Michael R. Enwall Bill Trine, now retired. I was appointed by the court to defend alleged criminals before the advent of the state Public Defenders Office in 1965. Lawyers who entered a 'not guilty' plea and asked for a jury trial were often no longer assigned cases. They were also not paid enough to properly prepare for trial or consult with expert witnesses. When the Public Defenders Office was initiated in 1965, it was intended to overcome all of the unconstitutional procedures existing in the Colorado Court system. Aurora Resolution 2023-118 would take us back to the days when criminal defendants with no funds were constantly deprived of competent legal counsel and often forced to plead guilty, even when innocent. I strongly support the statements made in the letter to the City Counsel.
12/9/2023 17:02:38	
12/9/2023 18:06:59	Alexander Yorko
12/9/2023 19:26:57	Jody Visconti Clow, Paralegal
12/9/2023 20:10:31	Tiera Brown (Contractor licensed in DC) Nicole Duncan, Duncan Youth Legal Services, LLC. This would be so harmful to the community. I am a private attorney and do not readily have all the resources I need in order to give adequate defense. Thus, I severely limit my caseload to make sure I have what I need for each client. Each case needs an investigator, and since I represent youth, we also need social workers. This would severely hurt clients, youth, families and absolutely clog the dockets if everyone had to be private like myself. I take ADC contracts because those are the only cases where I can get a fully staffed and funded team, things fully available at the PDs office. Less readily available defenders who will give effective and fierce assistance of counsel not only upholds the Constitutional rights, but guarantees dignity in an already harsh system which is the importance and heart of due process.
12/9/2023 22:08:45	
12/9/2023 22:18:02	Jessica Bernfeld
12/9/2023 22:37:45	Eric Klein, Johnson & Klein Law
12/9/2023 23:39:48	Carly Hamilton, Office of the State Public Defender
12/10/2023 7:41:34	Natacha M. Gutierrez, Law Offices of Natacha M. Gutierrez, LLC.
12/10/2023 8:12:42	Erika Unger, Bread & Roses Legal Center
12/10/2023 9:00:09	Katherine Spicer, Katherine C. Spicer, PC
12/10/2023 9:37:23	Peter Wohelski
12/10/2023 9:49:20	Laura Wolf, Spark Justice Law LLC
12/10/2023 10:15:37	Reppucci Law Firm, P.C.
12/10/2023 10:53:01	Luke W. McConnell, Civil Rights Litigation Group, PLLC Wei Ting Hsing, Hernandez and Associates P.C., The Aurora Public Defender Office are filled with incredibly passionate advocates who are specialized to fearlessly litigate in Aurora Municipal Court. They have the best understanding of the Aurora Municipal Code as well as the inner workings of the court system. They are incredibly vigilant as defenders and I have always admired their zealous advocacy. Privatizing the Aurora Public Defender work would mean losing that expertise, making it challenging for indigent defendants to get the best representation they deserve.
12/10/2023 10:55:17	
12/10/2023 11:03:04	Mari Newman, Newman McNulty LLC
12/10/2023 11:16:31	Sarah Schielke, The Life & Liberty Law Office (Loveland, CO)
12/10/2023 11:18:27	John Holland, HHEGLLC
12/10/2023 11:19:09	David Maxted Maxted Law LLC
12/10/2023 11:20:33	Zachary Reibstein Henry D. Hollithron, Attorney-At-Law Hollithron Advocates, P.C.
12/10/2023 11:29:14	
12/10/2023 11:48:02	Paula Greisen, Greisen Medlock, LLC

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/10/2023 12:39:42	Mandarin A. Bowers, Law Office of Mandarin A. Bowers, P.C.
12/10/2023 12:40:18	Kathryn Glaser, Colorado Public Defender
12/10/2023 12:52:44	Kara L Smith, Deputy State Public Defender
12/10/2023 12:59:30	Angela Banducci, Deputy Colorado Public Defender
12/10/2023 13:26:59	Charlotte Robinson
12/10/2023 13:43:01	Krista Schelhaas, Schelhaas Law LLC
	<p>Gina K. Shimeall Attorney at Law strongly opposes Aurora resolution 2023-118. In addition to the above points delineated in the letter, other issues to consider are those who will be the most disproportionately affected, homeless individuals living with mental health issues. Having worked in Aurora with retired Judge Weinberg for approximately two years setting up the Aurora Municipal Wellness Court after having had the privilege of founding and implementing the Arapahoe District Wellness Court, and as the criminal justice lawyer volunteer on NAMI Colorado Law Line, I know first hand the critical need of dedicated public defenders to help with this most disproportionately affected high needs individuals living with mental health issues. Without an experienced 24/7 public defender office this vulnerable population will increase exponentially cycling in and out of the Aurora's justices system's revolving door. Private council run a business and are not trained in this arena as public defenders are, and can not spend the four and five times the time of a standard criminal case on these high needs and complex mental health cases if city council passes 2023-118 allowing flat fees and contract attorneys.</p> <p>We are judged as a society by how we treat our most vulnerable individuals. What kind of city does Aurora want to be known as? If resolution 2023-118 passes Aurora will in fact be the city that is constantly portrayed in repeated news reports in the criminal justice arena.</p>
12/10/2023 14:00:39	Gina K. Shimeall Attorney at Law
12/10/2023 14:09:35	Gina K Shimeall Attorney at Law
12/10/2023 14:35:09	Michelle Gibson
	<p>Eliminating one of the most important resources for indigent defendants in Aurora is immoral, financially illogical, and unconstitutional. I hope the Aurora City Council realizes its mistake soon.</p> <p>Thaddeus R. Cwiklinski, Deputy Public Defender Office of the Colorado State Public Defender, Grand Junction</p>
12/10/2023 14:36:39	
12/10/2023 15:04:59	Caitlyn Brogdon
	<p>Hollis Whitson, Samler & Whitson, PC. This proposal would lead to additional litigation challenging the method and quality of representation provided. Experience proves that properly-managed defender organizations are the most cost-effective, efficient, and effective means to delivery these services.</p>
12/10/2023 15:50:41	Ahmuhan Williams, OSPD, this is a bias and ill motivated move to deprive minorities in Aurora of a fair shot at justice.
12/10/2023 17:01:36	
12/10/2023 17:15:59	Stephanie Frisinger, Macted Law LLC
12/10/2023 17:47:22	Holly Lucas
12/10/2023 17:54:11	Ciara Anderson, Rathod Mohamedbhai
12/10/2023 18:37:24	Frank Vigil, Vigil Law Offices PC
12/10/2023 19:36:40	Aurora L. Randolph, ALR Civil Rights LLC
12/10/2023 19:52:59	Kathleen Hennessy, Hennessy Law Office
12/10/2023 19:59:09	Michael R. Ferrell, Esq. The Ferrell Law Firm, PLLC.
12/10/2023 20:20:16	Lynn Hartfield, Law Office of Lynn C. Hartfield, LLC
12/10/2023 21:18:14	Allen S. Whitlock, Whitlock Law LLC
12/10/2023 21:20:33	Rachel Geiman
12/10/2023 21:25:52	Kira Suyeishi
12/10/2023 21:32:58	Katherine Hartigan, Hartigan Law LLC
12/10/2023 22:15:13	Andy McNulty, Newman McNulty
12/11/2023 7:29:25	Libby Bova, Deputy State Public Defender, Denver Trial Office
12/11/2023 7:37:28	Alex Engelson
12/11/2023 7:45:33	Chad GuBrath, Colorado Public Defender's Office
12/11/2023 9:51:30	Mark Brandes, J.D., Licensed in 1989
12/11/2023 9:52:14	Sydney Teague, Civil Rights Attorney, Aurora
12/11/2023 10:04:55	Janet Moore
12/11/2023 10:08:03	Lindsey Webb, Associate Professor, University of Denver Sturm College of Law (signing in my personal capacity)

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/11/2023 10:09:48	Noah Kaplan, Commissioner, Office of the Municipal Public Defender
12/11/2023 10:16:38	Nelson Boyle, 5280 Appellate Group, a division of the Paul Wilkinson Law Firm LLC. Indigent folks who are charged with crimes have Constitutional rights that cannot be met through privatization of public defenders offices. Please read the law review articles linked in the letter.
12/11/2023 10:17:13	Lisa Fine Moses, LFM Defense.
12/11/2023 10:20:36	Amy Travin Amber Richardson, State of CO Public Defenders Office Investigator. Do not harm your most vulnerable, indigent population of Aurora in the name of money. People and freedom is not where you cut costs. When you screw with people's rights then expect for people to fight you with ensuing civil lawsuits based on this decision which is ultimately going to cost the city of Aurora millions per lawsuit. Aurora City Council should be serving to protect your public not removing the most critical service to the most critically needed population in your municipality. The ability to have fair, competent representation based on skill and merit not on what a person is being paid for the entire case, a flat fee equals flat effort! Fund your currently existing APDO and save money or cost money to do your citizens harm at your hands.
12/11/2023 10:21:08	
12/11/2023 10:24:26	Kevin Cheney, Cheney Galluzzi & Howard, LLC
12/11/2023 10:24:32	Kimberly J. Smith, Denver Trial Lawyers
12/11/2023 10:29:56	Damon Brune, Brune Law Office, P.C.
12/11/2023 10:34:23	Alison Gordon, McCabe Law
12/11/2023 10:37:10	David A. Klibaner, Klibaner Law Firm P.C.
12/11/2023 10:38:04	Patrick J. Burke, Patrick J. Burke, P.C. 4943
12/11/2023 10:40:56	Michael David Lindsey, David Lindsey Attorney
12/11/2023 10:45:17	Amy Robertson, Fox & Robertson PC, Denver. Barry Lancaster - Lancaster Law Office Civil rights are not to be set aside as a cost cutting measure... particularly when it will cost MORE to do it. This appears to be a measure straight from the police and or city attorney and will irreparably harm the people of Aurora.
12/11/2023 10:50:11	
12/11/2023 10:51:54	Laura Rovner, Civil Rights Clinic, University of Denver College of Law
12/11/2023 11:00:21	Emily M. Fleischmann
12/11/2023 11:09:33	Igor Raykin
12/11/2023 11:09:51	Matthew Simonsen (Hutchinson Black and Cook, LLC)
12/11/2023 11:14:42	Amy Rogers; Ogborn Mihm, LLP.
12/11/2023 11:21:08	Gregory P. Murphy; Metier Law Firm
12/11/2023 11:38:17	Madison Lips, Killmer Lane LLP
12/11/2023 11:54:27	Arielle Roter, OSPD
12/11/2023 12:04:40	Stephanie Perkins, Perkins Law
12/11/2023 12:14:42	Sabrina Sameshima, nonprofit immigration lawyer serving Aurora residents
12/11/2023 12:21:27	Michael Patrick, The Patrick Law Firm LLC
12/11/2023 12:25:52	Andrew Shulman, Shulman Chase LLC
12/11/2023 12:26:45	David M. Beller, Recht Kornfeld, P.C.
12/11/2023 13:43:40	Tasha Hill, The Hill Law Firm
12/11/2023 13:59:25	Tiffany M. Tran, Tiffany Tran Law
12/11/2023 14:07:54	Jessica Jackson Theresa Murphy, Assistant Public Defender, Maryland Office of the Public Defender. I grew up in Aurora, Colorado, right off of Smoky Hill Road, and it disheartens me to see my hometown trying to skirt justice by privatizing the Public Defender's Office. If the state isn't bringing charges with enough evidence to hold a conviction, then that is that office's problem. You do not get to cheat by doing away with the fierce advocates who are holding you to your burden, and to try and do so is a despicable miscarriage of justice that the Aurora City Council absolutely should not stand for. I would be ashamed to be from Aurora if something like this happened, and I know I can speak for my parents as well, who still reside there. I want to be able to come home each holiday season to a community I can be proud of. I have been a Public Defender in Maryland for 4 years now, and in that time, I have had the opportunity to observe the private attorneys who we panel cases to when our caseload is too big, or there is a conflict. I have observed them to view our clients as a paycheck, I have observed them to postpone cases or pray jury trials just so they do not have to be the ones to work hard for our clients. The people who choose to do public defense have a dedication to this work that cannot be matched by a private attorney, plain and simple. Everyone has the right to an attorney who will fight for their rights, and to do away with the public defender's office would be to do away with justice.
12/11/2023 14:15:58	
12/11/2023 14:38:06	Carly Bovey, Colorado State Public Defenders

Criminal Defense Attorney Letter to Aurora (Responses)

Timestamp	(Name, Firm Name, and any other comments you wish to add)
12/11/2023 14:38:07	Sara Porat, Boulder Public Defender Office
12/11/2023 14:45:15	Robert DeSoto
12/11/2023 14:48:41	Blake Renner
12/11/2023 14:53:25	Milo Schwab, Ascend Counsel
12/11/2023 14:55:16	Elie Zwiebel, Elie Zwiebel Law and Colorado Juvenile Defender Center
12/11/2023 15:23:31	Ali Grossman, Law Office of Ali Grossman, LLC.
12/11/2023 15:35:25	Margaret Bridget Carey, Law Office of Margaret Carey
12/11/2023 15:55:11	Anthony P. Perko, Perko Law, LLC
12/11/2023 16:03:58	Shawna Mackey Geiger, Past-President CCDB (2010-11); Director of Engagement, Colorado Office of Respondent Parents' Counsel; Board of Regents, National Criminal Defense College



CITY OF AURORA

Council Agenda Commentary

Item Title: Aurora Ceasefire
Item Initiator: Alison Coombs, City Council Member
Staff Source/Legal Source: George Koumantakis, Manager of Client Services, City Attorney’s Office
Outside Speaker: N/A
Council Goal: 2012: 1.0--Assure a safe community for people

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: 2/26/2024

2nd Regular Meeting (if applicable): 3/11/2024

Item requires a Public Hearing: Yes No

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

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name, title, department / Legal source name and title
- Outside speaker name and organization
- Estimated time (For Study Session items only, indicate combined time needed for presentation and discussion)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, CALLING FOR AN IMMEDIATE AND PERMANENT CEASEFIRE IN GAZA AND OCCUPIED WEST BANK, IMMEDIATE, UNHINDERED HUMANITARIAN AID INTO GAZA, AND RELEASE OF ALL ISRAELI HOSTAGES AND ARBITRARILY DETAINED PALESTINE CITIZENS

Sponsor: Alison Coombs, Council Member

George Koumantakis, Client Services Manager, Office of the City Attorney

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

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

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

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

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

CM Coombs requested this item be added to the February 26 meeting date.

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

A resolution of the City Council of the City of Aurora, Colorado calling for an immediate and permanent ceasefire in Gaza and occupied West Bank immediate, unhindered humanitarian aid into Gaza, and release of all Israeli hostages and arbitrarily detained Palestine citizens.

FISCAL IMPACT

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

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

REVENUE IMPACT

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

BUDGETED EXPENDITURE IMPACT

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

NON-BUDGETED EXPENDITURE IMPACT

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

WORKLOAD IMPACT

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

QUESTIONS FOR COUNCIL

Does council wish to approve this item?

LEGAL COMMENTS

A resolution is the formal legislative act by which the City Council expresses a position on matters of public policy. A resolution may be used for a statement of policy or other matters which are not required to be adopted by an ordinance. (City of Aurora, Rules of Order and Procedure, Rule F(2)). (Koumantakis)

RESOLUTION NO. R2024 - ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, CALLING FOR AN IMMEDIATE AND PERMANENT CEASEFIRE IN GAZA AND OCCUPIED WEST BANK, IMMEDIATE, UNHINDERED HUMANITARIAN AID INTO GAZA, AND RELEASE OF ALL ISRAELI HOSTAGES AND ARBITRARILY DETAINED PALESTINE CITIZENS

WHEREAS, the City of Aurora recognizes that all lives are precious, that Palestinian lives and Israeli lives have the same value, that innocent civilians should never be collateral damage, and that the targeting of civilians, no matter their faith or ethnicity, is a violation of international and humanitarian law; and

WHEREAS, on October 7th, an estimated 1,200 Israeli civilians were killed and 250 people were taken hostage, and since October 7th, over 28,570 Palestinians in Gaza, including 12,300 children and 8,400 women, have been killed and over 68,290 Palestinians have been injured, with at least 8,000 people still trapped under rubble, 10,022 children left without fathers, and 8,352 children left without mothers; and

WHEREAS, civilian infrastructure must be protected in accordance with international law and based on the same standards that all countries are bound to comply with, according to the Geneva Convention, however, Israeli airstrikes have led to the widespread damage and destruction of over 70% of civilian infrastructure in Gaza, including 430,200 housing units, 395 educational facilities, 266 mosques, 200 historical sites and artifacts, one of the world's oldest churches, 123 ambulances, 53 health care centers and 30 hospitals; and

WHEREAS, the destruction of civilian infrastructure has led to the internal displacement of over 1,930,000 Palestinians within the Gaza Strip; and

WHEREAS, ethnic cleansing refers to the creation of an ethnically homogenous geographic area through the elimination of unwanted ethnic groups by deportation, forcible displacement, or genocide; Israel has and continues to engage in an ethnic cleansing campaign by explicitly requiring nearly two million Palestinians to leave their homes in Gaza or risk being killed by the IDF's indiscriminate bombing campaigns; Israel has bombed even in areas they had already designated as "safe" in addition to evacuation routes; and

WHEREAS, millions of lives in Gaza are at imminent risk due to displacement, starvation, malnutrition, lack of clean drinking water, diseases, infections, exposure to the elements, and lack of medical care, in addition to continued attacks from the Israeli military if a permanent ceasefire is not immediately enacted by our lawmakers and humanitarian aid is not delivered without delay; and

WHEREAS, Israel's military attack on Gaza has deliberately targeted journalists, health workers, and United Nations Staff, with 124 journalists, 340 health workers, and 158 UN Staff killed, leading to the deadliest period for journalists in 30 years, the worst ever total number of attacks on healthcare facilities and their personnel, and the largest loss of life for United Nations Staff in the history of the organization; and

WHEREAS, a rise in settler violence and Israeli Defense Force (IDF) attacks in the West Bank have simultaneously occurred with 527 reported settler attacks against Palestinians and over 390 Palestinians killed, 4,475 injured, and 1,257 displaced in the West Bank since October 7th; and

WHEREAS, there has been a dramatic rise in the number of Palestinians arbitrarily arrested and detained by the IDF, with 6,940 Palestinians detained since October 7th for a total of 9,000 Palestinian detainees, including 200 children and 70 women, too often held without charge or trial; and

WHEREAS, collective punishment goes against International law and rules of warfare as defined within the Geneva Convention, and Israel's repeated international violations and war crimes of collective punishment have created a dire humanitarian crisis for over 2.3 million Palestinians in Gaza; and

WHEREAS, the City of Aurora recognizes that the current crisis takes place within a long history of occupation and apartheid and affirms that, for a pathway to lasting peace and justice to be developed, the root causes of the crisis need to be addressed; and

WHEREAS, international organizations, including but not limited to, Amnesty International, the United Nations, the World Health Organization, the U.S. Agency for International Development (USAID), the International Rescue Committee, and many others have made a call for a permanent ceasefire in order to prevent the further loss of innocent civilian lives and to be in accordance with international humanitarian law; and

WHEREAS, to date 68 members of Congress have called for a ceasefire or cessation of hostilities in Israel and Occupied Palestinian Territories; and

WHEREAS, sixty-one percent of American voters support a permanent ceasefire and de-escalation of violence in Gaza, according to a December 5th, 2023, Data For Progress Poll, and millions of people worldwide, including thousands of people all over the state of Colorado, have joined in peaceful protests since October 7th to amplify this call; and

WHEREAS, at least 49 cities and counting across the United States, including Oakland, San Francisco, Seattle, Detroit, Atlanta, Richmond, Iowa City and Dearborn among others have passed resolutions calling for a lasting ceasefire; and

WHEREAS, many members of our Aurora community have family and friends who live in Israel, Gaza, and the West Bank, and have deep connections in the region, including many who have lost loved ones there and would not want the importance of their deaths to be diminished, or be considered acceptable or justifiable by Israel's claims of self-defense; and

WHEREAS, Aurora has the highest proportion of Palestinian, Arab, and Muslim constituents of any city in Colorado; and

WHEREAS, Islamophobia, anti-Palestinian, anti-Arab bigotry, and antisemitism have risen significantly in Aurora, across the United States, and around the world since October 7th,

with direct impacts on our local communities, from mosques and synagogues to schools, homes, offices, and places where communities gather as well as at protests and rallies; and

WHEREAS, all of these forms of bigotry, violence, and oppression serve to divide our communities and weaken our efforts to achieve collective safety, justice, and true multi-ethnic, multi-racial democracy here and everywhere; and

WHEREAS, the enormous and unconditional military aid provided to Israel by the United States every year ultimately deprives Americans of money for their own urgent local needs, with Aurora residents' federal taxes contributing \$5,064,499 to Israel's weapons, which could instead fund, for example, 602 households with public housing for a year, 1,762 children receiving free or low-cost healthcare, 55 elementary school teachers, or cancel loan debt for 134 students; and

WHEREAS, the Federal government holds immense diplomatic power to save Palestinian and Israeli lives, and local governments play a role in our democracy to urge needed legislative and policy changes at all levels.

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

Section 1. The Aurora City Council resolves as follows:

1. That an immediate and permanent ceasefire be enacted by all involved parties in order to prevent further loss of life. This permanent ceasefire must include Gaza and other areas of the Occupied Palestinian Territories, including the West Bank and East Jerusalem, and a stop to Israeli military and settler violence.
2. That the immediate and permanent ceasefire allow for a humanitarian corridor to be immediately opened at the Erez Crossing in the North of the Gaza Strip and the Kerem Shalom Border Crossing coming from Egypt, for the unrestricted provision of goods to civilians throughout Gaza which are indispensable to their survival as required as a basic human right by international humanitarian law, and that there be unhindered delivery of humanitarian aid, including but not limited to basic supplies for survival such as clean water, food, fuel, clothes, hygiene, sanitary supplies, access to medical care, and medical supplies.
3. That any and all delivery of humanitarian aid be implemented with international oversight by an independent and impartial body.
4. That the immediate and permanent ceasefire must include the release of all Israeli hostages and Palestinian civilians who are arbitrarily detained and held without charge or due process under administrative detention by the Israeli government, demanding their safety, wellbeing and humane treatment in compliance with international law.
5. That there should be an end to the Israeli occupation, apartheid, ethnic cleansing, and no current or future transfer or displacement of the population of Gaza, the West Bank, or

other parts of the Occupied Palestinian Territories, and no annexation of any part of Gaza.

6. That all displaced Palestinians, past and present, are granted the full right of return.
7. That U.S. funding and military support must never be used in violation of international law or to commit human rights violations.
8. That the Biden Administration and Congress is urged to reevaluate U.S. regional policies to ensure security and justice in Gaza and the West Bank and for all in the region, and demand the United States clarify strategic objectives for achieving de-escalation and stability in the region, including lifting the siege on Gaza, which is in violation of international law.
9. That the Aurora City Clerk's Office provide a copy of this resolution to their representatives in the Colorado State Legislature, and the United States Congressional delegations from Colorado.
10. That the City Council requests City Staff to identify and promote community education resources and services to support Aurora residents and community members affected by the ongoing hostilities, including counseling and mental health services, and support groups led by cultural and religious organizations.

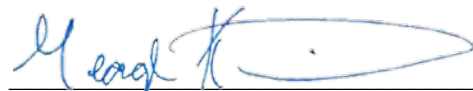
RESOLVED AND PASSED this ____ day of _____. 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



GEORGE KOUMANTAKIS, Manager of Client Services



CITY OF AURORA

Council Agenda Commentary

Item Title: Enforcing Motor Vehicle Registration Laws in Municipal Courts
Item Initiator: Stephanie Hancock, Council Member / Mike Coffman, Mayor
Staff Source/Legal Source: Pete Schulte, Public Safety Client Group Manager, City Attorney
Outside Speaker: N/A
Council Goal: 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: 2/26/2024

2nd Regular Meeting (if applicable): N/A

Item requires a Public Hearing: Yes No

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

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name, title, department / Legal source name and title
- Outside speaker name and organization
- Estimated time (For Study Session items only, indicate combined time needed for presentation and discussion)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, URGING THE STATE OF COLORADO GENERAL ASSEMBLY TO PASS LEGISLATION IN 2024 TO ALLOW CITIES IN COLORADO THE ABILITY TO ASSIST THE STATE IN ENFORCING MOTOR VEHICLE REGISTRATION LAWS.

A waiver of reconsideration is being requested due to the timing of the Legislative Session. Time is of the essence to get this resolution to the Legislature for them to have time to act in this year's session.

Sponsors: Stephanie Hancock, Council Member / Mike Coffman, Mayor
Pete Schulte, Public Safety Client Group Manager, City Attorney

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

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

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

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

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

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

N/A

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

There has been a large increase in residents in Aurora and around the state operating their motor vehicles with expired temporary tags and registrations, many of which that have long expired. This Resolution urges the Colorado Assembly to pass legislation this session to allow municipalities to enforce motor vehicle registration laws in their Municipal Court to help encourage compliance with state law. The Resolution includes sample language for the change required to state law.

FISCAL IMPACT

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

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

REVENUE IMPACT

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

BUDGETED EXPENDITURE IMPACT

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

NON-BUDGETED EXPENDITURE IMPACT

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

WORKLOAD IMPACT

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

QUESTIONS FOR COUNCIL

Does Council wish to support this Resolution that urges the Colorado Assembly to pass legislation this session to allow municipalities to enforce motor vehicle registration laws in their municipal courts to help enforcement and to encourage citizen compliance with these laws?

LEGAL COMMENTS

Pursuant to City Code Section 2-32, City Council has the power conferred by the State Constitution, statute, or City Charter, and such as it shall deem necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the City and the inhabitants thereof. (Schulte)

RESOLUTION NO. R2024- ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, URGING THE STATE OF COLORADO GENERAL ASSEMBLY TO PASS LEGISLATION IN 2024 TO ALLOW CITIES IN COLORADO THE ABILITY TO ASSIST THE STATE IN ENFORCING MOTOR VEHICLE REGISTRATION LAWS.

WHEREAS, since the pandemic, the number of motor vehicles on Aurora's roads with expired license plates or expired temporary registration tags has increased exponentially; and

WHEREAS, the number of motor vehicles with expired registrations has become such a problem in Aurora and the State that the Mayor and City Councilmembers constantly receive complaints from residents about this issue; and

WHEREAS, current state law C.R.S. 42-4-111 - Powers of Local Authorities - does not allow police officers employed by municipalities to issue summons for registration violations to a city's municipal court; and

WHEREAS, due to current law, municipal police officers must issue a summons on a motor vehicle registration violation only to the county court of the county where the offense occurs;

WHEREAS, cities like Aurora that have jurisdiction in more than one county, city police officers choose to issue traffic summons to the City's municipal court for convenience of both the public and the officer; and

WHEREAS, when a police officer stops a person for another traffic violation and discovers the driver is also operating a motor vehicle with expired registration, the police officer will most likely issue a summons for the initial traffic violation to the municipal court and then provide a "verbal warning" to the driver for the expired registration offense since registration violations cannot be written to the municipal court; and

WHEREAS, residents therefore do not have an incentive or reason to properly register their vehicles; and

WHEREAS, the funds raised by the Colorado vehicle registration process are shared among several governmental entities, including metropolitan districts, and these entities depend on these funds to provide services to their residents; and

WHEREAS, the City of Aurora wants to encourage compliance with the registration requirements under state law and not just penalize those citizens who fail to register or renew the registration of their motor vehicles.

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

Section 1. Council strongly urges the Colorado General Assembly to pass legislation in the 2024 legislative session to allow for better enforcement of the state’s motor vehicle registration laws to encourage citizen compliance. This legislation should:

- a. Amend C.R.S. 42-4-111(1) to add a section allowing municipalities to enact ordinances to enforce vehicle registration requirements as required by C.R.S. 42-3-103 and 42-3-114 in their municipal courts by adding this section:
“(gg) Enforcing the registration requirements of motor vehicles, as required by Title 42, Article 3.”
- b. Add a provision in state law that allows Courts to dismiss cases involving expired registration offenses for a small dismissal fee for those citizens who correct the registration issue before their first court date (or similar). This provision should only be allowed for those violators whose registrations have been expired for less than 90 days.

Section 2. Council directs the City Manager to take proactive measures to push the Colorado General Assembly in the current 2024 legislative session to pass legislation to allow cities in the State of Colorado to enforce motor vehicle registration requirements in their municipal courts.

Section 3. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

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

RESOLVED AND PASSED this _____ day of _____, 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



PETER A. SCHULTE, Public Safety Client Group Manager



CITY OF AURORA

Council Agenda Commentary

Item Title: Iliff Station Rezone - Zoning Map Amendment
Item Initiator: Liz Fuselier, Planner, Planning and Development Services
Staff Source/Legal Source: Liz Fuselier, Planner, Planning and Development Services / Lena McClelland, Assistant City Attorney
Outside Speaker: David Ogunsanya, Elevation Community Land Trust
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: 1/8/2023

2nd Regular Meeting (if applicable): N/A

Item requires a Public Hearing: Yes No

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

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name, title, department / Legal source name and title
- Outside speaker name and organization
- Estimated time (For Study Session items only, indicate combined time needed for presentation and discussion)

A PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, FOR A ZONING MAP AMENDMENT TO REZONE APPROXIMATELY 0.87 ACRES OF LAND TO MEDIUM-DENSITY MULTIFAMILY DISTRICT (R-3), LOCATED AT THE NORTHWEST CORNER OF EAST WELSEY PLACE AND SOUTH DILLON STREET

Liz Fuselier, Planner, Planning and Development Services / Lena McClelland, Assistant City Attorney

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

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

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Planning and Zoning Commission

Policy Committee Date: 12/13/2023

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

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

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

The Planning and Zoning Commission heard the applicant's request for a Zoning Map Amendment to change the zoning from Mixed Use-Corridor (MU-C) to Medium Density Multi-Family District (R-3) in a public hearing on December 13, 2023 and voted unanimously (6-0) with one abstention to recommend approval to City Council. The Summary of Planning Commission Action is attached and details the testimony, discussion, and Planning Commission actions on these items.

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

The applicant, Elevation Community Land Trust, is requesting approval of a Zoning Map Amendment to rezone approximately 0.87 acres (37,867 square feet) from the Mixed-Use Corridor (MU-C) zone district to the Medium-Density Multifamily (R-3) zone district. The subject property is located within Subarea A, about a quarter mile east of the Iliff Light Rail Station, at the northwest corner of E Wesley Place, approximately 330' west of South Dillon Street. The area is bounded by the Blackhawk Pointe Retail Development and the Le Chateau Residential Development to the northwest and south, respectively. The Chaddsford single-family residential neighborhood is directly adjacent to this proposal to the east. The anticipated use for this property is affordable residential units.

The proposal is being driven by the desire to expand the residential uses for this parcel, where both R-1 and R-3 are in close proximity. The residential uses allowed by this zoning will support the nearby neighborhoods to the east, west and south of this area by assuring additional residential uses in this transition area between commercial and residential uses. The site is also located within walking distance of the Iliff Station development and light rail platform to the west.

The location of this rezoning request is within the Innovation District Placetype of the Aurora Places Comprehensive Plan. Residential uses permitted within the proposed R-3 zone district are also identified as a supporting land use within this placetype, making this rezone proposal consistent with the Comprehensive Plan.

Forty-three (43) adjacent property owners and twenty-five (25) registered neighborhood organizations were notified of the application. Numerous comments were received by Staff regarding the zoning map amendment application during the review. A neighborhood meeting was held on August 23, 2023. Neighborhood comments and concerns focused on traffic, parking, neighborhood impacts and rental units versus homeownership. After a brief presentation from the developer, the applicant reiterated and clarified that the units would be held in a land trust model with each unit individually purchased and owned and that parking will be on-site and per code. Staff have not received additional public comments as a result of the Planning and Zoning Commission Public Hearing Notice and signposting.

Staff finds that the proposed Zoning Map Amendment complies with the criteria for approval found in Section 146-5.4.1.C.a because:

- The proposal is consistent with the spirit and intent of the Comprehensive Plan and Iliff Station Area Plan adopted by the City Council;
- The zoning map amendment would permit development compatible with the surrounding residential development and nearby supporting commercial uses and the adjacent R-3 zone district; and,
- The zoning map amendment will not create any dislocations of tenants or occupants of the property.

Exhibits provided for review and consideration are as follows:

Exhibit A: Vicinity Map

Exhibit B: Proposed Zoning Map

Exhibit C: Letter of Introduction

FISCAL IMPACT

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

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

REVENUE IMPACT

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

N/A

BUDGETED EXPENDITURE IMPACT

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

N/A

NON-BUDGETED EXPENDITURE IMPACT

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

N/A

WORKLOAD IMPACT

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

N/A

QUESTIONS FOR COUNCIL

Does the City Council wish to approve the ordinance to amend the City of Aurora Zoning Map?

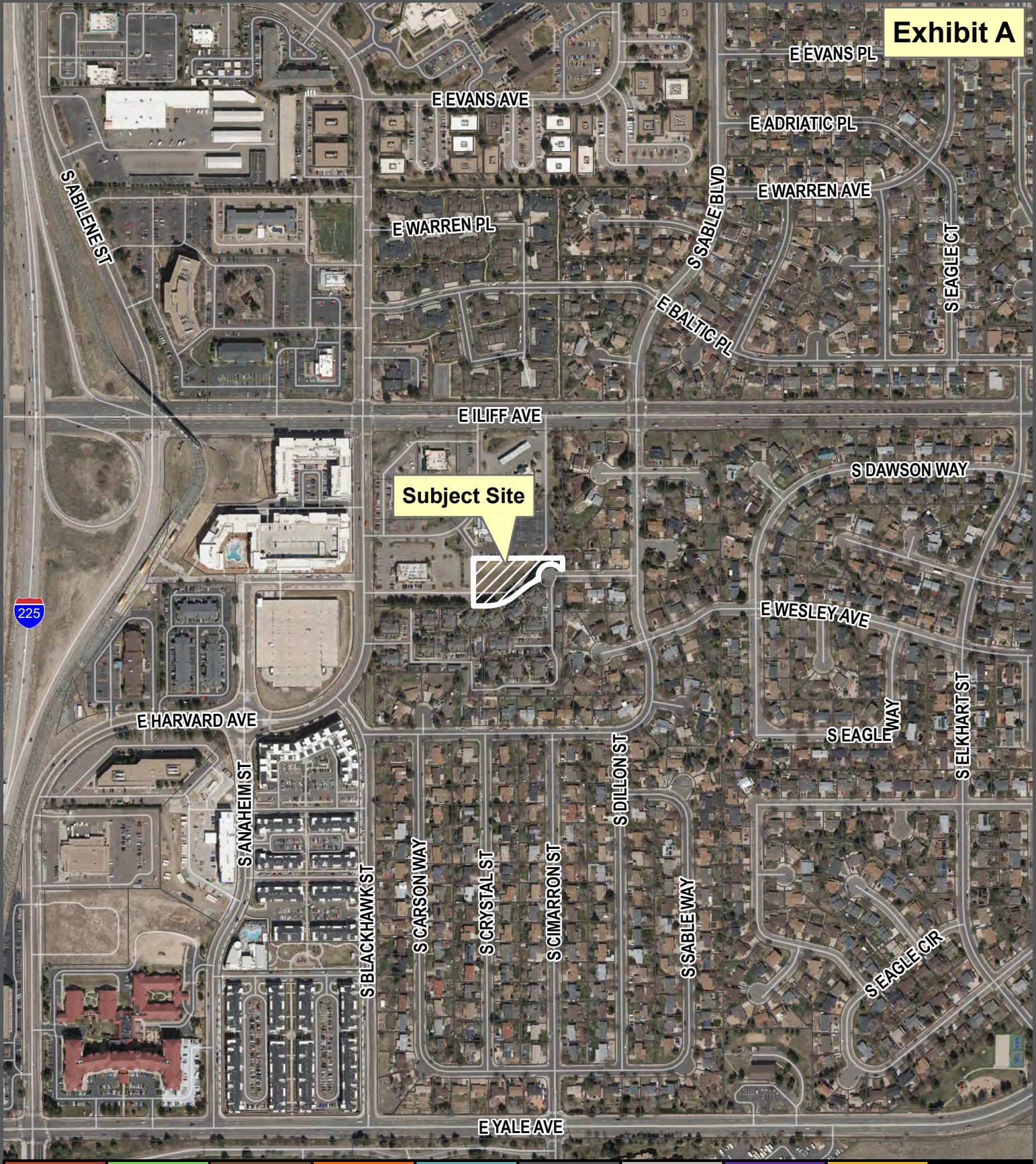
LEGAL COMMENTS

The City Council is the governing body of the City and has the authority to approve the Official Zoning Map and amendments to that map. (UDO §146-5.1.1.B)

The City Council shall conduct a public hearing on the application. (UDO §146-5.4.1.C.2.c)

Changes to the Zoning Map for individual parcels shall only be approved if City Council finds that the change to the Zoning Map is required because of changed conditions or circumstances on the property or the surrounding area and (a) the applicant has demonstrated that the proposed rezoning is consistent with the spirit and intent of the Comprehensive Plan, the 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 rezoning are compatible with surrounding development or can be made compatible 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. (UDO §146-5.4.1.C.3.a.ii) (McClelland)



**Iliff Station Rezoning
Zoning Map Amendment**

City of Aurora, Colorado

Case Number: 2022-2005-00
Development Application: #2340-00

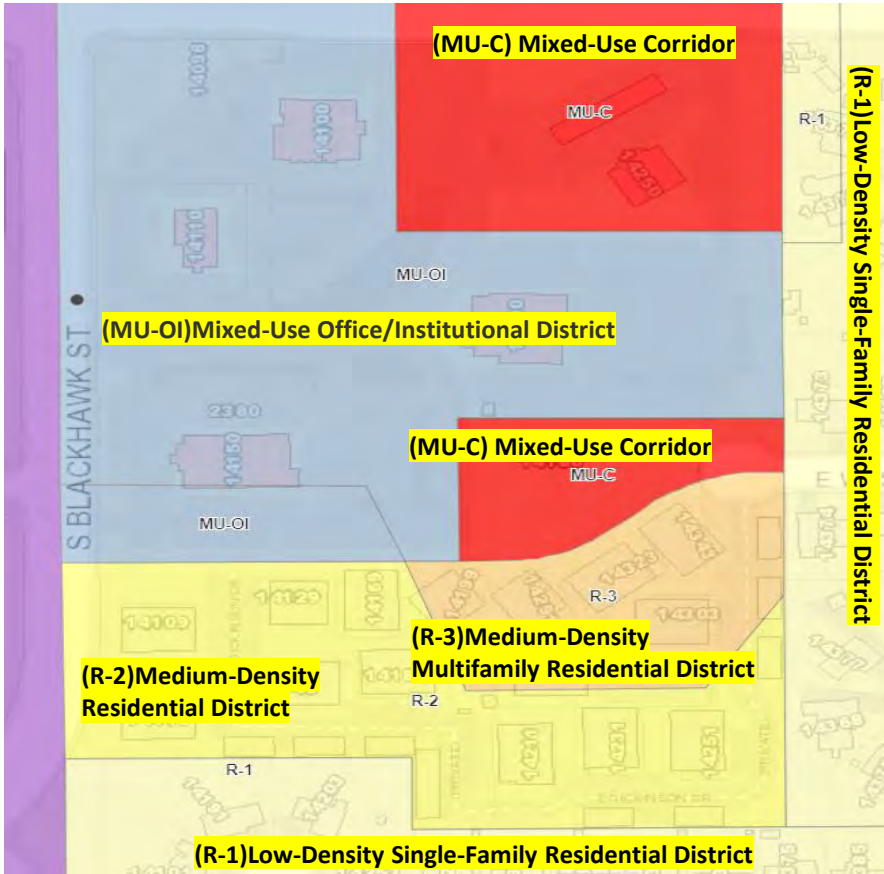


*Aurora is
Worth Discovering!*

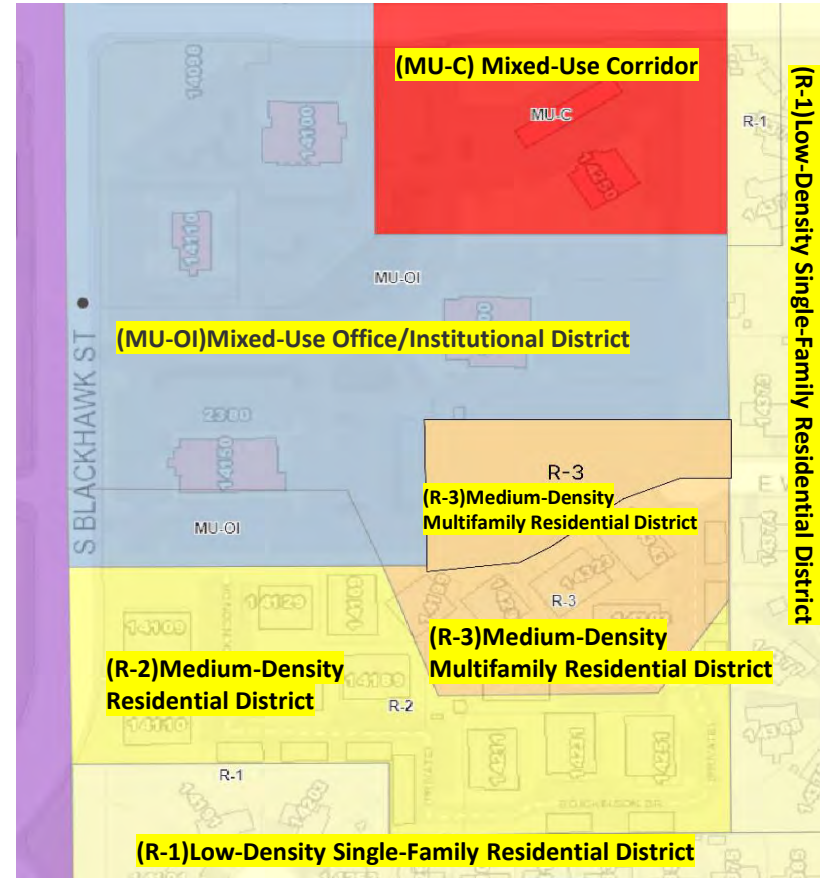


**Planning &
Development Services**
15151 E. Alameda Parkway
Aurora CO 80012 USA
AuroraGov.org
303.733.2117
GIS@auroragov.org

Zoning Map



Current Zoning



Proposed Zoning



David Ogunsanya
 VP of Real Estate
 Elevation Community Land Trust
 1114 W 7th Avenue, suite 101
 Denver Co, 80204

Elevation Community Land Trust

Letter of introduction

Elevation Community Land Trust (Elevation CLT or ECLT) is a permanently affordable homeownership platform established in December 2017 by a collaborative of local foundations that recognized the urgent need for a strategic, cross-sector intervention to address the growing issues of affordable homeownership in Colorado. ECLT's mission is to foster stewardship of permanently affordable homeownership for Colorado's low-income families – with an initial focus on the Denver Metro region. It will help stabilize families through the use of the community land trust (CLT) model, a proven asset-building tool for lower income communities and communities of color that are at risk of displacement.

ECLT seeks to increase the stock of owner-occupied homes to families earning at or below 80% AMI in the Denver Metro area and Northern Front Range, and eventually extend its reach statewide. By means of scattered site acquisition/rehab and new construction developments. ECLT will provide a buffer to displacement while contributing toward more stable, equitable, and economically diverse communities. ECLT will further its impact by constructing new townhomes and increasing the stock of permanently affordable ownership homes and providing a variety of homeownership options to meet family needs. The targeted income levels represent hard-working families with a whole range of occupations that includes teachers, nurses, construction trades, administrative assistants and other essential service-providers. To ensure long term affordability, ECLT prices homes for families earning 70% AMI, enabling Elevation to serve a broader range of income levels.

The proposed project in Aurora is located near the intersection of Iliff Station and Blackhawk St, in close proximity to the Illif Station Metro Station (LOT 3, BLOCK 1, BLACKHAWK POINTE SUBDIVISION FILING NO. 1.) The land is currently vacant and has a total land area of approximately 0.87 acres (37,967 square feet). The project proposes the development of Twelve to fifteen residential townhomes with onsite parking.

1114 W. 7th Ave. # 101
 Denver., CO 80204

720-822—0052
 info@elevationclt.org

elevationclt.org

Adjustment Request: The project proposes an adjustment to the current zoning of the parcel from MU-C(Mixed Use Corridor) to R-3 Medium-Density Multifamily.

The current MU-C zoning requires:

- Townhome building entrances must face onto a public street.
- Two spaces of off-street parking per unit is required per Section 146-4.6 of the UDO. A parking decrease for affordable townhomes is not available. Additionally, front-loaded townhomes are not permitted
- All townhomes must be individually served water and sanitary sewer and all units require frontage to public mains
- The public improvements required for this development include providing curb returns with curb ramps at the access.
- Additionally, the existing fire lane and utility easements on the north and west of the site must be vacated and rededicated.

A change to an R-3 Zoning would allow for:

The development of medium-density single-family and multifamily housing in close proximity to collector streets and public transit facilities. Uses in this district include a diverse range of housing types ranging from single-family and two-family residences to medium-density multifamily housing and limited lodging and rooming facilities.

b) please quantify the need to move from the current MU-C zoning district to an R-3 zone district.

The current MU-C zoning doesn't accommodate townhomes that are not street facing. Given the size of the parcel, we won't be able to build townhomes if each home needs to be street facing.

c) How will this (if at all) assist in the development intentions for this parcel?

The rezone to an R-3 Zoning will allow us to be able to develop permanently affordable townhomes on this parcel that will benefit the neighborhood and the community.

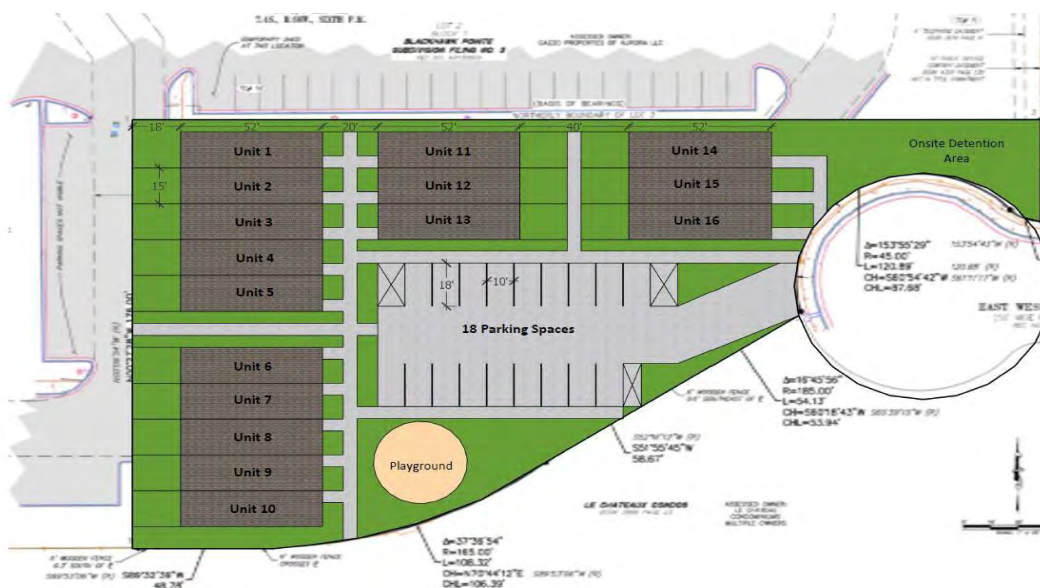
d) How does this rezone meet the UDO requirements? See, Section .146-5.4.1.C.3.a

This rezone meets UDO requirements 146-5.4.1.C.3.a section (b) and (c) in the following ways:

(b) The proposed project is for 12 - 15 residential townhomes that are 2-2.5 stories on the currently vacant site. The size and scale of this development is compatible with the townhome condominiums that are located next door to the vacant parcel on E. Dickenson Drive. The condos are 2 stories, 2–3-bedroom townhomes.

Due to the current site being vacant, a zoning change will not displace tenants or occupants of the property. Approval of the rezoning will also add much-needed opportunities in close proximity to transit, highway access, schools, restaurants, employment opportunities, hospitals and most of all, a safe, comfortable and affordable home. The rezone also helps meet goals 1,2,4 and 5 of the comprehensive plan by, 1) Increase high-quality housing options of all types and at all price levels throughout the city through ongoing collaboration with the development community. 2) Work with partners to better understand specific needs for affordable housing and to develop new, creative housing options. 4) Address barriers to the development of diverse housing variety and neighborhood choices across the city.5) Decrease barriers to homeownership.

2B. Please submit a conceptual site/sketch plan with your next submittal. This document should provide an approximate description of what will be proposed on this parcel and will help the Planning Commission and City Council properly assess the zoning map amendment proposal.



1114 W. 7th Ave. # 101
 Denver, CO 80204

720-822—0052
 info@elevationclt.org

elevationclt.org

LEGAL DESCRIPTION

A PARCEL OF LAND BEING LOT 3, BLOCK 1, BLACKHAWK POINTE SUBDIVISION FILING NO. 1 (PLAT RECORDED AT RECEPTION NO. A9130824 OF THE ARAPAHOE COUNTY RECORDS), SITUATED IN THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6th PRINCIPAL MERIDIAN, COUNTY OF ARAPAHOE, STATE OF COLORADO, SAID PARCEL MAY ALSO BE DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER SAID LOT 3;

THENCE ALONG THE BOUNDARY OF SAID LOT 3 THE FOLLOWING NINE (9) COURSES:

1. NORTH 89°53'06" EAST A DISTANCE OF 331.86 FEET;
2. SOUTH 00°06'56" WEST A DISTANCE OF 42.46 FEET TO A POINT OF NON-TANGENT CURVE;
3. ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 48°11'25", A RADIUS OF 15.00 FEET AND AN ARC LENGTH OF 12.62 FEET (CHORD BEARS NORTH 65°57'05" WEST, 12.25 FEET) TO A POINT OF REVERSE CURVE;
4. ALONG THE ARC OF SAID REVERSE CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 153°54'43", A RADIUS OF 45.00 FEET AND AN ARC LENGTH OF 120.88 FEET (CHORD BEARS SOUTH 61°11'17" WEST, 87.68 FEET) TO A POINT OF NON-TANGENT CURVE;
5. ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 16°45'56", A RADIUS OF 185.00 FEET AND AN ARC LENGTH OF 54.13 FEET (CHORD BEARS SOUTH 60°39'10" WEST, 53.94 FEET);
6. SOUTH 52°16'12" WEST A DISTANCE OF 58.67 FEET TO A POINT OF CURVE;
7. ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 37°36'54", A RADIUS OF 165.00 FEET AND AN ARC LENGTH OF 108.32 FEET (CHORD BEARS SOUTH 71°04'39" WEST, 106.39 FEET);
8. SOUTH 89°53'06" WEST A DISTANCE OF 48.78 FEET;
9. NORTH 00°06'54" WEST A DISTANCE OF 176.00 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 37,967 SQUARE FEET (0.872 ACRES), MORE OR LESS.

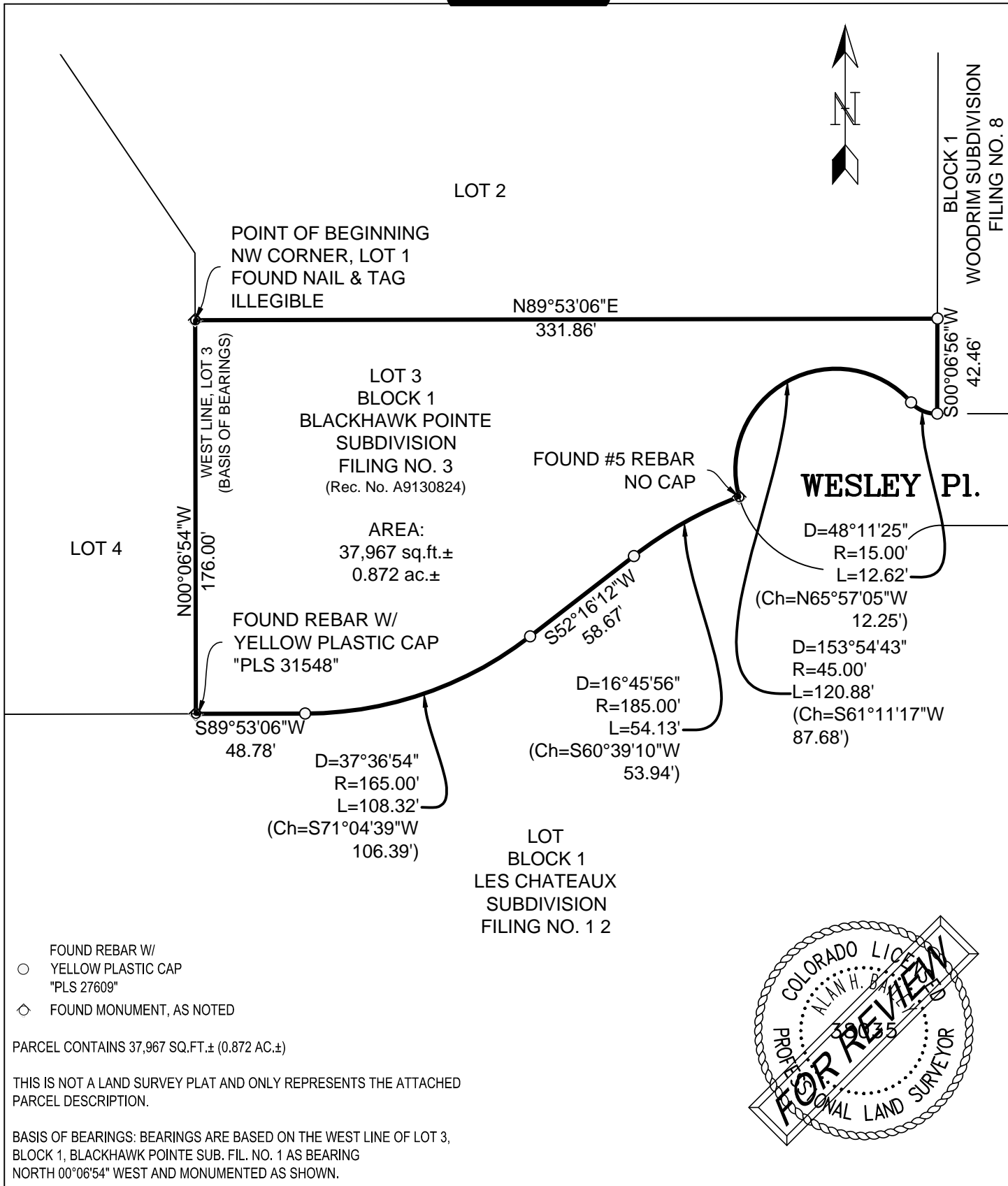
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PREPARED BY:
ALAN H. BAILEY PLS No. 38035

ON BEHALF OF
BAILEY PROFESSIONAL SOLUTIONS, LLC
5737 SOUTH KENTON STREET
ENGLEWOOD, CO 80111
303.587.1672



		BAILEY PROFESSIONAL SOLUTIONS, LLC 5737 SOUTH KENTON STREET ENGLEWOOD, CO 80111 303.587.1672 BAILEYPROFESSIONALSOLUTIONS.COM
PROJECT: ELEV-22-02 ILIFF STATION FILE: BPS-BASE.DWG CHECKED: AHB DRAWN: RJE DATE: 10/27/2022		





- FOUND REBAR W/
YELLOW PLASTIC CAP
"PLS 27609"
- ◇ FOUND MONUMENT, AS NOTED

PARCEL CONTAINS 37,967 SQ.FT.± (0.872 AC.±)

THIS IS NOT A LAND SURVEY PLAT AND ONLY REPRESENTS THE ATTACHED PARCEL DESCRIPTION.

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE WEST LINE OF LOT 3, BLOCK 1, BLACKHAWK POINTE SUB. FIL. NO. 1 AS BEARING NORTH 00°06'54" WEST AND MONUMENTED AS SHOWN.



 ORIGINAL SCALE: 1"=60'	 BAILEY PROFESSIONAL SOLUTIONS	BAILEY PROFESSIONAL SOLUTIONS, LLC 5737 SOUTH KENTON STREET ENGLEWOOD, CO 80111 303.587.1672 BAILEYPROFESSIONALSOLUTIONS.COM
PROJECT: ELEV-22-02 ILIFF STATION FILE: BPS-BASE.DWG CHECKED: AHB DRAWN: RJE DATE: 10/27/2022		



**Planning and Zoning Commission
DRAFT MINUTES
December 13, 2023**

7e. ILIFF STATION REZONING – ZONING MAP AMENDMENT FROM MU-C TO R-3

The applicant, Elevation Community Land Trust, requests approval of a Zoning Map Amendment to rezone approximately 0.87 acres (37,867 square feet) from the Mixed-Use Corridor (MU-C) to Medium-Density Multifamily (R-3). The subject property is located within Subarea A, about a quarter mile east of the Iliff Light Rail Station, at the northwest corner of E Wesley Place, approximately 330 feet west of S Dillon Street. The area is bounded by the Blackhawk Pointe Retail Development and the Le Chateau Residential Development to the northwest and south, respectively. The Chaddsford single-family residential neighborhood is directly adjacent to this proposal to the east. The anticipated use for this property is affordable residential units.

The proposal is being driven by the desire to expand the residential uses for this parcel where both Low-Density Single-Family (R-1) and Medium-Density Multifamily (R-3) are in close proximity. The residential uses allowed by this zoning will support the nearby neighborhoods to the east, west, and south of this area by assuring additional residential uses in this transition area between commercial and residential uses. The site is also located within walking distance of the Iliff Station development and light rail platform to the west.

Forty-three (43) adjacent property owners and twenty-eight (28) registered neighborhood organizations were notified of the application. Numerous comments were received by staff regarding the zoning map amendment application during the review. A neighborhood meeting was held on August 23, 2023. Neighborhood comments and concerns focused on traffic, parking, neighborhood impacts, and rental units versus homeownership. After a brief presentation from the developer, the applicant reiterated and clarified that the units would be held in a land trust model with each unit individually purchased and owned. Parking would be on-site and per code. Staff have not received additional public comments due to the Planning and Zoning Commission Public Hearing Notice and signposting.

Testimony Given at the Hearing:

Elizabeth Fuselier, Case Manager, gave a presentation of the item, including the staff recommendation.

Chairman Walls noted the concept drawing included with the staff report indicated that it appears potential future access to this parcel would be through the cul-de-sac. Chairman Walls asked if this would be the only potential or future access.

Ms. Fuselier replied that the access point has not yet been discussed because there has been no proposed development application for the actual physical structure on this site. Ms. Fuselier stated that, at this point, the cul-de-sac would be the access point for any townhome development.

Commissioner Jetchick left the meeting at 7:11 pm due to technical issues.



**Planning and Zoning Commission
DRAFT MINUTES
December 13, 2023**

Karen Arnold, President of Le Chateau Homeowners Association, 14109-E East Dickinson Drive, Aurora, CO 80014, citizen, provided public comment on the item. Ms. Arnold expressed concern that the proposal would alter access from Station Street to the Wesley cul-de-sac, reducing the probability that Station Street would be built with mixed development. Ms. Arnold spoke against the proposal due to the cul-de-sac access to the site and the potential impacts on traffic and trespass on private roads. Ms. Arnold stressed that an agreement with the developer on access, damage, and maintenance was necessary.

Larry Shaeffer, 14343 E Dickenson, Aurora, CO 80014, provided public comment on the item. Mr. Shaeffer expressed concerns for vehicular and foot traffic due to the proposal.

David Ogunsanya, Elevation Community Land Trust, 1114 W 7th Avenue Ste 101, Denver, CO 80204, applicant, was available for questions. Mr. Ogunsanya spoke about the access to affordable homeownership that this project would bring to the community. Mr. Ogunsanya stated that they are willing to work with neighbors regarding the concerns they have for this site at the site planning and development stages of the project. Mr. Ogunsanya stated that they cannot address these concerns until they know what can be done on the site through the current rezoning application.

Commissioner Banka requested clarification on whether the project would be for 12-15 townhomes and ownership as opposed to rental.

Mr. Ogunsanya replied that the commissioner's understanding was correct. Mr. Ogunsanya stressed that this is a low-density project.

Commissioner Bush asked if the applicant had completed other affordable projects within the city.

Mr. Ogunsanya spoke about the Peoria project and said that this proposal will mirror that project.

Commissioner Ahern asked about access to the parcel and if it was explored for an easement to the parcel as opposed to access through the Wesley Street cul-de-sac.

Mr. Ogunsanya stated that access through Blackhawk was determined non-allowable if not commercial. He also stated that an easement was not advised by their attorneys, however, this could be considered at the site planning and development stages.

Commissioner Jetchick rejoined the meeting at 7:32 pm.

Lena McClelland, Assistant City Attorney, reminded the commissioners that the only criteria to be considered for this project are the recommendation of approval of the rezoning request. No issues of access to the site should be considered for this application.



**Planning and Zoning Commission
DRAFT MINUTES
December 13, 2023**

Planning Commission Results

AGENDA ITEM 7e – ZONING MAP AMENDMENT FROM MU-C TO R-3

A MOTION WAS MADE BY COMMISSIONER GAISER AND SECONDED BY COMMISSIONER BUSH.

MOVE TO RECOMMEND APPROVAL OF THE ZONING MAP AMENDMENT TO THE CITY COUNCIL TO REZONE THE SUBJECT PROPERTY FROM MIXED-USE CORRIDOR (MU-C) TO MEDIUM-DENSITY MULTIFAMILY (R-3), BECAUSE THE PROPOSAL COMPLIES WITH THE CRITERIA IN SECTION 146-5.4.1.C.1.3 OF THE UNIFIED DEVELOPMENT ORDINANCE FOR THE FOLLOWING REASONS:

1. THE PROPOSAL IS CONSISTENT WITH THE SPIRIT AND INTENT OF THE COMPREHENSIVE PLAN AND THE ILIFF STATION AREA PLAN ADOPTED BY THE CITY COUNCIL;
2. THE ZONING MAP AMENDMENT WOULD PERMIT DEVELOPMENT COMPATIBLE WITH THE SURROUNDING RESIDENTIAL DEVELOPMENT AND NEARBY SUPPORTING COMMERCIAL USES AND THE ADJACENT R-3 ZONE DISTRICT, AND,
3. THE ZONING MAP AMENDMENT WILL NOT CREATE ANY DISLOCATIONS OF TENANTS OR OCCUPANTS OF THE PROPERTY.

Further Discussion:

Chairman Walls spoke in support of the proposal for the zoning change, stating that the zoning map amendment is congruent with the surrounding zoning uses as existing R-3 and R-2. Chairman Walls further stated that from the perspective of a comprehensive plan including this parcel makes sense to an overall map change.

Commissioner Bush also spoke in support of the proposal and noted that in the next step of the site planning, issues of access could be discussed and addressed.

Commissioner Ahern stated this project makes sense and is consistent with the comprehensive plan. Commissioner Ahern cautioned that during the site planning and development access must be thoroughly considered.

MOTION PASSED UNANIMOUSLY

COMMISSIONER JETCHICK ABSTAINED

Iliff Station
Zoning Map Amendment

Project No: DA-2340-00
Public Hearing
Aurora City Council
January 8th , 2024



Iiliff Station
Zoning Map Amendment

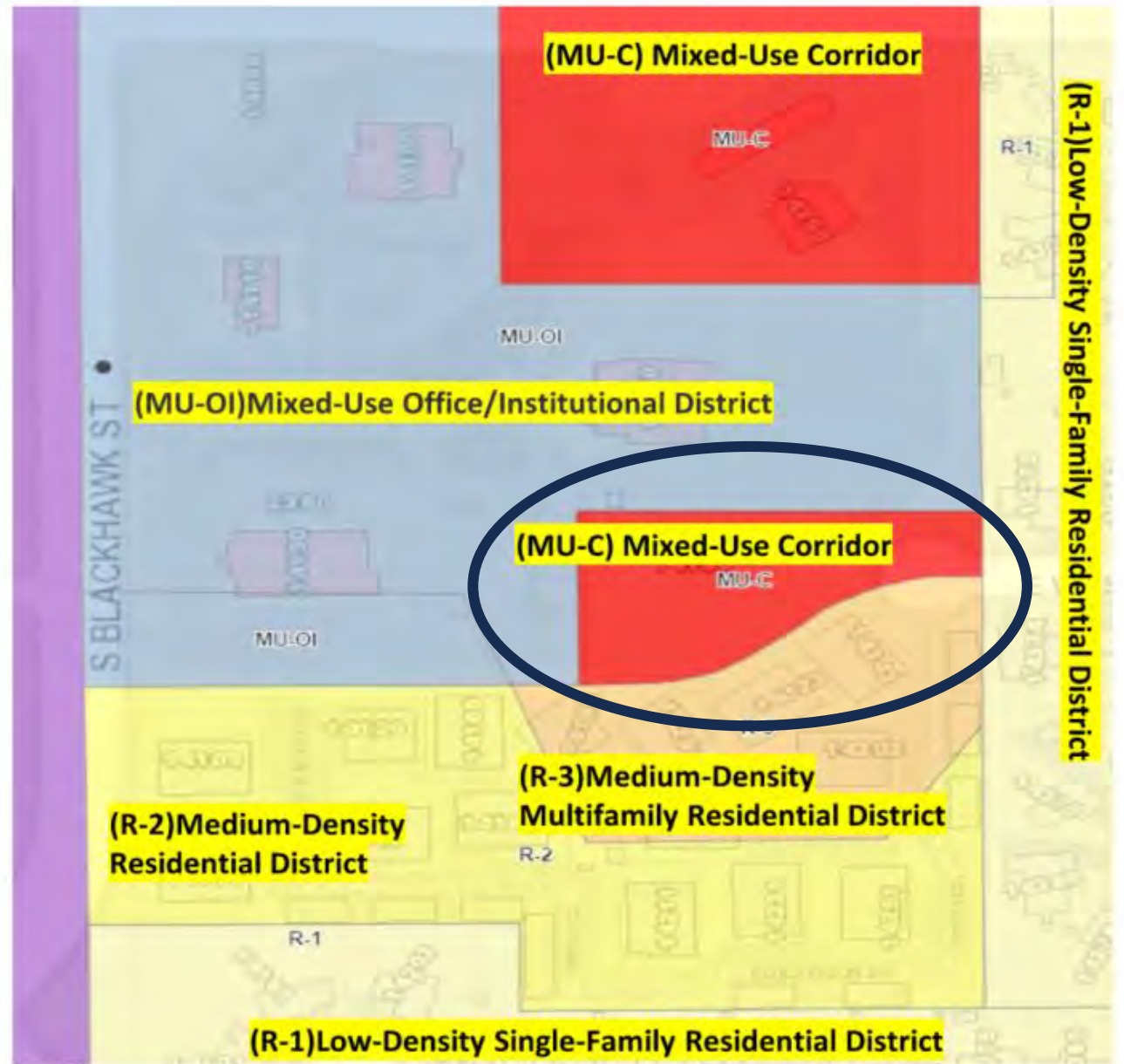
**Zoning Map Amendment to rezone
property from Mixed-Use Corridor (MU-
C) to Medium-Density Residential (R-3)**



VICINITY MAP

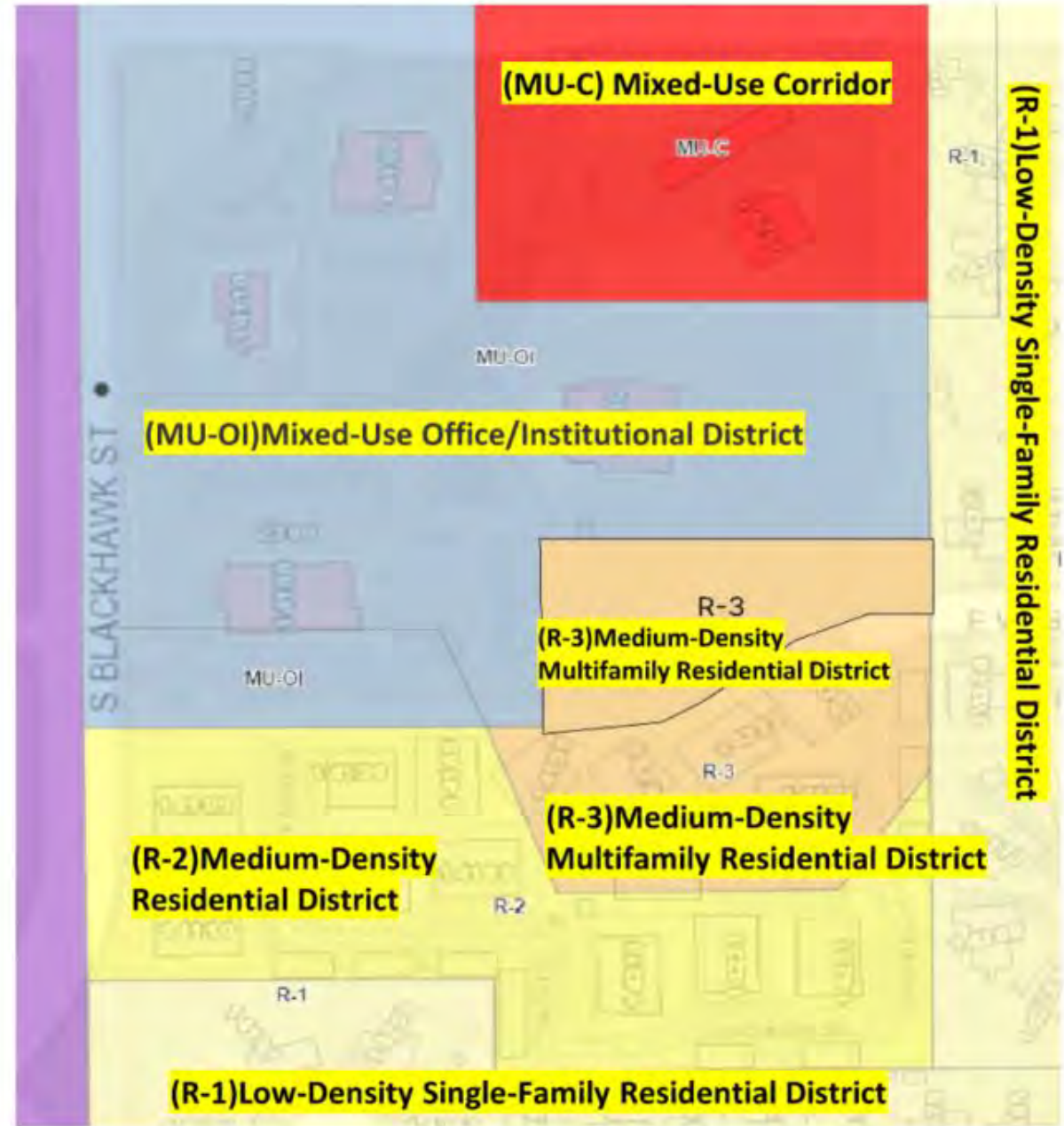


CURRENT ZONING MAP



Current Zoning

PROPOSED ZONING MAP



ORDINANCE NO. 2024- _____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, FOR A ZONING MAP AMENDMENT TO REZONE APPROXIMATELY 0.87 ACRES OF LAND TO MEDIUM-DENSITY MULTIFAMILY DISTRICT (R-3), LOCATED AT THE NORTHWEST CORNER OF EAST WESLEY PLACE AND SOUTH DILLON STREET

WHEREAS, the applicant has requested that approximately 0.87 acres of land located at the northwest corner of East Wesley Place and South Dillon Street, County of Arapahoe, State of Colorado (the “Property”), be rezoned from Mixed-Use Corridor (MU-C) to Medium-Density Multifamily (R-3); and

WHEREAS, Section 146-5.4.1.C.3 of the Uniform Development Ordinance provides that all applications for the rezoning of property within the City of Aurora, Colorado (the “City”), shall be presented for a public hearing, both to the Planning and Zoning Commission, who shall render a recommendation to City Council, and to City Council for final decision; and

WHEREAS, on December 13, 2023, following a public hearing, the Planning and Zoning Commission voted to recommend the rezoning of the Property.

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

Section 1. Based on the evidence presented at tonight’s public hearing, City Council finds and determines that: the rezoning is consistent with the spirit and intent of the Comprehensive Plan, is compatible with surrounding development, and would not result in a significant dislocation of tenants or occupants of the property.

Section 2. The Property, as more particularly described in “Exhibit A” attached hereto and incorporated herein, is zoned Medium-Density Multifamily (R-3) and the zoning map is hereby amended in accordance with said zoning.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 4. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this ____ day of _____, 2024.

PASSED AND ORDERED PUBLISHED this ____ day of _____, 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

Lena McClelland ^{RLA}

LENA MCCLELLAND, Assistant City Attorney

LEGAL DESCRIPTION

A PARCEL OF LAND BEING LOT 3, BLOCK 1, BLACKHAWK POINTE SUBDIVISION FILING NO. 1 (PLAT RECORDED AT RECEPTION NO. A9130824 OF THE ARAPAHOE COUNTY RECORDS), SITUATED IN THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 4 SOUTH, RANGE 66 WEST OF THE 6th PRINCIPAL MERIDIAN, COUNTY OF ARAPAHOE, STATE OF COLORADO, SAID PARCEL MAY ALSO BE DESCRIBED AS FOLLOWS:

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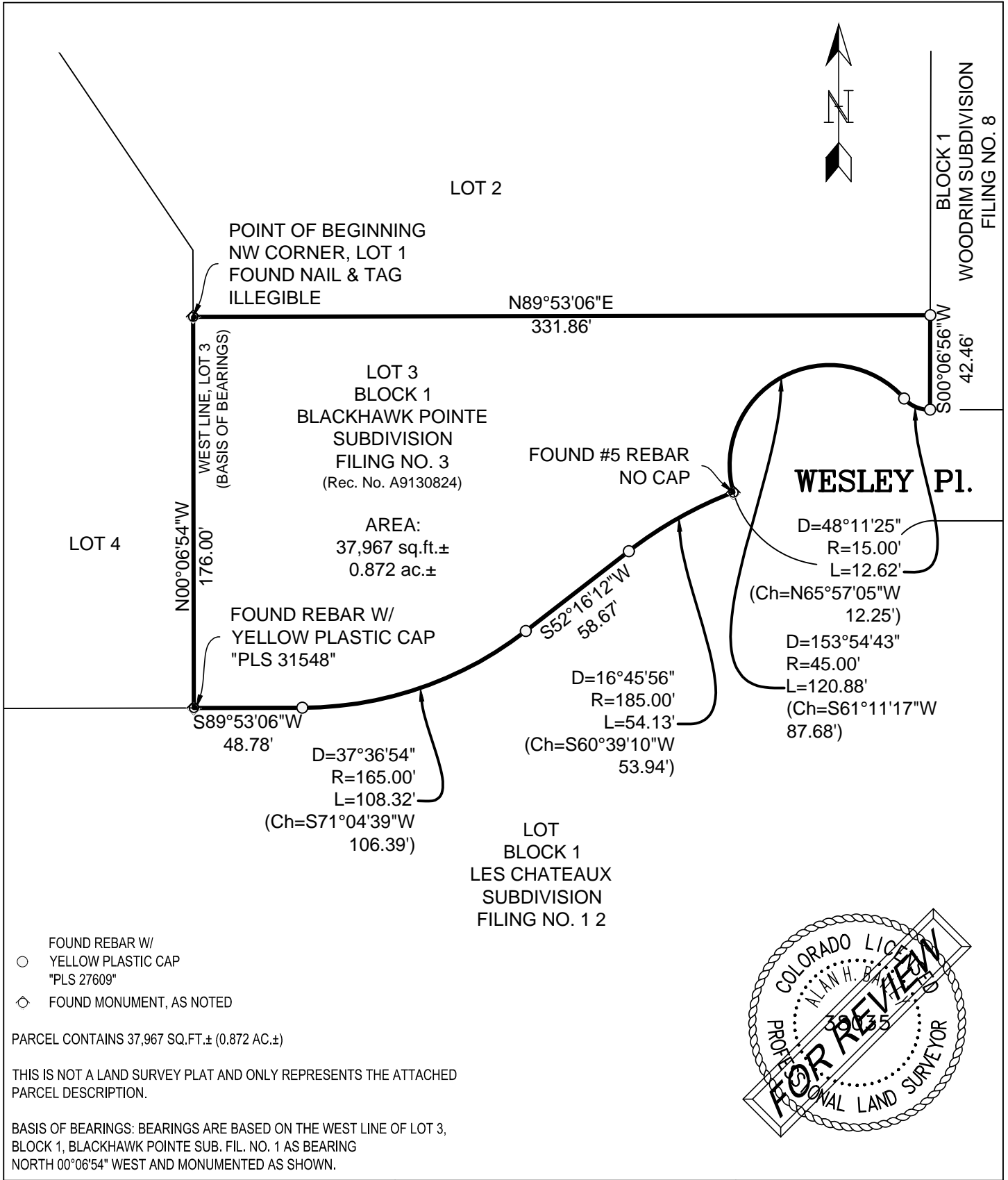
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PREPARED BY:
ALAN H. BAILEY PLS No. 38035

ON BEHALF OF
BAILEY PROFESSIONAL SOLUTIONS, LLC
5737 SOUTH KENTON STREET
ENGLEWOOD, CO 80111
303.587.1672



PROJECT: ELEV-22-02 ILIFF STATION		 BAILEY PROFESSIONAL SOLUTIONS, LLC 5737 SOUTH KENTON STREET ENGLEWOOD, CO 80111 303.587.1672 BAILEYPROFESSIONALSOLUTIONS.COM
FILE: BPS-BASE.DWG		
CHECKED: AHB	DRAWN: RJE	



- FOUND REBAR W/
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- ◇ FOUND MONUMENT, AS NOTED

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CITY OF AURORA

Council Agenda Item Continuation Page

Item Title: Continuation Page- Retail Theft Repeat Offender -Ordinance
Item Initiator: Council Member Daniel Jurinsky
Staff Source: N/A
Legal Source: Pete Schulte, Public Safety Client Group Manager
Outside Speaker: N/A
Date of Change: 2/12/2024

COUNCIL MEETING DATES:

Study Session: 2/12/2024

Regular Meeting: 2/26/2024

ITEM SUMMARY *(Brief description of changes or updates with documents included.)*

This ordinance was passed on from the 2/12/2024 study session with one amendment – to remove any direction in the ordinance to state where any of the days of a jail sentence should be served. The result will leave it up to the detention facility staff on where defendants complete their ordered jail sentences under this ordinance.

ORDINANCE NO. 2024- ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS OF THE CITY CODE PERTAINING TO MANDATORY MINIMUM SENTENCES FOR RETAIL THEFT IN THE AURORA MUNICIPAL CODE TO CONTINUE TO COMBAT THEFTS IN THE CITY

WHEREAS, theft offenses in the City of Aurora and surrounding cities continue to negatively impact local retail businesses; and

WHEREAS, one of the targeted areas of these criminals is the Havana Business District in the City of Aurora; and

WHEREAS, this type of theft impacts small and large businesses in Aurora with a bigger impact on the smaller retail establishments owned by individual citizens; and

WHEREAS, lowering the mandatory minimum jail sentence for retail theft will further deter this criminal behavior as is evidenced by the impact of imposing mandatory minimums in the City last year; and

WHEREAS, Council intends to make it known that the City of Aurora is not the city for offenders to commit theft by making penalties more impactful:

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

Section 1. The City Code of the City of Aurora, Colorado, Sec. 1-13 (j) (3) (a) is hereby amended to read as follows:

Sec. 1-13 – General penalty.

(j) As part of the fine or penalty as defined in subsection (a) herein, every person who pleads guilty or no contest to or is convicted of the municipal code offenses in this section shall be sentenced by the municipal court in accordance therewith.

(3) Sec. 94-74. Theft.

(a) For those Theft offenses involving “Retail Theft” with the amount of value taken being over ~~\$300.00~~ **\$100.00**, a mandatory minimum jail sentence of 3 days shall be imposed in addition to any other sentence imposed by the Court. The Court shall not

set aside or suspend this minimum sentence. ~~with the 3 days to be served at the Aurora Detention Facility.~~

- (1) For purposes of this section, “Retail Theft” is defined as “ ‘Theft’ under Sec. 94-74 of any goods or merchandise offered for sale by a business licensed under Sec. 86-87.”

(b) Repeat offender.

- (1) **If evidence is presented that the defendant has previously been once convicted of Retail Theft or a similar offense under the Aurora City Code, Colorado state law, or the laws of another state, a mandatory minimum jail sentence of 90 days shall be imposed. The Court shall not set aside or suspend this minimum sentence.**
- (2) **If evidence is presented that the defendant has previously been at least twice convicted of Retail Theft or a similar offense under the Aurora City Code, Colorado state law, or the laws of another state, a mandatory minimum jail sentence of 180 days shall be imposed. The Court shall not set aside or suspend this minimum sentence.**

Section 2. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 4. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____, 2024.

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



PETER SCHULTE, PUBLIC SAFETY CLIENT MANAGER



CITY OF AURORA

Council Agenda Commentary

Item Title: Retail Theft Repeat Offenders Ordinance
Item Initiator: Danielle Jurinsky, Council Member
Staff Source/Legal Source: Pete Schulte, Client Services Manager, City Attorney
Outside Speaker: N/A
Council Goal: 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

COUNCIL MEETING DATES:

Study Session: 2/12/2024

Regular Meeting: 2/26/2024

2nd Regular Meeting (if applicable): 3/11/2024

Item requires a Public Hearing: Yes No

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

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name, title, department / Legal source name and title
- Outside speaker name and organization
- Estimated time (For Study Session items only, indicate combined time needed for presentation and discussion)

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS OF THE CITY CODE PERTAINING TO MANDATORY MINIMUM SENTENCES FOR RETAIL THEFT IN THE AURORA MUNICIPAL CODE TO CONTINUE TO COMBAT THEFTS IN THE CITY

Sponsor: Danielle Jurinsky, Council Member
Pete Schulte, Client Services Manager, City Attorney
Estimated time: 10 mins

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

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

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Public Safety, Courts & Civil Service

Policy Committee Date: 2/8/2024

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

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

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

The first version of this ordinance was passed in 2023, setting the limit for a 3 day mandatory jail sentence for Retail Theft of \$300.00. Due to the perpetual problem the city is experiencing in Retail Theft, this amendment to the ordinance/City Code section lowers the threshold for a 3-day jail sentence to \$100.00 and adds provisions for increased mandatory jail time for repeat offenders.

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

This amendment to the Retail Theft ordinance/City Code section lowers the threshold for a 3-day jail sentence to \$100.00 and adds provisions for increased mandatory jail time for repeat offenders.

FISCAL IMPACT

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

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

REVENUE IMPACT

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

BUDGETED EXPENDITURE IMPACT

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

This amendment will increase the costs for incarcerating those defendants sentenced under this amendment, including increased costs to the City for incarceration at the county jails.

NON-BUDGETED EXPENDITURE IMPACT

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

WORKLOAD IMPACT

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

QUESTIONS FOR COUNCIL

Does Council support this amendment to the Retail Theft ordinance to lower the threshold for a 3-day jail sentence to \$100.00 and add provisions for increased mandatory jail time for repeat offenders?

LEGAL COMMENTS

The City Council, as governing body of the city, shall have the power to make ordinances as it shall deem necessary and proper to provide for the safety; preserve the health; promote the prosperity; and improve the morals, order, comfort and convenience of the city and the inhabitants thereof. Aurora City Code §2-32. (Schulte)

ORDINANCE NO. 2024- _____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS OF THE CITY CODE PERTAINING TO MANDATORY MINIMUM SENTENCES FOR RETAIL THEFT IN THE AURORA MUNICIPAL CODE TO CONTINUE TO COMBAT THEFTS IN THE CITY

WHEREAS, theft offenses in the City of Aurora and surrounding cities continue to negatively impact local retail businesses; and

WHEREAS, one of the targeted areas of these criminals is the Havana Business District in the City of Aurora; and

WHEREAS, this type of theft impacts small and large businesses in Aurora with a bigger impact on the smaller retail establishments owned by individual citizens; and

WHEREAS, lowering the mandatory minimum jail sentence for retail theft will further deter this criminal behavior as is evidenced by the impact of imposing mandatory minimums in the City last year; and

WHEREAS, Council intends to make it known that the City of Aurora is not the city for offenders to commit theft by making penalties more impactful:

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

Section 1. The City Code of the City of Aurora, Colorado, Sec. 1-13 (j) (3) (a) is hereby amended to read as follows:

Sec. 1-13 – General penalty.

(j) As part of the fine or penalty as defined in subsection (a) herein, every person who pleads guilty or no contest to or is convicted of the municipal code offenses in this section shall be sentenced by the municipal court in accordance therewith.

(3) Sec. 94-74. Theft.

(a) For those Theft offenses involving “Retail Theft” with the amount of value taken being over ~~\$100.00~~ ~~\$300.00~~, a mandatory minimum jail sentence of 3 days shall be imposed in addition to any other sentence imposed by the Court. The Court shall not

set aside or suspend this minimum sentence with the 3 days to be served at the Aurora Detention Facility.

- (1) For purposes of this section, “Retail Theft” is defined as “ ‘Theft’ under Sec. 94-74 of any goods or merchandise offered for sale by a business licensed under Sec. 86-87.”

(b) Repeat offender.

- (1) If evidence is presented that the defendant has previously been once convicted of Retail Theft or a similar offense under the Aurora City Code, Colorado state law, or the laws of another state, a mandatory minimum jail sentence of 90 days shall be imposed. The Court shall not set aside or suspend this minimum sentence with the first 3 days to be served at the Aurora Detention Facility and the remaining days to served at the applicable county jail in the county where the offense occurred.**
- (2) If evidence is presented that the defendant has previously been at least twice convicted of Retail Theft or a similar offense under the Aurora City Code, Colorado state law, or the laws of another state, a mandatory minimum jail sentence of 180 days shall be imposed. The Court shall not set aside or suspend this minimum sentence with the first 3 days to be served at the Aurora Detention Facility and the remaining days to served at the applicable county jail in the county where the offense occurred.**

Section 2. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 4. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____, 2024.

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



PETER SCHULTE, PUBLIC SAFETY CLIENT MANAGER



CITY OF AURORA

Council Agenda Item Continuation Page

Item Title: Continuation Page -Amending Sections Pertaining to Mandatory Minimum Sentences for Theft of Services - Ordinance

Item Initiator: Council Member Danielle Jurinsky

Staff Source: N/A

Legal Source: Peter Schulte, Public Safety Client Group Manager

Outside Speaker: N/A

Date of Change: 2/12/2024

COUNCIL MEETING DATES:

Study Session: 2/12/2024

Regular Meeting: 2/26/2024

ITEM SUMMARY *(Brief description of changes or updates with documents included.)*

Council requested the ordinance be amended to remove the requirement that the mandatory minimum sentence be served in the Aurora Municipal Jail. The attached draft reflects the change requested by CM Jurinsky. (Platt)

ORDINANCE NO. 2024- ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS OF THE CITY CODE PERTAINING TO MANDATORY MINIMUM SENTENCES FOR THEFT OF SERVICES IN THE AURORA MUNICIPAL CODE TO COMBAT THE INCREASE IN “DINE AND DASH” THEFTS IN THE CITY

WHEREAS, there has been a vast increase in “dine and dash” theft offenses in the City of Aurora and surrounding cities; and

WHEREAS, one of the targeted areas of these criminals is the Havana Business District in the City of Aurora; and

WHEREAS, this type of theft impacts small and large restaurant businesses in Aurora with a bigger impact on the smaller restaurants and vendors owned by individual citizens; and

WHEREAS, imposing a mandatory minimum jail sentence for defrauding a public establishment will deter this criminal behavior similarly to retail and motor vehicle thefts; and

WHEREAS, Council intends to make it known that the City of Aurora is not the city for offenders to commit theft of services that impacts small business owners:

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

Section 1. The City Code of the City of Aurora, Colorado, Sec. 1-13 (j) (3) is hereby amended to add subsection (b) which reads as follows:

(b) For those Theft offenses involving “defrauding a public establishment” pursuant to A.M.C. 94-74 (d) where the total amount due under the agreement is \$15.00 or more, a mandatory minimum jail sentence of three days shall be imposed in addition to any other sentence imposed by the Court. The Court shall not set aside or suspend this minimum sentence.

Section 2. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

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Section 4. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____, 2024.

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

MEGAN PLATT, ASSISTANT CITY ATTORNEY



CITY OF AURORA

Council Agenda Commentary

Item Title: Ordinance Amending Sections Pertaintint to Mandatory Minimum Sentences for Theft of Services
Item Initiator: Danielle Jurinsky, Council Member
Staff Source/Legal Source: Pete Schulte, Manager of Client Services, City Attorney
Outside Speaker: N/A
Council Goal: 2012: 1.0--Assure a safe community for people

COUNCIL MEETING DATES:

Study Session: 2/12/2024

Regular Meeting: 2/26/2024

2nd Regular Meeting (if applicable): 3/11/2024

Item requires a Public Hearing: Yes No

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

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name, title, department / Legal source name and title
- Outside speaker name and organization
- Estimated time (For Study Session items only, indicate combined time needed for presentation and discussion)

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS OF THE CITY CODE PERTAINING TO MANDATORY MINIMUM SENTENCES FOR THEFT OF SERVICES IN THE AURORA MUNICIPAL CODE TO COMBAT THE INCREASE IN "DINE AND DASH" THEFTS IN THE CITY

Sponsor: Danielle Jurinsky, Council Member
Pete Schulte, Client Services Manager, City Attorney
Estimated time: 10 mins

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

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

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Public Safety, Courts & Civil Service

Policy Committee Date: 2/8/2024

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

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

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

N/A

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

This amendment to the General Penalty code section adds a mandatory 3-day jail sentence for those offenders who violate Sec. 94-74 "defrauding a public establishment" in the amount of \$15.00 or more

FISCAL IMPACT

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

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

REVENUE IMPACT

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

BUDGETED EXPENDITURE IMPACT

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

NON-BUDGETED EXPENDITURE IMPACT

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

Depending on how many offenders are sentenced under this section, there may be an expenditure impact on the cost of incarcerating those individuals in the City Detention Facility.

WORKLOAD IMPACT

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

QUESTIONS FOR COUNCIL

Does Council support this amendment to the General penalty section to add a mandatory 3-day jail sentence for those offenders who violate Sec. 94-74 "defrauding a public establishment" in the amount of \$15.00 or more?

LEGAL COMMENTS

The City Council, as governing body of the city, shall have the power to make ordinances as it shall deem necessary and proper to provide for the safety; preserve the health; promote the prosperity; and improve the morals, order, comfort and convenience of the city and the inhabitants thereof. Aurora City Code §2-32. (Schulte)

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WHEREAS, there has been a vast increase in “dine and dash” theft offenses in the City of Aurora and surrounding cities; and

WHEREAS, one of the targeted areas of these criminals is the Havana Business District in the City of Aurora; and

WHEREAS, this type of theft impacts small and large restaraunt businesses in Aurora with a bigger impact on the smaller restaraunts and vendors owned by individual citizens; and

WHEREAS, imposing a mandatory minimum jail sentence for defrauding a public establishment will deter this criminal behavior similarly to retail and motor vehicle thefts; and

WHEREAS, Council intends to make it known that the City of Aurora is not the city for offenders to commit theft of services that impacts small business owners:

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

Section 1. The City Code of the City of Aurora, Colorado, Sec. 1-13 (j) (3) is hereby amended to add subsection (b) which reads as follows:

(b) For those Theft offenses involving “defrauding a public establishment” pursuant to A.M.C. 94-74 (d) where the total amount due under the agreement is \$15.00 or more, a mandatory minimum jail sentence of three days shall be imposed in addition to any other sentence imposed by by the Court. The Court shall not set aside or suspend this minimum sentence with the three days to be served at that Aurora Detention Facility.

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INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____, 2024.

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

Megan Platt

MEGAN PLATT, ASSISTANT CITY ATTORNEY