



City of Arvada

City Council Agenda

NOVEMBER 7, 2022
CITY COUNCIL CHAMBERS
Regular Business

Councilmembers:

Marc Williams, Mayor
David Jones, Mayor Pro-Tem
Bob Fifer, At large
John Marriott, District 3
Randy Moorman, District 1
Lauren Simpson, District 2
Lisa Smith, At large

Staff Members Usually Present:

Lorie Gillis, City Manager
Linda Haley, Deputy City Manager
Don Wick, Deputy City Manager
Rachel Morris, City Attorney
Jacqueline Rhoades, Director of Public Works
Sharon Israel, Director of Utilities
Ryan Stachelski, Dir. of Community & Economic Development
Bryan Archer, Director of Finance
Gabriella Bommer, Director of Human Resources
Rob Smetana, Manager of City Planning & Development
Rachael Kuroiwa, Chief Communications Manager
Kristen Rush, City Clerk

Info: 720-898-7550

THIRD FLOOR CONFERENCE ROOM
EXECUTIVE SESSION
5:00 P.M.

Legal Advice, Pursuant to C.R.S. 24-6-402(4)(b) Related to SDC Increases

CITY COUNCIL MEETING – CITY COUNCIL CHAMBERS

6:00 PM

1. Call to Order - 6:00 PM
2. Moment of Reflection and Pledge of Allegiance - Councilmember Simpson
3. Roll Call of Councilmembers
4. Approval of Minutes
 - A. October 17, 2022 City Council Meeting
5. Recognitions and Communications
 - A. Proclamation for Small Business Saturday - Presented by Councilmember Marriott
 - B. Recognition of Mark Deven - Presented by Mayor Williams
6. Presentations
 - A. 3rd Quarter Financial Presentation
7. Public Comment on Issues not Scheduled on Agenda - Three Minute Limit

8. New Business

A. Consent Agenda

1. R22-078, A Resolution Authorizing a Lease Agreement By and Between the City of Arvada and the Arvada Community Food Bank, Inc. d/b/a Community Table for the Property Located at 8555 W. 57th Avenue Beginning December 1, 2022
2. R22-094, A Resolution Accepting a Quitclaim Deed from Jefferson Center Metropolitan District No. 2 to the City of Arvada for Permanent Water Line Easements
3. R22-095, A Resolution Establishing a Housing Advisory Committee
4. R22-096, A Resolution Approving an Agreement By and Between the City Of Arvada and Davis Block, LLC. For The Grant of a Revocable Encroachment License to Accommodate a Landing Pad for a Pedestrian Entrance within Public Right Of Way At 5616 Olde Wadsworth Boulevard

B. Resolutions

1. R22-097, A Resolution Authorizing the First Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$200,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Ward Road
2. R22-098, A Resolution Authorizing the Second Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$450,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Croke Canal
3. R22-099, A Resolution Authorizing a Waiver and Reduction of a Portion of the Water Tap Fee for the Cottages at Ralston Fields Development

C. Ordinances (First Reading)

1. CB22-079, An Ordinance Amending Article I, in General, and Article II, Civil Emergency, Emergency, or Local Disaster Regulations, of Chapter 26, Civil Emergency, Emergency, or Local Disaster of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)
2. CB22-080, An Ordinance Authorizing an Additional Appropriation for Fiscal Year 2022 (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)
3. CB22-081, An Ordinance Repealing and Reenacting Article V, Cross-Connection Control Program of Chapter 102, Utilities, of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)
4. CB22-082, An Ordinance Repealing, Retitling, and Reenacting Section 58-1, Powers of Judge, of Article I, In General, of Chapter 58, Municipal Court, of the Arvada City Code, and Repealing Certain Other Provisions of Article I of Chapter 58 (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)
5. CB22-083, An Ordinance Amending Section 98-70, Exempt Sales and Repealing and Reenacting Section 98-78, Exemptions of Article III, Sales and Use Tax, of Chapter 98, Taxation, of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)
6. CB22-084, An Ordinance Amending Subsection 102-34(c) of Section 102-34, Application for Service and Payment of Fees, of Article II, Chapter 102, Utilities, of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

9. Other

- A. Notice of Correction to the Amended and Restated Service Plan for Sabell Metropolitan District No. 2 Dated November 18, 2019 in Order to Clarify Certain Inconsistencies

10. Public Hearings - 6:15 PM
 - A. R22-067, A Resolution Setting Forth Certain Findings of Fact and Conclusions as to the Annexation of Certain Land Into the City of Arvada, Colorado, Union Estates Property, a 2.11-Acre Parcel of Land Generally Located at 12016 West 82nd Avenue
 - B. CB22-075, An Ordinance Annexing Certain Land into the City of Arvada for Union Estates Property, a 2.11- Acre Parcel of Land Approximately Located at 12016 West 82nd Avenue (Ordinance No. 4823)
 - C. CB22-076, An Ordinance Rezoning Certain Land Within the City of Arvada, Union Estates Property, from Jefferson County A-2 (Agricultural 2) to City of Arvada RN-7.5 (Residential Neighborhood 7.5) and Amending the Official Zoning Maps of the City of Arvada, Colorado, Generally Located at 12016 W 82nd Avenue (Ordinance No. 4824)
 - D. PUD Development Plan for Tower View Townhomes Phase II PDP, generally located at 7801 W 51st Ave
 - E. Public Hearing on the 2023 Annual Action Plan for 2023 Community Development Block Grant Funding and 2023 Human Services Grant Funding
 1. R22-100, A Resolution Approving the Submission of the 2023 Annual Action Plan for the 2023 Community Development Block Grant ("CDBG") Funding
 2. R22-101, A Resolution Authorizing the Expenditure of City of Arvada Human Services Funding Pool Funds for 2023 to Agencies Providing Emergency Help, Program Assistance, and other Assistance to Arvada Citizens
 - F. CB22-077, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022 (Ordinance No. 4825)
 - G. CB22-078, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022 (Ordinance No. 4826)
11. Public Comment - Five Minute Limit
12. Reports from City Council
 - A. Council Committee Reports
13. Reports from City Manager
 - A. Review of Future Workshops and Presentations
14. Reports from City Attorney
15. Adjournment



SUMMARY OF MINUTES OF THE MEETING OF THE ARVADA CITY COUNCIL HELD OCTOBER 17, 2022

1. Executive Session – 5:00 p.m.

- A. Legal Advice, Pursuant to C.R.S. 24-6-402(4)(b) Related to Water and Wastewater rate and SDC Increases

Councilmember Simpson moved to go into Executive Session for Legal Advice, Pursuant to C.R.S. 24-6-402(4)(b) Related to Water and Wastewater rate and SDC Increases .

The following votes were cast on the Motion:

Those voting Yes: Williams, Fifer, Jones, Marriott, Moorman, Simpson, Smith
The Motion was Approved

1. Call to Order - 6:00 p.m.

This Arvada City Council meeting was a hybrid meeting using webinar technology. Mayor Williams, Mayor Pro Tem Jones, Councilmember Fifer, Councilmember Marriott, Councilmember Moorman, Councilmember Simpson and Councilmember Smith were all present in chambers.

Members of the public were given notice with instructions on how to participate with public comment.

2. Moment of Reflection and Pledge of Allegiance

3. Roll Call of Councilmembers

Those Present: Mayor Marc Williams, Mayor Pro Tem David Jones, Councilmember Bob Fifer, Councilmember John Marriott, Councilmember Randy Moorman, Councilmember Lauren Simpson, Councilmember Lisa Smith.

Also Present: Lorie Gillis, City Manager, Rachel Morris, City Attorney; Linda Haley, Deputy City Manager; Don Wick, Deputy City Manager, Bryan Archer, Director of Finance; Ryan Stachelski, Director of Community and Economic Development; Rachael Kuroiwa, Chief Communications Manager and Kristen Rush, City Clerk.

4. Approval of Minutes – October 3, 2022 City Council Meeting

The minutes stand approved.

5. Recognition and Communication –

- A. Recognition of Craig Smith for 50 Years of Service - Presented by Mayor Williams

Mayor Williams said that Craig Smith began employment with the City of Arvada on October 1, 1972, in the Public Works Streets Division as a maintenance crew member. For 28 years, Craig worked on the asphalt crew paving streets, patching water break repairs, fixing potholes, and otherwise repairing our streets. Craig eventually became an equipment operator, a heavy equipment operator, a lead worker, and in 2000, Craig was promoted to crew supervisor. As a crew supervisor, Craig continued to lead the asphalt crew. As a result of Craig's 28 years of experience, Craig gained a significant amount of experience and knowledge of asphalt and is considered an expert in paving operations. Craig's expertise was put to good use after the 2013 floods when Craig and his team needed to rebuild and repave Blue Mesa Road.

In addition to Craig's expertise in paving, Craig is also an expert in snow plowing operations. One of Craig's fondest memories of snow plowing operations occurred during the 1982 Christmas blizzard which resulted in the plow teams needing to perform several weeks of snow removal. The storm delivered nearly 36 inches of snow with 45 MPH winds, creating major snow drifts and a challenging environment for the snow removal teams.

During Craig's 50 years with the City, Craig has witnessed growth in the City, including growth in the roadway network. When Craig first started with the City, the city had several dirt roads. One of Craig's jobs early on in his career was to drive a road grader and maintain the dirt roads. Craig even recalls a time when there was very little west of Ward Road, and the north end of town near Lake Arbor was just being developed.

Craig has also witnessed the development of technology, including the streets division's use of computers, cell phones, significant improvements in the technology with heavy equipment, and, of course, the technical improvements in the materials used by the Streets division. In addition, snow plow routes have been improved and the Streets division is now getting ready to implement a turn-by-turn routing system based upon plow route optimization.

Craig has also played a significant role in developing and training our Streets team members.

Throughout his career, Craig has trained many new team members, he has been a mentor, a supervisor, a leader and, most importantly, a friend. Craig has helped develop modern training for the Streets team members, including managing the Colorado Learning Technical Assistance Program.

Craig was recently interviewed about his 50-year career with the City. In that interview, Craig provided us all with sage advice: "Be open to change. It's going to happen no matter what and the only thing we can guarantee is that it's going to happen, whether it's the technology, the people, or something else, it's going to change as years go by."

On behalf of the entire Arvada City Council, the team members of the City of Arvada, and the Arvada Community, Thank you for your 50 years of service to the City of Arvada.

6. Presentations – none
7. Public Comment –
 - A. Dar-Lon Chang, Arvada resident, addressed council regarding the Sustainability Coordinator
 - B. Doug Raizh, Arvada resident, addressed council regarding gun control ordinances

8. New Business

A. Consent Agenda –

1. R22-084 A Resolution Adopting the Amended Administrative Fee Schedule for Building Safety Division Permits and Services Pursuant to Chapter 18, Buildings and Building Regulations, of the Arvada City Code
2. R22-085 A Resolution Adopting the Amended Fee Schedule for Land-Use Pursuant to Chapter 74, Planning and Development, of the Arvada City Code
3. R22-086 A Resolution Adopting the Amended Fee Schedule for Rights-of-Way Work Permits and Services Pursuant to Chapter 78, Public Improvements, of the Arvada City Code
4. R22-087 A Resolution Authorizing a Wireless Communications Site Lease Agreement by and between the City of Arvada and T-Mobile West, LLC

Councilmember Marriott moved that R22-084, A Resolution Adopting the Amended Administrative Fee Schedule for Building Safety Division Permits and Services Pursuant to Chapter 18, Buildings and Building Regulations, of the Arvada City Code; R22-085, A Resolution Adopting the Amended Fee Schedule for Land-Use Pursuant to Chapter 74, Planning and Development, of the Arvada City Code; R22-086, A Resolution Adopting the Amended Fee Schedule for Rights-of-Way Work Permits and Services Pursuant to Chapter 78, Public Improvements, of the Arvada City Code; R22-087, A Resolution Authorizing a Wireless Communications Site Lease Agreement by and between the City of Arvada and T-Mobile West, LLC, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

B. Resolutions –

1. R22-088 A Resolution Authorizing Acceptance of the Colorado Region 8 Opioid Intergovernmental Agreement with Adams County and Other Participating Local Governments within Adams County for the Establishment of the Region 8 Regional Council and Related Duties as Required By the Colorado Opioids Memorandum of Understanding Signed October 18, 2021

Lorie Gillis, City Manager, reviewed this resolution with council

Councilmember Smith moved that R22-088, A Resolution Authorizing Acceptance of the Colorado Region 8 Opioid Intergovernmental Agreement with Adams County and Other Participating Local Governments within Adams County for the Establishment of the Region 8 Regional Council and Related Duties as Required By the Colorado Opioids Memorandum of Understanding Signed October 18, 2021, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

2. R22-089 A Resolution Declining All Participation in the Colorado Family and Medical Leave Insurance Program by the City of Arvada

Lorie Gillis, City Manager, reviewed this resolution with council.

Councilmember Marriott moved that R22-089, A Resolution Declining All Participation in the Colorado Family and Medical Leave Insurance Program by the City of Arvada, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

3. R22-090 A Resolution of the City of Arvada Declaring Its Intention to Apply to the Colorado Department of Local Affairs ("DOLA") for an Allocation of Private Activity Bond Cap from DOLA's Current Statewide Balance and to Issue or Otherwise Support the Issuance of Private Activity Bonds, in the Aggregate Principal Amount of Not to Exceed \$7,000,000, for the Purpose of Financing a Portion of the Costs of the Acquisition, Construction, and Equipping of an Approximately 260-Unit Affordable Housing Facility to be Known as "Marshall Pointe Apartments" for the Benefit of the Inhabitants of the City of Arvada, Colorado

Lorie Gillis, Deputy City Manager, reviewed this resolution with council.

Councilmember Simpson moved that R22-090, A Resolution of the City of Arvada Declaring Its Intention to Apply to the Colorado Department of Local Affairs ("DOLA") for an Allocation of Private Activity Bond Cap from DOLA's Current Statewide Balance and to Issue or Otherwise Support the Issuance of Private Activity Bonds, in the Aggregate Principal Amount of Not to Exceed \$7,000,000, for the Purpose of Financing a Portion of the Costs of the Acquisition, Construction, and Equipping of an Approximately 260-Unit Affordable Housing Facility to be Known as "Marshall Pointe Apartments" for the Benefit of the Inhabitants of the City of Arvada, Colorado, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

C. Ordinances (First Reading) -

1. CB22-075 An Ordinance Annexing Certain Land into the City of Arvada for Union Estates Property, a 2.11- Acre Parcel of Land Approximately Located at 12016 West 82nd Avenue (Public Hearing to be set for November 7, 2022 at 6:15 p.m.)
2. CB22-076 An Ordinance Rezoning Certain Land Within the City of Arvada, Union Estates Property, from Jefferson County A-2 (Agricultural 2) to City of Arvada RN-7.5 (Residential Neighborhood 7.5) and Amending the

- Official Zoning Maps of the City of Arvada, Colorado, Generally Located at 12016 W 82nd Avenue (Public Hearing to be set for November 7, 2022 at 6:15 p.m.)
3. CB22-077 An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022 (Public Hearing to be set for November 7, 2022 at 6:15 p.m.)
 4. CB22-078 An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022 (Public Hearing to be set for November 7, 2022 at 6:15 p.m.)

Mayor Pro Tem Jones moved that CB22-075, An Ordinance Annexing Certain Land into the City of Arvada for Union Estates Property, a 2.11- Acre Parcel of Land Approximately Located at 12016 West 82nd Avenue; CB22-076, An Ordinance Rezoning Certain Land Within the City of Arvada, Union Estates Property, from Jefferson County A-2 (Agricultural 2) to City of Arvada RN-7.5 (Residential Neighborhood 7.5) and Amending the Official Zoning Maps of the City of Arvada, Colorado, Generally Located at 12016 W 82nd Avenue; CB22-077, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022; CB22-078, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022, be approved on first reading, ordered published in full and a public hearing set for November 7, 2022 at 6:15 p.m.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

9. Other –
 - A. Motion to Cancel October 24, 2022 City Council Meeting

Councilmember Fifer moved to cancel the October 24, 2022 city council meeting.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

10. Public Hearings –
 - A. CB22-069 An Ordinance Amending Various Sections of Chapter 102, Utilities, of the Arvada City Code Pertaining to Water Users Rates and Bimonthly Service Charges (Ordinance No. 4817)

Mayor Williams opened the public hearing on CB22-069.

Lorie Gillis, City Manager, reviewed this ordinance with council.

Testimony: Mindy Mohr, Arvada resident, in support

Mayor Williams closed the public hearing.

Councilmember Fifer moved that CB22-069, An Ordinance Amending Various Sections of Chapter 102, Utilities, of the Arvada City Code Pertaining to Water Users Rates and Bimonthly Service Charges, be approved on final reading, numbered 4817 and ordered published by title only.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

- B. CB22-070 An Ordinance Amending Section 102-206 of Chapter 102, Utilities, of the Arvada City Code Pertaining to Wastewater Users Rates and Bimonthly Service Charges and Section 102-355 of Chapter 102, Utilities, of the Arvada City Code Pertaining to Stormwater Users Rates (Ordinance No. 4818)

Mayor Williams opened the public hearing on CB22-070.

Lorie Gillis, City Manager, reviewed this ordinance with council

Did not wish to testify: Mindy Mohr, in support

Councilmember Smith moved that CB22-070, An Ordinance Amending Section 102-206 of Chapter 102, Utilities, of the Arvada City Code Pertaining to Wastewater Users Rates and Bimonthly Service Charges and Section 102-355 of Chapter 102, Utilities, of the Arvada City Code Pertaining to Stormwater Users Rates, be approved on final reading, numbered 4818 and ordered published by title only.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

- C. CB22-071 An Ordinance Amending Sections 74-91 and 74-92 of Chapter 74, Planning and Development, and Various Sections of Chapter 102, Utilities, of the Arvada City Code Pertaining to System Development Charges (Ordinance No. 4819)

Mayor Williams opened the public hearing on CB22-071.

Lorie Gillis, City Manager, reviewed this ordinance with council

Testimony: Maureen Phair
 Jim Loftus,
 Adam Wallace,
 Kaitlyn
 Keane Palmer
 Nathan Adams
 Justin Boehm
 Ben Wells
 Clint Wrighthouse
 Mindy Mohr
 Lauren Brockman

Councilmember Marriott moved that the revised version of CB22-071, An Ordinance Amending Sections 74-91 and 74-92 of Chapter 74, Planning and Development, and Various Sections of Chapter 102, Utilities, of the Arvada City Code Pertaining to System Development Charges, be approved on final reading, numbered 4819 and ordered published in full.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

Councilmember Marriott moved to direct city staff to return with an ordinance amending when tap fees can be paid and to return that by the first of the year,

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

- D. CB22-072 An Ordinance Repealing and Reenacting Subsection 62-32(b)(4), of Section 62-32, Assault and Harassment, of Article II, Miscellaneous Offenses, Of Chapter 62, Offenses, of the Arvada City Code (Ordinance No. 4820)

Mayor Williams opened the public hearing on CB22-072.

Rachel Morris, City Attorney, reviewed this ordinance with council

Councilmember Simpson moved that CB22-072, An Ordinance Repealing and Reenacting Subsection 62-32(b)(4), of Section 62-32, Assault and Harassment, of Article II, Miscellaneous Offenses, Of Chapter 62, Offenses, of the Arvada City Code, be approved on final reading, numbered 4820 and ordered published by title only.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

- E. CB22-073 An Ordinance Certifying the City of Arvada Mill Levy for 2022 for the Board of County Commissioners for Jefferson and Adams Counties (Ordinance No. 4821)

Mayor Williams opened the public hearing on CB22-073.

Lorie Gillis, City Manager, reviewed this ordinance with council.

Councilmember Marriott moved that CB22-073, An Ordinance Certifying the City of Arvada Mill Levy for 2022 for the Board of County Commissioners for Jefferson and Adams Counties, be approved on final reading, numbered 4821 and published by title only.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

F. CB22-074 An Ordinance Appropriating Funds for Fiscal Year 2023 (Ordinance No. 4822)

Mayor Williams opened the public hearing on CB22-074.

Lorie Gillis, City Manager, reviewed this ordinance with council

Councilmember Fifer moved that CB22-074, An Ordinance Appropriating Funds for Fiscal Year 2023, be approved on final reading, numbered 4822 and ordered published by title only.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

1. R22-091 A Resolution Adopting the Budget for Fiscal Year 2023

Lorie Gillis, City Manager, reviewed this resolution with council.

Councilmember Fifer moved that R22-091, A Resolution Adopting the Budget for Fiscal Year 2023, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson,

Smith

The Motion was Approved

2. R22-092 A Resolution Adopting the 2023 Capital Improvement Fund Budget and Allocating for Specific Projects in 2023

Mayor Williams opened the public hearing on R22-092.

Lorie Gillis, City Manager, reviewed this ordinance with council

Councilmember Fifer moved that R22-092, A Resolution Adopting the 2023 Capital Improvement Fund Budget and Allocating for Specific Projects in 2023, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson,

Smith

The Motion was Approved

3. R22-093 A Resolution Adopting the Pay Plan for Fiscal Year 2023

Mayor Williams opened the public hearing on R22-093.

Lorie Gillis, City Manager, reviewed this ordinance with council

Councilmember Fifer moved that R22-093, A Resolution Adopting the Pay Plan for Fiscal Year 2023, be adopted.

The following votes were cast on the Motion:

Those voting Yes: Williams, Jones, Fifer, Marriott, Moorman, Simpson, Smith
The Motion was Approved

12. Public Comment - Five Minute Limit – none
13. City Council Reports –
 - A. Councilmember Fifer reported on the grand opening of the Candelas Fire Station.
 - B. Councilmember Moorman discussed a letter submitted to the Department of Energy regarding air monitoring at Rocky Flats and said that he would be attending a meeting on November 14 regarding the air monitoring.
 - C. Councilmember Simpson said there are two events coming up on October 28. The first is Trick or Treat Street, from 5-7 in Olde Town and the second is Spooky Teen Takeover at the Apex Center from 5:00-8:00 p.m.
14. City Manager Reports –
 - A. Lorie Gillis, City Manager, thanked council and the city team for all the support during the budget process and thanked the city team
15. City Attorney Reports – none
16. Adjournment at 7:40 p.m.

Marc Williams, Mayor

SEAL:

Kristen R. Rush, City Clerk



REPORT TO CITY COUNCIL

AGENDA ITEM
5.A.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: Proclamation for Small Business Saturday - Presented by Councilmember Marriott

Report in Brief

City Council will proclaim Saturday, November 26, 2022 as Small Business Saturday. Peter Kazura, a small business landlord in Olde Town and who also serves as the Olde Town BID Board President, will be in attendance to accept the Proclamation.

Prepared by:

Chris Koch, CCO Admin

Reviewed by:

Toni Riebschlager, Law Office Administrator 10/17/2022

Approved by:

Rachel Morris, City Attorney 10/18/2022

Don Wick, Deputy City Manager 10/19/2022

Linda Haley, Deputy City Manager 10/19/2022

Lorie Gillis, City Manager 10/21/2022

Enclosure, exhibits & attachments required to support the report

WHEREAS, the government of Arvada, Colorado celebrates local small businesses and the contributions they make to the local economy and community; according to the United States Small Business Administration, there are currently 32.5 million small businesses in the United States, they represent 99.7 percent of firms with paid employees, small businesses are responsible for 62% of net new jobs created since 1995, and small businesses employ 46.8% of the employees in the private sector in the United States, and

WHEREAS, 79% of consumers understand the importance of supporting the small businesses in their community on Small Business Saturday, 70% report the day makes them want to encourage others to Shop Small, independently-owned retailers, and 66% report that the day makes them want to Shop Small all year long; and

WHEREAS, 58% of shoppers reported they shopped online with a small business and 54% reported they dined or ordered takeout from a small restaurant, bar, or café on Small Business Saturday in 2021, and Arvada supports our local businesses that create jobs, boost our local economy, and preserve our communities; and

WHEREAS, advocacy groups, as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

NOW, THEREFORE, the Mayor and City Council of the City of Arvada, Colorado, do hereby proclaim November 26, 2022, as **Small Business Saturday** and urge the residents of Arvada to support small businesses and merchants on Small Business Saturday and throughout the year.

Dated this 7th day of November, 2022

Marc Williams, Mayor

David Jones, Mayor Pro Tem

Bob Fifer, Councilmember

Lauren Simpson, Councilmember

John Marriott, Councilmember

Lisa Smith, Councilmember

Randy Moorman, Councilmember



REPORT TO CITY COUNCIL

AGENDA ITEM
6.A.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: 3rd Quarter Financial Presentation

Report in Brief

The Finance team will present the 3rd quarter financial report. This will include updates on specific performance measures, an overview of the major revenue categories in the General Fund, a high level look at the other Major Funds, a review of the City's investment portfolio and finally, a look at the American Rescue Plan Act funds.

Prepared by:

Bryan Archer, Director of Finance

Reviewed by:

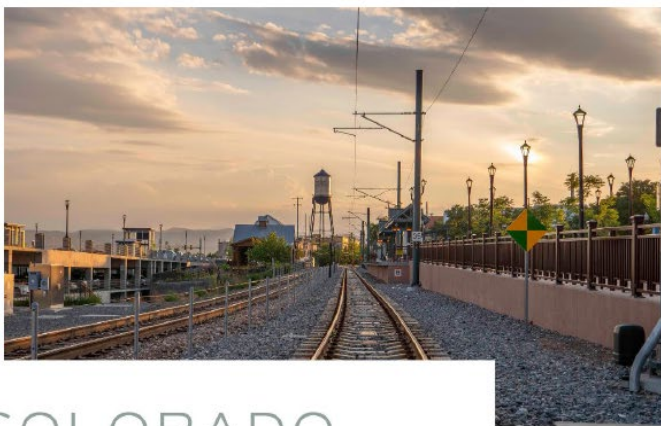
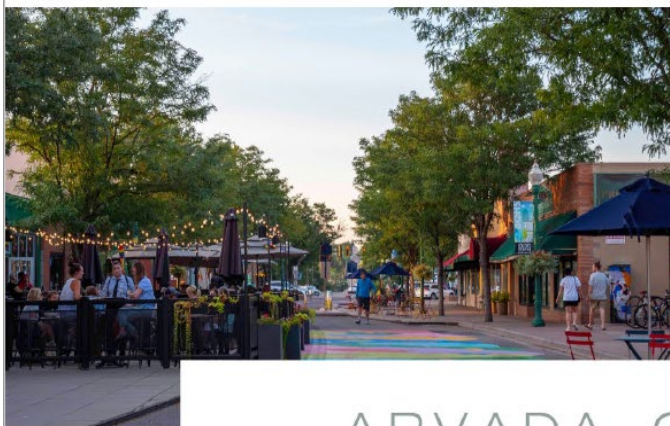
Approved by:

Jenna Belec, Executive Assistant	10/17/2022
Bryan Archer, Director of Finance	10/21/2022
Gail Walker, Legal Specialist-Contracts	10/21/2022
Laura Hemler, Assistant City Attorney	10/21/2022
Linda Haley, Deputy City Manager	10/24/2022
Rachel Morris, City Attorney	10/24/2022
Linda Haley, Deputy City Manager	10/25/2022
Lorie Gillis, City Manager	10/25/2022

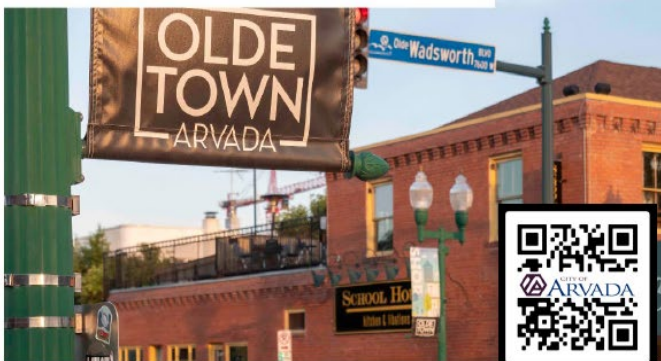
Enclosure, exhibits & attachments required to support the report



2022 Third Quarter Financial Report (Unaudited)



ARVADA, COLORADO



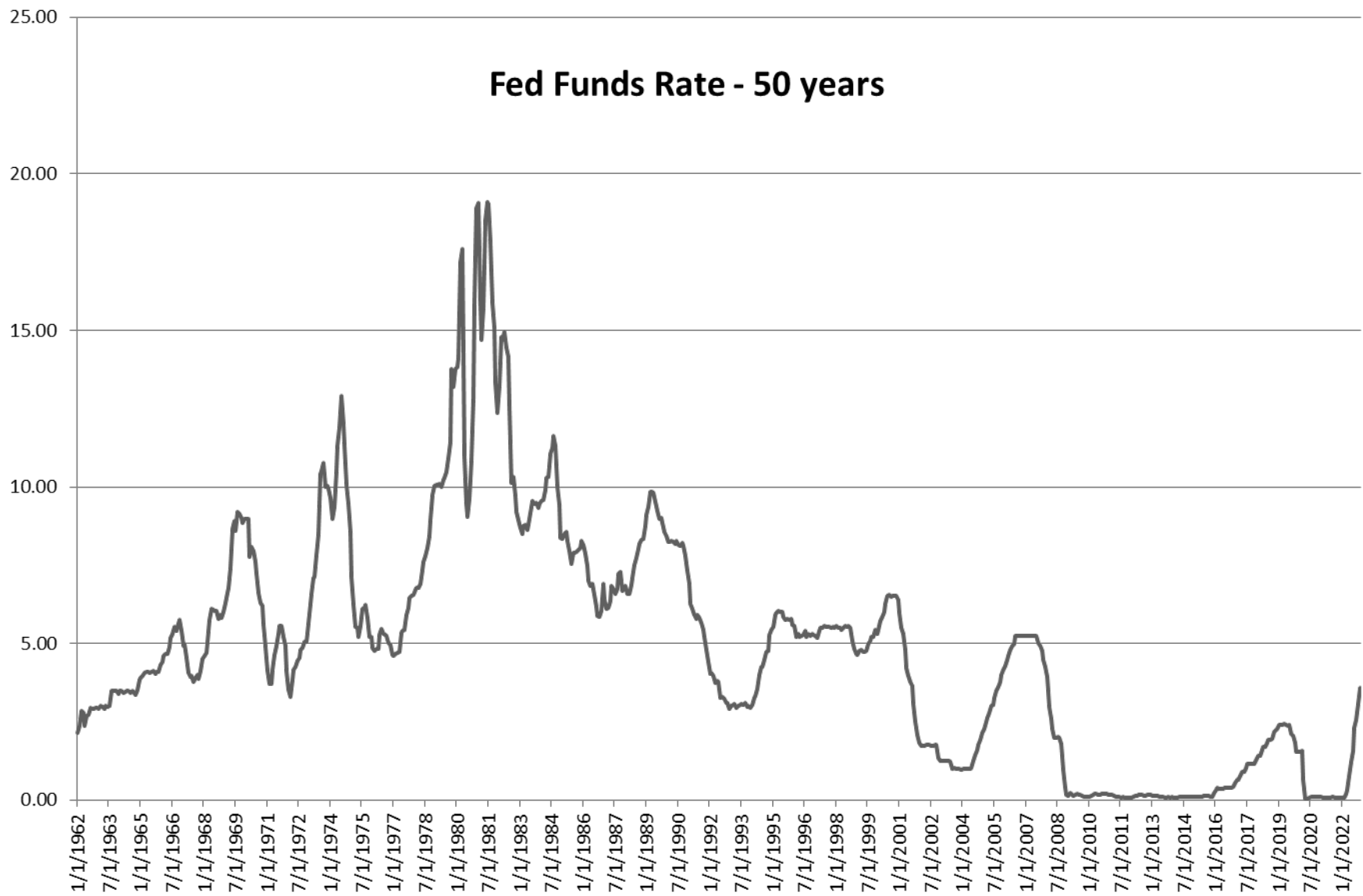


OVERVIEW

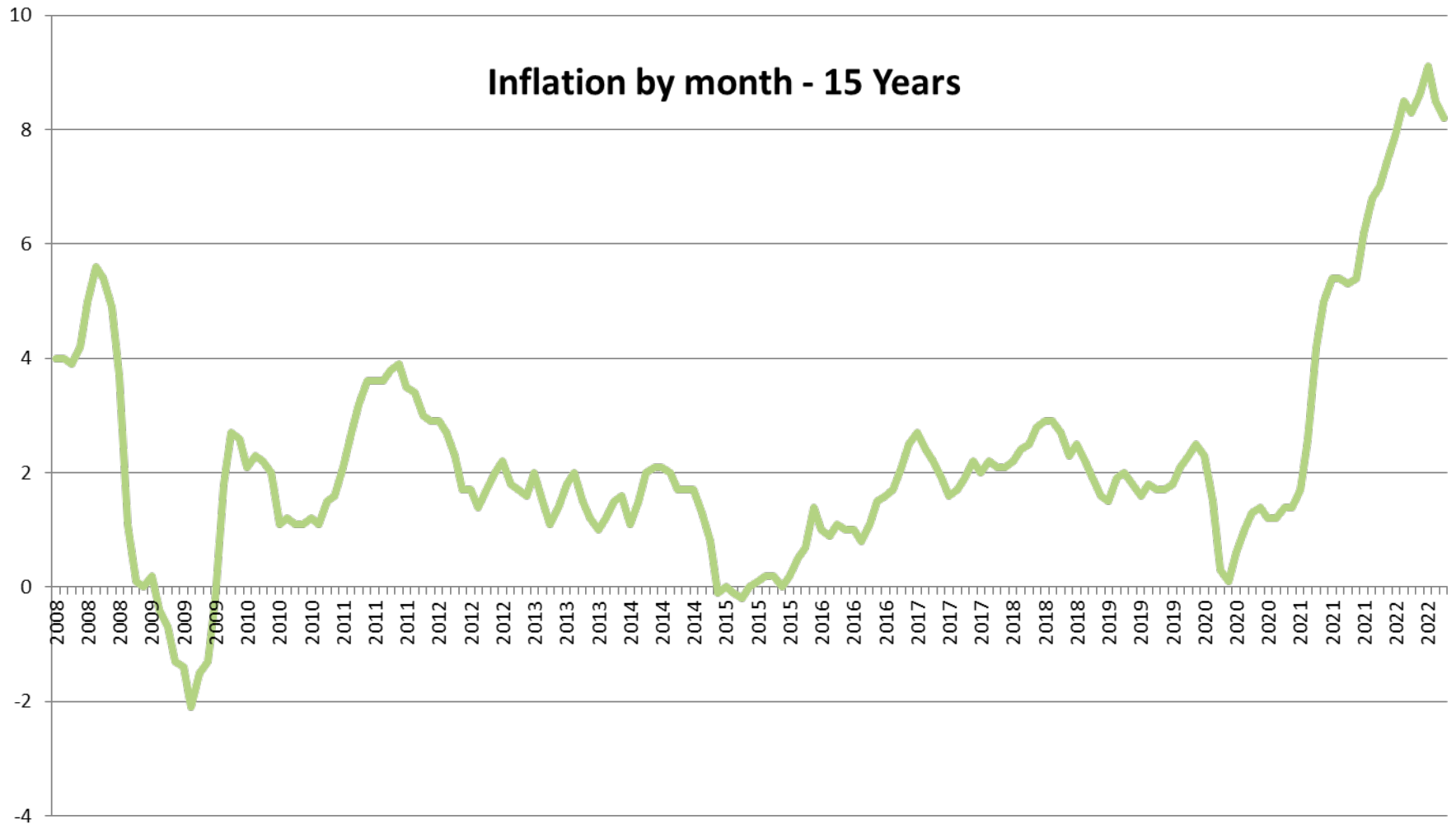
- Revenues are trending positive, but growth is below inflation
- Operating expenditures remain in-line with budgets
- CIP continues to be a major challenge
- Inflation remains high
- Recession (maybe not quite yet)



Fed Funds Rate - 50 years

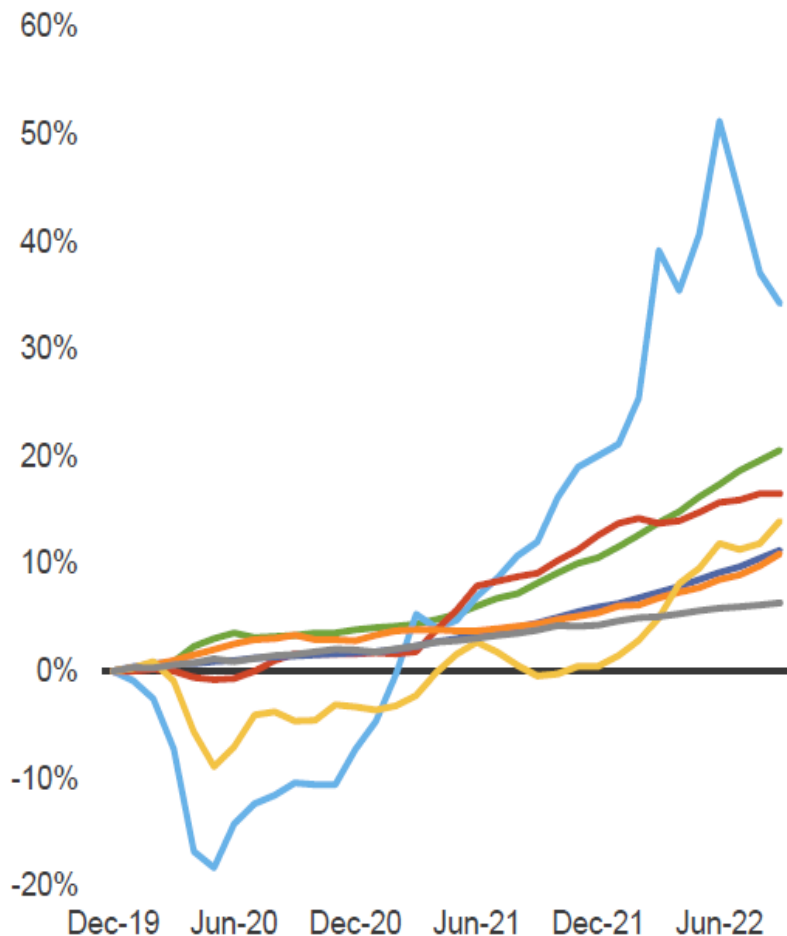


Inflation by month - 15 Years



Price Change of Major CPI Components

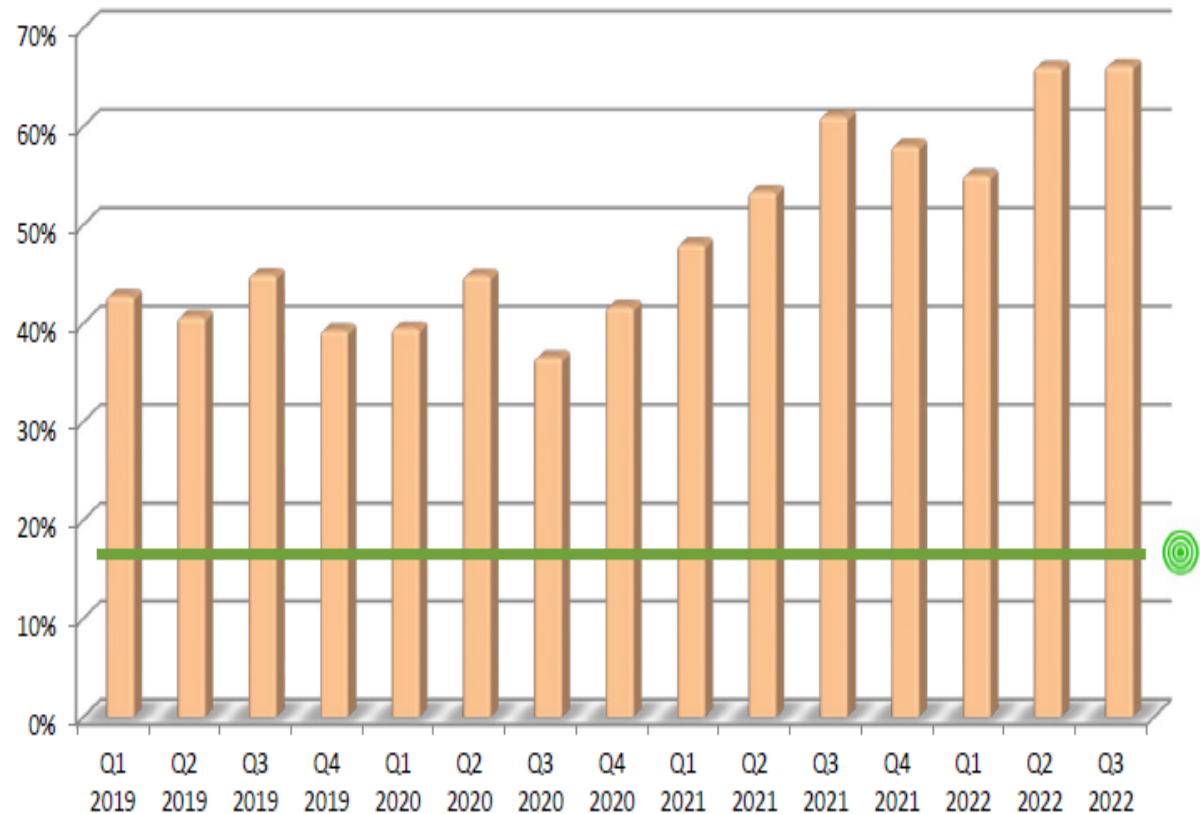
Since December 2019



CPI Component	12-mo. Change	Weight ¹	Contribution to YoY CPI
Energy	19.9%	8.2%	1.6%
Food	11.2%	13.6%	1.5%
Goods	6.7%	21.3%	1.4%
Transportation	14.6%	5.9%	0.9%
Shelter	6.6%	32.5%	2.1%
Medical services	6.5%	6.9%	0.4%
Other Services ²	2.7%	11.6%	0.3%
Overall	8.2%		



GENERAL FUND ENDING FUND BALANCE BY QUARTER COMPARED TO FUND BALANCE GOAL OF 17% OF BUDGETED EXPENDITURES



GENERAL FUND OVERVIEW

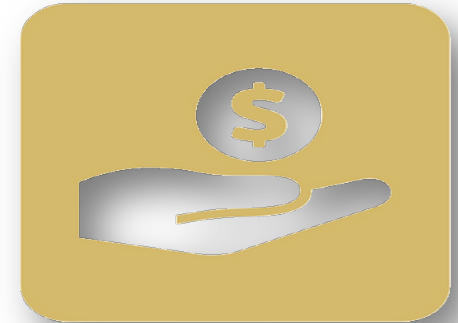


GENERAL FUND	YEAR TO DATE
Property Tax	POSITIVE
Sales Tax	POSITIVE
Auto Use Tax	MONITOR
General Use Tax	NEGATIVE
Court Revenues	NEGATIVE
Building Revenues	POSITIVE
Interest Revenue	MONITOR
Personnel Expenditures	POSITIVE
Other Expenditures	MONITOR

PERFORMANCE - ACTUALS VS. BUDGET

SALES TAX

SALES TAX	YEAR TO DATE
Overall	POSITIVE
Supermarket	MONITOR
Wholesale	POSITIVE
Electronic Shopping	POSITIVE
Hardware Stores	MONITOR
Full Service Restaurants	POSITIVE
Utilities	POSITIVE
Limited Service Restaurants	NEGATIVE
Liquor Store	NEGATIVE



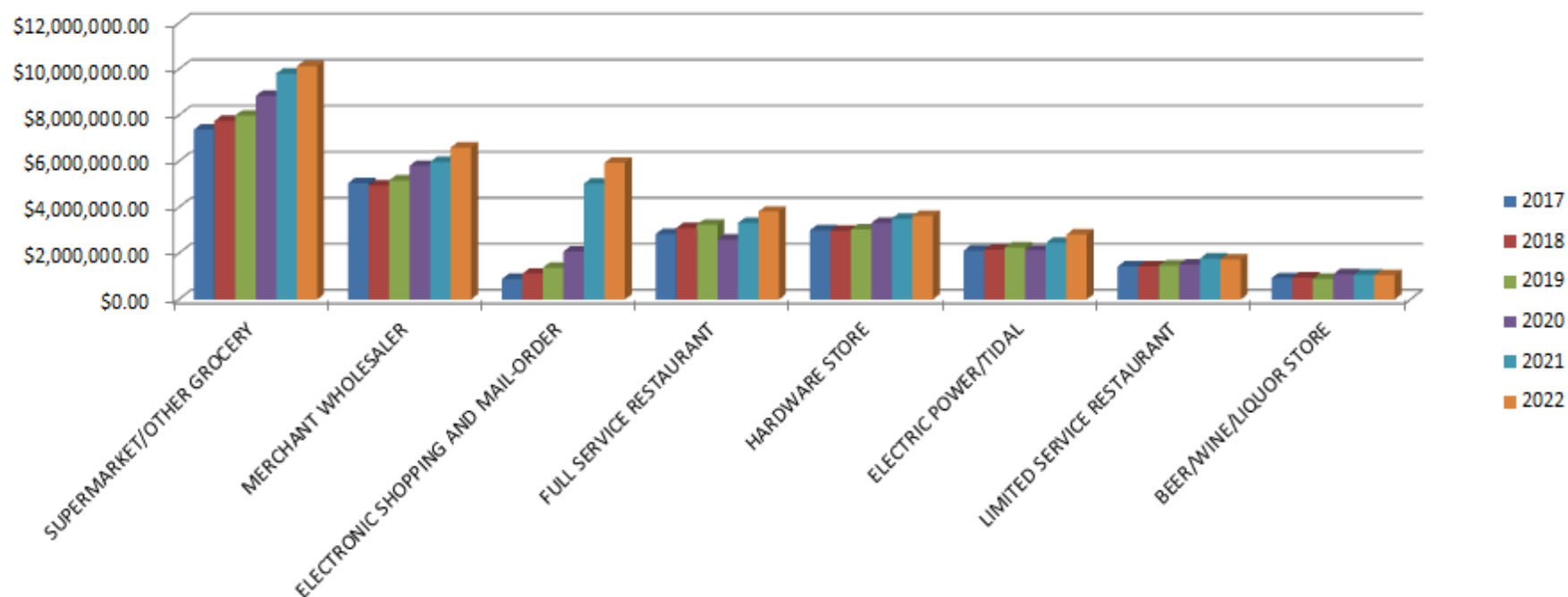
9.8% Increase



PERFORMANCE - ACTUALS VS. BUDGET

Top 70% Sales Tax Generating NAICS Categories

NAICS Code Name	2022	Percentage Change	2021	Percentage Change	2020
SUPERMARKET/OTHER GROCERY	\$10,127,481.93	3.16%	\$9,817,615.35	10.85%	\$8,840,636.77
GENERAL LINE GROCERY MERCH WHOLES	\$6,595,231.09	10.25%	\$5,982,053.79	12.44%	\$5,803,899.89
ELECTRONIC SHOPPING AND MAIL-ORDER	\$5,941,190.60	17.98%	\$5,035,841.63	85.55%	\$2,086,156.39
FULL SERVICE RESTAURANT	\$3,817,112.90	14.82%	\$3,324,447.89	12.91%	\$2,603,012.81
HARDWARE STORE	\$3,631,883.68	3.42%	\$3,511,700.04	-20.09%	\$3,323,692.46
ELECTRIC POWER/TIDAL	\$2,815,213.27	14.75%	\$2,453,250.85	-1.97%	\$2,131,570.62
LIMITED SERVICE RESTAURANT	\$1,743,501.66	-1.63%	\$1,772,435.48	5.81%	\$1,527,852.59
BEER/WINE/LIQUOR STORE	\$1,056,275.19	-1.83%	\$1,075,945.01	21.75%	\$1,089,144.31
CABLE AND OTHER SUBSCRIPTION PROGRA	\$821,632.11	10.93%	\$740,644.76	-4.39%	\$546,663.80
FLOOR COVERING STORE	\$813,217.73	6.99%	\$760,082.15	-1.67%	\$766,462.75
FURNITURE STORE	\$756,162.20	7.81%	\$701,373.04	7.44%	\$572,547.19

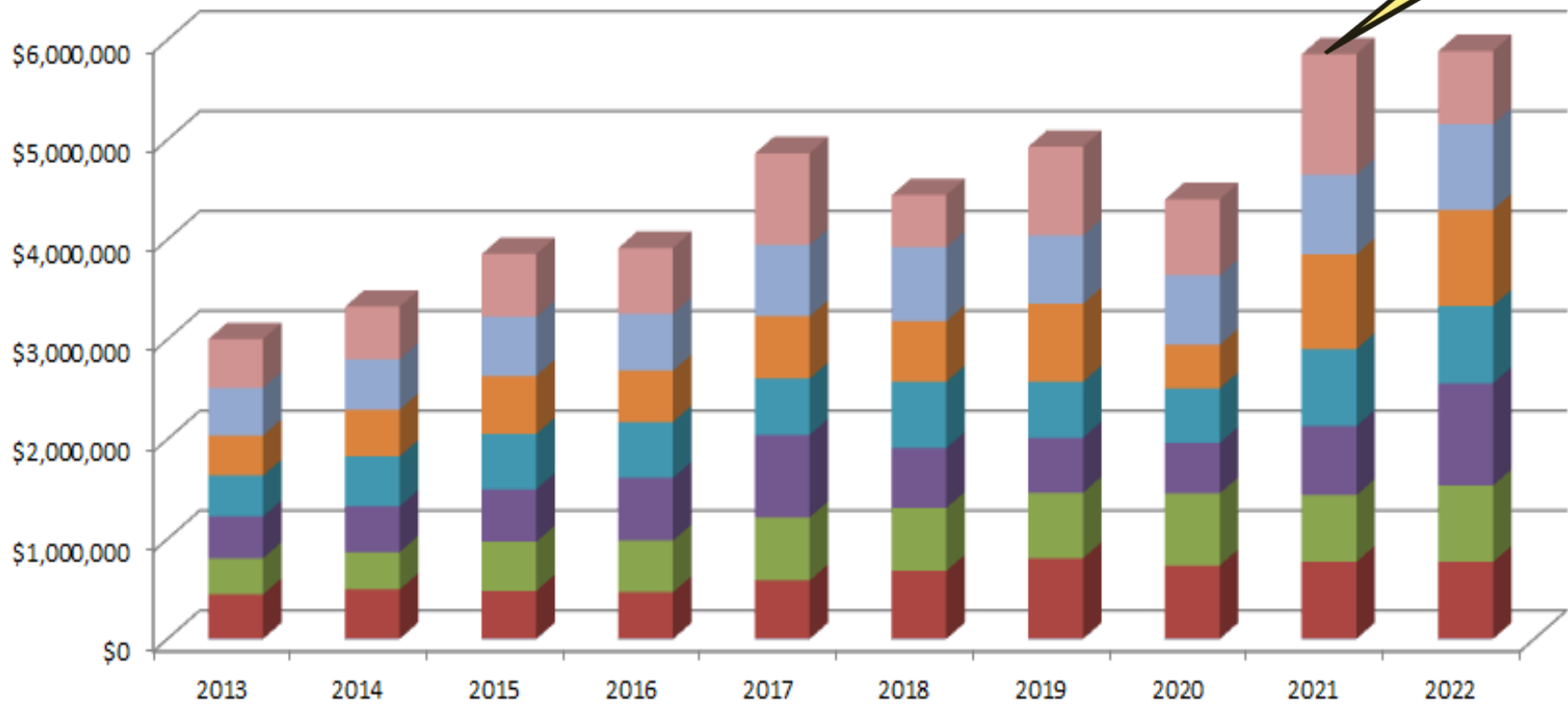


NAICS Code Name	2017	2018	2019	2020	2021	2022
SUPERMARKET/OTHER GROCERY	\$7,387,946.82	\$7,758,308.66	\$7,987,104.84	\$8,840,636.77	\$9,817,615.35	\$10,127,481.93
MERCHANT WHOLESALER	\$5,048,920.83	\$4,956,707.28	\$5,181,364.58	\$5,803,899.89	\$5,982,053.79	\$6,595,231.09
ELECTRONIC SHOPPING AND MAIL-ORDER	\$890,418.46	\$1,127,419.99	\$1,380,454.46	\$2,086,156.39	\$5,035,841.63	\$5,941,190.60
FULL SERVICE RESTAURANT	\$2,850,890.26	\$3,105,850.11	\$3,241,351.00	\$2,603,012.81	\$3,324,447.89	\$3,817,112.90
HARDWARE STORE	\$3,000,714.05	\$2,981,676.78	\$3,035,314.92	\$3,323,692.46	\$3,511,700.04	\$3,631,883.68
ELECTRIC POWER/TIDAL	\$2,129,083.19	\$2,161,802.47	\$2,266,154.79	\$2,131,570.62	\$2,453,250.85	\$2,815,213.27
LIMITED SERVICE RESTAURANT	\$1,431,178.00	\$1,436,192.03	\$1,470,739.58	\$1,527,852.59	\$1,772,435.48	\$1,743,501.66
BEER/WINE/LIQUOR STORE	\$927,047.50	\$955,928.76	\$900,543.84	\$1,089,144.31	\$1,075,945.01	\$1,056,275.19



AUTO USE

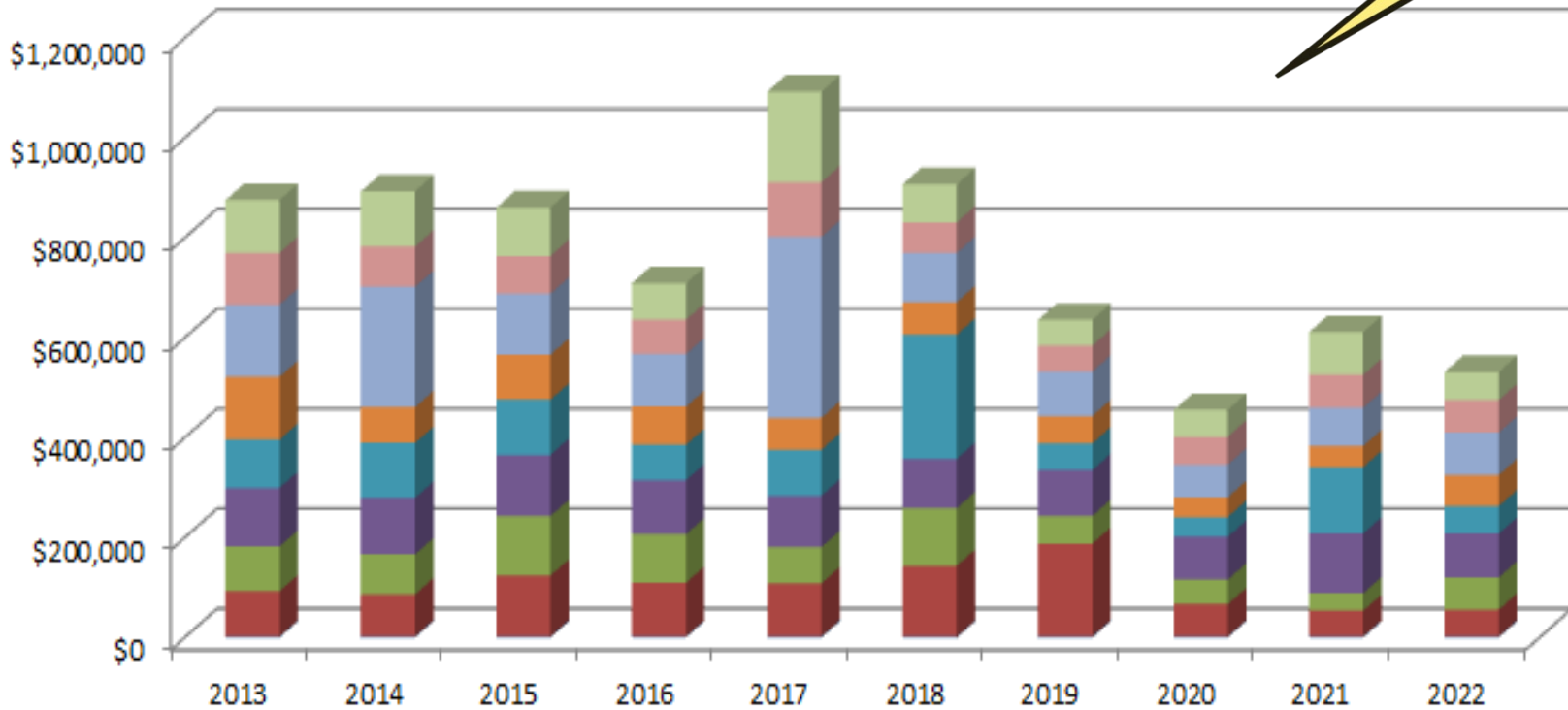
**1.7%
increase**

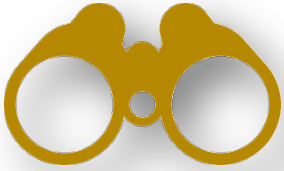




GENERAL USE TAX

**13.1%
Decrease**





OTHER FUNDS OVERVIEW

FUND	REVENUES	EXPENDITURES	YEAR TO DATE
Parks	POSITIVE	POSITIVE	POSITIVE
Tax Increment Funds	POSITIVE	POSITIVE	POSITIVE
Community Development	MONITOR	POSITIVE	MONITOR
Arvada Housing	POSITIVE	POSITIVE	POSITIVE
Capital Projects	POSITIVE	WARNING	WARNING
Water	POSITIVE	POSITIVE	POSITIVE
Wastewater	POSITIVE	POSITIVE	POSITIVE
Stormwater	MONITOR	POSITIVE	POSITIVE
Golf	POSITIVE	POSITIVE	POSITIVE
Solid Waste	POSITIVE	POSITIVE	POSITIVE
Risk Management	POSITIVE	WARNING	WARNING

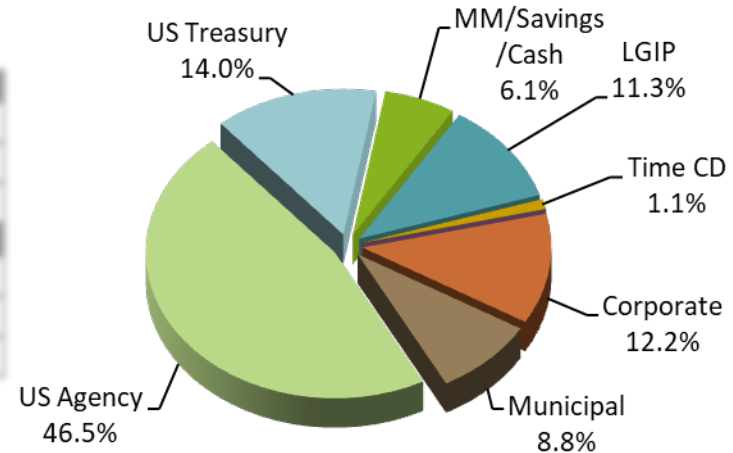
PERFORMANCE - ACTUALS VS. BUDGET

INVESTMENTS

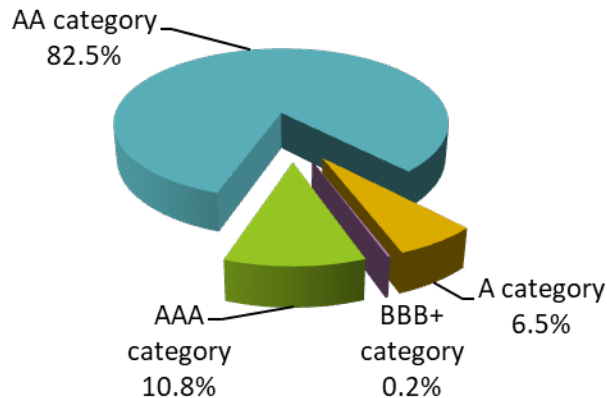
CONSOLIDATED PORTFOLIO ALLOCATION

PORTFOLIO PERFORMANCE

	6/30/2022	6/30/2021	Difference
City Interest Earnings	\$ 1,180,919	\$ 992,158	\$ 188,760
PFM Interest Earnings	382,380	572,375	(189,995)
Total Interest Earned	\$ 1,563,299	\$ 1,564,533	\$ (1,234)
YTD City Portfolio Yield	1.14%	1.17%	-3 bps
YTD PFM Portfolio Yield	1.16%	1.45%	-29 bps
YTD Benchmark	0.73%	0.18%	+55 bps



CREDIT QUALITY (S&P RATING)



CONSOLIDATED PORTFOLIO CHANGES

	06/30/2022	06/30/2021	Difference
MM/Savings/Cash	\$ 17,559,772	\$ 2,519,937	\$ 15,039,835
LGIP	32,615,214	37,886,978	(5,271,764)
Time CD	3,204,308	6,917,150	(3,712,842)
Negotiable CD	-	1,070,000	(1,070,000)
Corporate	35,339,000	39,299,000	(3,960,000)
Municipal	25,330,000	11,830,000	13,500,000
US Agency	134,245,000	100,740,000	33,505,000
US Treasury	40,460,000	31,775,000	8,685,000
Total - Combined	\$ 288,753,294	\$ 232,038,064	\$ 56,715,230

INVESTMENTS – ‘A-rated’ (6.7%)

Issuer	Moody's	S&P	Face Amount/ Shares
Toyota Motor Cr Corp	A1	A+	2,000,000
Toyota Motor Cr Corp	A1	A	3,000,000
Toronto-Dominion Bank	Aa3	A-	1,000,000
Bank of NY Mellon	Aa1	A	3,000,000
Total			9,000,000



QUESTIONS





REPORT TO CITY COUNCIL

AGENDA ITEM
8.A.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: Consent Agenda

Report in Brief

1. R22-078, A Resolution Authorizing a Lease Agreement By and Between the City of Arvada and the Arvada Community Food Bank, Inc. d/b/a Community Table for the Property Located at 8555 W. 57th Avenue Beginning December 1, 2022
2. R22-094, A Resolution Accepting a Quitclaim Deed from Jefferson Center Metropolitan District No. 2 to the City of Arvada for Permanent Water Line Easements
3. R22-095, A Resolution Establishing a Housing Advisory Committee
4. R22-096, A Resolution Approving an Agreement By and Between the City of Arvada and Davis Block, LLC for the Grant of a Revocable Encroachment License to Accommodate a Landing Pad for a Pedestrian Entrance within Public Right of Way at 5616 Olde Wadsworth Boulevard

Suggested Motion: Moved by: _____

I move that the Consent Item(s), Number(s) R_____ be (Removed from the Consent Agenda and Heard Upon Item _____) (Referred to a Workshop) (Postponed Indefinitely).

YES _____ NO _____ ABSENT _____

That All/Remaining Consent Items be (Approved) (Rejected).

YES _____ NO _____ ABSENT _____

Prepared by:
Chris Koch, CCO Admin

Reviewed by:

Approved by:

Enclosure, exhibits & attachments required to support the report



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
8.A.1.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: R22-078, A Resolution Authorizing a Lease Agreement By and Between the City of Arvada and the Arvada Community Food Bank, Inc. d/b/a Community Table for the Property Located at 8555 W. 57th Avenue Beginning December 1, 2022

Report in Brief

The Arvada Community Food Bank, Inc. d/b/a Community Table has leased the food bank location since 2009. This new lease updates the terms and conditions to meet current requirements. The term of the new lease agreement is for 10 years and the rental rate remains the same as it has been in the past lease at \$100/year.

The Arvada team recommends that the City Council approve R22-078, a Resolution Authorizing a Lease Agreement By and Between the City of Arvada and the Arvada Community Food Bank, Inc. d/b/a Community Table for the Property Located at 8555 W. 57th Avenue Beginning December 1, 2022.

Financial Impact

The financial impact on the City is associated with structural repairs to foundations, HVAC, roof, and the parking lot per lease agreement. All items are tracked within our Asset Planner software and, based on the current assessment, the items are covered and budgeted by our building fund account.

Background

The Food Bank has continuously leased the site at 8555 W. 57th Avenue (the Property) from Arvada since 2009. The original lease, executed on March 2, 2009, leased the Property to the Food Bank until March 2, 2019. On May 16, 2011, the parties executed a first amendment to the original lease, which extended the original lease term to March 2, 2022. On December 1, 2012, the parties executed a second amendment to the original lease, which extended the original lease term to November 30, 2022. As such, the term of the original lease expires on November 30, 2022. On May 20, 2019, the parties executed a third amendment to the original lease to remove a specific room from the lease.

Discussion

The Community Table is a Colorado nonprofit 501 c(3) corporation formed in 1982 by five church congregations to serve those in need and those who are vulnerable within the Arvada community. From the beginning, The Community Table has worked with the City, churches, schools, civic organizations, businesses and private citizens to ensure that the residents of Arvada and neighboring communities in Northern Jefferson County would have a place to go for emergency food. Through this commitment, the Community Table has become an essential support for families and children who face food insecurity within Arvada and Northern Jefferson County.

The Community Table has a volunteer force of nearly 300 people providing tens of thousands of hours of service annually. The City of Arvada is an integral component to their success by providing a facility that supports their delivery of exemplary service to the community.

Public Contact

Posting of the City Council agenda

Commission Recommendation

N/A

Strategic Alignment

The recommended action aligns with the Infrastructure Priority Area of the City Council Strategic Plan. Specifically, the recommended action supports the following Principle:

Offers services focused on safe and environmentally-efficient City facilities and fleet vehicles to ensure the most efficient and maximum usage of valued assets.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends that the City Council approve R22-078, a Resolution Authorizing a Lease Agreement By and Between the City of Arvada and the Arvada Community Food Bank, Inc. d/b/a Community Table for the Property Located at 8555 W. 57th Avenue Beginning December 1, 2022.

Suggested Motion:

I move that R22-078, a Resolution Authorizing a Lease Agreement By and Between the City of Arvada and the Arvada Community Food Bank, Inc. d/b/a Community Table for the Property Located at 8555 W. 57th Avenue Beginning December 1, 2022, be (approved) (rejected).

Prepared by:
Kim Vagher, Manager of City Facilities

Reviewed by:

Approved by:

Kim Vagher, Manager of City Facilities	8/30/2022
Don Wick, Deputy City Manager	8/31/2022
Bryan Archer, Director of Finance	9/1/2022
Gail Walker, Legal Specialist-Contracts	10/21/2022
Laura Hemler, Assistant City Attorney	10/21/2022
Rachel Morris, City Attorney	10/24/2022
Linda Haley, Deputy City Manager	10/25/2022
Lorie Gillis, City Manager	10/25/2022

SUBJECT: R22-078, A Resolution Authorizing a Lease Agreement By and Between the City of Arvada and the Arvada Community Food Bank, Inc. d/b/a Community Table for the Property Located at 8555 W. 57th Avenue Beginning December 1, 2022

PAGE: 3

ITEM: 8.A.1.

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R22-078

A RESOLUTION AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY
OF ARVADA AND THE ARVADA COMMUNITY FOOD BANK, INC. D/B/A
COMMUNITY TABLE FOR THE PROPERTY LOCATED AT 8555 W. 57TH AVENUE
BEGINNING DECEMBER 1, 2022

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, in form approved by the City Attorney, a Lease Agreement, which is in substantially the same form as that attached hereto, by and between the City of Arvada and the Arvada Community Food Bank, Inc. d/b/a Community Table for the property located at 8555 W. 57th Avenue beginning December 1, 2022.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 7th day of November, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

**LEASE AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND THE ARVADA COMMUNITY FOOD BANK,
INC. D/B/A COMMUNITY TABLE FOR THE PROPERTY LOCATED AT 8555 W. 57TH AVENUE BEGINNING
DECEMBER 1, 2022**

1. **PARTIES.** The parties to this Lease Agreement (“Lease” or “Agreement”) are the City of Arvada, a Colorado home rule municipal corporation, 8101 Ralston Road, Arvada, Colorado 80002 (“Arvada” or “Lessor”), and The Arvada Community Food Bank, Inc. d/b/a Community Table a Colorado nonprofit corporation whose principal office street address is 8555 W. 57th Avenue, Arvada, Colorado (“Food Bank” or “Lessee”) and collectively referred to as “the Parties.” This Agreement shall be effective upon its mutual approval and execution by the Parties.
2. **RECITALS AND PURPOSE.**
 - 2.1 Arvada owns certain real property, approximately 1.85 acres in size, located at 8555 West 57th Avenue in Arvada described as **Lot or Tract 2, Glen Ellen Subdivision, according to the recorded plat thereof, County of Jefferson, State of Colorado** (the “Property”).
 - 2.2 The Property contains the following improvements (collectively, the “Improvements”):
 - 2.2.1 A building of approximately 9,300 square feet (the “Building”);
 - 2.2.2 Appurtenant asphalt-surfaced parking areas (the “Parking Areas”);
 - 2.2.3 Landscaping, consisting of trees, sod, and shrubs (the “Landscaping”); and
 - 2.2.4 Associated infrastructure such as water and sewer lines, irrigation lines, HVAC system, PV System, etc. (the “Infrastructure”). Infrastructure does not include any solar panel system.
 - 2.3 The Food Bank has continuously leased the Property from Arvada since 2009. The original lease, executed on March 2, 2009, leased the Property to the Food Bank until March 2, 2019. On May 16, 2011, the parties executed a first amendment to the original lease, which extended the original lease term to March 2, 2022 (the “First Amendment to Original Lease”). On December 1, 2012, the parties executed a second amendment to the original lease, which extended the original lease term to November 30, 2022 (the “Second Amendment to Original Lease”). As such, the term of the original lease expires on November 30, 2022. On May 20, 2019, the parties executed a third amendment to the original lease to remove a specific room from the lease.
 - 2.4 Arvada desires the Property be utilized for a public purpose, rather than a retail, commercial, or residential use and, absent a higher priority public use, is willing to continue leasing the Property, further described in **Exhibits A, B, and C**, to The Food Bank to collect, store, and distribute food to Arvada residents in need, to provide other beneficial

services to the public, and to utilize the Property for necessary attendant purposes (including, without limitation, office and meeting space for the Food Bank staff and volunteers). Notwithstanding anything to the contrary contained herein, the provisions contained in the First Amendment to the Original Lease and in the Second Amendment to the Original Lease, in each case related to capital improvements subject to present and ongoing depreciation, are hereby fully incorporated into this Lease.

2.5 The Parties desire to enter into this Lease to define all rights, duties, and liabilities of the Parties during the term described herein.

3. **CONTRACT DOCUMENTS.** The Contract Documents shall consist of this Lease together with the following:

Exhibit A: Deed containing legal description of Property;

Exhibit B: Map of the Property;

Exhibit C: Property Inspection Checklist;

Exhibit D: Original Lease with First and Second Amendments.

Exhibits A - C referred to in this Agreement are attached hereto and are, by reference, incorporated herein for all purposes. Exhibit D is also attached hereto but only provisions relating to capital improvements subject to present and ongoing depreciation, are incorporated herein. No other terms from Exhibit D are incorporated into this Lease.

4. **RENT.** Lessee agrees to pay rent in the total amount of \$100.00 per year, due in advance, each year on or before the anniversary date of Arvada's execution of this Agreement ("Due Date"). If Arvada does not receive rent by 10 calendar days following the Due Date, rent is considered late. If rent is late, a \$10.00 dollar fee per day shall be assessed in addition to the rent owed.

5. **TERM.**

5.1 Arvada leases to Lessee the Property beginning December 1, 2022 and ending on December 1, 2032, for a total term of 10 years.

5.2 This Lease may be extended for a longer term by written amendment between Arvada and Lessee.

5.3 **Holdover.** Should Lessee remain in possession of the Property with the consent of Arvada after the natural expiration of this Lease, a new tenancy from month-to-month shall be created between Arvada and Lessee which shall be subject

to all the terms and conditions of this Lease, provided however, such tenancy shall be terminable by either party upon 30 calendar days written notice served by either Arvada or Lessee. Upon any termination by Arvada during such holdover period, Lessee shall have a period of sixty (60) days following the date of the written notice of termination from Arvada to vacate the Property. It is expressly understood and agreed that the rent for any holdover under this paragraph shall be at the rate set by Sec. 4.

6. ARVADA'S RESPONSIBILITIES.

- 6.1 Arvada agrees to provide the Property as is and pay all charges for water and sewer service.
- 6.2 Arvada agrees to provide trash, recycling, and compost services to the Property. Lessee is responsible for ensuring all trash, waste, recycling, and compost is placed in the proper containers for pick-up. Arvada and Lessee will cooperate to arrange for a mutually agreeable pick-up schedule.
- 6.3 Arvada agrees to perform and pay for all maintenance, repairs, and replacement to, the Parking Areas and the Landscaping. Such maintenance includes:
 - 6.3.1 Mowing, trimming, weeding, and edging the grounds of the Property and the Landscaping;
 - 6.3.2 Fertilizing, aerating, and applying pesticide to the grounds of the Property and the Landscaping;
 - 6.3.3 Repair and maintenance of the Property's irrigation system;
 - 6.3.4 Tree planting, removal, and pruning;
 - 6.3.5 Snow removal;
- 6.4 Maintenance and repair of the drive lanes, dumpster areas, and associated sidewalks and plazas to include asphalt patching, paint striping, parking lot lighting, and concrete repairs associated with the Parking Areas. Arvada agrees to be responsible for structural repairs to the Building's foundation, walls, and roof. Such structural repairs include, modifications, and replacements as may be required. Such structural repairs shall be scheduled at mutually agreeable times so as to minimize disruption to Lessee's operations at the Property as much as possible unless Arvada, through its code enforcement officials, identify a structural repair requiring immediate repair due to a threat to life or safety. In the event of such critical repair, Arvada and Lessee shall cooperate to close the Property to the public until such repairs can be completed.
- 6.5 Arvada agrees to be responsible for major repairs or placement of the Infrastructure. Such major repairs do not include general maintenance thereof.

- 6.6 Arvada covenants and agrees that Lessee shall and may, at all times, peaceably and quietly have, hold, and enjoy the Property during the term of the Lease.
- 6.7 Arvada agrees to facilitate, at Arvada's sole expense, the modifications necessary to improve the accessibility of the restrooms, and drinking fountains on the Property to individuals with disabilities, in compliance with all applicable laws. Arvada shall facilitate such modifications in accordance with its ADA Transition Plan.

7. LESSEE'S RESPONSIBILITIES.

- 7.1 Lessee, in consideration of the leasing of said Property, hereby covenants and agrees to the following:
 - 7.1.1 Lessee must manage and operate the Property for its normal and customary business activities and for no other purpose. Lessee shall not use the Property in an unlawful manner.
 - 7.1.2 Lessee agrees that it must make the Property available to the public at large.
 - 7.1.3 Lessee must familiarize itself with Titles I, II, and III of the Americans with Disabilities Act of 1990 ("ADA"), 42 USC § 12111-12117, § 12131-12165, and § 12181-12189, and comply with all regulations therein or as amended.
 - 7.1.4 If Lessee operates a website or electronic application related to the Property, Lessee agrees that such website or application is, and will remain, compliant with Colorado's Office of Information Technology's minimum standards for accessibility.
 - 7.1.5 Lessee must pay the Rent described in Sec. 4 on time every year.
 - 7.1.6 Lessee shall timely pay all utility charges for telephone, internet, heat (gas service), electric, and any other utility charges necessary to the proper operation and care of the Improvements. Arvada shall not be liable in damages or otherwise if any utility shall be or become unavailable from any public utility company, public authority, or any other entity (including Arvada) supplying or distributing such utility, or for any interruption in any utility service caused by the making of any repairs or improvements or by any other cause, except to the extent that any such interruption results directly from the gross negligence or willful misconduct of Arvada or any of its employees, agents, or contractors.
 - 7.1.7 Lessee must pay for and provide janitorial services or perform such services itself in order to maintain the Property in a clean manner.

- 7.1.8 Lessee shall perform and pay for all non-structural general maintenance expenses for, and repairs to, the interior and exterior of the Building. Maintenance to the exterior of the Building does not include maintenance to Landscaping.
- 7.1.9 Lessee shall perform and pay for all general maintenance for all Building systems, including but not limited to, HVAC systems, plumbing systems, and electrical systems in accordance with the manufacturer's preventative maintenance requirements. Such general maintenance includes the replacement of lighting lamps and fixtures as needed.
- 7.1.10 Lessee will not smoke or vape on the Property, and will use commercially reasonable efforts to ensure no member of the public to smoke or vape pursuant to §70-149 and §38-304 of Arvada City Code.
- 7.1.11 Lessee agrees that Lessee shall not obtain, possess, use, administer, dispense, cultivate, or distribute any drug or controlled substances on the Property in violation of Colorado state law, and will use commercially reasonable efforts to ensure that no persons Lessee permits on the Property do any of the foregoing. Lessee agrees that this Lease may be terminated if Arvada becomes aware of Lessee noncompliance with this provision.
- 7.1.12 Lessee agrees that all alterations, changes, and improvements built, constructed, or placed on the Property by Lessee, with the exception of fixtures removable without damage to the Property and movable personal property, must first be approved by Arvada in writing (which approval shall not be unreasonably conditioned, delayed, or withheld), and shall be the property of Arvada and remain on the Property at the expiration or sooner termination of this Lease. Lessee agrees that all major alterations, changes, and improvements must be designed to meet all applicable codes and be approved by the Arvada Building and/or Engineering Departments and the Arvada Fire Department in order to secure the proper permits and required inspections and approvals during construction.
- 7.1.13 Lessee acknowledges that all personal property of any kind kept in or on the Property is at the sole risk of the Lessee, and Arvada is not liable for any damage or loss of such personal property.
- 7.1.14 Lessee shall not permit a nuisance, as defined by Section 38-122 of the Arvada City Code, on the Property.
- 7.1.15 Lessee will not remove or damage any trees or landscaping on the Property without written permission from Arvada.
- 7.1.16 Lessee will use and care for the Property in a good and responsible manner.
- 7.1.17 Lessee agrees Lessee must keep the Property, premises, fences (if any), and appurtenances in good condition and repair. In the event Lessee fails to keep and maintain such good repair, and such failure continues for a period of thirty (30) days following Lessee's receipt of written notice from Arvada or self-disclosure by Lessee

describing in detail the failure, Arvada may, upon notice to the Lessee pursuant to Section 16, cause to be conducted such repair, at the expense of Lessee, which amount so expended shall be immediately due and payable from Lessee to Arvada as additional rent.

- 7.1.17.1 Arvada, in its reasonable discretion, will assess whether Lessee is keeping the Property, premises, fences, and appurtenances in good condition and repair by considering the conditions listed in Exhibit C (to the extent the same are the responsibility of Lessee in accordance with this Lease), in addition to any other conditions that may be relevant or appropriate.
- 7.1.18 Lessee agrees not to commit or cause to be committed any waste or rubbish in or upon said Property or any part thereof, nor will Lessee degrade the condition of the Property in any way (reasonable wear and tear excepted).
- 7.1.19 At the expiration of this Lease or any holdover tenancy, Lessee will promptly surrender and deliver up said Property in good order and condition to Arvada (reasonable wear and tear excepted).
- 7.1.20 Lessee agrees it will not modify, move, or remove any structures, fences, or site elements without prior written approval by Arvada. The specific use of the structures shall be subject to reasonable approval by Arvada, taking into account the services provided to the public by Lessee. Arvada reserves the right to prohibit use or access by the Lessee of any of the structures if the proposed use is inconsistent with the purpose of this Lease.
- 7.1.21 Lessee shall promptly notify Arvada in writing of any condition necessitating repair under Section 6 within seven calendar days of noticing such condition.
- 7.1.22 All signage installed and maintained by Lessee on the Property must comply with all applicable laws and ordinances.
- 7.1.23 Lessee shall obtain written permission from Arvada's City Manager before constructing or engaging in any future modifications of the Property.
- 7.1.24 Lessee shall, at the time of the execution of this Agreement, provide to Arvada's Facilities Manager the names, phone number, and e-mail addresses of Lessee's representative(s). Lessee shall notify Arvada in writing of any and all subsequent changes in such information, and shall, on an annual basis, update and confirm the accuracy of such information.
- 7.1.25 Lessee must comply with all rules and regulations established by the Jefferson County Health Department.
- 7.1.26 Lessee must pay for and provide adequate pest control services and security services, or perform such services itself in order to maintain the Property in a safe and clean manner.

8. USE RESTRICTIONS. The Parties expressly understand this Agreement is conditioned upon Lessee's use of the Property only for the purposes of collection, storage, and distribution of food items and providing other related services to Arvada residents in need (except as otherwise provided in this Agreement). Should Lessee cease to use the Property for such purposes or otherwise uses the Property for private or other commercial or business purposes, this Lease shall terminate upon written notice by Arvada to Lessee.

9. ARVADA'S ACCESS TO THE PROPERTY.

9.1 Arvada may access all parts of the Property, in such a manner as will minimize disruption to events or activities to the extent reasonably practicable, for the purposes of:

9.1.1 Performing, administering, or enforcing this Lease.

9.1.2 Examining, inspecting, evaluating, planning, making any agreed upon repairs or maintenance, designing, showing, or otherwise administering the building or grounds.

9.1.3 Performing Arvada's regulatory, law enforcement, and other governmental duties.

9.1.4 Performing annual inspections of the Property in accordance with Exhibit C. Arvada shall perform such inspections within 30 calendar days of the execution of this Lease and within 30 calendar days of each annual lease date thereof. Lessee or Arvada shall correct any items in Exhibit C that Arvada identifies as being non-compliant within 90 calendar days in accordance with the responsibilities stated under this Lease; provided, however, that if Arvada identifies any item in Exhibit C that is the responsibility of Lessee as being non-compliant, Lessee shall have ten (10) business days during which to object, in writing, to such determination and, in the event of such objection, Arvada shall use its reasonable discretion to consider Lessee's position and determine the party responsible for the non-compliant item.

9.2 Arvada reserves the right to conduct health/safety inspections of the building and grounds.

10. TERMINATION.

10.1 Mutual termination for convenience. Either party may terminate this Lease, at any time, for convenience upon 180 calendar days' written notice to the other party. Should either party terminate for convenience, Lessee shall vacate the Property within that 180 calendar day period. Lessee shall continue to pay rent in accordance with this Lease for that 180 day period.

10.2 Termination by Arvada. Upon the occurrence of any of the following, Arvada may, at its option, and without liability for trespass, forcible entry and detainer, damages, or breach, re-enter the Property and declare the term of this Lease ended:

- 10.2.1 The Food Bank is in arrears in the payment of any installation of the rent or any portion thereof, which condition remains uncorrected for a period of 14 calendar days after Arvada has provided notice thereof pursuant to Section 16;
- 10.2.2 The Food Bank is in default in any other covenant or obligation herein to be performed by the Food Bank, which default remains uncorrected for a period of 30 calendar days after Arvada has provided notice thereof pursuant to Section 16; provided, however, that if any such default cannot be corrected during such 30 calendar day period due to circumstances beyond the reasonable control of the Food Bank, then so long as the Food Bank has commenced correction during the 30 calendar day period and thereafter diligence pursues such correction, Arvada, in its reasonable discretion, may extend the correction period as reasonably necessary to achieve such correction; or
- 10.2.3 The Building is rendered untenable by fire or other casualty.
- 10.3 Termination by Food Bank. Upon the occurrence of any of the following, the Food Bank may terminate this lease without liability:
 - 10.3.1 Arvada fails to perform any of its obligations under this Lease to be performed by Arvada, and such failure continues for a period in excess of 30 calendar days following Lessee's provision of written notice to Arvada of such default; or
 - 10.3.2 The Building is rendered untenable by fire or other casualty.
- 10.4 At the termination of this Agreement, by lapse of time or otherwise, all Improvements not then the property of Arvada, including all authorized improvements made to the Property and all other fixtures to the Property of any nature whatsoever, shall become the property of Arvada, and the Food Bank shall be prohibited from dismantling or otherwise removing such from the Property. Such Improvements will include the photovoltaic ("PV") System. Improvements shall not be deemed to include shelving, refrigeration, cooling equipment, perishable goods, any movable trade fixtures, personal property, or inventory, all of which shall remain the property of the Food Bank.
- 10.5 In the event the Property is rendered untenable by fire or other casualty, either party shall have the right to terminate this Lease on the date of such occurrence notwithstanding any insurance coverage for such casualty.
- 10.6 If Lessee is in default in any of the covenants or agreements herein to be performed by such Lessee, which default remains uncorrected for a period of 30 calendar days after Arvada has provided the Lessee with written notice thereof (subject to extension of such period in accordance with Section 10.1.2), Arvada shall have the option, without liability for trespass or for damages, to enter onto the Property and declare the term of the defaulting Lessee's lease terminated,

repossess the Property, and expel Lessee, all without prejudice to any other remedies available to Arvada for breach of covenant. Arvada may also sue monthly to recover all rent, damages, litigation costs, and reasonable attorney's fees.

11. LEASE MANAGER. Arvada designates Arvada's Facilities Manager or their designated representative as Arvada's Lease Manager. Communications with such Lease Manager shall be directed to the following individual:

12. INDEMNIFICATION. To the fullest extent permitted by law, Lessee will defend, indemnify and hold Arvada, its employees, agents and assignees ("Indemnified Parties") harmless from and against all costs, expenses, claims, damages, liabilities, court awards, losses and other amounts (including reasonable attorneys' fees and related costs) ("Claims") arising out of or relating (directly or indirectly) to: (i) the conduct or management of the Property or of any business therein, or any work or thing whatsoever done, or any condition creating in or about the Property during the term; (ii) any act, omission, breach of any provision of this Lease, or negligence of Lessee or any of Lessee's licensees or the partners, directors, officers, agents, employees, invitees or contractors of Lessee, or of Lessee's sublessees or licensees; (iii) any accident, injury or damage whatsoever occurring in or at the Property; and (iv) any claims or actions against Arvada arising from Lessee's breach of Sections 7.1.4 and 14.1 above; in each case to the extent not resulting from or directly exacerbated by the gross negligence or willful misconduct of Arvada or any of its employees, agents, or contractors.

13. INSURANCE.

13.1 Insurance Required. Unless higher limits or additional coverages are required by Arvada, Lessee shall secure, purchase and maintain, at its own expense, the following types of insurance coverage and limits of liability:

13.1.1 Property Insurance. Lessee shall provide a property insurance policy that covers the entire Property premises (including, without limitation, the Improvements, inventory, trade fixtures, furniture, and other property removable by Lessee under the provisions of this Lease). Lessee's policy shall include the following policy terms and conditions: 1) Special Causes of Loss, including flooding; 2) Replacement Cost Coverage equal to 100% of the replacement cost of aforementioned property; 3) No coinsurance; 4) Business income & extra expense including rental value equal to the expected gross annual revenue. It may also be provided on a 12-month actual loss sustained basis.

13.1.2 General Liability Insurance. Commercial General Liability insurance covering bodily injury, including death, property damage arising out of premises, operations, products, and completed operations, advertising and personal injury liability, contractual liability assumed liability coverage, and if applicable, molestation, assault,

battery, and communicable diseases. The Commercial General Liability insurance policy shall provide coverage on an occurrence basis and shall include explosion, collapse, and underground hazard coverage. The Commercial General Liability insurance policy shall also provide Additional Insured status, effective as of the date stated in Section 1, to Arvada and any other party required by Arvada, throughout the term stated in Section 5. Additional Insured status shall cover both completed and ongoing operations. Minimum limits of liability provided by this coverage shall be as follows:

General aggregate: \$2,000,000.00.
Products/completed operations aggregate: \$2,000,000.00.
Personal and advertising injury: \$1,000,000.00.
Each occurrence: \$1,000,000.00.
Fire and Legal Liability: \$1,000,000.00

13.1.3 **Workers Compensation Insurance.** Workers' compensation insurance for protection of Lessee, its owners, partners, employees, volunteers, and subcontractors as required by law and Employer's Liability insurance with the following minimum limits:

Each accident: \$1,000,000.00
Each occupational disease: \$1,000,000.00.
Occupational disease aggregate: \$1,000,000.00.

The workers' compensation and employer's liability insurance policies of Lessee shall contain a waiver of subrogation as to Arvada.

13.1.4 **Automobile Liability Insurance.** Automobile liability insurance covering the use, operation and maintenance of any automobiles, trucks, trailers or other vehicles owned, hired or non-owned by Lessee providing bodily injury, including death, and property damage coverage. The Automobile Liability insurance policy shall also provide Additional Insured status, effective as of the date stated in Section 1, to Arvada and any other party required by Arvada, throughout the term stated in Section 5. Minimum limits of liability provided by this coverage shall be a combined single limit of \$1,000,000.00.

13.2 **Policy Requirements.**

13.2.1 Any coverage required under Section 13.1 may be met through the use of primary and excess policies so long as the total amount of insurance coverage provided is equal to or greater than the amount specified in this agreement.

13.2.2 All policies required under Section 13 must:

- 13.2.2.1.1 Be written through a company duly entered and authorized to transact that class of insurance in the State of Colorado. All policies written through private carriers are to be written with insurance carriers with an A.M. Best rating of "A-VI" or better;
- 13.2.2.1.2 Be primary to any insurance of, or available to, Arvada;
- 13.2.2.1.3 Provide a waiver of subrogation in favor of Arvada.
- 13.2.2.1.4 Be endorsed to provide Arvada with a 30 day Notice of Cancellation for reasons other than nonpayment of premium, and a 10 day Notice of Cancellation for the reason of nonpayment of premium. Such endorsements shall be attached to the Certificate of Insurance. If any insurer does not make available such endorsement(s), as an alternative, Lessee or Lessee's insurance agent or broker shall provide a written statement that the responsible party will endeavor to provide the required Notices of Cancellation. Acceptance of such alternative notice is subject to the sole discretion of the Arvada.

13.3 Approval, disapproval, or failure to act by Arvada or Arvada's agents regarding any insurance required of the Lessee shall not relieve Lessee of full responsibility for its obligations under this Lease, and the bankruptcy, insolvency or denial of coverage by the insurance company shall not exonerate the Lessee from liability. In the event any Insurer issues a reservation of rights for Arvada as an Additional Insured, Arvada shall be entitled to employ independent counsel at Lessee's expense.

13.4 **Vendors, Subcontractors, or Other Parties Hired by Lessee.** Lessee shall use commercially reasonable efforts to ensure that all parties hired by Lessee or providing services as directed by Lessee, regardless of whether the party receives compensation from Lessee, shall provide evidence of and maintain General Liability coverage, Automobile Liability coverage, Workers' Compensation and Employer's Liability coverage, and other coverages as deemed necessary by Arvada. Coverage shall include, in favor of Lessee and Arvada, but shall not be limited to include, Additional Insured Status, Primary and Non-Contributory coverage, and Waiver of Subrogation. Lessee shall further use commercially reasonable efforts to ensure that all parties hired by Lessee shall include an indemnification obligation as evidenced in Section 12 of this Agreement, including Lessee, Arvada, and other indemnified parties as indemnitees.

- 14. COMPLIANCE WITH ALL LAWS.** Lessee shall comply with all applicable federal, Colorado, Jefferson County, and Arvada laws, rules, regulations, policies and procedures in effect of hereinafter established, including, without limitation, laws applicable to discrimination and unfair employment practices and the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.* (“ADA”).
- 14.1 **ADA Compliance.** Notwithstanding Subsection 6.7, Lessee must maintain compliance with all applicable provisions of the ADA including but not limited to, Title II and Title III provisions relating to physical access to the Property, effective communication, and access to any Lessee’s programs, services, or activities provided through the use of the Property or funded, in whole or in part, by Arvada.
- 14.2 **ADA Complaints.** In the event Lessee receives an ADA complaint, Lessee shall notify Arvada’s ADA Coordinator in writing within 7 calendar days of receiving the complaint. The Parties agree to cooperate in resolving any ADA complaint.
- 15. ASSIGNMENT & SUBLEASE.** This Agreement shall not be assigned by Lessee without the prior written consent of Arvada (which consent shall not be unreasonably conditioned, delayed, or withheld), nor shall Lessee sublease the Property, or any portion thereof (except as otherwise provided for herein), or otherwise allow the utilization thereof by any other party without the express written consent of Arvada (such consent not to be unreasonably conditioned, delayed, or withheld).
- 16. NOTICES.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other party or parties. Such notice shall be deemed to have been given when deposited in the United States mail.
- 17. PARAGRAPH CAPTIONS.** The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit, or describe the scope or intent of this Lease.
- 18. ADDITIONAL DOCUMENTS OR ACTION.** The parties agree to execute any additional documents or take any additional action that is necessary to carry out this Lease.
- 19. INTEGRATION AND AMENDMENT.** This Lease represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Lease may be amended only by an instrument in writing signed by the parties.

If any other provision of this Lease is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Lease shall continue in full force and effect.

20. **WAIVER OF BREACH.** A waiver by any party to this Lease of the breach of any term or provision of this Lease shall not operate or be construed as a waiver of any subsequent breach by either party.
21. **BINDING EFFECT.** This Lease shall inure to the benefit of, and be binding upon, the parties, their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Lease except as otherwise expressly authorized herein.
22. **NO THIRD PARTY BENEFICIARIES.** It is expressly understood and agreed that enforcement of the terms and conditions of this Lease, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and nothing contained in this Lease shall give or allow any such claim or right of action by any other third party on such Lease. It is the express intention of the Parties that any person or entity other than the Parties receiving services or benefits under this Lease shall be deemed to be an incidental beneficiary only.
23. **CORA.** Notwithstanding any provision in the response to solicitation or proposed contract, Lease, escrow Lease, or any other type of Lease to the contrary, Arvada is obligated to comply with the Colorado Open Records Act (C.R.S. §§24-72-101 *et seq.*)(“CORA”), which may require Arvada to disclose all or a portion of communications relating to the Lease, or terms of the same, or of any transaction under the Lease, and other related matters. Lessee has been advised to familiarize itself with CORA. Therefore, any confidentiality provisions in the contract, Lease, escrow Lease, or any other type of Lease are subject to the provisions of CORA.
24. **SUBCONTRACTING.** Lessee shall not subcontract any of its responsibilities under this Agreement without Arvada’s prior written approval, which shall not be unreasonably conditioned, delayed, or withheld.
 - 24.1 Prior to entering into a subcontract with a third-party for any services required under the Lease and related to the Property, Lessee shall:
 - 24.1.1 Give Arvada reasonable prior written notice specifying the components of the services affected, the scope of the proposed subcontract, the identity and qualifications of the proposed subcontractor, and the reasons for subcontracting the work in question; and
 - 24.1.2 Obtain Arvada’s prior written approval of such subcontractor.

- 24.2 Arvada shall have the right to revoke its prior approval of a subcontractor and direct Lessee to replace such subcontractor as soon as possible with a replacement subcontractor reasonably acceptable to both parties .
- 24.3 Lessee shall use commercially reasonable efforts to ensure that any subcontractor or subcontractor personnel performs in accordance with the Lease and with any duties or obligations imposed on Lessee under the Lease to the same extent as if such failure to perform or comply was committed by Lessee or Lessee's personnel.
- 24.4 Lessee shall be Arvada's sole point of contact regarding the services, including with respect to payment.
- 24.5 Notwithstanding anything to the contrary contained in this Section 24, the requirements herein related to subcontractors generally shall not apply to those subcontractors or vendors providing services to Lessee as an entity but not directly related to the physical Property (i.e., investment management services, IT and web design, and other services which are not Property-specific).
- 25. NO WAIVER OF GOVERNMENTAL IMMUNITY.** Nothing contained in this or any of the exhibits attached thereto shall be construed as a waiver of any of the immunities, limitations, privileges, rights, procedures, or requirements contained in the Colorado Governmental Immunity Act, C.R.S. §§24-10-101 *et seq.*
- 26. GOVERNING LAW AND VENUE.** Notwithstanding any provision in the response to a solicitation or proposed contract, lease, escrow Lease, or any other type of Lease to the contrary, the Lease shall be governed by the laws of the State of Colorado. Venue for any action arising under the Lease or for the enforcement of the Lease shall be in the appropriate court for Jefferson County, Colorado.
- 27. FORCE MAJEURE.** Any delays in or failure of performance by any party of his or its obligations under the Lease shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, pandemics, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party.
- 28. BINDING AUTHORITY.** Lessee represents and affirms that the signature page hereof accurately states the full legal name of Lessee (whether as a corporation, partnership, limited liability company, sole proprietorship, or other), contains all requisite signature(s) on behalf of Lessee, has been properly acknowledged and in all other respects is effective to bind Lessee, in accordance with all applicable statutes, regulations, resolutions, rules, bylaws, Leases, or similar sources of authority or limitation.

DATED THIS _____ day of _____, 20__.

CITY OF ARVADA

Marc Williams, Mayor
8101 Ralston Road
Arvada, CO 80002

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney by:

ARVADA COMMUNITY FOOD BANK, INC. D/B/A COMMUNITY TABLE

Sandy Martin, Chief Executive Officer
8555 W. 57th Avenue
Arvada, CO 80002

Exhibit A

**LEASE AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND THE
ARVADA COMMUNITY FOOD BANK, INC. D/B/A COMMUNITY TABLE FOR THE
PROPERTY LOCATED AT 8555 W. 57TH AVENUE BEGINNING DECEMBER 1, 2022**

Recorded at _____ o'clock _____ M.

Reception No. _____

Recorder _____

977970

THIS DEED, Made this 25 day of March in the year of our Lord, one thousand nine hundred and Sixty-three between **THE JEFFERSON COUNTY SCHOOL DISTRICT NO. R-1** a quasi-municipal Corporation a corporation duly organized and existing under and by virtue of the laws of the State of Colorado of the first part, and **THE CITY OF ARVADA**, a municipal Corporation a corporation duly organized and existing under and by virtue of the laws of the State of Colorado of the second part;

RECORDER'S STAMP

Co. of Jefferson
State of Colo
Filed
May 6 12:28 P.M. '63
James P. McNeally
Co. Clerk & Recorder
1592-12

WITNESSETH, That the said party of the first part, for and in consideration of the sum of **TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATIONS** to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, hath granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the said party of the second part, its successors and assigns forever, all the following described or parcel of land, situate, lying and being in the County of Jefferson and State of Colorado, to-wit:

Lot or Tract 2, GLEN ELLEN SUBDIVISION,
according to the recorded plat thereof,
County of Jefferson, State of Colorado.

NO REVENUE REQUIRED

TOGETHER, with all and singular the hereditaments and appurtenances thereunto 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 the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances unto the said party of the second part, its successors and assigns forever. And the said **Jefferson County School District No. R-1**, a quasi-municipal Corporation

party of the first part, for itself, its successors and assigns, doth covenant, grant, bargain and agree to and with the said party of the second part, its successors and assigns, that at the time of the enrolling and delivery of these presents it is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and hath good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever;

except easements and restrictions of record,

and the above bargained premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will **WARRANT AND FOREVER DEFEND**.

IN WITNESS WHEREOF The said party of the first part hath caused its corporate name to be hereunto subscribed by its president, and its corporate seal to be hereunto affixed, attested by its secretary.

Attest:

Wayne A. Van Arsdale
Secretary

By Hal Shelton
President

The foregoing instrument was acknowledged before me this 22 day of March 1963, by

Hal Shelton

Wayne A. Van Arsdale

The Jefferson County School District No. R-1, a quasi-municipal Corporation

My notarial commission expires My Commission expires
Witness my hand and official seal

Albert W. [Signature]
Notary Public

EXHIBIT

A

Exhibit B

**LEASE AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND THE
ARVADA COMMUNITY FOOD BANK, INC. D/B/A COMMUNITY TABLE FOR THE
PROPERTY LOCATED AT 8555 W. 57TH AVENUE BEGINNING DECEMBER 1, 2022**

GLEN ELLEN SUBDIVISION

DEDICATION

KNOW ALL MEN BY THESE PRESENTS: That Chester L. Hoskinson, owner of the SE 1/4 of the SE 1/4 of Section 10, Township 3 South, Range 69 West of the 6th Principal Meridian, Except the East 310' thereof and except tracts described in the Records of Jefferson County, Colorado in Book 787 at Page 242, Book 548 at Page 163, Book 628 at page 84, Book 811 at Page 143, Book 802 at Page 598, Book 810 at Page 522, and Book 829 at page 535, has laid out, subdivided and platted the same into roads, streets, and avenues as hereon shown under the name of GLEN ELLEN SUBDIVISION and does by these presents, grant and convey to the City of Arvada, Colorado, in fee simple, all such streets and avenues and that those certain covenants recorded in Book 847 at pages 270-1-2 of the Jefferson County Records, shall apply to all lots in this Subdivision.

Chester L. Hoskinson
Owner

STATE OF COLORADO S.S.
COUNTY OF JEFFERSON

The above and foregoing map and dedication of GLEN ELLEN SUBDIVISION was acknowledged before me this 22nd day of February A.D., 1954, by Chester L. Hoskinson

Witness my hand and official seal

My commission expires December 18, 1957

Margaret M. Hammett
Notary Public

The foregoing plat is approved for filing and conveyance of the public ways, roads, and streets shown thereon is accepted by the City of Arvada, Colorado, on this 22nd day of February, 1954, subject to the following conditions: the City shall undertake maintenance of any such public way, road or street only after construction of such way, road or street has been completed by the subdivider.

CITY OF ARVADA
By: *St. M. Klenburg*
Mayor

Attest:

Velma Evans
Clerk

Approved by the City of Arvada Planning Commission on this 9 day of February, 1954.

Harold F. Spill
Secretary

Robert W. Wright
Chairman

I, Floyd H. Miller, a registered surveyor in the State of Colorado do hereby certify that the survey and plat of Glen Ellen Subdivision were made by me and that both are accurate to my knowledge.

Floyd H. Miller
Registered Surveyor

Subscribed and sworn to before me this 22nd day of February 1954, by Floyd H. Miller

Witness my hand and official seal

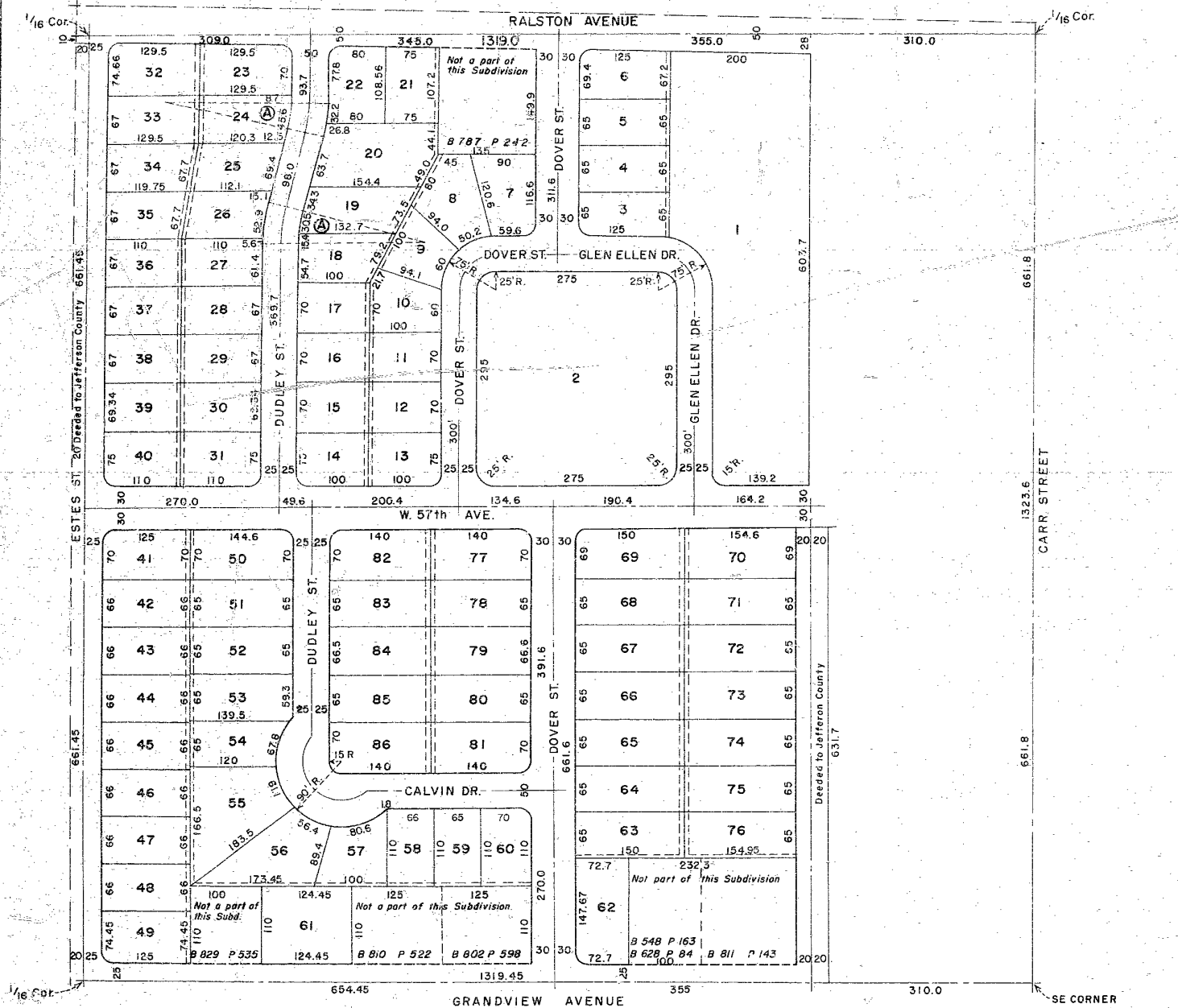
My commission expires December 18, 1957

Margaret M. Hammett
Notary Public

Accepted for filing in the office of the Clerk and Recorder of Jefferson County this 19 day of MARCH, 1954. HT 9:50 P.M.

Reception No. 571246

Robert W. Newton
Clerk and Recorder



CURVE A
Δ = 15°00'
R = 200'
T = 26.33'

NOTES

- Distances on all corner lots are to P.I. of lot lines.
- 15' Radius on lot corners unless specified otherwise.
- Distances along curved lot lines are chord distances.
- Utility easement.

100 0 100 200
SCALE OF FEET

Exhibit C

**LEASE AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND THE
ARVADA COMMUNITY FOOD BANK, INC. D/B/A COMMUNITY TABLE FOR THE
PROPERTY LOCATED AT 8555 W. 57TH AVENUE BEGINNING DECEMBER 1, 2022**

Exhibit C: Community Table Building Annual Inspection Checklist

Checklist Item		Responsible Party	Compliant	Non-Compliant
	Location			
Is the property address clearly visible from the roadway?		Arvada	☐	☐
Is the parking lot property striped?		Arvada	☐	☐
Are there an appropriate number of handicapped spots in the parking lot?		Arvada	☐	☐
Is there proper lighting in the parking lot?		Arvada	☐	☐
Are there cracks in the pavement that need to be repaired?		Arvada	☐	☐
Are unloading zones clearly marked?		Food Bank	☐	☐
Are there wheelchair-accessible ramps leading up to the main entrance, and are they ADA compliant?		Arvada	☐	☐
Are there handrails leading up to the main entrance?		Arvada	☐	☐
Are there any obstructions in front of fire hydrants?		Food Bank	☐	☐
Is there a trash dumpster on-site?		Food Bank	☐	☐

Are ash trays available near entrances, or are there “no smoking” signs posted?	Food Bank	☐	☐
Are all utility/cable boxes properly marked?	Arvada	☐	☐
	Building Exterior		
Are exit doors unlocked during business hours?	Food Bank	☐	☐
Are all entrances and exits properly marked?	Food Bank	☐	☐
Is the company’s name clearly visible?	Food Bank	☐	☐
Is the building’s roof in good shape?	Food Bank	☐	☐
Are windows and doors in need of washing?	Food Bank	☐	☐
Is the exterior siding in good shape	Food Bank	☐	☐
Is the building free of vandalism?	Food Bank	☐	☐
Are emergency exits clearly marked and free of obstruction?	Food Bank	☐	☐
Is there sufficient lighting on the building’s exterior?	Food Bank	☐	☐

Are there any cracks in the building's exterior walls?	Food Bank	☐	☐
Are combustible materials kept away from the building?	Food Bank	☐	☐
Are there signs of water damage?	Food Bank	☐	☐
Are the gutters free of debris?	Food Bank	☐	☐
Are the windows and seals in good shape?	Food Bank	☐	☐
Are door sweeps and overhead doors in proper operation?	Food Bank	☐	☐
	Landscaping		
Does the landscaping interfere with any utility boxes?	Arvada	☐	☐
Are there any dead trees on the property?	Arvada	☐	☐
Are there shade-providing trees on the property?	Arvada	☐	☐
Are there any areas with dead grass?	Arvada	☐	☐
Is an irrigation system in place?	Arvada	☐	☐

Are sprinklers placed far away from the walkways?	Arvada	☐	☐
Are planters properly mulched?	Arvada	☐	☐
Is grass mowed regularly?	Arvada	☐	☐
Are insecticides regularly applied to plants?	Arvada	☐	☐
Are flower beds weeded regularly?	Arvada	☐	☐
Is grass fertilized regularly?	Arvada	☐	☐
	Electrical System		
Are all electrical boxes, outlets and switches properly covered?	Food Bank	☐	☐
Are electrical panels covered and latched?	Food Bank	☐	☐
Are electrical panels free of obstructions (3-feet clear)?	Food Bank	☐	☐
Are extension cords for temporary use only?	Food Bank	☐	☐
Do any extension cords run through walls, ceilings, or doors?	Food Bank	☐	☐

Do all electrical outlets have covers?	Food Bank	☐	☐
Is equipment that requires high voltage plugged into the proper outlets?	Food Bank	☐	☐
Are there any frayed wires in the building?	Food Bank	☐	☐
Do all outlets located at sinks and exterior doors include Ground-Fault Circuit Interrupters (GFCIs)?	Food Bank	☐	☐
Is there a lockout procedure in place?	Food Bank	☐	☐
	Fire Protection		
Are all smoke alarms functional?	Food Bank	☐	☐
Are smoke alarms tested regularly?	Food Bank	☐	☐
Is smoking prohibited in the building?	Food Bank	☐	☐
Does the building have a sprinkler system?	Food Bank	☐	☐
Is the sprinkler system inspected annually?	Food Bank	☐	☐
Are portable fire extinguishers readily available?	Food Bank	☐	☐

Are fire extinguishers inspected regularly?	Food Bank	☐	☐
Are fire evacuation diagrams posted throughout the building?	Food Bank	☐	☐
Are there “EXIT” signs posted above exterior doors?	Food Bank	☐	☐
Are flammable and combustible liquids properly tagged and stored?	Food Bank	☐	☐
	Heating/Cooling System		
Are there any combustible objects kept near heaters?	Food Bank	☐	☐
Is the building’s thermostat kept at a comfortable temperature?	Food Bank	☐	☐
Are filters replaced regularly?	Food Bank	☐	☐
Are heating and cooling ducts free of obstructions?	Food Bank	☐	☐
Is the heating/cooling system set back when the building is unoccupied?	Food Bank	☐	☐
	Housekeeping		

Is trash removed from the building daily? And from the site weekly?	Food Bank (daily) Arvada (weekly)	☐	☐
Are bathrooms cleaned daily?	Food Bank	☐	☐
Are windows cleaned regularly?	Food Bank	☐	☐
Is a trash/recycling policy in place?	Food Bank	☐	☐
Are refrigerators emptied and cleaned regularly?	Food Bank	☐	☐
	Storage		
Are all combustible and flammable liquids stored properly?	Food Bank	☐	☐
Is there any combustible storage in unprotected attics or crawls spaces?	Food Bank	☐	☐
Are cabinets and containers containing chemicals properly labeled?	Food Bank	☐	☐
Are spill-containment materials readily available in case of spills?	Food Bank	☐	☐
Are Safety Data Sheets (SDS) available for hazardous substances?	Food Bank	☐	☐

	ADA Accessibility		
Are restrooms accessible?	Arvada	☐	☐
Is there an appropriate egress/Path of Truance?	Food Bank	☐	☐
Are the service counters accessible?	Food Bank	☐	☐
Does signage demonstrate reasonable accommodations?	Food Bank	☐	☐
Are drinking fountains accessible?	Arvada	☐	☐
Are there any barriers in the lobby areas limiting accessibility?	Food Bank	☐	☐

Exhibit D

**LEASE AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND THE
ARVADA COMMUNITY FOOD BANK, INC. D/B/A COMMUNITY TABLE FOR THE
PROPERTY LOCATED AT 8555 W. 57TH AVENUE BEGINNING DECEMBER 1, 2022**

**AN AGREEMENT BY AND BETWEEN
THE CITY OF ARVADA AND THE ARVADA COMMUNITY FOOD BANK
FOR THE LEASE OF PROPERTY AT 8555 WEST 57TH AVENUE IN ARVADA**

1.0 **PARTIES AND EFFECTIVE DATE.** The parties to this Lease Agreement (“Lease” or “Agreement”) are the City of Arvada, a Colorado municipal corporation (“City” or “Arvada”), and the Arvada Community Food Bank, a Colorado nonprofit corporation (“Food Bank”) (together, the “Parties”). This Agreement shall be effective upon its mutual approval by the Parties and execution by authorized representatives thereof.

2.0 **RECITALS AND PURPOSE.**

2.1 Arvada owns certain real property, approximately 1.85 acres in size, located at 8555 West 57th Avenue in Arvada (the “Land”) and described as follows:

**Lot or Tract 2, Glen Ellen Subdivision, according to the recorded plat thereof,
County of Jefferson, State of Colorado.**

2.2 The Land contains the following improvements (collectively, the “Improvements”):

- a. A building of approximately 9,300 square feet (the “Building”);
- b. Appurtenant asphalt-surfaced parking areas (the “Parking Areas”);
- c. Landscaping, consisting of trees, sod, and shrubs (the “Landscaping”);
and
- d. Associated infrastructure; e.g., water and sewer service lines, irrigation lines, etc. (the “Infrastructure”).

2.3 The Land and Improvements (together, the “Property”) previously were utilized as the site of the Arvada Library, but are not now currently used.

2.4 Arvada desires that the Property be utilized for a public purpose, rather than a retail, commercial, or residential use and, absent a higher priority public use, is willing to lease the Property to a non-profit organization that provides an important community service and whose use is compatible with the neighborhood surrounding the Property.

2.5 The Food Bank currently collects, stores, and distributes food to needy residents of the Arvada area from facilities owned by Arvada and located at 10405 West 64th Place, but desires to lease and renovate the larger Property to better serve its constituents and meet its community service purpose.

3.0 **TERMS AND CONDITIONS.** In consideration of the mutual covenants and promises hereinafter contained, and subject to the contingencies and conditions hereinafter set forth, the Parties do hereby agree as follows:

3.1 Lease Term. Arvada leases to the Food Bank the Property to have and to hold for a period of ten (10) years, at and for a total sum of \$1,000.00, payable in equal annual installments of \$100.00 per year, due in advance, each year on or before the anniversary date hereof, at the office of the City Manager, 8101 Ralston Road, Arvada, CO 80001-8101, without notice. In addition to the afore-referenced sum, any other sums payable by the Food Bank hereunder including, but not limited to, insurance, utility, and maintenance expenses, shall be deemed additional rent for purposes of the default provisions herein. If after the expiration of the lease term, the Food Bank shall remain in possession of the Property without written agreement as to such holding, then such holding shall be deemed to be a holding upon a tenancy from month to month at a monthly rental of \$100.00.

3.2 Commencement Date. The commencement date of the rental term hereunder shall be March 3, 2009, at twelve o'clock noon (12:00 p.m.). (The effective date of this Agreement shall be as provided in Paragraph No. 1 above.)

3.3 Financial Obligations of Tenant. The Food Bank agrees to pay the following:

- a. Rent as hereinabove provided when due and payable;
- b. All charges for telephone service and all other utility services necessary to the proper operation and care of the Improvements except water and sewer service; and
- c. All maintenance expenses for and repairs to the interior and exterior of the Building (including but not limited to the roof, and the electrical, plumbing, and mechanical systems thereof, along with custodial services and trash removal expenses).

3.4 Financial Obligations of Owner. The City agrees to pay the following:

- a. All charges for water and sewer service;
- b. All maintenance expenses for and repairs to the Parking Areas, the Landscaping, and the Infrastructure.

3.5 Building Modifications.

- a. The Food Bank agrees that, prior to its occupancy of the Property for its normal and customary business activities, and within six (6) months of the

effective date of this Agreement, as set forth in Paragraph No. 1 above, it shall substantially complete, at its sole expense, the modifications to the HVAC and Tenant Finish specified in Exhibit A and depicted on Exhibit B, both attached hereto and incorporated herein. The foregoing modifications shall be collectively referred to as "Modifications" herein. The Food Bank shall be responsible for complying, at its sole expense, with all federal, state, and local laws in accomplishing the Modifications including, but not limited to, laws relating to fire protection, safety, health, and access for persons with disabilities. All work done by or pursuant to the direction of the Food Bank under this paragraph shall be accomplished in a good and workmanlike manner by a licensed contractor or contractors (and subcontractors, as applicable), free of mechanic's and materialmen's liens, and shall be subject to the review, inspection, and approval of Arvada.

b. The Food Bank agrees that by December 31, 2009, it shall complete, at its sole expense, the replacement of the existing roof as specified in Exhibit A. The Food Bank shall be responsible for complying, at its sole expense, with all federal, state, and local laws in accomplishing the roof replacement including, but not limited to, laws relating to fire protection, safety and health. All work done by or pursuant to the direction of the Food Bank under this paragraph shall be accomplished in a good and workmanlike manner by a licensed contractor or contractors (and subcontractors, as applicable), free of mechanic's and materialmen's liens, and shall be subject to the review, inspection, and approval of Arvada.

3.6 Community Room. The Food Bank shall provide, as part of the Modifications to the Building, a community meeting space as depicted on Exhibit B, accessible to community organizations and citizens upon a schedule to be administered by the Food Bank, and pursuant to policies approved by the City. The use and administration of the community room shall not be considered a violation of the Use Restrictions or sublease restrictions contained herein. Subject to the review and consent of the City Manager, the Food Bank may, for the term of this Lease, name the community meeting space after a Food Bank benefactor and provide signage thereon, consistent with the provisions of the Arvada Land Development Code.

3.7 Use Restrictions. The Parties expressly understand that this Agreement is conditioned upon the use of the Property by the Food Bank only for the purposes of collection, storage, and distribution of food items to needy residents of the Arvada area, and for associated activities specifically related thereto (except as otherwise provided in Sub-paragraph No. 3.6 above). Should the Property cease to be used for such purposes or is otherwise used for private or other commercial or business purposes, this Lease shall terminate upon written notice by Arvada to the Food Bank.

3.8 Indemnification/Hold Harmless. The Food Bank expressly agrees to indemnify, hold harmless, and defend Arvada or any of its officers, employees or agents from any and all claims, damages, liability, or court awards, including costs and attorney's fees that are or may be awarded as a result of any loss, injury, or damage sustained or claimed to have been sustained by anyone, including but not limited to, any person, firm, partnership, or corporation, in connection with or arising out of the condition of the Property or any omission or act of commission by the Food Bank or any of its officers, employees, agents, or volunteers in working to effectuate the Modifications or in occupying, maintaining, or administering the Property, or any portion thereof (including the community meeting space required by Sub-paragraph No. 3.6 above), during the term of this Agreement. In the event that any such suit or action is brought against Arvada, Arvada will give notice thereof to the Food Bank.

3.9 Insurance. The Food Bank shall at its own expense keep in full force and effect during the term of this Agreement insurance as follows:

- a. The Food Bank agrees to secure, at its own expense, a policy or policies of insurance sufficient to insure against the liability for injury to persons or damage to property assumed by the Food Bank in leasing the Property. The Food Bank's insurer must be rated "B+" or better, according to Best's Key Rating Guide and must be admitted to do business in the State of Colorado. The Food Bank shall provide Arvada with a certificate of insurance, from a properly qualified representative of the insurer, that any policy purchased pursuant to this Agreement complies with the conditions required by this Agreement. The certificate of insurance must show current name and address of the insured(s) named in the policy.
- b. The Food Bank shall not be relieved of any liability assumed pursuant to the foregoing paragraph by reason of its failure to secure insurance as required by this Agreement or by reason of its failure to secure insurance in sufficient amounts of sufficient durations, or sufficient types to cover such liability. The required policy shall meet the following conditions:
- c. The policy limits shall be as follows:
 - (1) The limit for each occurrence shall be not less than \$1,000,000. Costs of defense shall not be included within such limits. However, if costs of defense are included, the minimum limits shall be \$1,000,000 combined single limits.
 - (2) The general aggregate limit shall be at least \$2,000,000.
- d. The policy shall include Arvada as an additional insured. The Parties

hereto understand and agree that Arvada is relying on and does not waive or intend to waive by this Agreement, any provision hereof, including the provisions of this paragraph, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, CRS 24-10-101, et seq., as from time to time amended, or otherwise available to Arvada.

e. The insurer shall give Arvada notification of any cancellation or termination by refusal to renew the policy or any change in coverage of the policy in the manner provided by law. If no such notification is provided by law, the insurer shall give Arvada at least 30 days' prior written notification of any cancellation or termination by refusal to renew the policy or of any change in coverage of the policy, unless cancellation or termination is for non-payment of premium, in which case, the industry standard of ten (10) days prior written notification shall apply.

f. The Food Bank shall be responsible for any deductible losses under the policy.

g. If the policy is a claims-made policy, the policy shall provide the Food Bank the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two years.

h. If the policy is a claims-made policy, the policy shall give Arvada the right to purchase the extended reporting period described in subsection g above if the Food Bank fails to purchase such an extended reporting period.

i. If the policy is a claims-made policy, the retroactive date of any renewal of such policy shall be not later than the date this Agreement is signed by the Parties hereto.

j. If the Food Bank purchases a subsequent claims-made policy in place of any prior policy, the retroactive date of such subsequent policy shall be no later than the date this Agreement is signed by the Parties hereto.

k. The Food Bank must comply with Arvada's requirements for filing certificates of insurance, as determined by the Risk Management Division. A certificate of insurance acceptable to the Risk Management Division must be provided prior to the Commencement Date unless both Parties arrange otherwise. The Food Bank is responsible for submitting certificate(s) of insurance, subject to the insurance requirements described above, for all subcontractors. All certificates of insurance are subject to periodic verification and approval by Arvada.

3.10 Personal Property. Any personal property of any kind or description brought into the Building or onto the Property shall be at the Food Bank's sole risk, and Arvada shall not be held liable for any damage to or loss of such personal property.

3.11 Alcohol. The Food Bank agrees that no malt, vinous, or spirituous liquor or fermented malt beverages, including 3.2 percent beer, as those terms are defined by state law, will be consumed, stored, or otherwise permitted on the Property at any time during the term of this Agreement without the express written consent of the City Manager of Arvada.

3.12 Assignment. The Food Bank shall not sublet, assign, or otherwise encumber any portion of the Property or its interest in this Lease without the express written consent of Arvada, which consent may be withheld in the absolute discretion of Arvada.

3.13 Improvements to Arvada. At the termination of this Agreement, by lapse of time or otherwise, all Improvements not then the property of Arvada, including all of the Modifications and other alterations made thereto, and all other fixtures and improvements to the Property of any nature whatsoever, shall become the property of Arvada, and the Food Bank shall be prohibited from dismantling or otherwise removing such from the Property. Improvements shall not be deemed to include shelving, refrigeration or cooling equipment which shall remain the property of the Food Bank.

3.14 Service Disruption. Arvada shall not be liable in damages or otherwise if any utility shall be or become unavailable from any public utility company, public authority, or any other entity (including Arvada) supplying or distributing such utility, or for any interruption in any utility service caused by the making of any repairs or improvements or by any other cause.

3.15 Maintenance and Repair. The Food Bank shall, throughout the term of this Lease, at no expense to Arvada and subject to the allocation of obligations set forth in Subparagraphs No. 3.3, 3.4, and 3.5, keep and maintain, or cause to be kept and maintained, the Property in a safe condition and a good state of appearance and repair, reasonable wear and tear excepted, and shall not commit, suffer or permit any waste or nuisance on the Property or any acts to be done thereon in violation of any applicable laws. Subject to the above-referenced allocation of obligations, the Food Bank shall promptly make or cause to be made all repairs necessary to keep the Property in lawful order and condition. Notwithstanding the foregoing, in the event that the Food Bank fails to keep and maintain the Property in such a state and condition, Arvada may, upon notice to the Food Bank pursuant to Paragraph No. 6 hereof, cause to be conducted such maintenance and repair, at the expense of the Food Bank, which amount so expended shall be immediately due and payable from the Food Bank to Arvada as additional rent hereunder.

3.16 Inspection. Arvada shall have the right during the term of this Lease, or any

renewal thereof, to inspect the Property to evaluate the Food Bank's compliance with the terms, conditions, and other provisions of this Lease.

4.0 **QUIET ENJOYMENT.** Arvada covenants and agrees that the Food Bank shall and may, at all times, peaceably and quietly have, hold, and enjoy the Property during the term of this Lease; provided, however, that Arvada's duty hereunder shall cease if and when Arvada sells the Property or otherwise relinquishes control thereof.

5.0 **TERMINATION OF LEASE.**

5.1 By Arvada. Upon the occurrence of any of the following, Arvada may, at its option, and without liability for trespass, forcible entry and detainer, damages, or breach, re-enter the Property and declare the term of this Lease ended:

- a. The Food Bank is in arrears in the payment of any installment of the rent, or any portion thereof, which condition remains uncorrected for a period of fourteen (14) days after Arvada has provided notice thereof pursuant to Paragraph No. 6 below;
- b. The Food Bank is in default in any other covenant or obligation herein to be performed by the Food Bank, which default remains uncorrected for a period of fourteen (14) days after Arvada has provided notice thereof pursuant to Paragraph No. 6 below;
- c. The Food Bank fails to substantially complete the Modifications as required by Sub-paragraph No. 3.5;
- d. The Food Bank ceases to use the Property for the specific purposes enumerated in Sub-paragraph No. 3.7 hereof, or otherwise uses the Property for private or other commercial or business purposes; or
- e. The Building is rendered untenable by fire or other casualty.

5.2 By Food Bank. Upon the occurrence of any of the following, the Food Bank may terminate this Lease without liability:

- a. The Building is rendered untenable by fire or other casualty; or
- b. The Food Bank is unable to substantially complete the Modifications within the time period required by Sub-paragraph No. 3.5 hereof.

5.3 In the event of early termination of this Lease through no fault of the Food Bank, the City shall pay the Food Bank a pro rata portion of the incurred cost of the

Modifications and roof replacement calculated by dividing the number of months remaining in the Term by 120.

6.0 **NOTICES.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States mail.

7.0 **EXHIBITS.** All exhibits referred to in this Agreement are, by reference, incorporated herein for all purposes.

8.0 **PARAGRAPH CAPTIONS.** The captions of paragraphs and sub-paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Lease.

9.0 **ADDITIONAL DOCUMENTS OR ACTION.** The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this Lease.

10.0 **INTEGRATION AND AMENDMENT.** This Lease represents the entire agreement between the Parties and there are no oral or collateral agreements or understandings. This Lease may be amended only by an instrument in writing signed by the Parties. If any other provision of this Lease is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Lease shall continue in full force and effect.

11.0 **WAIVER OF BREACH.** A waiver by any Party to this Lease of the breach of any term or provision of this Lease shall not operate or be construed as a waiver of any subsequent breach by either Party.

12.0 **GOVERNING LAW AND VENUE.** This Lease shall be governed by the laws of the State of Colorado. Venue for any action arising under this Lease or for the enforcement of this Lease shall be in the appropriate court for Jefferson County, Colorado.

13.0 **BINDING EFFECT.** This Lease shall inure to the benefit of, and be binding upon, the Parties, their respective legal representatives, successors, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Lease except as otherwise expressly authorized herein.

14.0 **ATTORNEY'S FEES.** In the event of a litigation between the Parties enforcing the terms of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorney fees and costs.

15.0 **NO THIRD PARTY BENEFICIARIES.** It is expressly understood and agreed that enforcement of the terms and conditions of this Lease, and all rights of action relating to such enforcement, shall be strictly reserved to Arvada and the Food Bank, and nothing contained in this Lease shall give or allow any such claim or right of action by any other third party on such Lease. It is the express intention of Arvada and the Food Bank that any person other than Arvada or the Food Bank receiving services or benefits under this Lease shall be deemed to be an incidental beneficiary only.

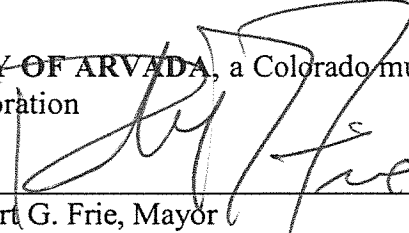
16.0 **GOVERNMENTAL IMMUNITY ACT.** Nothing herein is intended to be nor may be construed as a waiver of the rights, immunities, protections, or limitations on damages provided to Arvada by the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq., as from time to time amended, or otherwise available.

17.0 **OPTION TO RENEW.** This Lease may be renewed by letter-agreement signed by both Parties, for a term and at a rent that the Parties may mutually agree upon.

18.0 **COUNTERPARTS.** This Lease may be executed in counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same Lease.

DATED this 2nd day of March, 2009.

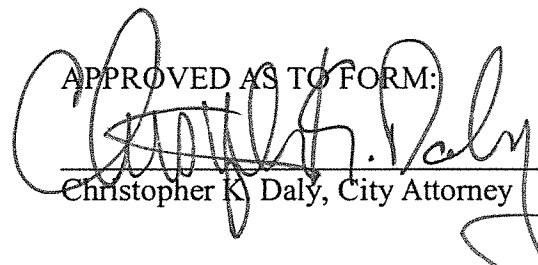
CITY OF ARVADA, a Colorado municipal corporation


Robert G. Frie, Mayor
8101 Ralston Road
P.O. Box 8101
Arvada, Colorado 80002

ATTEST:


Deputy City Clerk

APPROVED AS TO FORM:


Christopher K. Daly, City Attorney



ARVADA COMMUNITY FOOD BANK, a
Colorado non-profit corporation

ATTEST:

C. Michael Litzon
Name: C. Michael Litzon
Title: President of Board
Address: 10405 W 64th Pl. Arvada, CO

Name:
Title:

APPROVED AS TO FORM:

C. Bradley Rupert
C. Bradley Rupert
C. Bradley Rupert PC
6888 Otis Court
Arvada, Colorado 80003-4065

STATE OF COLORADO
ss:
COUNTY OF JEFFERSON

The foregoing instrument has been subscribed and affirmed, or sworn to before me this 2nd day of March, 2009, by Robert G. Frie as Mayor of the City of Arvada.

Witness my hand and official seal.

My Commission expires: 10-24-2009.



(SEAL)
STATE OF COLORADO
ss: Adams
COUNTY OF JEFFERSON

Michele M. Broski
Notary Public

My Commission Expires 10/24/2009

The foregoing instrument has been subscribed and affirmed, or sworn to before me this 6th day of March, 2009, by C. Michael Litzon President of the Arvada Community Food Bank.

Witness my hand and official seal.

My Commission expires: 9/21/2011

(SEAL)

Donna Bueckermann
Notary Public

**FIRST AMENDMENT TO A LEASE AGREEMENT BY AND BETWEEN
THE CITY OF ARVADA AND THE ARVADA COMMUNITY FOOD BANK**

This Amendment is to the Lease Agreement ("Lease") entered into between the City of Arvada, a Colorado home rule municipal corporation (the "City" or "Arvada" or "Lessor") and the Arvada Community Food Bank, a Colorado nonprofit corporation ("Food Bank" or "Lessee") (together, the "Parties"). This Amendment shall be attached to the Lease as Exhibit "A." In consideration of the mutual promises contained in the Lease Agreement and in this Amendment (collectively referred to as the Agreement), the parties agree as follows:

1. RECITALS AND PURPOSE.

1.1 On March 2, 2009 the Parties entered into a ten (10) year Lease for the property located at 8555 W. 57th Avenue ("Property").

1.2 Said Lease defined the maintenance obligations for the Parties as well as set benchmarks for HVAC changes and roof replacement but was silent as to future modifications of the structure.

1.3 In December of 2010 the Food Bank was awarded a grant from the State Governor's Energy Office to help in the installation of a photovoltaic ("PV") system on the roof of the building situated at 8555 W. 57th Avenue.

1.4 In order for the Food Bank to see a return on their investment of the PV system it necessitates remaining in the property for three (3) additional years longer than the original term of the Lease.

1.5 The Parties wish to facilitate the installation of this PV system, amend the duration of the Lease and more clearly define the procedure for any future modifications to the building.

1.6 The purpose of this Amendment is to supplement and amend the terms of the Lease including any and all Exhibits and Schedules. In the event of any conflict or inconsistency between this Addendum and the Lease any and all Exhibits and Schedules, this Amendment shall control.

2. TERMS AND CONDITIONS.

2.1 Section 3.1 of the original Lease is amended to indicate that the duration of the Lease is now for Thirteen (13) years rather than the Ten (10) years as originally indicated.

2.2 Section 3.5 of the original Lease is amended to add subsections (c) (d), (e) and (f) as set forth below:

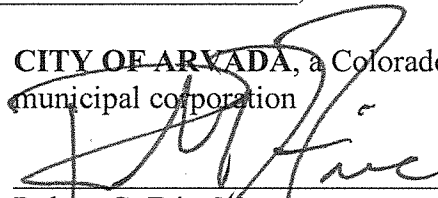
(c) Lessor consents to Lessee installing a PV system on the roof

of the Property at Lessee's sole expense.

- (d) The Food Bank agrees that during the term of the lease that it shall be the sole owner of the PV system and will secure adequate levels of insurance to cover the costs of repair or replacement in the event of damage or loss, and any liability arising out of or in connection with the installation and presence of the PV system on Lessor's property.
- (e) The Parties agree that at the conclusion of the lease, the PV system will remain at the current location and ownership shall transfer to the Lessor.
- (f) The Parties agree that any future modifications to the structure, outside those already defined in the Lease Agreement and this Amendment, shall require the written permission of the City Manager.

DATED this 16th day of May, 2011.

CITY OF ARVADA, a Colorado home rule
municipal corporation

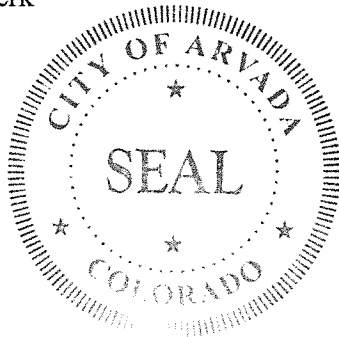


Robert G. Frie, Mayor
8101 Ralston Road
P.O. Box 8101
Arvada, Colorado 80001

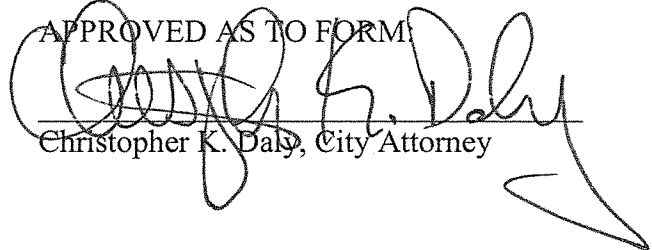
ATTEST:



City Clerk

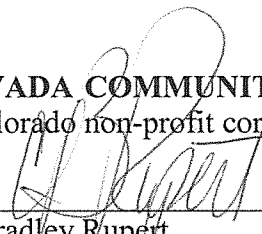


APPROVED AS TO FORM:



Christopher K. Daly, City Attorney

ARVADA COMMUNITY FOOD BANK,
a Colorado non-profit corporation



C. Bradley Rupert
President of the Board
8555 W. 57th Avenue
Arvada, CO 80002

ATTEST:

Name:
Title:

SECOND AMENDMENT TO A LEASE AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND THE ARVADA COMMUNITY FOOD BANK

This Second Amendment is to the Lease Agreement ("Lease") entered into between the City of Arvada, a Colorado home rule municipal corporation (the "City" or "Arvada" or "Lessee") and the Arvada Community Food Bank, a Colorado nonprofit corporation ("Food Bank" or "Lessor") (together, the "Parties"). This Amendment shall be attached to the Lease as Exhibit "B." In consideration of the mutual promises contained in the Lease Agreement and in this Amendment (collectively referred to as the Agreement), the parties agree as follows:

1. RECITALS AND PURPOSE.

1.1 On March 2, 2009 the Parties entered into a ten (10) year Lease for the property located at 8555 W. 57th Avenue ("Property").

1.2 Said Lease was silent as to future modifications of the structure.

1.3 In December of 2010 the Food Bank was awarded a grant from the State Governor's Energy Office to help in the installation of a photovoltaic ("PV") system on the roof of the building situated at 8555 W. 57th Avenue.

1.4 In order for the Food Bank to see a return on their investment of the PV system it necessitated remaining in the property for three (3) additional years longer than the original term of the Lease.

1.5 On May 16, 2011, the Parties entered into the First Amendment to the Lease Agreement to extend the term of the lease by three (3) additional years and allow the City Manager to approve future modifications to the building that were not defined in the lease.

1.6 Increased demand has created space limitations, and the Food Bank would like to improve the structure and increase the square footage by constructing an addition of approximately 1600 square feet. This expansion will require certain relocations and improvements of existing concrete and asphalt work, as well as landscaping to expand the existing structure and improve the parking.

1.7 Additionally, in order to derive a benefit from the improvements the Food Bank is requesting an extension of the lease to for ten (10) years from the date of the execution of this Amendment.

1.8 The purpose of this Amendment is to supplement and amend the terms of the Lease including any and all Exhibits and Schedules. In the event of any conflict or inconsistency between this Amendment and the Lease any and all Exhibits and Schedules, this Amendment shall control.

2. TERMS AND CONDITIONS.

2.1 Section 3.2 of the original Lease is amended to indicate that the ten (10) year lease shall commence on the date of execution of this Amendment.

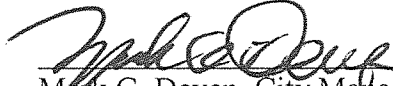
2.2 Section 3.5 of the original Lease is amended to add subsections (e) and (f) as set forth below:

(e) The Food Bank agrees that it will at its sole expense, enter into a contract to construct an addition to the current structure in a concept similar to those provided in Exhibit "C". The Food Bank further agrees that the building architecture will closely match the existing architecture of the original structure and be comprised of similar materials and colors.

(f) The Food Bank agrees that it will at its sole expense, pay for those necessary changes to landscaping, curb and asphalt removal and installation.

DATED this 1st day of December, 2012.

CITY OF ARVADA, a Colorado home rule
municipal corporation


Mark G. Deven, City Manager
8101 Ralston Road
P.O. Box 8101
Arvada, Colorado 80001

ATTEST:

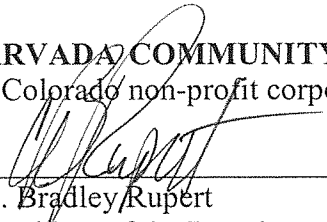

Deputy City Clerk



APPROVED AS TO FORM:


Christopher K. Daly, City Attorney

ARVADA COMMUNITY FOOD BANK,
a Colorado non-profit corporation



C. Bradley Rupert
President of the Board
8555 W. 57th Avenue
Arvada, CO 80002

ATTEST:

Name:
Title:



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
8.A.2.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: R22-094, A Resolution Accepting a Quitclaim Deed from Jefferson Center Metropolitan District No. 2 to the City of Arvada for Permanent Water Line Easements

Report in Brief

This pipeline was built by a metropolitan district with the original easement for the line obtained by the metro district. This quitclaim deed will transfer ownership of the easement to the City.

The Arvada team recommends that the City Council approve R22-094, A Resolution Accepting a Quitclaim Deed from Jefferson Center Metropolitan District No. 2 to the City of Arvada for Permanent Water Line Easements.

Financial Impact

There is no financial impact, the pipeline is already owned and maintained by the City.

Background

The easement is for a pipeline between the Ranson and Canyon Pines pump station sites. As part of the work to design and construct the Canyon Pines pump station, the Arvada team discovered the easement had not been conveyed to the City after construction by the Jefferson Center Metropolitan District. This resolution provides for the transfer of ownership of the easement through acceptance of a quitclaim deed.

Discussion

Developers routinely build pipelines that are conveyed to the City. The ownership of these pipelines is transferred to the City after the warranty period. The pipelines are typically in the right of way. Where pipelines are not in the right of way, the developer is responsible for obtaining the appropriate easements and conveying the easement to the City. In this case, the ownership of the easement did not get transferred at the end of the warranty period. The metro district is transferring ownership of the easement to the City.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

This action aligns with the Priority Area of the City Council Strategic Plan. Specifically, the recommended actions supports the following Principle within the Infrastructure Priority Area: Provides the community with a safe, reliable, high-quality water supply, drainage system, and wastewater disposal services for full city build-out, as defined by the Comprehensive Plan.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends that the City Council approve R22-094, A Resolution Accepting a Quitclaim Deed from Jefferson Center Metropolitan District No. 2 to the City of Arvada for Permanent Water Line Easements.

Suggested Motion:

I move that R22-094, A Resolution Accepting a Quitclaim Deed from Jefferson Center Metropolitan District No. 2 to the City of Arvada for Permanent Water Line Easements, be (approved) (rejected).

Prepared by:
Tammy Hedlund, Legal Specialist

Reviewed by:

Approved by:

Daniel Wolff, Civil Engineer 1	10/13/2022
Mary Stahl, Senior Civil Engineer	10/13/2022
Jacqueline Rhoades, Public Works Director	10/17/2022
Bryan Archer, Director of Finance	10/18/2022
Tammy Hedlund, Legal Specialist	10/19/2022
Kelsy Sargent, Assistant City Attorney	10/19/2022
Rachel Morris, City Attorney	10/25/2022
Don Wick, Deputy City Manager	10/25/2022
Lorie Gillis, City Manager	10/25/2022

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R22-094

A RESOLUTION ACCEPTING A QUITCLAIM DEED FROM JEFFERSON CENTER
METROPOLITAN DISTRICT NO. 2 TO THE CITY OF ARVADA FOR PERMANENT
WATER LINE EASEMENTS

WHEREAS, Jefferson Center Metropolitan District No. 2 (“JCMD 2”) is the owner of two permanent water line easements; and

WHEREAS, the purpose of the permanent water line easements is for constructing, operating, maintain, repairing, and replacing an underground water line and underground electrical service line and related facilities and appurtenances; and

WHEREAS, JCMD 2 wishes to convey, and the City of Arvada wishes to acquire, the permanent water line easements in order to install a fiber connection between the pump stations and water tank for use in the Canyon Pines development.

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

Section 1. The City of Arvada hereby accepts a quitclaim deed, a copy of which is attached hereto, which conveys permanent water line easements from JCMD2 to the City of Arvada.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 7th day of November, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: _____

After recording return to:
City of Arvada
Attn: Arvada City Clerk's Office
8101 Ralston Road
Arvada, CO 80002

QUITCLAIM DEED

THIS DEED, made to be effective as of the ____ day of _____, 2022, by and between **JEFFERSON CENTER METROPOLITAN DISTRICT NO. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado, whose address is 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228 ("**Grantor**"), and the **CITY OF ARVADA**, a Colorado municipal corporation, whose address is 8101 Ralston Road, Arvada, Colorado 80001 ("**Grantee**");

WITNESS, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged, has remised, released, sold and QUITCLAIMED, and by these presents does remise, release, sell and QUITCLAIM, unto the Grantee, its successors and assigns forever, the real property, together with improvements, if any, situate, lying and being in the County of Jefferson, State of Colorado, and being more particularly described in the following easements:

See **Exhibit A** attached hereto and incorporated herein by reference

But subject to the 40 foot wide access easement set forth in the document recorded April 17, 1995 at Reception No. F0041502 of the records of the Clerk and Recorder of Jefferson County, Colorado, as noted in the Rule and Order issued by the District Court for Jefferson County, Colorado on December 19, 2008, and recorded in the real property records of Jefferson County, Colorado on December 19, 2008, at Reception Number 2008113883 (the "Rule and Order"). The terms of the easements are set forth in Exhibit E to the Rule and Order.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever of the Grantor, either in law or equity, to the only proper use, benefit and behalf of the Grantee, its successors and assigns forever.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.

JEFFERSON CENTER METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Charles Church McKay, President

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Charles Church McKay, as President of Jefferson Center Metropolitan District No. 2.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A

Permanent non-exclusive and perpetual easements for the purpose of constructing, operating, maintaining, repairing, and replacing an underground water line and underground electrical service line and related facilities and appurtenances, all over, upon, across and under the certain tracts of land situate in the County of Jefferson, State of Colorado described and depicted in Exhibit C (including Exhibit C-1 and Exhibit C-2) of that Rule and Order issued by the District Court for Jefferson County, Colorado on December 19, 2008, and recorded in the real property records of Jefferson County, Colorado on December 19, 2008, at Reception Number 2008113883; together with the rights of ingress and egress over said land(s) for the purpose of enjoying the rights, privileges, and interest herein acquired.



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
8.A.3.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: R22-095, A Resolution Establishing a Housing Advisory Committee

Report in Brief

During the May 4, 2022 Study Session, the City Council advised City staff to move forward with the creation of a Housing Advisory Committee. Bylaws for the Housing Advisory Committee are drafted and recommended for City Council approval.

The Arvada Team recommends Council approve R22-095, A Resolution Establishing a Housing Advisory Committee.

Financial Impact

No financial impact due to this resolution.

Background

On October 26, 2020 and March 22, 2021, the Arvada City Council received Workshop presentations regarding the Housing Needs Assessment conducted by Root Policy Research. The following top three housing needs were identified through the Housing Needs Assessment:

- Additional affordable rentals (or rental assistance), specifically for residents earning less than \$35,000;
- Starter homes and family homes priced near or below \$300,000; and
- Increased diversity in housing stock with a focus on “missing middle” ownership options and product types attractive to aging seniors

To assist the City with addressing the affordable housing needs in Arvada, Root Policy Research provided recommendations for policies, actions and tools the City may employ to incentivize affordable housing development and preservation. The full list of recommendations was prioritized and narrowed down to six including:

- Establish a committee to implement the City’s affordable housing action plan and support affordable housing development;
- Incorporate additional development incentives into the City’s land development code;
- Allocate publicly owned land (and/or acquire vacant or underutilized properties) for affordable and mixed income housing;
- Implement a foreclosure/eviction prevention program;
- Establish a local funding source for housing by collecting linkage fees from developers; and
- Leverage existing resources to facilitate affordable housing development

The feedback received by the City team from the Council included the consideration of development incentives within the Land Development Code to facilitate affordable housing development, allocate any available publicly owned land for affordable housing, and leverage existing resources to facilitate affordable housing development. Council members also stated that they would require additional information in order to consider the other strategies that were discussed.

On March 7, 2022, the City Council expressed interest in forming a Housing Advisory Committee. Following the Council's expression of interest, Council member Lisa Smith presented a draft Arvada Housing Committee document and asked the City Manager to proceed with next steps. On May 4, 2022, a Study Session was held with members of the City Council to review Councilmember Smith's draft document. During the Study Session, the City Council advised the City staff to move forward with the creation of a Housing Advisory Committee. Bylaws for the Housing Advisory Committee are drafted and presented for City Council approval.

Discussion

The 2020-2025 City of Arvada City Council Strategic Plan adopted a strategic result to implement a tool kit of housing mix and style plans to improve access to quality housing affordable for a broad range of income levels. One of the milestones toward meeting this strategic result is that by 12/2022, Arvada will create a Housing Advisory Committee to support the City in current/future initiatives while also educating the broader community on issues of affordable housing. Specifically, as written in the draft bylaws, the role of the Housing Advisory Committee is as follows:

1. Provide recommendations to support the City Council in setting the vision and policies to support affordable housing in Arvada.
2. To render advice and recommendations to the Arvada City Council using research-based recommendations and community feedback regarding the planning and implementation of City programs and services to preserve and increase the supply of affordable housing in the City of Arvada, to the extent such programs and services are supported by the City of Arvada City Council Strategic Plan.
3. To facilitate community education and engagement of housing initiatives, programs, strategies, developments, and potential partnerships to support Arvada's strategic plan goal of improving access to quality housing that is attainable to a broad range of income levels and meeting its diverse housing needs.

The first task of the Housing Advisory Committee will be to participate in the creation of the Arvada Affordable Housing Strategic Plan. The purpose of the Plan is to identify the City's vision and goals for affordable housing preservation and development. The Committee's participation in the creation of the Affordable Housing Strategic Plan will ensure stakeholder participation and feedback throughout the process. The Committee's involvement in the creation of the Strategic Plan will also support and enhance the City's efforts to educate the broader community on issues related to affordable housing as indicated in the strategic milestone mentioned above.

Public Contact

Posting on the City Council Agenda

Commission Recommendation

N/A

Strategic Alignment

This workshop supports the following City Council Strategic Result:

Improve access to quality housing that is affordable to a broad range of income levels and provides resources, housing, and neighborhood assistance services to Arvada residents, neighborhoods, property owners, and stakeholders.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Team recommends Council approve R22-095, A Resolution Establishing a Housing Advisory Committee.

Suggested Motion:

I move that R22-095, A Resolution Establishing a Housing Advisory Committee, be (approved) (rejected).

Prepared by:

Josie Suk, Development Systems and Administrative Manager

Reviewed by:

Approved by:

Carrie Espinosa, Manager of Housing Preservation and Resources	10/19/2022
Ryan Stachelski, Director of Community and Economic Development	10/19/2022
Gail Walker, Legal Specialist-Contracts	10/20/2022
Emily Grogg, Senior Assistant City Attorney	10/21/2022
Rachel Morris, City Attorney	10/25/2022
Linda Haley, Deputy City Manager	10/25/2022
Lorie Gillis, City Manager	10/25/2022

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R22-095

A RESOLUTION ESTABLISHING A HOUSING ADVISORY COMMITTEE

WHEREAS, the Arvada City Council's Strategic Plan seeks to implement a tool kit of housing mix and style plans to improve access to quality housing that is affordable for a broad range of income levels; and

WHEREAS, on May 4, 2022, the City Council held a study session in which it determined that a Housing Advisory Committee should be created to further the City's goal of increasing affordable housing; and

WHEREAS, pursuant to Sec. 9.1 of the Arvada City Charter, advisory boards may be created by resolution; and

WHEREAS, the City Council wishes to establish the Housing Advisory Committee to:

- a) Provide recommendations to support the City Council in setting the vision and policies to support affordable housing in Arvada;
- b) To render advice and recommendations to the Arvada City Council using research-based recommendations and community feedback regarding the planning and implementation of City programs and services to preserve and increase the supply of affordable housing in the City of Arvada, to the extent such programs and services are supported by the City of Arvada City Council Strategic Plan; and
- c) To facilitate community education and engagement of housing initiatives, programs, strategies, developments and potential partnerships to support Arvada's strategic plan goal of improving access to quality housing that is attainable to a broad range of income levels and meeting its diverse housing needs.

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

Section 1. There is hereby established the Housing Advisory Committee (the "Committee"). The purpose of the Committee shall be to: (i) provide recommendations to support City Council in setting the vision and policies to support affordable housing in Arvada; (ii) advise City Council using research-based recommendations and community feedback regarding the planning and implementation of City programs and services to preserve and increase the supply of affordable housing in Arvada, to the extent such programs and services are supported by the City of Arvada City Council Strategic Plan; and (iii) facilitate community education and engagement of housing initiatives, programs, strategies, developments, and potential partnerships to support Arvada's strategic plan goal of improving access to quality housing that is attainable to a broad range of income levels and meeting its diverse housing needs.

Section 2. The duties of the Committee are the following:

- a) Participate in the development of a Housing Strategic Plan that recommends goals, actions, and policies to inform the development and preservation of affordable housing, which will be presented to Arvada City Council for approval;
- b) Provide recommendations to Arvada City Council on matters related to innovations in housing policy and programs that are based on evidence-based studies and quantitative data;
- c) Provide recommendations to Arvada City Council on matters related to community engagement regarding affordable housing-related projects, programs, and services;
- d) Review annual progress reports from the Arvada Housing and Preservation Resources Division regarding implementation of the Housing Strategic Plan;
- e) Provide public education services to the Arvada community specifically designed to increase local knowledge and understanding about affordable housing, and barriers, and strategies to achieve Arvada City Council's strategic goals related to affordable housing;
- f) Provide recommendations to Arvada City Council that address barriers to housing and focus on equitable, energy-efficient, and high-quality housing outcomes for Arvada; and
- g) Communicate Committee recommendations on a semi-annual basis with the Arvada City Council.

Section 3. Commencing on May 1, 2023, the Committee shall consist of nine members, appointed by Arvada City Council, serving four-year terms for a maximum of two terms. The Executive Director of the Housing Authority or the Executive Director's designee shall serve as the staff liaison to the Committee. The Committee members, to the extent practicable, shall consist of representatives from the following categories:

- i. City Council Liaison
- ii. Arvada Resident Advocate for Affordable Housing
- iii. AURA Board Member
- iv. Affordable Housing Developer
- v. Arvada resident who has benefitted from human services programs or grant funding
- vi. Arvada Small Business Owner
- vii. Expert in energy efficiency, renewable energy and green building
- viii. Arvada-based Realtor
- ix. Member or Volunteer from a non-profit human services agency

Once appointed, the Committee shall vote to select a Chair and Vice-Chair.

Section 4. The *Bylaws and Rules of Procedure of the Housing Advisory Committee of the City of Arvada, Colorado* attached hereto are hereby adopted by City Council and will guide the Committee. The bylaws shall only be amended through a resolution approved by a majority vote

of City Council.

Section 5. Committee members shall serve without compensation.

Section 6. The Committee must perform its duties until the Committee is terminated by City Council. All Committee members serve at the pleasure of City Council and may be removed at any time pursuant to Sec. 2-78 of the Arvada City Code. Vacancies shall be filled by City Council.

Section 7. Committee members must abide by the code of ethics outlined in the Arvada City Code, Chapter 2, Article VIII, Division 2. Committee members must abide by all federal, state, and local laws. Committee members must adhere to Arvada's Mission, Vision, and Values. Committee members shall not discriminate on the basis of race, color, religion (creed), gender, gender identity or expression, age, national origin (ancestry), mental or physical disability, political belief or affiliation, marital status, sexual orientation, or veteran status in any of their activities or operations.

Section 8. Within 30 days of the final Committee member's appointment, the Committee shall hold an organizational meeting to review the purpose of the committee, the bylaws, set a meeting schedule, and begin the Committee's work.

Section 9. The Committee shall be advisory and shall not direct staff. The City Council retains its discretion on whether and how to implement housing policies, programs, and services.

Section 10. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 7th day of November, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

BYLAWS AND RULES OF PROCEDURE OF THE HOUSING ADVISORY COMMITTEE OF THE CITY OF ARVADA, COLORADO

ARTICLE I - NAME AND PURPOSE

Section 1. These bylaws and rules of procedure have been adopted by the Housing Advisory Committee and approved by the City Council.

Section 2. This committee shall be known as the Housing Advisory Committee of the City of Arvada (the "Committee") as established by resolution (Resolution No. RXX-XXX) of the Arvada City Council ("City Council").

Section 3. The purpose of the Committee as established by the City Council shall be as follows:

- a) Provide recommendations to support the City Council in setting the vision and policies to support affordable housing in Arvada.
- b) To render advice and recommendations to the Arvada City Council using research-based recommendations and community feedback regarding the planning and implementation of City programs and services to preserve and increase the supply of affordable housing in the City of Arvada, to the extent such programs and services are supported by City of Arvada City Council Strategic Plan.
- c) To facilitate community education and engagement of housing initiatives, programs, strategies, developments, and potential partnerships to support Arvada's strategic plan goal of improving access to quality housing that is attainable to a broad range of income levels and meeting its diverse housing needs.

Section 4. The Committee shall perform its duties until the Committee is terminated by City Council.

ARTICLE II - DUTIES

Section 1. The duties of the Committee include:

- a) Participate in the development of a Housing Strategic Plan that recommends goals, actions, and policies to inform the development and preservation of affordable housing, which will be presented to City Council for approval;
- b) Provide recommendations to Arvada City Council on matters related to innovations in housing policy and programs that are based on evidence-based studies and quantitative data;
- c) Provide recommendations to Arvada City Council on matters related to community engagement regarding affordable housing-related projects, programs, and services;

- d) Review annual progress reports from the Arvada Housing and Preservation Resources Division regarding implementation of the Housing Strategic Plan;
- e) Provide public education services to the Arvada community specifically designed to increase local knowledge and understanding about affordable housing, and barriers, and strategies to achieve City Council's strategic goals related to affordable housing;
- f) Provide recommendations to Arvada City Council that address barriers to housing and focus on equitable, energy-efficient, and high-quality housing outcomes for Arvada; and
- g) Communicate Committee recommendations on a semi-annual basis with the Arvada City Council.

ARTICLE III - MEMBERSHIP

Section 1. Eligibility of Membership

- a) The Committee shall be composed of nine regular members who shall serve without compensation. The Committee members shall be appointed and confirmed by the Arvada City Council.
- b) All Committee members must act in accordance with the city's mission, vision and values and applicable City of Arvada policies of employee conduct.
- c) Committee members shall not discriminate on the basis of race, color, religion (creed), gender, gender identity or expression, age, national origin (ancestry), mental or physical disability, political belief or affiliation, marital status, sexual orientation, or veteran status in any of its activities or operations.
- d) Committee members shall consist of a representative from the following categories:
 - i. City Council Liaison
 - ii. Arvada Resident Advocate for Affordable Housing
 - iii. AURA Board Member
 - iv. Affordable Housing Developer
 - v. Arvada resident who has benefitted from human services programs or grant funding
 - vi. Arvada Small Business Owner
 - vii. Expert in energy efficiency, renewable energy and green building
 - viii. Arvada-based Realtor
 - ix. Member or Volunteer from a non-profit human services agency

Section 2. Term of Members.

- a) The appointed Committee members shall serve four-year terms and may be appointed for no more than two terms.

Section 3. Vacancies and Removal

- a) Any Committee member may resign by giving written notice to the Chair or Co-Chair of the Committee, who shall notify the staff liaison of the resignation. Such resignation shall take effect at the time specified therein. The acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring on the Committee by resignation or removal shall be filled, if necessary, by appointment of the City Council.
- b) All members of the Committee shall serve at the pleasure of City Council and may be removed at any time pursuant to Section 2-78(b) of the Arvada City Code which states "All other members of boards, commissions, and committees, except as set forth in subsection (e) of this section, serve on such boards, commissions, and committees at the pleasure of the city council, and may be removed by a vote of the City Council at any time."

Section 4. Attendance

- a) It is the official policy and expectation of the Committee to have its members regularly attend Committee meetings. Regular attendance is vital to conduct the business of the Committee, to have a quorum of the Committee, to have informed Committee members and quality participation, and to respect the time and interest of the public.
- b) If any member of the Committee is absent from any regular meeting, such member shall give the reason for the absence to the Committee Chair and the staff liaison of the Committee. The staff liaison shall keep records of Committee member attendance and whether each absence is excused or unexcused.
- c) Any absence from a Committee meeting due to sickness of a Committee member, the death of a member of the member's family, court subpoena, or absence from the City, shall be considered an excused absence. Other absences may be deemed excused at the discretion of the Chair. All other absences shall be considered unexcused.
- d) If an appointed Committee member has more than three unexcused absences in a calendar year, such Committee member may be excused from the Committee by the Chair. A replacement representative will be appointed by the City Council as appropriate to fill the Committee member's position.

Section 5. Conflicts of Interest

- a) Participation and voting in Committee business by members of the Committee shall be subject to the requirements and limitations of the City's Code of Ethics, in accordance with the Arvada City Code, Chapter 2, Article VIII, Division 2.

ARTICLE IV - MEETINGS

Section 1. A regular quarterly meeting of the Committee shall be held at a regularly scheduled date and time at a site designated by affirmative vote of the Committee and posted on the Division of Housing Preservation and Resources website. The agenda of such meeting shall be sent via email to all Committee members and posted on the Division of Housing Preservations and Resources website at least 24 hours prior to the date of each meeting.

The Chair, absent objection by any member, may cancel meetings for cause, including absence of a quorum, lack of business to conduct or other unforeseeable circumstances. Notice of such cancellation shall be given to the Committee members at least twenty-four hours in advance of the time of the meeting, if possible.

Section 2. The Chair of the Committee will preside over Committee meetings, and will be voted into this position every year by the other Committee members.

Section 3. Special meetings of the Committee may be held at any time. A call for such meetings shall be issued by the Chair or by the written request of not less than 5 members of the Committee for the purpose of transacting business specifically stated in such call. The notice of the special meeting may be issued by email, by telephone or by mail; but in any event, the purpose of the special meeting shall be stated to each member. No business other than that set forth in the call for the special meeting shall be transacted at the special meeting. A special meeting must be called at least 48 hours prior to the holding of the special meeting.

Section 4. The meetings are open to the public and the committee may invite any director, officer, employee, outside advisor or other individual who is not a Committee member to attend Committee meetings or meet with Committee members, but such persons will not have voting power and will not be held out as Committee members.

Section 5. Committee approvals will require a vote of a majority of the Committee members present at a meeting at which a quorum is present. A quorum for the transaction of business shall consist of 7 Committee members. It shall be the responsibility of the staff liaison, or in the staff liaison's absence the Chair, to determine whether there is a quorum at each meeting. A representative attending a meeting on a Committee member's behalf shall not count towards a quorum. No official action may be taken by the Committee unless a quorum is present. However, if a quorum is not present, the meeting may still be conducted for the purposes of status reporting and discussion of items.

Section 6. The Chair, Vice Chair, or staff liaison shall establish the agenda for each meeting.

Section 7. Any Board member who has a personal or financial interest in any matter before the Board shall disqualify themselves from the consideration of, discussion of, or voting upon such matter. Any such disqualification shall be noted in the official Minutes of the meeting.

ARTICLE V - OFFICERS

Section 1. Positions include: Chair, Vice-Chair, and regular committee members. At the first regular meeting after May 1st each year, a Chair and Vice-Chair shall be elected by majority vote of the Committee. That meeting shall be designated as the Committee's annual meeting.

Section 2. The Chair shall preside at all meetings of the Board. In the event of the absence of the Chair, the Vice-Chair shall preside.

Section 3. A vacancy in the office of Chair shall be filled automatically by the Vice-Chair, and a new Vice-Chair shall be elected at the next regular meeting of the Committee from among the regular members. A vacancy in the office of Vice-Chair shall be filled at the next regular meeting of the Committee by election from among the regular members. The officers so elected shall serve until the next annual meeting.

Section 4. The Executive Director of the Housing Authority or the Executive Director's designee shall be the Committee's staff liaison. The staff liaison shall keep the minutes of each Committee meeting, shall conduct all official correspondence with the City Manager and City Council, and will generally supervise the clerical and technical work of the Committee. Meeting minutes will be sent to the City Manager, City Council, and Department Director following each Committee meeting.

ARTICLE VI - PARLIAMENTARY PROCEDURES

Section 1. Questions of parliamentary procedure not covered by these Bylaws shall be governed by Roberts Rules of Order, Revised Edition.

ARTICLE VII - AMENDMENTS

Section 1. These bylaws may only be amended or modified through a resolution approved by a majority vote of the Arvada City Council.



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
8.A.4.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: R22-096, A Resolution Approving an Agreement By and Between the City Of Arvada and Davis Block, LLC. For The Grant of a Revocable Encroachment License to Accommodate a Landing Pad for a Pedestrian Entrance within Public Right Of Way At 5616 Olde Wadsworth Boulevard

Report in Brief

Mangiami is combining two tenant spaces within the Davis Block building for a new restaurant in Olde Town Arvada. The revocable license would allow them to construct an additional 4 inches onto a landing pad on the southern-most pedestrian entrance in order to adhere to the current, adopted building and fire codes.

The Arvada team recommends that the City Council approve R22-096, A Resolution Approving an Agreement By and Between the City Of Arvada and Davis Block, LLC. For The Grant of a Revocable Encroachment License to Accommodate a Landing Pad for a Pedestrian Entrance within Public Right Of Way At 5616 Olde Wadsworth Boulevard.

Financial Impact

There is no financial impact associated with this request.

Background

Mangiami is combining two tenant spaces within the Davis Block building for a new restaurant in Olde Town Arvada. The combining of these spaces has increased their occupancy load and now must meet the requirements in the International Building and Fire Code adopted by the City of Arvada standards for fire safety egress. This fire exit is required to have a 44 inch landing pad outside for safe egress. On the southern-most door there is an existing 40 inch landing pad, requiring them to add 4 inches to adhere to the codes. This landing pad will be encroaching onto the sidewalk in Olde Town, allowing a safe egress in case of an emergency.

Discussion

Staff has worked with the applicant to reduce the amount of impact on the public right-of-way to the best degree possible and believes that the additional 4 inches of encroachment is the least encroachment necessary to adhere to the regulations.

Public Contact

NA

Commission Recommendation

NA

Strategic Alignment

This project aligns with the Community and Economic Development strategic goals.

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Alternative Courses of Action

NA

Recommendation for Action

The Arvada team recommends that the City Council approve R22-096, A Resolution Approving an Agreement By and Between the City Of Arvada and Davis Block, LLC. For The Grant of a Revocable Encroachment License to Accommodate a Landing Pad for a Pedestrian Entrance within Public Right Of Way At 5616 Olde Wadsworth Boulevard

Suggested Motion:

I move that R22-096, A Resolution Approving an Agreement By and Between the City Of Arvada and Davis Block, LLC. For The Grant of a Revocable Encroachment License to Accommodate a Landing Pad for a Pedestrian Entrance within Public Right Of Way At 5616 Olde Wadsworth Boulevard, be (approved) (rejected).

Prepared by:

Josie Suk, Development Systems and Administrative Manager

Reviewed by:

Approved by:

Jeremiah Bebo, Planner II	10/18/2022
Josie Suk, Development Systems and Administrative Manager	10/18/2022
Robert Smetana, Manager of City Planning and Development	10/19/2022
Ryan Stachelski, Director of Community and Economic Development	10/20/2022
Gail Walker, Legal Specialist-Contracts	10/20/2022
Emily Grogg, Senior Assistant City Attorney	10/21/2022
Linda Haley, Deputy City Manager	10/21/2022
Rachel Morris, City Attorney	10/25/2022
Lorie Gillis, City Manager	10/25/2022

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R22-096

A RESOLUTION APPROVING AN AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND DAVIS BLOCK, LLC. FOR THE GRANT OF A REVOCABLE ENCROACHMENT LICENSE TO ACCOMMODATE A LANDING PAD FOR A PEDESTRIAN ENTRANCE WITHIN PUBLIC RIGHT OF WAY AT 5616 OLDE WADSWORTH BOULEVARD

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, in form approved by the City Attorney, a License Agreement, which is in substantially the same form as that attached hereto, by and between the City of Arvada and Davis Block, LLC.

Section 2. The City of Arvada hereby accepts a revocable encroachment license to accommodate a landing pad for a pedestrian entrance within public right of way at 5616 Olde Wadsworth Boulevard.

Section 3. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 7th day of November, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

**AN AGREEMENT BY AND BETWEEN THE CITY OF ARVADA
AND DAVIS BLOCK, LLC. FOR THE GRANT OF A REVOCABLE
ENCROACHMENT LICENSE TO ACCOMMODATE A LANDING PAD FOR A
PEDESTRIAN ENTRANCE WITHIN PUBLIC RIGHT OF WAY**

1.0 **PARTIES.** The parties to this Agreement are the City of Arvada, a Colorado municipal corporation ("Arvada") at 8101 Ralston Road, Arvada, Colorado 80002 and Davis Block LLC, a Colorado limited liability company ("Licensee") at 5616 Olde Wadsworth Boulevard, Arvada, Colorado 80002.

2.0 **RECITALS AND PURPOSE.**

2.1 Licensee is the owner of property addressed as 5616 Olde Wadsworth Boulevard in the City of Arvada, as more particularly described in Exhibit A, attached and incorporated herein ("Licensee's Property").

2.2 Arvada is the owner of properties, or some interest in properties, located adjacent to Licensee's Property and described as Olde Wadsworth Boulevard, specifically at 5614, such properties or interests in properties are referred to herein as "Arvada's Property."

2.3 The Licensee has expressed a desire for Arvada to recognize, accommodate and permit certain minor encroachments upon a specific and limited portion of Arvada's Property; to wit, a landing pad as described in Exhibit A.

2.4 Arvada is willing to grant an encroachment license to the Licensee under the terms and conditions as hereinafter specified in this Agreement.

3.0 **TERMS AND CONDITIONS.** In consideration of Arvada's agreement to permit the Licensee to encroach upon Arvada's Property, and in consideration of the mutual promises and covenants contained herein, the sufficiency and adequacy of consideration being acknowledged by the parties, Arvada and Licensee agree as follows:

3.1 Arvada hereby grants to the Licensee a License for the encroachments as described above, with such limitations as are set forth herein, including, but not limited to:

3.1.1 Any improvements allowed by this Agreement to be kept upon Arvada's Property shall be so kept at Licensee's sole expense and Licensee agrees to maintain any such improvement in good repair during the period of this License.

3.1.2 Licensee understands and agrees that Arvada shall not be liable or responsible for any costs related to any damage, maintenance, repair, or removal of any structures kept upon Arvada's Property pursuant to this Agreement.

3.2 The license as granted in paragraph 3.1 above shall continue from the date of this Agreement to the time that this Agreement is terminated. Arvada may terminate

this License at any time by giving written notice to the Licensee ten (10) days in advance of the effective date of termination and specifying the date of termination therein and, in the event this License is terminated as to such encroachments, Licensee expressly agrees to remove such from Arvada's Property and to return Arvada's Property to as close to its original condition as reasonably possible, within ten (10) days of said date of termination.

3.3 Licensee expressly agrees to indemnify and hold harmless Arvada and any of its officers or employees from any and all claims, damages, liability, or court awards, including costs and attorney's fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone, including, but not limited to, any person, firm, partnership, or corporation, in connection with, arising out of, or related to the issuance of this License or any omission or act of commission by Licensee or any of its employees, agents, representatives, or contractors in encroaching upon Arvada's Property.

3.4 Licensee agrees that it will never institute any action or suit at law or in equity against Arvada or any of its officers or employees, nor institute, prosecute, or in any way aid in the institution or prosecution of any claim, demand, or compensation for or on account of any damages, loss, or injury either to person or property, or both, known or unknown, past, present, or future, arising from the license granted to Licensee herein.

3.5 Licensee agrees to provide, secure, and maintain at all times during the term of this License commercial general liability insurance of at least \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000, naming Arvada as an additional insured on the policy. Failure to maintain sufficient insurance shall not terminate, modify, preclude or limit the obligations of Licensee under this License or limit in any way Licensee's liability to or indemnification of Arvada for any reason. Arvada does not waive, nor shall anything herein be construed as a waiver of, any of the rights, privileges, or immunities granted to it under the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S., as amended.

3.6 Licensee agrees to repair and reconstruct any damage to Arvada's Property prior to or immediately upon termination of this Agreement for any reason and return Arvada's Property to its original condition at the expense of Licensee and at no expense to Arvada.

4.0 **ASSIGNMENT.** Except as may be the legal consequence, pursuant to paragraph 10 hereof, of a conveyance of Licensee's Property, this Agreement shall not be assigned by Licensee without the prior written consent of Arvada which may withhold its consent for any reason.

5.0 **NOTICES.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if personally served or if sent by facsimile transmission or by U.S. mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as have been previously furnished in writing, to the other party and parties. Notice shall be deemed to have been given when deposited in the United States mail.

6.0 **EXHIBITS.** All exhibits, if any, referred to in this Agreement are, by reference, incorporated herein for all purposes.

7.0 **INTEGRATION AND AMENDMENT.** This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

8.0 **GOVERNING LAW AND VENUE.** This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising under this Agreement or for the enforcement of this Agreement shall be in the appropriate court for Jefferson County, Colorado.

9.0 **WAIVER OF BREACH.** A waiver by any party of this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of either party.

10.0 **BINDING EFFECT.** This Agreement shall inure to the benefit of, and be binding upon, the parties, their respective legal representatives, successors, heirs, and assigns and shall constitute covenants running with Licensee's Property. Either party may record this Agreement with the Clerk and Recorder's Office of Jefferson County, Colorado.

11.0 **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 Arvada and the Licensee, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of Arvada and the Licensee that any person other than Arvada or the Licensee receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

DATED this _____ day of _____, 2022.

CITY OF ARVADA, a Colorado municipal corporation

Marc Williams, Mayor
8101 Ralston Road
Arvada, CO 80002

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

LICENSEE:
Davis Block, LLC.

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by NAME _____ of Davis Block, LLC., in its capacity as TITLE _____ of Davis Block, LLC., a Colorado limited liability company.

Witness my hand and official seal.

Notary Public

My commission expires: _____

EXHIBIT A
AN AGREEMENT BY AND BETWEEN THE CITY OF ARVADA
AND DAVIS BLOCK, LLC. FOR THE GRANT OF A REVOCABLE
ENCROACHMENT LICENSE TO ACCOMMODATE A LANDING PAD FOR A
PEDESTRIAN ENTRANCE WITHIN PUBLIC RIGHT OF WAY

BUILDING CODE SUMMARY
FOR ALL COMMERCIAL PROJECTS
(Provides the following data of the building project 1-2
EXCEPT 1 AND 2 FAMILY DWELLINGS AND TOWNHOUSES)

Name of Project: Mangami
Address: 5614 Old Wadsworth Blvd, Arvada, CO 80002
Proposed Use: Commercial
Owner or authorized agent: City/County Private State
Code Enforcement Jurisdiction: City Denver, CO County JEFFERSON COUNTY BUILDING DEPARTMENT

LEAD DESIGN PROFESSIONAL
DESIGNER: firm name: license # telephone #
Architectural: Colorado Structural Consultants Arvada, CO PE # 502011 (720) 939-3405
Electrical: fire alarm: plumbing: mechanical: sprinkler standpipes: structural: California Structural Consultants Arvada, CO PE # 502011 (720) 939-3405
retaining walls >5' high: other:

year edition of code: INTERNATIONAL BUILDING CODE 2018 & ARVADA AMENDMENTS
NEW CONSTRUCTION RENOVATION (EXISTING BLDG) UPFIT ALTERATION

BUILDING DATA
Construction Type: I-A I-B I-C I-D I-E I-F I-G I-H I-I I-J I-K I-L I-M I-N I-O I-P I-Q I-R I-S I-T I-U I-V I-W I-X I-Y I-Z
SPRINKLERS: NO YES NFPA 13 NFPA 13R NFPA 13D
STANDPIPE: NO YES CLASS I II III WET DRY
FIRE DISTRICT: NO YES
BUILDING HEIGHT: FEET (EXISTING) NUMBER OF STORIES UNLIMITED PER N/A
MEZZANINE: NO YES CENTRAL REFERENCE SHEET # (IF PROVIDED)
HIGH RISE: NO YES
GROSS BUILDING AREA:
FLOOR EXISTING (SQ FT) UPFIT (SQ FT) SUB-TOTAL

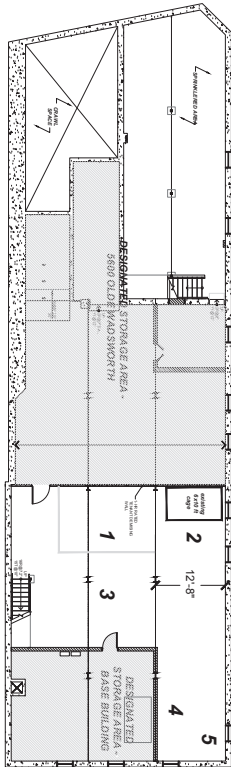
1st Floor
2nd Floor
TOTAL

ALLOWABLE AREA
PRIMARY OCCUPANCY: ASSEMBLY A-1 A-2 A-3 A-4 A-5
BUSINESS B-1 B-2 B-3 B-4 B-5
RE-HAZARDOUS C-1 C-2 C-3 C-4 C-5
INSTITUTIONAL I-1 I-2 I-3 I-4 I-5
USE CONDITION: 1 2 3 4 5
MERCANTILE M-1 M-2 M-3 M-4 M-5
STORAGE S-1 S-2 S-3 S-4 S-5
UTILITY AND MISCELLANEOUS U-1 U-2 U-3 U-4 U-5
SECONDARY OCCUPANCY: PARKING GARAGE OPEN ENCLOSED REPAIR

SPECIAL OCCUPANCY: N/A NO YES SEPARATION: HR. EXCEPTION:
MIXED OCCUPANCY: N/A NO YES
Non-Separated Mixed Occupancy (503.1.1 Exception):
The required type of construction for the building shall be determined by applying the height and area limitations for each of the applicable occupancies to the entire building. The most restrictive type of construction as determined, shall apply to the entire building.

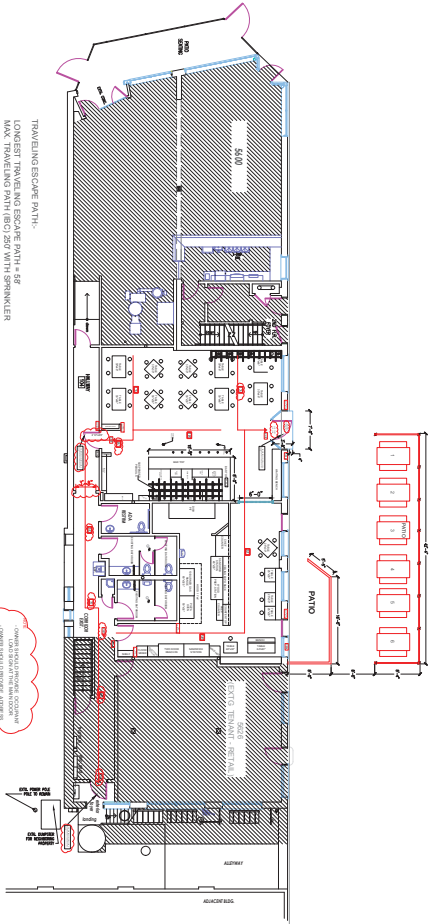
Separated Mixed Occupancy (503.1.1.1 Exception):
For each story, the area of the occupancy shall be such that the ratio of the ratio of the actual floor area of each use divided by the allowable floor area for each use, shall not exceed 1.
Actual Area of Occupancy A + Actual Area of Occupancy B
Allowable Area of Occupancy A Allowable Area of Occupancy B ≤ 1
1000 1000 = 0.28 ≤ 1.00

- Open space area, increase from Section 506.2 are computed thus:
A. Perimeter which forms a public way or open space having 20 feet minimum width = (P) _____
B. Total Building Perimeter = 283 _____
C. Ratio (F/P) = _____
D. (Minimum width of public way = 30 _____)
E. Percent of footage increase = $1 + 100(F/P - 0.25) / (100 - 75) = 75\%$ (%)
- The sprinkler increase per Section 506.3 is as follows:
Multi-story building: +200 percent
Single story building: +300 percent
- Unlimited area applicable under conditions of Sections: Group B, B-1, B-2, B-3, B-4, B-5, B-6, B-7, B-8, B-9, B-10, B-11, B-12, B-13, B-14, B-15, B-16, B-17, B-18, B-19, B-20, B-21, B-22, B-23, B-24, B-25, B-26, B-27, B-28, B-29, B-30, B-31, B-32, B-33, B-34, B-35, B-36, B-37, B-38, B-39, B-40, B-41, B-42, B-43, B-44, B-45, B-46, B-47, B-48, B-49, B-50, B-51, B-52, B-53, B-54, B-55, B-56, B-57, B-58, B-59, B-60, B-61, B-62, B-63, B-64, B-65, B-66, B-67, B-68, B-69, B-70, B-71, B-72, B-73, B-74, B-75, B-76, B-77, B-78, B-79, B-80, B-81, B-82, B-83, B-84, B-85, B-86, B-87, B-88, B-89, B-90, B-91, B-92, B-93, B-94, B-95, B-96, B-97, B-98, B-99, B-100, B-101, B-102, B-103, B-104, B-105, B-106, B-107, B-108, B-109, B-110, B-111, B-112, B-113, B-114, B-115, B-116, B-117, B-118, B-119, B-120, B-121, B-122, B-123, B-124, B-125, B-126, B-127, B-128, B-129, B-130, B-131, B-132, B-133, B-134, B-135, B-136, B-137, B-138, B-139, B-140, B-141, B-142, B-143, B-144, B-145, B-146, B-147, B-148, 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EXISTING BASEMENT PLAN
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REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
8.B.1.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: R22-097, A Resolution Authorizing the First Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$200,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Ward Road

Report in Brief

Council action is requested on the attached Resolution Authorizing the First Amendment to the Intergovernmental Agreement (IGA) by and between the Urban Drainage and Flood Control District d/b/a Mile High Flood District and the City of Arvada Regarding Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Ward Road as shown on Exhibit A of the attached Intergovernmental Agreement.

The Arvada team recommends that the City Council approve R22-097, A Resolution Authorizing the First Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$200,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Ward Road.

Financial Impact

Financial Impact: \$100,000.00

This is a one-time request in 2022 for Project Design, Right-of-Way Acquisition, and Construction.

Funding Source: *UT Storm System Maintenance and Flood Hazard Mitigation Fund*

Type: *CIP*

Fund: *Stormwater Fund, Project No. 99083*

Future associated costs requiring Council action. *Unknown at this time.*

Background

The Urban Drainage and Flood Control District d/b/a Mile High Flood District (MHFD) has requested City participation in a jointly funded capital improvement project to construct channel and bridge improvements as well as vegetation clearing along Ralston Creek at Ward Road. This reach of Ralston Creek experienced flooding as a result of the 2013 event and was identified as a flood mitigation project in the preferred alternative analysis of the 2018 US Army Corps of Engineer's Study of Ralston Creek. These funds will be used to reduce flood risk to residential properties and City infrastructure within the Ralston Creek floodplain.

The IGA outlines the funding participation of each agency for the estimated \$1,500,000 cost to design and construct the improvements, whereas \$1,300,000 has already been contributed in total by both parties. Of the \$200,000 additional funds

SUBJECT: R22-097, A Resolution Authorizing the First Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$200,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Ward Road

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requested, MHFD pays for \$100,000 of the additional cost of this project and Arvada's share is \$100,000. MHFD will manage the contract for this project so Arvada's cost share will be paid into an MHFD escrow account.

Discussion

The purpose of this project is to construct bridge widening and channel improvements along Ralston Creek at Ward Road. The City of Arvada and MHFD plan to partner on this joint effort to widen or replace the Ward Road Bridge and increase flood conveyance and capacity. Unnecessary vegetation constricting the channel's conveyance capacity, thereby increasing flood risk, will also be cleared. These improvements should shrink the regulatory floodplain footprint and effectively remove residential properties from the regulatory floodplain limits.

Public Contact

Posting of the City Council agenda

Commission Recommendation

N/A

Strategic Alignment

The proposed action supports the Infrastructure Strategic Result #3, update the water, sewer, stormwater, and overall infrastructure master plan, within the Infrastructure Priority Area of the City Council Strategic Plan.

This action also supports the principle for providing the community with a safe and reliable drainage system and aligns with the Infrastructure Priority Area of the City Council Strategic Plan. Being proactive to install flood protection measures in our major drainageways is an expectation and responsibility to our stormwater fee payers.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Staff recommends that the City Council approve R22-097, A Resolution Authorizing the First Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$200,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Ward Road.

Suggested Motion:

I move that R22-097, A Resolution Authorizing the First Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$200,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Ward Road, be (approved) (rejected).

Prepared by:
Melanie Walter, Engineering Manager

Reviewed by:

SUBJECT: R22-097, A Resolution Authorizing the First Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$200,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Ward Road

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ITEM: 8.B.1.

Approved by:

Jacqueline Rhoades, Public Works Director	10/17/2022
Bryan Archer, Director of Finance	10/18/2022
Tammy Hedlund, Legal Specialist	10/19/2022
Kelsy Sargent, Assistant City Attorney	10/19/2022
Rachel Morris, City Attorney	10/25/2022
Don Wick, Deputy City Manager	10/25/2022
Lorie Gillis, City Manager	10/25/2022

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R22-097

A RESOLUTION AUTHORIZING THE FIRST AMENDMENT BY AND BETWEEN THE CITY OF ARVADA AND URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT IN THE AMOUNT OF \$200,000.00 FOR FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR RALSTON CREEK AT WARD ROAD

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, in form approved by the City Attorney, a Construction Contract Agreement, which is in substantially the same form as that attached hereto, by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$200,000.00 for design, right of way acquisition and construction of drainage and flood control improvements for Ralston Creek at Ward Road.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 7th day of November, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

FIRST AMENDMENT TO
AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
RALSTON CREEK AT WARD ROAD
CITY OF ARVADA

Agreement No. 21-09.27A
Project No. 108714

THIS FIRST AMENDMENT TO AGREEMENT (hereinafter called "FIRST AMENDMENT"), by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT (hereinafter called "DISTRICT") and CITY OF ARVADA (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Ralston Creek at Ward Road, City of Arvada" (Agreement No. 21-09.27) dated November 24, 2021, (hereinafter called "AGREEMENT"); and

WHEREAS, PARTIES now desire to proceed with the design, right-of-way acquisition and construction of drainage and flood control improvements for Ralston Creek at Ward Road (hereinafter called "PROJECT"); and

WHEREAS, PARTIES desire to increase the level of funding by \$200,000; and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 75, Series of 2022); and

WHEREAS, the City Council of City and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

- A. PARTIES agree that for the purposes of this AGREEMENT, PROJECT costs shall consist of and be limited to the following:

1. Final design services;
 2. Delineation, description and acquisition of required rights-of-way/ easements;
 3. Construction of improvements;
 4. Contingencies mutually agreeable to PARTIES.

- B. It is understood that PROJECT costs as defined above are not to exceed \$1,500,000 without amendment to this AGREEMENT.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AS AMENDED</u>	<u>ORIGINAL</u>
1. Final Design	\$ 400,000	\$ 200,000
2. Right-of-way	\$ 100,000	\$ 100,000
3. Construction	\$ 900,000	\$ 900,000
4. Contingency	\$ 100,000	\$ 100,000
Grand Total	\$ 1,500,000	\$ 1,300,000

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this AGREEMENT provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	50%	\$650,000	\$100,000	\$750,000
COUNTY	50%	\$650,000	\$100,000	\$750,000
TOTAL	100.00%	\$1,300,000	\$200,000	\$1,500,000

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior DISTRICT approval. Payment of each PARTY's full share (COUNTY - \$750,000; DISTRICT - \$750,000) shall be made to DISTRICT subsequent to execution of this AGREEMENT and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to COUNTY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares; or at COUNTY request, COUNTY share of remaining monies shall be transferred to another special fund held by DISTRICT.

3. All other terms and conditions of this AGREEMENT shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this FIRST AMENDMENT to be executed by properly authorized signatories as of the date and year written below.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT D/B/A
MILE HIGH FLOOD DISTRICT

By_____

Name Laura A. Kroeger

Title Executive Director

Date_____

Checked By

CITY OF ARVADA

By_____

Name Marc Williams

Title Mayor

Attest: By_____

City Clerk

(SEAL)

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
8.B.2.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: R22-098, A Resolution Authorizing the Second Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$450,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Croke Canal

Report in Brief

Council action is requested on the attached Resolution Authorizing the Second Amendment to the Intergovernmental Agreement (IGA) between the Urban Drainage and Flood Control District d/b/a Mile High Flood District (MHFD) and the City of Arvada Regarding Funding of Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Croke Canal as shown on Exhibit A of the attached Intergovernmental Agreement.

The Arvada team recommends that the City Council approve R22-098, A Resolution Authorizing the Second Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$450,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Croke Canal.

Financial Impact

Financial Impact: \$225,000.00

This is a one-time 2022 request for Project Design, Right-of-Way Acquisition, and Construction.

Funding Source: *UT Storm System Maintenance and Flood Hazard Mitigation Fund*

Type: *CIP*

Fund: *Stormwater Fund, Project No. 99072*

Future associated costs requiring Council action. *Unknown at this time*

Background

MHFD has requested City participation in a jointly funded capital improvement project to address flooding issues along Ralston Creek at the crossing of Ralston Creek and the Croke Canal. In 2013, flood flows from Ralston Creek entered the Croke Canal at this location. Irrigation canals are not designed to convey flood events and, therefore, it is critical to keep these flows from the irrigation canal. This will help protect downstream properties from being flooded due to the Croke Canal overtopping and/or breaks in the canal embankment. This IGA outlines the funding participation of each agency for the estimated \$2,250,000 cost to design and construct the improvements, of which \$1,800,000 has been contributed in total by both parties to date. Of the additional \$450,000, MHFD will contribute \$225,000 and Arvada will contribute \$225,000.

Discussion

SUBJECT: R22-098, A Resolution Authorizing the Second Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$450,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Croke Canal

PAGE: 2
ITEM: 8.B.2.

The purpose of this project is to collect and direct flood flows in Ralston Creek upstream of the Croke Canal to an existing crossing structure at Ralston Creek and the Croke Canal crossing. This project will help prevent flood flows from entering the Croke irrigation canal and therefore help downstream Arvada properties from being flooded due to the irrigation canal overtopping. The West Woods Development completed their responsibility 25 years ago by constructing the initial structure, but the collection and diversion facilities at the northwest corner of the structure were never designed or constructed.

Public Contact

Posting of City Council Agenda

Commission Recommendation

N/A

Strategic Alignment

The proposed action supports the Infrastructure Strategic Result #3, update the water, sewer, stormwater, and overall infrastructure master plan, within the Infrastructure Priority Area of the City Council Strategic Plan.

This action also supports the principle for providing the community with a safe and reliable drainage system and aligns with the Infrastructure Priority Area of the City Council Strategic Plan. Being proactive to install flood protection measures in our major drainageways is an expectation and responsibility to our stormwater fee payers.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Staff recommends that the City Council approve R22-098, A Resolution Authorizing the Second Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$450,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Croke Canal.

Suggested Motion:

I move that R22-098, A Resolution Authorizing the Second Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$450,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Croke Canal, be (approved) (rejected).

Prepared by:
Melanie Walter, Engineering Manager

Reviewed by:

Approved by:

SUBJECT: R22-098, A Resolution Authorizing the Second Amendment by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$450,000.00 for Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Ralston Creek at Croke Canal

PAGE: 3
ITEM: 8.B.2.

Jacqueline Rhoades, Public Works Director	10/17/2022
Bryan Archer, Director of Finance	10/18/2022
Tammy Hedlund, Legal Specialist	10/19/2022
Kelsy Sargent, Assistant City Attorney	10/19/2022
Rachel Morris, City Attorney	10/25/2022
Don Wick, Deputy City Manager	10/25/2022
Lorie Gillis, City Manager	10/25/2022

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R22-098

A RESOLUTION AUTHORIZING THE SECOND AMENDMENT BY AND BETWEEN THE CITY OF ARVADA AND URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT IN THE AMOUNT OF \$450,000.00 FOR FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR RALSTON CREEK AT CROKE CANAL

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, in form approved by the City Attorney, a Construction Contract Agreement, which is in substantially the same form as that attached hereto, by and between the City of Arvada and Urban Drainage and Flood Control District d/b/a Mile High Flood District in the amount of \$450,000.00 for design, right of way acquisition and construction of drainage and flood control improvements for Ralston Creek at Croke Canal.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 7th day of November, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

SECOND AMENDMENT TO
AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
RALSTON CREEK AT CROKE CANAL

Agreement No. 20-06.07B
Project No. 107834

THIS SECOND AMENDMENT TO AGREEMENT (hereinafter called "SECOND AMENDMENT"), by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT (hereinafter called "DISTRICT") and CITY OF ARVADA (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Ralston Creek at Croke Canal" (Agreement No. 20-06.07) dated August 24th, 2020, (hereinafter called "AGREEMENT"); and a "First Amendment to Agreement" (Agreement No. 20-06.07A) dated May 18th, 2021 (hereinafter called "FIRST AMENDMENT").

WHEREAS, PARTIES now desire to construct drainageway and flood control improvements for Ralston Creek at Croke Canal (hereinafter called "PROJECT"); and

WHEREAS, PARTIES desire to increase the level of funding by \$450,000; and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 74, Series of 2022); and

WHEREAS, the City Council of CITY and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

- A. PARTIES agree that for the purposes of this AGREEMENT, PROJECT costs shall consist of and be limited to the following:

1. Final design services;
2. Delineation, description and acquisition of required rights-of-way/ easements;
3. Construction of improvements;
4. Contingencies mutually agreeable to PARTIES.

- B. It is understood that PROJECT costs as defined above are not to exceed \$2,250,000 without amendment to this AGREEMENT.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AS AMENDED</u>	<u>PREVIOUSLY AMENDED</u>
1. Final Design	\$ 250,000	\$ 250,000
2. Right-of-way	\$ 100,000	\$ 100,000
3. Construction	\$ 1,750,000	\$ 1,300,000
4. Contingency	\$ 150,000	\$ 150,000
Grand Total	\$ 2,250,000	\$ 1,800,000

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this AGREEMENT provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	50%	\$900,000	\$225,000	\$1,125,000
CITY	50%	\$900,000	\$225,000	\$1,125,000
TOTAL	100.00%	\$1,800,000	\$450,000	\$2,250,000

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior DISTRICT approval.

Payment of each PARTY's full share (CITY - \$1,125,000; DISTRICT - \$1,125,000) shall be made to DISTRICT subsequent to execution of this AGREEMENT and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to CITY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares; or at CITY

request, CITY share of remaining monies shall be transferred to another special fund held by DISTRICT.

3. All other terms and conditions of this AGREEMENT shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this SECOND AMENDMENT to be executed by properly authorized signatories as of the date and year written below.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT D/B/A
MILE HIGH FLOOD DISTRICT

By_____

Name Laura A. Kroeger

Title Executive Director

Date_____

Checked By

CITY OF ARVADA

By_____

Name Marc Williams

Title Mayor

Attest: By_____

City Clerk

(SEAL)

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
8.B.3.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: R22-099, A Resolution Authorizing a Waiver and Reduction of a Portion of the Water Tap Fee for the Cottages at Ralston Fields Development

Report in Brief

The Cottages at Ralston Fields is a proposed residential development at the Northeast corner of West 58th Avenue and Miller Street. The development is a unique residential project that includes townhomes, duplexes, and single-family residences arranged around four courtyards with the majority of parking provided in a surface lot around the perimeter of the property. Specifically, the development consists of 24 single-family units, 16 duplex units, and 24 townhome units. The size of these units range from 870 to 1,170 square feet. Under the current code, the development would be assessed tap fees based on multifamily, duplex, and single-family unit costs. Given that townhomes are treated as multifamily for the purpose of assessing tap fees, the project would result in 24 multifamily tap fees, 24 single-family tap fees, and 16 duplex tap fees. Based on the size of the units and the density of the project, the developer has requested that all 64 units within the development be treated as multifamily for the purpose of assessing water tap fees.

Under Section 102-162 of Article II of Chapter 102 of the Arvada City Code permits City Council to waive or reduce water tap fees upon a finding and determination by the City Council that such a waiver or reduction is in the best interest of the City.

The Arvada Team recommends City Council approve R22-099, A Resolution Authorizing a Waiver and Reduction of a Portion of the Water Tap Fee for the Cottages at Ralston Fields Development.

Financial Impact

Assigning multi-family water tap fees to single family and duplex units for this unique project will result in a reduction of revenue, estimated in the range of \$315,480 to \$617,600.

Background

The Cottages at Ralston Fields Preliminary Development Plan ("PDP") was unanimously approved by City Council on July 6, 2020, under case no. DA2019-0134.

Discussion

The typical single-family home is 2,500 to 3,000 square feet in size, with a 550 to 700 square-foot garage, and is situated on a 5,000 to 7,000 square-foot lot. The typical duplex unit is 1,500 to 2,000 square feet in size, with a 400 to 550 square-foot garage, and is located on lots between 2,500 to 5,000 square feet in size. The typical density of a single-family development is four to six dwelling units per acre and the typical density of a duplex development is six to thirteen dwelling units per acre.

The single-family homes proposed for Cottages at Ralston Fields are 870 to 878 square feet in size, with no garage, and are located on 800 to 875 square-foot lots. The duplexes are 883 to 1,170 square feet in size, with no garage, and are located on 775 to 975 square-foot lots. The single-family homes and duplexes will utilize the surface parking lot located around the perimeter of the property. The density of the project is 26.6 dwelling units per acre and the average land area per unit is 1,637.6 square feet.

As standard practice, tap fees are based on the type of building unit (single family, duplex, or multi-family), and not on water usage patterns. This is an extraordinary case. The City team agreed several years ago to consider setting tap fees based on water usage for the whole development, rather than by unit, in order to support a project championed by AURA to support affordable housing. This site is difficult to develop, provides important housing options, and has a relatively high density of development.

Based on the size of the units, lot sizes, and density, the water usage for the Cottages at Ralston Fields development is expected to be comparable to a typical multifamily project rather than a single-family or duplex development. Classifying all units within the Cottages at Ralston Fields development as multifamily for the purpose of assessing water tap fees is in the best interest of the City in that it accommodates a truly unique development that offers housing types that will be unique to Arvada, and the region, while also implementing Comprehensive Plan goals and policies around housing diversity, transit supportive developments, and infill development in targeted redevelopment areas (e.g. the Ralston Fields urban renewal area).

The recommendation to reduce water tap fees is specific to this development due to its extraordinary situation. This is not intended to set a precedent or change the City's standard practice of setting tap fees for new development.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

This project aligns with the principles of the Community and Economic Development worksystem.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Team recommends City Council approve R22-099, A Resolution Authorizing a Waiver and Reduction of a Portion of the Water Tap Fee for the Cottages at Ralston Fields Development.

Suggested Motion:

I move that R22-099, A Resolution Authorizing a Waiver and Reduction of a Portion of the Water Tap Fee for the Cottages at Ralston Fields Development, be (approved) (rejected).

Prepared by:

Heidi Van Gieson, Administrative Specialist

Reviewed by:

Approved by:

Jacob Nitchals, Senior Planner

10/18/2022

Josie Suk, Development Systems and Administrative Manager	10/18/2022
Robert Smetana, Manager of City Planning and Development	10/19/2022
Sharon Israel, Director of Utilities	10/21/2022
Ryan Stachelski, Director of Community and Economic Development	10/21/2022
Gail Walker, Legal Specialist-Contracts	10/21/2022
Emily Grogg, Senior Assistant City Attorney	10/21/2022
Rachel Morris, City Attorney	10/25/2022
Don Wick, Deputy City Manager	10/27/2022
Linda Haley, Deputy City Manager	10/27/2022
Lorie Gillis, City Manager	10/27/2022

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R22-099

A RESOLUTION AUTHORIZING A WAIVER AND REDUCTION OF A PORTION OF THE WATER TAP FEE FOR THE COTTAGES AT RALSTON FIELDS DEVELOPMENT

WHEREAS, the developer has requested City Council review of residential tap fees for the townhomes, duplexes, and single-family residences within the approved Cottages at Ralston Fields Development; and

WHEREAS, the Cottages at Ralston Fields is a residential development at the Northeast corner of West 58th Avenue and Miller Street. The Preliminary Development Plan (“PDP”) was approved by City Council on July 6, 2020. The development is a unique residential project that includes townhomes, duplexes, and single-family residences arranged around four courtyards with the majority of parking provided in a surface lot around the perimeter of the property. The square footage of the homes range from 870 to 1,019 square feet; and

WHEREAS, under the current code, the development would be assessed tap fees based on multifamily, duplex, and single-family unit costs. Based on the size of the units and the density of the project, the developer has requested that all units within the development be treated as multifamily for the purpose of assessing tap fees; and

WHEREAS, Section 102-162 of Article II of Chapter 102 of the Arvada City Code permits City Council to waive or reduce water tap fees upon a finding and determination by the City Council that such a waiver or reduction is in the best interest of the City; and

WHEREAS, due to the unique design of this development and the size of the units, the development is similar to other multifamily projects and distinguishable from most duplex or single-family residential developments.

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

Section 1. The Arvada City Council find that a waiver or reduction of tap fees for the Cottages at Ralston Fields is in the best interest of the City due to the diverse housing is more akin to a multifamily development than contemplated by the single-family and duplex tap fee rate. And the diversity of housing types in a traditional multifamily arrangement is beneficial for Arvada’s residents and does not put additional burdens on City water services beyond the multifamily rate.

Section 2. With respect to the Cottages and Ralston Fields Development, and only to the extent that the development plans provide for construction of single-family and duplex units as part of a multifamily development, the tap fee for said single-family and duplex units shall be that for the multifamily classification. To the extent that the fee for the classification of single-family and duplex exceeds that of multifamily, that portion of the fee in excess of the latter classification is hereby waived.

Section 3. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 7th day of November, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: _____



REPORT TO CITY COUNCIL ORDINANCE FIRST READING

AGENDA ITEM
8.C.1.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: CB22-079, An Ordinance Amending Article I, in General, and Article II, Civil Emergency, Emergency, or Local Disaster Regulations, of Chapter 26, Civil Emergency, Emergency, or Local Disaster of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

Report in Brief

The Ordinance Amending Article I, in General, and Article II, Civil Emergency, Emergency, or Local Disaster Regulations, of Chapter 26, Civil Emergency, Emergency, or Local Disaster incorporates necessary and timely revisions to this section of the Arvada City Code. The revisions include: select additions and updates to Sec. 26-33. Definitions, additions to Sec. 26-35. Filing of declaration, clarification of Sec. 26-38. Powers, a repeal of Sec. 26-38.5. Powers of the municipal court, and clarification of Sec. 26-43. Duties of the community resilience coordinator. These revisions align with current terminology and updated partner agencies identified, including the Colorado Division of Homeland Security and Emergency Management.

The Arvada team recommends that the City Council approve CB22-079, An Ordinance Amending Article I, in General, and Article II, Civil Emergency, Emergency, or Local Disaster Regulations, of Chapter 26, Civil Emergency, Emergency, or Local Disaster of the Arvada City Code.

Financial Impact

There is no financial impact associated with this action.

Background

The intent of Chapter 26 is to provide for continuity of government in accordance with Section 13.7 of the Arvada City Charter and to provide for the necessary organization, powers, and authority to enable the timely and effective use of all available city resources to prepare for, respond to and recover from, civil emergencies, emergencies, or local disasters, whether natural or manmade, that are likely to affect the health, security, safety, or property of the inhabitants of the city. The intent, spirit, and much of the content of this chapter have not been changed by this update. This update recommends a refresh of the definitions and references throughout the chapter to present-day standards. Additionally, minor adjustments in the following sections are recommended:

- Sec. 26-33. Definitions.
 - This section was supplemented with additional terminology to reference the full scope of emergency management programmatic requirements at the City of Arvada. Additional definitions included “Mitigation,” “Preparedness,” “Protection,” “Prevention,” “Recovery,” and “Response.” For existing definitions, “Disaster” and “Emergency” were aligned with Colorado State Statutes.
- Sec. 26-35. Filing of declaration.
 - This section recommends utilizing the template for declaration created by the Community Resilience Coordinator and the action of filing the declaration with the county and state emergency management agencies (as appropriate).
- Sec. 26-38. Powers.

- This section was clarified to remove duplicative language throughout. The sole addition to the section was the ability to accept “donations” in item (p) which is critical throughout the response and recovery phases of an emergency or disaster.
- Sec. 26-38.5. Powers of the municipal court.
 - This section is repealed in its entirety. The emergency powers of the municipal court will be added to, and defined in, an upcoming amendment to Chapter 58 - Municipal Court.
- Sec. 26-43. Duties of the community resilience coordinator.
 - This section was revised to reflect current partners, such as the Colorado Division of Homeland Security and Emergency Management. Additional responsibilities were consolidated to limit duplication throughout the section.

Chapter 26 was most recently implemented during the City’s response to the COVID-19 pandemic. The City declared a local state of emergency on March 13, 2020. This section is being revised to ensure it is kept current for future use. The substance of the processes and procedures is not altered in this recommended revision.

Stakeholders involved in the revision of this section include the City’s Community Resilience Coordinator, the City Attorney’s Office, and the City of Arvada Leadership Team.

Discussion

The recommendation to approve the update to this section does not fundamentally change most of the content or the purpose of Article I, in General, and Article II, Civil Emergency, Emergency, or Local Disaster Regulations, of Chapter 26, Civil Emergency, Emergency, or Local Disaster of the Arvada City Code. The intent of this update is to refresh its references and definitions and align concepts with modern standards. Chapter 26 has not been updated by the City of Arvada for more than ten years.

The Arvada team revised elements of this ordinance, including Sec. 26-33. Definitions., Sec. 26-35. Filing of declaration., Sec. 26-38. Powers., Sec. 26-38.5. Powers of the municipal court., and Sec. 26-43 Duties of the community resilience coordinator., to align with current standards for emergency management in Colorado. The benefit of approving this ordinance based on staff recommendation is to ensure it is relevant and accurate. There are no alternative courses of action identified and there is no fiscal impact by approving this recommendation.

Public Contact

N/A

Commission Recommendation

N/A

Strategic Alignment

The recommended action aligns with the Organizational and Service Effectiveness Priority Area of the City Council Strategic Plan.

Alternative Courses of Action

N/A

Recommendation for Action

SUBJECT: CB22-079, An Ordinance Amending Article I, in General, and Article II, Civil Emergency, Emergency, or Local Disaster Regulations, of Chapter 26, Civil Emergency, Emergency, or Local Disaster of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

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ITEM: 8.C.1.

The Arvada team recommends that the City Council approve CB22-079, An Ordinance Amending Article I, in General, and Article II, Civil Emergency, Emergency, or Local Disaster Regulations, of Chapter 26, Civil Emergency, Emergency, or Local Disaster of the Arvada City Code on first reading, ordered published in full, and a Public Hearing set for December 5, 2022 at 6:15 p.m.

Suggested Motion:

I move that, CB22-079, An Ordinance Amending Article I, in General, and Article II, Civil Emergency, Emergency, or Local Disaster Regulations, of Chapter 26, Civil Emergency, Emergency, or Local Disaster of the Arvada City Code be (approved on first reading, ordered published in full, and a Public Hearing set for December 5, 2022 at 6:15 p.m.) (rejected).

Prepared by:

Gail Walker, Legal Specialist-Contracts

Reviewed by:

Approved by:

Melissa Ryder, Community Resilience Coordinator	10/17/2022
Laura Hemler, Assistant City Attorney	10/17/2022
Rachel Morris, City Attorney	10/18/2022
Lorie Gillis, City Manager	10/21/2022

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. CB22-079
ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE I, IN GENERAL, AND ARTICLE II, CIVIL
EMERGENCY, EMERGENCY, OR LOCAL DISASTER REGULATIONS, OF CHAPTER 26,
CIVIL EMERGENCY, EMERGENCY, OR LOCAL DISASTER OF THE ARVADA CITY
CODE

WHEREAS, the City of Arvada, Colorado, (“City”), is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, Section 13.7 of the Arvada Charter entitled “Continuity of Government” mandates that the City Council shall have the power to provide for continuity of the government of the City of Arvada in the event of a natural or enemy caused disaster; and

WHEREAS, the City Council wishes to enact legislation based upon this Charter mandate; and

WHEREAS, amendments to Chapter 26 are necessary to accurately reflect the City’s emergency management and comply with federal and state emergency management laws.

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

Section 1. Article I, In General, of Chapter 26, Civil Emergency, Emergency, or Local Disaster, is hereby amended to read as follows:

“ARTICLE I. IN GENERAL

Sec. 26-1. Emergency operations plan (basic plan) adopted.

The Emergency Operations Plan (Basic Plan) is hereby adopted by reference.

Sec. 26-2. Review and update of emergency operations plan (basic plan).

The city manager and the community resilience coordinator shall annually review the emergency operations plan (basic plan) and update the document as necessary to ensure that the plan enables the timely and effective use of all available city resources to plan for, respond to and recover from civil emergencies, emergencies, or local disasters, whether natural or manmade, that are likely to affect the health, security, safety, or property of the inhabitants of the city.

Sec. 26-3. Biennial review and update of emergency operations plan (basic plan).

The city council shall biennially review the emergency operations plan (basic plan) upon a presentation by the city manager and community resilience coordinator. The biennial review of the emergency operations plan by city council shall occur in executive session or by other means

as permitted by state law which protect the confidentiality and security of the city's emergency operations and procedures.”

Section 2. Article II, Civil Emergency, Emergency, or Local Disaster Regulations, of Chapter 26, Civil Emergency, Emergency, or Local Disaster, is hereby amended to read as follows:

“ARTICLE II. CIVIL EMERGENCY, EMERGENCY, OR LOCAL DISASTER REGULATIONS

Sec. 26-31. Title.

This chapter shall be known and may be cited as “civil emergency, emergency, or local disaster.”

Sec. 26-32. Legislative declaration.

It is the intent of this chapter to provide for continuity of government (section 13.7, Arvada Charter) and for the necessary organization, powers, and authority to enable the timely and effective use of all available city resources to prepare for, respond to and recover from civil emergencies, emergencies, or local disasters, whether natural or manmade, that are likely to affect the health, security, safety, or property of the inhabitants of the city. It is intended to grant as broad a power as permitted within the letter and spirit of the Arvada City Charter and the city council-city manager form of government. The city council retains the power to direct the city manager during the pendency of a declaration.

Sec. 26-33. Definitions.

Civil emergency means conditions of unrest including, but not limited to, riot, civil disturbance, unlawful assembly, hostile military or paramilitary action, war, terrorism, cyber attack, breach of data, or sabotage.

Continuity of operations means the development and maintenance of a plan to relocate operations without the loss of basic government functions.

Declaration means the written document executed by the city manager which declares a disaster, emergency, or civil emergency.

Disaster means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including, but not limited to, fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill, or any other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or a condition of riot, insurrection, or invasion. See C.R.S. § 24-33.5-703(3); 42 U.S.C. § 5122(2).

Emergency means any occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or man-made cause that is less severe than a

disaster, but of such severity that it cannot be handled by emergency response agencies in conduct of their normal duties. See C.R.S. § 24-33.5-703(3.5).

Emergency management means the marshaling of all resources available to meet all potential disasters or emergencies under coordinated management. The phases of emergency management are mitigation, preparedness, response, and recovery. See C.R.S. § 24-33.5-703(4.3).

Mitigation means any activities that actually eliminate or reduce the probability of occurrence of disaster. See C.R.S. § 24-33.5-703(4.5); 2017 National Incident Management System at 67.

Preparedness means the development of plans, the stockpiling and inventory of critical resources, the organization and training of response personnel, and the exercise of plans.

Protection means the capabilities necessary to secure the City of Arvada against acts of terrorism and manmade or natural disasters.

Prevention means the capabilities necessary to avoid, prevent, or stop a threatened or actual act of terrorism. For the purposes of the prevention framework, the term “prevention” refers to preventing imminent threats. See National Preparedness Goal (2d 2015) (“NPG”) at A-2.

Recovery means those actions, both short-term and long-term, that result in the planned redevelopment of the City of Arvada after a disaster, consistent with disaster experience and with measures available for hazard reduction. See C.R.S. § 24-33.5-703(7.3); NPG at A-2.

Response means the capabilities necessary to save lives, protect property and the environment, and meet basic human needs after a civil emergency, emergency, disaster, or incident has occurred. See C.R.S. § 24-33.5-703(7.7); NPG at A-2.

Sec. 26-34. Authorization to issue declaration of civil emergency, emergency, or disaster.

The city manager is authorized to declare a civil emergency, emergency, or disaster if the city manager finds that the city or any part thereof is suffering from or is in imminent danger of suffering a natural or manmade civil emergency, emergency, or disaster.

Sec. 26-35. Filing of declaration.

- (a) Any declaration of a civil emergency, emergency, or disaster by the city manager shall be promptly filed with the city clerk, and the city manager shall notify as soon as possible the city council. The public shall be notified of such a declaration through general dissemination to the news media, posting on the city website or other means of publicity as intended to advise the general public.
- (b) Any order or proclamation declaring, continuing, or terminating a disaster or emergency or civil emergency shall be filed promptly with the Colorado Division of Homeland Security & Emergency Management and the Office of Emergency Management at Jefferson County or Adams County (as appropriate).

- (c) The form of the declaration may follow a template previously created by the community resilience coordinator or any form as deemed appropriate by the city manager.

Sec. 26-36. Term of declaration.

The declaration of a civil emergency, emergency, or disaster shall be in effect as determined by the city manager for a period of up to seven calendar days. This period may be extended upon submission of a request by the city manager and the approval of the city council. In the event a quorum of the city council cannot be assembled to approve a continuance of the declaration, such declaration shall remain in effect until such time as a quorum can be assembled. In the event a quorum of the city council can meet to provide the city manager with advice and consultation during the pendency of a declaration, such meeting shall be held in compliance with the Colorado Open Meetings Law and city council rules and procedures as soon as possible, but in no event later than seven calendar days following the initial declaration.

Sec. 26-37. Succession of authority.

If the city manager is unavailable, the line of succession of authority shall include in order: the deputy city managers in order of position seniority, followed by the public works director, community and economic development director, the finance director, then any other department head in alphabetical order of the name of the department. In the event none of these people are available to serve as the acting city manager, the deputy director of the various departments in the line of succession as indicated shall service in such capacity.

Sec. 26-38. Powers.

Upon the issuance of a declaration of a civil emergency, emergency, or disaster declaration in accordance with this Article II, the city manager may exercise the following powers, including, but not limited to:

- (a) An order establishing a curfew during such hours of the days or nights and affecting such categories of persons as may be designated.
- (b) An order to direct and compel the evacuation of all or a part of the population from any stricken or threatened areas within the city if the city manager deems this action is necessary for the preservation of life, property or other civil emergency, emergency, or disaster mitigation, response or recovery activities and to prescribe routes, modes of transportation and destination in connection with an evacuation.
- (c) An order controlling, restricting, allocating or regulating the use, sale, production or distribution of food, water, clothing, and other commodities, materials, goods, services and resources.
- (d) An order requiring the closing of businesses deemed nonessential by the city manager.

- (e) An order suspending or limiting the sale, distribution, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustible products and requiring the closing of those businesses or parts of businesses insofar as the sale, distribution, dispensing or transportation of these items are concerned.
- (f) An order prohibiting the sale or distribution within the city of any products which, the city manager determines, could be employed in a manner that would constitute a danger to public health or safety.
- (g) An order closing any streets, alleys, sidewalks, public parks, public ways or other public places.
- (h) An order closing the access to any buildings, streets, alleys, sidewalks or other public or private places.
- (i) An order establishing control routes of transportation ingress or egress.
- (j) An order imposing traffic restrictions to control ingress and egress from a civil emergency, emergency, or disaster, including prohibiting all traffic except for vehicles operated by individuals deemed essential by the city manager to assist in the emergency operations and prohibiting any person to stop, stand, park or abandon any vehicle in a right-of-way that in the discretion of a police officer obstructs emergency operations or snow removal operations and such vehicle shall be subject to removal pursuant to Chapter 54.
- (k) Subject to any applicable requirements for compensation, commandeer or use any private property if the city manager finds this action necessary to cope with the civil emergency, emergency or disaster.
- (l) Appropriate and expend funds, execute contracts, authorize the obtaining and acquisition of property, equipment, services, supplies and materials without the strict compliance with procurement regulations or procedures.
- (m) Transfer the direction, personnel or functions of city departments and agencies for the purposes of performing or facilitating civil emergency, emergency, or disaster services.
- (n) Utilize all available resources of the city as may be reasonably necessary to cope with the civil emergency, emergency, or disaster whether in preparation for, mitigation of, protection from, response to, or recovery from a civil emergency, emergency, or disaster.
- (o) Suspend or modify the provisions of any ordinance if strict compliance thereof would in any way prevent, hinder or delay necessary action in coping with any civil emergency, emergency, or disaster.
- (p) Accept services, gifts, donations, grants and loans, equipment, supplies, and materials whether from private, nonprofit or governmental sources.

- (q) Suspend or limit the use of the city's water resources.
- (r) Require emergency services of any city officer or employee. If regular city forces are determined to be inadequate, then to acquire the services of such other personnel as are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to the privileges and immunities provided by state law.
- (s) Hire or contract for construction, snow removal, engineering, architectural, building, electrical, plumbing, construction, forensic analysis of any computer system and/or other professional services essential to continue the activities of the city without the advertising of bids or compliance with procurement requirements.
- (t) Make application for local, state, or federal assistance.
- (u) Terminate or suspend any process, operation, machine, device or event that is or may negatively impact the health, safety, and welfare of persons or property within the city.
- (v) Delegate authority to such city officials as the city manager determines reasonably necessary or expedient.
- (w) Require the continuation, termination, disconnection or suspension of natural gas, electric power, water, sewer or other public utilities.
- (x) Cease operation of the city organization computer system for purposes of conducting a forensic analysis of such systems or isolating a cyber attack/data breach, close or cancel the use of any municipality owned or operated building or other public facility.
- (y) Prescribe routes, modes of transportation and destination in connection with any evacuation.
- (z) Exercise such powers and functions in light of the exigencies of civil emergency, emergency, or disaster including the waiving of compliance with any time consuming procedures and formalities, including notices, as may be prescribed by law pertaining thereto.
- (aa) Issue any and all other orders or undertake such other functions and activities as the city manager reasonably believes is required to protect the health, safety, welfare of persons or property within the City of Arvada or to otherwise preserve the public peace or abate, clean up, or mitigate the effects of any civil emergency, emergency or disaster.

Any declaration of civil emergency, emergency, or disaster issued pursuant to this article shall list the restrictions applicable to that circumstance by reference to the individual subsections of this section. The restrictions may be amended during the time frame of the declaration based upon the discretion of the city manager.

Sec. 26-39. Enforcement of orders.

- (a) The members of the police department, code enforcement, and such other law enforcement and peace officers as may be authorized by the city manager are further authorized and directed to enforce the orders, rules and regulations made or issued pursuant to this chapter. All members of the public shall be deemed to have been given notice of the restrictions contained within a declaration upon its dissemination to the news media or publication on the city website or other means of publicity.
- (b) During the period of a declared civil emergency, emergency, or disaster, a person shall not:
 - (1) Enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment;
 - (2) Violate any of the orders duly issued by the city manager or designee pursuant to such declaration;
 - (3) Willfully obstruct, hinder, or delay any duly authorized city officer, employee or volunteer in the enforcement or exercise of the provisions of the chapter, or of the undertaking of any activity pursuant to this chapter.
- (c) The municipal court shall have the jurisdiction to preside over alleged violations of this section. A person convicted of a violation of this section shall be subject to the penalties set forth in section 1-5 of the Arvada Municipal Code.

Sec. 26-40. Authority to enter a property.

During the period of a declared civil emergency, emergency, or disaster, a city employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that there is a true emergency and an immediate need for assistance for the protection of life or property, and that entering onto the private land will allow the person to take such steps to alleviate or minimize the emergency or disaster or to prevent or minimize danger to lives or property from the declared civil emergency, emergency, or disaster.

Sec. 26-41. Location of governing body meetings and departments.

- (a) Whenever a civil emergency, emergency, or disaster makes it imprudent or impossible to conduct the affairs of the city at its regular locations, the governing body may meet at any place, inside or outside the city limits, or may meet via the telephone or other communication system. Any temporary civil emergency, emergency, or disaster meeting location for the governing body shall continue until a new location is established or until the civil emergency, emergency, or disaster is terminated and the governing body is able to return to its normal location.

- (b) Whenever a civil emergency, emergency, or disaster makes it imprudent or impossible to conduct the affairs of any department of the city at its regular location, such department may conduct its business at any place, inside or outside the city limits, and may remain at the temporary location until the civil emergency, emergency or disaster is declared ended or until the department is able to return to its normal location.
- (c) Whenever a civil emergency, emergency, or disaster makes it imprudent or impossible for city council, or any city committee, board or authority to meet at a previously scheduled date and time, such meeting shall be deemed to be postponed until a quorum of the city council, city committee, board or authority is able to meet.
- (d) Any official act or meeting required to be performed at any regular location of the governing body or of its departments is valid when performed at any temporary location under this section.
- (e) The provisions of this section shall apply to all executive, legislative and judicial branches, powers and functions conferred upon the city and its officers, employees, and authorized agents by the Colorado Constitution, Colorado Statutes, the Arvada Municipal Code, including the Arvada Charter.

Sec. 26-42. Mutual aid agreements.

- (a) The city manager may, on behalf of the city, enter into such reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other compacts or plans with other governmental entities for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.
- (b) The governing body or any of its committees, commissions or authorities may exercise such powers and functions in light of the exigencies of the emergency or disaster and may waive compliance with time consuming procedures and formalities prescribed by law pertaining thereto.
- (c) The foregoing shall apply to all executive, legislative and judicial powers and functions conferred upon the city and its officers, employees and authorized agents.

Sec. 26-43. Duties of the community resilience coordinator.

The community resilience coordinator shall:

- (a) Comply with all requirements issued by the Federal Emergency Management Agency (FEMA) and the Colorado Division of Homeland Security and Emergency Management Agency (DHSEM) in order to procure the maximum amount of federal and state assistance and grant monies for the city.
- (b) Ensure that the local emergency operations plan (EOP) is kept current.

- (c) Act as liaison with all local emergency response agencies and ensure their cooperation in drafting their portions of the plan. All departments over which the city has authority shall provide such cooperation in planning.
- (d) Develop, coordinate, and conduct a schedule of training to ensure that all persons with specific responsibilities under the EOP understand their duties and are capable of performing their duties in accordance with DHSEM and FEMA. All persons with specific responsibilities under the EOP shall comply with, and participate in, the training schedule to understand their duties and be capable of performing their duties. The EOP shall be tested as deemed necessary by the community resilience coordinator or the city manager.
- (e) Prepare and coordinate exercises of the EOP as mandated by DHSEM and FEMA.
- (f) Conduct debriefings in the aftermath of EOP exercises and revise the EOP to reflect lessons learned.
- (g) Assist the city manager in negotiating and entering into mutual aid agreements.
- (h) Coordinate resources for the city manager or their designee and perform all other duties assigned by the city manager or their designee in the response to a civil emergency, emergency, or disaster.
- (i) Cooperate and coordinate with state and federal authorities in the aftermath of a civil emergency, emergency or disaster to ensure the maximum available support for recovery and assistance for persons and businesses.
- (j) Develop or implement a mitigation plan for the city in cooperation with all city departments and agencies. All agencies over which the city has authority shall provide cooperation in mitigation planning.
- (k) Work through the city manager or their designee to ensure that requirements for infrastructure replacement are consistent with current best practices to ensure the maximum assistance from the federal government in the event that public facilities must be reconstructed or replaced in the aftermath of a civil emergency, emergency, or disaster.

Sec. 26-44. Access to TABOR funds.

In the event of a declared civil emergency, emergency, or disaster, the city manager shall have access to the city emergency funds mandated by the Taxpayer's Bill of Rights (TABOR) as set forth in article X, section 20, subsection (5) entitled Emergency Reserves, of the Colorado Constitution. Funds utilized pursuant to this chapter shall be replenished no later than the conclusion of the following fiscal year.

Sec. 26-45. Report by city manager/discretionary ratification by city council.

At such time as a civil emergency, emergency, or disaster shall be declared ended, the city manager shall prepare a written report that details the official actions taken by the city manager during the declaration, including a timeline, significant actions, and a detailed summary of all expenses incurred during such declaration, and such written report shall be submitted to the city council within 30 calendar days. The city council may, but is not required to, approve a resolution ratifying the actions taken by the city manager during the declaration. In the event that a resolution is not approved, the city manager report shall be retained by the city clerk and made a part of the official record of the city council meeting at which the report was discussed by the city council in conjunction with the city manager.”

Section 3. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts thereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

Section 4. Effective date. This ordinance shall take effect five days after publication following final passage.

INTRODUCED, READ, AND ORDERED PUBLISHED this 7th day of November, 2022.

PASSED, ADOPTED, AND APPROVED this ____ day of _____, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

Publication Dates: November 10, 2022

~~REDLINE/STRIKETHROUGH VERSION~~

FOR INFORMATION ONLY -- NOT PART OF THE ORDINANCE

Underlined indicates new material
~~Strikethrough~~ indicates deleted material

“ARTICLE I. IN GENERAL

Sec. 26-1. Emergency operations plan (basic plan) adopted.

The Emergency Operations Plan (Basic Plan) is hereby adopted by reference.

Sec. 26-2. Review and update of emergency operations plan (basic plan).

The city manager and the ~~emergency management~~ community resilience coordinator shall annually review the emergency operations plan (basic plan) and update the document as necessary to ~~insure~~ ensure that the plan enables the timely and effective use of all available city resources to plan for, respond to and recover from civil emergencies, emergencies, or local disasters, whether natural or manmade, that are likely to affect the health, security, safety, or property of the inhabitants of the city.

Sec. 26-3. Biennial review and update of emergency operations plan (basic plan).

The city council shall biennially review the emergency operations plan (basic plan) upon a presentation by the city manager and ~~emergency management~~ community resilience coordinator. The biennial review of the emergency operations plan by city council shall occur in executive session or by other means as permitted by state law which protect the confidentiality and security of the city's emergency operations and procedures.”

**“ARTICLE II. CIVIL EMERGENCY, EMERGENCY, OR LOCAL DISASTER
REGULATIONS**

Sec. 26-31. Title.

This chapter shall be known and may be cited as “civil emergency, emergency, or local disaster.”

Sec. 26-32. Legislative declaration.

It is the intent of this chapter to provide for continuity of government (section 13.7, Arvada Charter) and for the necessary organization, powers, and authority to enable the timely and effective use of all available city resources to prepare for, respond to and recover from civil

emergencies, emergencies, or local disasters, whether natural or manmade, that are likely to affect the health, security, safety, or property of the inhabitants of the city. It is intended to grant as broad a power as permitted within the letter and spirit of the Arvada City Charter and the city council-city manager form of government. The city council retains the power to direct the city manager during the pendency of a declaration.

Sec. 26-33. Definitions.

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Continuity of operations means the development and maintenance of a plan to relocate operations without the loss of basic government functions.

Declaration means the written document executed by the city manager which declares a disaster, emergency, or civil emergency.

~~*Local Disaster* means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or manmade cause of human origin including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill, or any other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or a condition of riot, insurrection, or invasion. fire, cyclone, tornado, earthquake, severe high or low temperatures, blizzard, landslide, mudslide, hurricane, building or structural collapse, high water table, water pollution, air pollution, epidemic, riot, drought, utility emergency, sudden and severe energy shortages, volcano, snow, ice, windstorm, waves, hazardous substance spills, chemical or petroleum spills, biological material release or spill, radiological release or spill, structural failure, cyber attack, breach of data, public health emergency or accidents. See C.R.S. § 24-33.5-703(3); 42 U.S.C. § 5122(2).~~

~~*Emergency* means any occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or man-made disaster cause that is less severe than a disaster, but of such severity that it cannot be handled by emergency response agencies in conduct of their normal duties. of a major proportion in which the safety and welfare of the inhabitants of the city or their property are jeopardized or placed at extreme peril that timely action may avert or minimize. See C.R.S. §24-33.5-703(3.5).~~

Emergency management means the marshaling of all resources available to meet all potential disasters or emergencies under coordinated management. The phases of emergency management are mitigation, preparedness, response, and recovery. See C.R.S. § 24-33.5-703(4.3).

Mitigation means any activities that actually eliminate or reduce the probability of occurrence of disaster. See C.R.S. § 24-33.5-703(4.5); 2017 National Incident Management System at 77.

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Recovery means those actions, both short-term and long-term, that result in the planned redevelopment of the City of Arvada after a disaster, consistent with disaster experience and with measures available for hazard reduction. See C.R.S. § 24-33.5-703(7.3); NPG at A-2.

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The city manager is authorized to declare a civil emergency, emergency, or ~~local~~ disaster if the city manager finds that the city or any part thereof is suffering from or is in imminent danger of suffering a natural or manmade civil emergency, emergency, or ~~local~~ disaster.

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The declaration of a civil emergency, emergency, or ~~local~~ disaster shall be in effect as determined by the city manager for a period of up to seven days. This period may be extended upon submission of a request by the city manager and the approval of the city council. In the event a quorum of the city council cannot be assembled to approve a continuance of the declaration, such declaration shall remain in effect until such time as a quorum can be assembled. In the event a quorum of the city council can meet to provide the city manager with advice and consultation during the pendency of a declaration, such meeting shall be held in compliance with the Colorado Open Meetings Law and city council rules and procedures as soon as possible, but in no event later than seven days following the initial declaration.

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If the city manager is unavailable, the line of succession of authority shall include in order the deputy city managers in order of position seniority, followed by the public works director, community development director, and finance director, or any other department head in alphabetical order of the name of the department. In the event none of these people are available to serve as the acting city manager, the deputy director of the various departments in the line of succession as indicated shall serve in such capacity.

Sec. 26-38. Powers.

Upon the issuance of a declaration of a civil emergency, emergency, or ~~local~~ disaster declaration in accordance with this Article II, the city manager may exercise the following powers, including, but not limited to:

- (a) An order establishing a curfew during such hours of the days or nights and affecting such categories of persons as may be designated.
- (b) An order to direct and compel the evacuation of all or a part of the population from any stricken or threatened areas within the city if the city manager deems this action is necessary for the preservation of life, property or other civil emergency, emergency, or ~~local~~ disaster mitigation, response or recovery activities and to prescribe routes, modes of transportation and destination in connection with an evacuation.
- (c) An order controlling, restricting, allocating or regulating the use, sale, production or distribution of food, water, clothing, and other commodities, materials, goods, services and resources.
- (d) An order requiring the closing of businesses deemed nonessential by the city manager.
- (e) An order suspending or limiting the sale, distribution, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustible products and requiring the closing of those businesses or parts of businesses insofar as the sale, distribution, dispensing or transportation of these items are concerned.
- (f) An order prohibiting the sale or distribution within the city of any products which, the city manager determines, could be employed in a manner that would constitute a danger to public health or safety.

- (g) An order closing any streets, alleys, sidewalks, public parks, public ways or other public places.
- (h) An order closing the access to any buildings, streets, alleys, sidewalks or other public or private places.
- (i) An order establishing control routes of transportation ingress or egress.
- (j) An order imposing traffic restrictions to control ingress and egress from a civil emergency, emergency, or ~~local~~ disaster, including prohibiting all traffic except for vehicles operated by individuals deemed essential by the city manager to assist in the emergency operations and prohibiting any person to stop, stand, park or abandon any vehicle in a right-of-way that in the discretion of a police officer obstructs emergency operations or snow removal operations and such vehicle shall be subject to removal pursuant to ~~section 54-60~~ Chapter 54.
- (k) Subject to any applicable requirements for compensation, commandeer or use any private property if the city manager finds this action necessary to cope with the civil emergency, emergency or ~~local~~ disaster.
- (l) Appropriate and expend funds, execute contracts, authorize the obtaining and acquisition of property, equipment, services, supplies and materials without the strict compliance with procurement regulations or procedures.
- (m) Transfer the direction, personnel or functions of city departments and agencies for the purposes of performing or facilitating civil emergency, emergency, or ~~local~~ disaster services.
- (n) Utilize all available resources of the city as may be reasonably necessary to cope with the civil emergency, emergency, or ~~local~~ disaster whether in preparation for, mitigation of, protection from, response to, or recovery from a civil emergency, emergency, or ~~local~~ disaster.
- (o) Suspend or modify the provisions of any ordinance if strict compliance thereof would in any way prevent, hinder or delay necessary action in coping with any civil emergency, emergency, or ~~local~~ disaster.
- (p) Accept services, gifts, grants and loans, equipment, supplies, and materials whether from private, nonprofit or governmental sources.
- (q) Suspend or limit the use of the city's water resources.
- (r) Require emergency services of any city officer or employee. If regular city forces are determined to be inadequate, then to acquire the services of such other personnel as are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to the privileges and immunities provided by state law.

- (s) Hire or contract for construction, snow removal, engineering, architectural, building, electrical, plumbing, construction, forensic analysis of any computer system and/or other professional services essential to continue the activities of the city without the advertising of bids or compliance with procurement requirements.
- (t) Make application for local, state, or federal assistance.
- (u) Terminate or suspend any process, operation, machine, device or event that is or may negatively impact the health, safety, and welfare of persons or property within the city.
- (v) Delegate authority to such city officials as the city manager determines reasonably necessary or expedient.
- (w) Require the continuation, termination, disconnection or suspension of natural gas, electric power, water, sewer or other public utilities.
- (x) Cease operation of the city organization computer system for purposes of conducting a forensic analysis of such systems or isolating a cyber attack/data breach, close or cancel the use of any municipality owned or operated building or other public facility.
- (y) Prescribe routes, modes of transportation and destination in connection with any evacuation.
- (z) Exercise such powers and functions in light of the exigencies of civil emergency, emergency, or ~~local~~ disaster including the waiving of compliance with any time consuming procedures and formalities, including notices, as may be prescribed by law pertaining thereto.
- (aa) Issue any and all other orders or undertake such other functions and activities as the city manager reasonably believes is required to protect the health, safety, welfare of persons or property within the City of Arvada or to otherwise preserve the public peace or abate, clean up, or mitigate the effects of any civil emergency, emergency or ~~local~~ disaster.

~~The~~ Any declaration of civil emergency, emergency, or disaster issued pursuant to this article shall list the restrictions applicable to that circumstance by reference to the individual subsections of this section. The restrictions may be ~~changed~~ amended from time to time during the time frame of the declaration based upon the discretion of the city manager.

~~Sec. 26-38.5. Powers of the municipal court:~~

- ~~(a) Upon the declaration of a civil emergency, emergency, or local disaster by the city manager, the presiding municipal court judge may issue special, standing, or other orders pertaining to court procedures, the location of judicial proceedings, and the time frames within which judicial proceedings are held. Any order issued under this section must be issued while the emergency declaration is in effect, must state the reason or reasons the~~

~~order is necessary, and must comply with the Constitutions of the United States and of Colorado.~~

~~(b) This section will remain in effect through and including the term of the declaration of emergency issued by the city manager on March 13, 2020, as well as any extension thereto authorized by city council. This section will cease to have effect after the final authorized extension to that emergency declaration expires, except that any order issued by the presiding municipal court judge under subsection 26-38.5(a) will remain in effect until such time as he or she deems necessary, but in no event may such order remain in effect for more than 90 days after the date of the order.~~

Sec. 26-39. Enforcement of orders.

- (a) The members of the police department, code enforcement, and such other law enforcement and peace officers as may be authorized by the city manager are further authorized and directed to enforce the orders, rules and regulations made or issued pursuant to this chapter. All members of the public shall be deemed to have been given notice of the restrictions contained within a declaration upon its dissemination to the news media or publication on the city website or other means of publicity.
- (b) During the period of a declared civil emergency, emergency, or ~~local~~ disaster, a person shall not:
 - (1) Enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment;
 - (2) Violate any of the orders duly issued by the city manager or designee pursuant to such declaration;
 - (3) Willfully obstruct, hinder, or delay any duly authorized city officer, employee or volunteer in the enforcement or exercise of the provisions of the chapter, or of the undertaking of any activity pursuant to this chapter.
- (c) The municipal court shall have the jurisdiction to preside over alleged violations of this section. A person convicted of a violation of this section shall be subject to the penalties set forth in section 1-5 of the Arvada Municipal Code.

Sec. 26-40. Authority to enter a property.

During the period of a declared civil emergency, emergency, or ~~local~~ disaster, a city employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that there is a true emergency and an immediate need for assistance for the protection of life or property, and that entering onto the private land will allow the person to take such steps to alleviate or minimize the emergency or disaster or to prevent or minimize danger to lives or property from the declared civil emergency, emergency, or ~~local~~ disaster.

Sec. 26-41. Location of governing body meetings and departments.

- (a) Whenever a civil emergency, emergency, or ~~local~~ disaster makes it imprudent or impossible to conduct the affairs of the city at its regular locations, the governing body may meet at any place, inside or outside the city limits, or may meet via the telephone or other communication ~~device~~ system. Any temporary civil emergency, emergency, or ~~local~~ disaster meeting location for the governing body shall continue until a new location is established or until the civil emergency, emergency, or ~~local~~ disaster is terminated and the governing body is able to return to its normal location.
- (b) Whenever a civil emergency, emergency, or ~~local~~ disaster makes it imprudent or impossible to conduct the affairs of any department of the city at its regular location, such department may conduct its business at any place, inside or outside the city limits, and may remain at the temporary location until the civil emergency, emergency or ~~local~~ disaster is declared ended or until the department is able to return to its normal location.
- (c) Whenever a civil emergency, emergency, or ~~local~~ disaster makes it imprudent or impossible for city council, or any city committee, board or authority to meet at a previously scheduled date and time, such meeting shall be deemed to be postponed until a quorum of the city council, city committee, board or authority is able to meet.
- (d) Any official act or meeting required to be performed at any regular location of the governing body or of its departments is valid when performed at any temporary location under this section.
- (e) The provisions of this section shall apply to all executive, legislative and judicial branches, powers and functions conferred upon the city and its officers, employees, and authorized agents by the Colorado Constitution, Colorado Statutes, the Arvada Municipal Code, including the Arvada Charter.

Sec. 26-42. Mutual aid agreements.

- (a) The city manager may, on behalf of the city, enter into such reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other compacts or plans with other governmental entities for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.
- (b) The governing body or any of its committees, commissions or authorities may exercise such powers and functions in light of the exigencies of the emergency or disaster and may waive compliance with time consuming procedures and formalities prescribed by law pertaining thereto.
- (c) The foregoing shall apply to all executive, legislative and judicial powers and functions conferred upon the city and its officers, employees and authorized agents.

Sec. 26-43. Duties ~~of local emergency management~~ the community resilience coordinator.

The community resilience coordinator shall:

- (a) ~~The local emergency management coordinator shall~~ e Comply with all requirements issued by the Federal Emergency Management Agency (FEMA) and the Colorado Division of Homeland Security and Emergency Management Agency-~~(CDEM)~~ (DHSEM) in order to procure the maximum amount of federal and state assistance and grant monies for the city.
- (b) ~~The local emergency management coordinator shall assure~~ Ensure that the local emergency operations plan (EOP) is kept current.
- (c) ~~The local emergency management coordinator shall~~ a Act as liaison with all local emergency response agencies and ensure their cooperation in drafting their portions of the plan. All agencies over which the city has authority shall provide such cooperation in planning.
- (d) ~~The local emergency management coordinator shall~~ d Develop a schedule of training to ensure that all persons with specific responsibilities under the EOP understand their duties and are capable of performing their duties in accordance with DHSEM and FEMA. All persons with specific responsibilities under the EOP shall comply with, and participate, the training schedule to understand their duties and be capable of performing their duties. The EOP shall be tested as deemed necessary by the community resilience coordinator or the city manager.
- (e) ~~The local emergency management coordinator shall~~ p Prepare and coordinate exercises of the EOP as mandated by ~~CDEM~~ DHSEM and FEMA. ~~The emergency operations plan shall be tested as deemed necessary.~~
- (f) ~~The local emergency management coordinator shall~~ e Conduct debriefings in the aftermath of ~~plan~~-EOP exercises and revise the ~~plan~~ EOP to reflect lessons learned.
- (g) ~~The local emergency management coordinator shall~~ a Assist the city manager in negotiating and entering into mutual aid agreements.
- (h) ~~The local emergency management coordinator shall~~ e Coordinate resources for the city manager or their designee and perform all other duties assigned by the city manager or their designee in the response to a civil emergency, emergency, or ~~local~~ disaster.
- (i) ~~The local emergency management coordinator shall~~ e Cooperate and coordinate with state and federal authorities in the aftermath of a civil emergency, emergency or ~~local~~ disaster to ensure the maximum available support for recovery and assistance for persons and businesses.
- (j) ~~The local emergency management coordinator shall~~ d Develop a mitigation plan for the city in cooperation with all city departments and agencies. All agencies over which the city has authority shall provide cooperation in mitigation planning.

- (k) ~~The local emergency management coordinator shall w~~ Work through the city manager or their designee to ensure that requirements for infrastructure replacement are consistent with current best practices to ensure the maximum assistance from the federal government in the event that public facilities must be reconstructed or replaced in the aftermath of a civil emergency, emergency, or ~~local~~ disaster.

Sec. 26-44. Access to TABOR funds.

In the event of a declared civil emergency, emergency, or ~~local~~ disaster, the city manager shall have access to the city emergency funds mandated by the Taxpayer's Bill of Rights (TABOR) as set forth in article X, section 20, subsection (5) entitled Emergency Reserves, of the Colorado Constitution. Funds utilized pursuant to this chapter shall be replenished no later than the conclusion of the following fiscal year.

Sec. 26-45. Report by city manager/discretionary ratification by city council.

At such time as a civil emergency, emergency, or ~~local~~ disaster shall be declared ended, the city manager shall prepare a written report that details the official actions taken by the city manager during the declaration, including a timeline, significant actions, and a detailed summary of all expenses incurred during such declaration, and such written report shall be submitted to the city council within 30 days. The city council may, but is not required to, approve a resolution ratifying the actions taken by the city manager during the declaration. In the event that a resolution is not approved, the city manager report shall be retained by the city clerk and made a part of the official record of the city council meeting at which the report was discussed by the city council in conjunction with the city manager.

Sec. 26-46. Severability.

The provisions of this chapter are declared to be severable, and if any section, sentence, clause or phrase of this chapter shall for any reason be held to be invalid or unconstitutional or if the application of this chapter to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the validity of the remaining sections, sentences, clauses and/or phrases of this chapter.



REPORT TO CITY COUNCIL ORDINANCE FIRST READING

**AGENDA ITEM
8.C.2.**

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: CB22-080, An Ordinance Authorizing an Additional Appropriation for Fiscal Year 2022 (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

Report in Brief

The attached ordinance is the final process to ensure that all Funds will end the year within their legally approved limits. The original budget of \$262,859,447 was approved by the City Council in October 2021. The carryover ordinance approved by city Council in April 2022 increased the total appropriation by \$90,742,415, bringing the current budget to \$353,601,862. This ordinance requests that City Council approve a final clean-up ordinance that will add an additional \$21,583,046 to the budget, bringing the total appropriation to \$375,184,908.

The Arvada team recommends that the City Council approve CB22-080, An Ordinance Authorizing an Additional Appropriation for Fiscal Year 2022 on first reading, ordered published in full and a public hearing date be set for December 5, 2022 at 6:15 p.m.

Financial Impact

The overall increase in the 2022 appropriation is \$21,583,046 and will bring the total appropriation to \$375,184,908. Increased revenues or sufficient reserves exist to cover each of the budgeted items. The final modification to the budget will ensure each fund does not exceed its legally adopted appropriation.

Background

The budget is an ongoing process throughout the year. It begins eight months prior to the beginning of the fiscal year. Throughout any given budget year, many things can change. Most of these changes can be accommodated within the appropriation that the City Council adopts. Other changes, such as grants and extraordinary expenditures, require City Council approval.

At the beginning of the year, there may be items that were not contemplated in the prior year and must be re-appropriated. This is referred to as the "Carry-Forward" ordinance. This usually comes to the City Council in the first quarter of the year and increases the total appropriation. Throughout the year, the City Council also adopts resolutions approving the acceptance of grants and other types of arrangements. Resolutions inform the City Council of changes. However, the budget may only be legally increased through the adoption of an ordinance. The final way to modify the budget is to adopt a final ordinance near the end of the year. This ordinance is often referred to as the "Clean-up" ordinance.

Discussion

This ordinance will increase the appropriation in 14 funds.

The attached table provides a summary of the history of the adjustments made to each fund in 2022. The following information summarizes the adjustments by Fund:

General Fund - \$2,542,831

An increase of \$1,491,109 is needed for an additional transfer to the Capital Improvement Projects Fund to comply with code section 98-101 of the Sales and Use Tax Code requiring 60% of the first cent of sales tax to be used for capital projects or debt that finance capital projects. The increase in the transfer is due to increased sales tax receipts.

An increase of \$388,140 is needed for a transfer to the COP Debt Service Fund for the debt service payment for the Meyers Pool 2021 COP.

An increase of \$75,000 is needed for drainage repairs at West Woods Golf Course.

An increase of \$70,000 for the City's portion of the Peaks to Plains project with Jefferson County.

An increase of \$75,000 is needed for Harvest Festival funding.

An increase of \$5,000 is needed for Organizational Development training. This is being funded by a training reimbursement received due to training canceled during COVID-19.

An increase of \$50,000 is needed for remodel work associated with the AEDA move to the AURA building.

An increase of \$100,000 is needed for counseling for police officers due to traumatic events.

An increase of \$50,000 is needed for a transfer to the Parks Fund for additional funding for the Festivals program.

An increase of \$4,120 is needed for a required software upgrade.

An increase of \$4,000 is needed for the purchase of equipment for a new position in Finance.

An increase of \$7,100 is needed for the audit of an additional program related to the annual Single Audit.

An increase of \$60,000 is needed for funding for Foothills Animal Shelter related to pet licensing.

An increase of \$85,603 is needed for ammunition for the Police Department. Ammunition purchases in 2020 and 2021 were limited due to supply. In 2022, supply has not been limited and the department has been able to obtain the supply that was ordered in 2020 and 2021. This is the General Fund portion of this purchase; the Tax Increment Funds will also contribute.

An increase of \$5,336 is needed for the early replacement of a K9 due to medical issues and supplies and expenses related to the line of duty death. The Tax Increment Funds will also contribute.

An increase of \$20,704 is needed for professional services for the Jefferson County Crime Lab and background checks.

An increase of \$18,566 is needed for the administration of the behavioral health program in the Police Department. This request is being funded through a CoResponder grant.

An increase of \$33,153 is needed for body worn camera equipment and installation. This request is being funded through a grant.

The requests in the General Fund will be funded with grants, reimbursements and additional sales tax revenues.

Streets Fund - \$3,350,000

An increase of \$3,350,000 for an additional transfer of one-time funding approved earlier in 2022.

Housing Fund - \$771,000

An increase of \$700,000 is needed for additional Section 8 Housing and Urban Development grant funds for rental assistance.

An increase of \$71,000 is needed for additional Housing Assistance Payment grant funding to provide rental subsidies.

The requests in the Housing Fund will be funded by Housing and Urban Development grants.

Emergency Fund - \$5,537,909

An increase of \$5,537,909 is needed for 2022 funds received from the American Rescue Plan Act.

Parks Fund - \$263,335

An increase of \$35,000 is needed to replace the tree in Olde Town, which was approved with one-time funding earlier in 2022.

An increase of \$50,000 is needed for additional funding for the Festivals Program.

An increase of \$30,000 is needed for price increases in fuel.

An increase of \$148,335 is needed for a transfer to the Vehicle Fund for price increases for new and replacement vehicles.

The requests in the Parks fund will be funded from fund reserves and one-time funding approved earlier in 2022.

Tax Increment Fund .21 - \$178,970

An increase of \$50,000 is needed for de-escalation training. This request is being funded through a CoResponder grant.

An increase of \$37,108 is needed for ammunition for the Police Department. Ammunition purchases in 2020 and 2021 were limited due to supply. In 2022, supply has not been limited and the department has been able to obtain the supply that was ordered in 2020 and 2021. This is the Tax Increment .21 portion of this purchase; the Tax Increment .22 and General Fund will also contribute.

An increase of \$19,938 is needed for the early replacement of a K9 due to medical issues and supplies and expenses related to the line of duty death. The Tax Increment .22 and General Fund will also contribute.

An increase of \$43,247 is needed for administration of the behavioral health program. This request is being funded through a CoResponder grant.

An increase of \$28,677 is needed to purchase equipment for the shooting range. A Post grant and a Federal BIA grant will fund this request.

The requests in the Tax Increment fund will be funded by grants and additional sales tax revenues.

Tax Increment Fund .22- \$36,322

An increase of \$28,017 is needed for ammunition for the Police Department. Ammunition purchases in 2020 and 2021 were limited due to supply. In 2022 supply has not been limited and the department has been able to obtain the supply that was ordered in 2020 and 2021. This is the Tax Increment .22 portion of this purchase; the Tax Increment .21 and General Funds will also contribute.

An increase of \$7,140 is needed for the early replacement of a K9 due to medical issues and supplies and expenses related to the line of duty death. The Tax Increment .21 and General Fund will also contribute.

An increase of \$1,165 is needed to purchase equipment for the shooting range. A Post grant will fund this request.

The requests in the Tax Increment fund will be funded by grants and additional sales tax revenues.

Capital Projects Fund - \$3,016,608

An increase of \$50,999 is needed for funds received from Adams County Open Space.

An increase of \$750,000 is needed for the construction of an evidence storage building which is funded from one-time funds approved earlier in 2022.

An increase of \$160,000 is needed for the Pomona Parcel project which is funded from one-time funds approved earlier in 2022.

An increase of \$100,000 is needed for parking management tools which is funded from one-time funds approved earlier in 2022.

An increase of \$70,000 is needed for the City's match for the Peaks to Plains project with Jefferson County Open Space.

An increase of \$35,000 is needed for the security gate at the Lutz and Long Lake complex. This is funded from one-time funds approved earlier in 2022.

An increase of \$345,000 is needed for the City Hall remodel which is funded from one-time funds approved earlier in 2022.

An increase of \$1,491,109 is needed for project programming. This is funded by a transfer from the General fund to comply with code section 98-101 of the Sales and Use Tax Code requiring 60% of the first cent of sales tax to be used for capital projects or debt that finance capital projects. The increase in the transfer is due to increased sales tax receipts.

Increase of \$14,500 for the purchase of camera equipment. This will be funded by PEG dollars received.

The requests in the Capital Projects Fund will be funded by grants and additional sales tax receipts.

Water Fund - \$150,000

An increase of \$150,000 is needed for the increase in the cost of chemicals.

The request in the Water fund will be funded by reserves.

Golf Fund - \$736,636

An increase of \$50,000 is needed for the Lake Arbor golf master plan. This is funded from one-time funds which was approved earlier in 2022.

An increase of \$70,760 is needed for the Golf Fund Administration program for increased credit card fees, restore the training and meetings budget which was decreased during COVID 19, an increase in advertising costs, increase in printing for printing menus, increase in costs for routine maintenance materials, and increases in natural gas costs.

An increase of \$301,942 is needed for the restaurant programs for overtime as it has been difficult to find temporary labor and benefited team members have filled the open hours, an increase in credit card fees, increase in small equipment needs, increases in food and beverage inventory due to increases in the cost of goods and increased business, increase in temporary wages as cost to hire temporary labor has increased, unemployment insurance, and an increase in cost of supplies for restaurant needs.

An increase of \$106,434 is needed for the golf operations programs for temporary wages as the cost to hire temporary labor has increased, a new simulator projector and range picker, increase in cost of inventory, and an increase in overtime as it has been difficult to find temporary labor and benefited team members have filled open shifts.

An increase of \$207,500 for the golf course maintenance programs for increases in fuel costs to mow the golf courses, increase in temporary wages as the cost to hire temporary labor has increased, an increase in supplies as costs of supplies needed have increased, and an increase in equipment repair and maintenance as the cost of parts for equipment have increased.

The requests in the Golf fund will be funded by increased revenue.

Insurance Fund - \$850,000

An increase of \$600,000 is needed for two large property vandalism events and increased property insurance premiums.

An increase of \$250,000 is needed for claims related to two large water main breaks.

The requests in the Insurance fund will be funded by fund reserves.

Computer Fund - \$3,205,000

An increase of \$3,000,000 is needed for the ERP replacement project. This is funded from one-time funding approved earlier in 2022.

An increase of \$125,000 is needed for cyber security software to protect the City from new and increasing cyber security threats.

An increase of \$80,000 is needed to replace Police Department cell phones that are at the end of their useful lives.

The requests in the Computer fund will be funded by fund reserves, one-time funds approved earlier in 2022 and transfer reimbursements from other funds.

Vehicle Fund - \$694,435

An increase of \$102,052 is needed for a dump truck which will be funded from the Water fund.

An increase of \$65,915 is needed for police vehicle uplift equipment due to increased costs.

An increase of \$222,991 is needed for vehicle repair parts due to increased costs.

An increase of \$31,397 is needed for repairs to the car wash bay. Jefferson County Schools will share in a portion of this cost.

An increase of \$9,000 is needed for interior paint needed for the Indiana Avenue maintenance shop.

An increase of \$263,080 for increased costs to purchase new vehicles and replace vehicles.

The requests in the Vehicle fund will be funded from the Water fund, fund reserves and transfer reimbursements from other funds.

Building Fund - \$250,000

An increase of \$250,000 is needed for HVAC upgrades and maintenance as an upgrade to HVAC equipment is needed and costs to upgrade and maintain equipment have increased.

The request in the Building fund will be funded with reserves.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

The Ordinance supports the following principle within the Organizational and Service Effectiveness Priority area within the City Council Strategic Plan.

"Provides a well-managed, fiscally responsible government that operates effectively and efficiently while identifying revenue requirements to sustain current service levels and achieve future requested levels of service"

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends that the City Council approve CB22-080, An Ordinance Authorizing an Additional Appropriation for Fiscal Year 2022 on first reading, ordered published in full, and a public hearing set for December 5, 2022 at 6:15 p.m.

Suggested Motion:

I move that CB22-080, An Ordinance Authorizing an Additional Appropriation for Fiscal Year 2022, be (approved on first reading, ordered published in full, and a public hearing set for December 5, 2022, at 6:15 p.m.) (rejected).

Prepared by:
Bryan Archer, Director of Finance

Reviewed by:

Approved by:

Jenna Belec, Executive Assistant	10/10/2022
Bryan Archer, Director of Finance	10/20/2022
Deb Nielson, Deputy Director of Finance	10/20/2022
Gail Walker, Legal Specialist-Contracts	10/20/2022
Laura Hemler, Assistant City Attorney	10/21/2022
Rachel Morris, City Attorney	10/24/2022
Linda Haley, Deputy City Manager	10/24/2022
Lorie Gillis, City Manager	10/24/2022

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 22-080
ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AN ADDITIONAL APPROPRIATION
FOR FISCAL YEAR 2022

WHEREAS, the City Council of the City of Arvada adopted Ordinance No. 4782 (Council Bill No.21-035), which authorized the annual appropriation for Fiscal Year 2022; and

WHEREAS, Section 10.8(a) of the Arvada Home Rule Charter provides that City Council may make additional appropriations by Ordinance during the fiscal year for unanticipated expenditures required of the City; and

WHEREAS, the City Council of the City of Arvada finds that an additional appropriation is necessary in order for the City to meet unanticipated expenditures; and

WHEREAS, the City Council of the City of Arvada further finds that such additional expenses do not exceed the amount by which actual and anticipated revenues for Fiscal Year 2022 are exceeding the revenues as anticipated in the budget for 2022.

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

Section 1. The following sums of money as may be needed or deemed necessary to defray the expenses and liabilities of the City of Arvada are hereby appropriated for Fiscal Year 2022.

City of Arvada Final Appropriation

Fund	Final Budget
General Fund	\$115,912,806
Conservation Trust Fund	\$187,999
Street Maintenance Fund	\$15,671,798
Community Development Fund	\$1,288,602
Housing Authority Fund	\$6,598,286
Emergency Fund	\$10,142,420
Parks Fund	\$13,219,508
Police Seizure	\$811,864
Police Tax Increment Fund .21	\$6,548,920
Police Tax Increment Fund .25	\$7,131,298
Debt Service	\$5,364,782
COP Debt Service Fund	\$2,521,622

Capital Improvement Projects Fund	\$19,872,047
Construction Fund	\$35,250,000
Water Fund	\$64,287,169
Wastewater Fund	\$25,005,056
Golf Course Fund	\$7,861,942
Stormwater Fund	\$9,536,510
Solid Waste Fund	\$6,238,247
Insurance Fund	\$3,340,138
Computer Replacement Fund	\$8,889,375
Print Shop	\$443,526
Vehicle Fund	\$8,299,756
Building Fund	\$761,237
Total Appropriation	\$375,184,908

Section 2. This Ordinance shall take effect five days after publication following final passage.

INTRODUCED, READ, AND ORDERED PUBLISHED this 7th day of November, 2022.

PASSED, ADOPTED, AND APPROVED this _____ day of _____, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

Publication Dates: November 10, 2022

City of Arvada 2022 Final Appropriation

Fund	Original Budget	Carryover Ordinance	Clean-Up Ordinance
General Fund	\$ 102,764,645	\$ 10,605,330	\$ 2,542,831
Conservation Trust Fund	\$ 187,999	\$ -	\$ -
Streets Fund	\$ 10,269,631	\$ 2,052,167	\$ 3,350,000
Community Development Fund	\$ 1,288,602	\$ -	\$ -
Housing Authority Fund	\$ 5,827,286	\$ -	\$ 771,000
Emergency Fund	\$ -	\$ 4,604,511	\$ 5,537,909
Parks Fund	\$ 11,585,697	\$ 1,370,476	\$ 263,335
Police Seizure	\$ 29,864	\$ 782,000	\$ -
COP Series 2005 Debt Fund	\$ 2,133,211	\$ 388,411	\$ -
Police Tax Increment Fund .21	\$ 6,059,185	\$ 310,765	\$ 178,970
Police Tax Increment Fund .25	\$ 6,965,343	\$ 129,633	\$ 36,322
Debt Service Fund	\$ 5,364,782	\$ -	\$ -
Capital Improvement Projects Fund	\$ 6,997,769	\$ 9,857,670	\$ 3,016,608
Construction Fund	\$ -	\$ 35,250,000	\$ -
Water Fund	\$ 52,546,099	\$ 11,591,070	\$ 150,000
Wastewater Fund	\$ 17,393,680	\$ 7,611,376	\$ -
Golf Course Fund	\$ 7,015,082	\$ 110,224	\$ 736,636
Stormwater Fund	\$ 4,903,344	\$ 4,633,166	\$ -
Solid Waste Fund	\$ 6,238,247	\$ -	\$ -
Insurance Fund	\$ 2,487,138	\$ 3,000	\$ 850,000
Computer Replacement Fund	\$ 5,674,966	\$ 9,409	\$ 3,205,000
Print Shop	\$ 443,526	\$ -	\$ -
Vehicle Fund	\$ 6,217,114	\$ 1,388,207	\$ 694,435
Building Fund	\$ 466,237	\$ 45,000	\$ 250,000
Total	\$ 262,859,447	\$ 90,742,415	\$ 21,583,046

Final Budget
\$ 115,912,806
\$ 187,999
\$ 15,671,798
\$ 1,288,602
\$ 6,598,286
\$ 10,142,420
\$ 13,219,508
\$ 811,864
\$ 2,521,622
\$ 6,548,920
\$ 7,131,298
\$ 5,364,782
\$ 19,872,047
\$ 35,250,000
\$ 64,287,169
\$ 25,005,056
\$ 7,861,942
\$ 9,536,510
\$ 6,238,247
\$ 3,340,138
\$ 8,889,375
\$ 443,526
\$ 8,299,756
\$ 761,237
\$ 375,184,908



REPORT TO CITY COUNCIL ORDINANCE FIRST READING

AGENDA ITEM
8.C.3.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: CB22-081, An Ordinance Repealing and Reenacting Article V, Cross-Connection Control Program of Chapter 102, Utilities, of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

Report in Brief

The Infrastructure Work System provides the community with a safe, reliable, high-quality water supply. This is done in part by preventing pollutants and contaminants from entering the City's drinking water system.

A cross-connection is a point in a plumbing system where the potable water supply is connected to a non-potable source. Drinking water systems can be contaminated through an uncontrolled cross-connection when "backflow" occurs. Backflow occurs when an unwanted, non-potable substance flows back into the customer's plumbing system or into the public safe drinking water system. Backflow events can endanger the public health and safety.

State regulations governing public water systems include a requirement to maintain a "cross-connection control program". The City's current ordinances need to be updated to comply with modifications to State requirements.

The City's original cross-connection control program ordinance was adopted by City Council in 1986. There have been updates and amendments to the program over the years, most recently in 2009. Technological updates and changes to the State's safe drinking water regulations mean the City's cross-connection control ordinance must be updated again. Importantly, the proposed updated ordinance will bring the City into compliance with State regulations.

This ordinance does three basic things:

- Duties and responsibilities. The ordinance clarifies the duties and responsibilities of both the Utilities Director and water system customers in maintaining our clean, safe drinking water supply.
- Annual inspection program. The ordinance requires all commercial, industrial, dedicated irrigation system, and multi-family residential customers to inspect their cross-connection once per year and file the inspection report with the Utilities department. This inspection, which is completed by a plumber or other certified technician at a modest cost (less than \$100), helps ensure these cross-connections are in good working order. These annual inspections are a crucial component of the City's cross-connection program. The ordinance also includes financial penalties for failing to conduct an annual inspection.
- Uncontrolled cross-connection events. The ordinance creates a structured process to ensure compliance should an "uncontrolled cross-connection" situation occur.

The City's Infrastructure and CED teams helped draft the proposed cross-connection control Ordinance. Adoption of the proposed ordinance will allow the City to conform to current industry practices and standards and to State regulatory changes.

The Arvada team recommends that the CB22-081, An Ordinance Repealing and Reenacting Article V, Cross-Connection Control Program of Chapter 102, Utilities, of the Arvada City Code be approved on first reading, ordered published in full, and a public hearing set for December 5, 2022 at 6:15 p.m.

Financial Impact

The proposed changes modernize the City's laws relating to safe drinking water through the regulation of cross-connections. The proposed Ordinance does allow for the collection of certain inspection fees and civil charges under certain circumstances, but the overall impact of these inspection fees and civil charges is expected to be negligible.

Background

Contamination of safe water can occur if the potable water system piping is connected to a pipe where the water is contaminated or otherwise unsafe. All drinking water systems, including Arvada's, are required by State statute and related regulations to have a program that will lessen the potential for such connections to contaminate the drinking water supply. An increasing awareness of the risks posed by uncontrolled cross-connections and new technology designed to help reduce contamination risks has led to changes in the regulatory environment.

Arvada does this by requiring cross-connections to be controlled through the use of approved mechanical backflow prevention devices or assemblies, or by certain other approved methods. Each backflow prevention device or method must be approved for backflow protection that is designed for the degree of hazard and backflow it is controlling. In addition, each device or method must be installed correctly and inspected or tested annually by a state-certified technician. Finally, devices and methods must be repaired or brought into compliance as necessary.

The State of Colorado has made a concerted effort over the past decade to help owners of water systems better control drinking water supply cross-connections. These efforts led to the State's "Regulation 11.39: Backflow Prevention and Cross-Connection Control Guidance," published by the Colorado Department of Public Health and Safety. The proposed Ordinance conforms to this State Regulation.

In addition, the proposed Ordinance modernizes language in the current City Code, and streamlines the City's enforcement processes. Enforcement actions are designed to protect our safe drinking water system until the issue is resolved. Water customers (and the owner of the property, if different from the customer) will receive multiple notices in any enforcement action. Enforcement is a joint effort of Utilities employees and City building inspectors. Updating our cross-connection Ordinance will help ensure that Arvada has effective tools in preventing the possible contamination of our safe drinking water system.

Discussion

The City's current cross-connection control ordinance does not comply with the latest State regulations governing public water systems. The updated ordinance will comply with State requirements. Major updates include defining duties and responsibilities of customers and City staff, formalizing an enforcement escalation process for non-compliance, and establishing new rules and penalties for annual testing of backflow devices.

Here are some additional highlights of the proposed ordinance:

Customer responsibilities have been placed primarily into one section for ease of use. See section 102-276.

Information about which backflow device or method is appropriate for a given situation or use has been simplified. See section 102-276.

Information about the annual cross-connection inspection program has been simplified. The Utilities Department is implementing a robust communications plan around the annual inspection program. Affected water customers will receive multiple notices across a variety of platforms reminding them of their duty to submit proof of their cross-connection inspection report. In addition, processes for handling non-compliant customers have been streamlined. The Utilities Department will assess a "civil charge" against customers who refuse to submit their annual inspection report. This charge will be set forth in the Utilities fees and costs schedule. To encourage compliance, Utilities will waive some of the charges against customers who comply early in the enforcement process. See section 102-277.

Processes for responding to an “uncontrolled cross-connection” event have been simplified. See section 102-278.

Requirements for annual inspection reports have been clarified. See section 102-280.

The proposed Ordinance provides for appeals of certain decisions of the Utilities Director. See section 102-281.

Unlawful acts have been clarified to ensure customers better understand their duties under the law. See section 102-284.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

NA

Strategic Alignment

The proposed action aligns with the following Principle stated as part of the Infrastructure Priority Area within the 2020-2025 Strategic Plan: “Provide the community with a safe, resilient, high-quality water supply, drainage system, and wastewater disposal services for full city build-out, as defined by the Comprehensive Plan. . . .”

Alternative Courses of Action

NA

Recommendation for Action

The Arvada team recommends that the CB22-081, An Ordinance Repealing and Reenacting Article V, Cross-Connection Control Program of Chapter 102, Utilities, of the Arvada City Code be approved on first reading, ordered published in full, and a public hearing set for December 5, 2022 at 6:15 p.m.

Suggested Motion:

I move that CB22-081, An Ordinance Repealing and Reenacting Article V, Cross-Connection Control Program, of Chapter 102, Utilities, of the Arvada City Code be (approved on first reading, ordered published in full, and a public hearing set for December 5, 2022 at 6:15 p.m.) (rejected).

Prepared by:
Gail Walker, Legal Specialist-Contracts

Reviewed by:

Approved by:

Tammy Hedlund, Legal Specialist
Nora Steenson, Deputy City Attorney

10/17/2022
10/18/2022

SUBJECT: CB22-081, An Ordinance Repealing and Reenacting Article V, Cross-Connection Control Program of Chapter 102, Utilities, of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

PAGE: 4
ITEM: 8.C.3.

Sharon Israel, Director of Utilities	10/20/2022
Ryan Stachelski, Director of Community and Economic Development	10/20/2022
Rachel Morris, City Attorney	10/24/2022
Linda Haley, Deputy City Manager	10/25/2022
Don Wick, Deputy City Manager	10/25/2022
Lorie Gillis, City Manager	10/25/2022

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 22-081
ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REENACTING ARTICLE V,
CROSS-CONNECTION CONTROL PROGRAM, OF CHAPTER 102, UTILITIES,
OF THE ARVADA CITY CODE

WHEREAS, Article 15 of Title 31 of the Colorado Revised Statutes gives municipalities broad powers to construct, operate, and maintain waterworks systems; and

WHEREAS, Title 31 also recognizes that municipalities have the authority to protect public water systems from injury and pollution; and

WHEREAS, the city owns and operates a public water system; and

WHEREAS, one component of protecting the city's water system from pollution is to prevent potential contaminants from being introduced into the city's drinking water system; and

WHEREAS, one common and accepted method of preventing contaminants from being introduced into the city's drinking water system is to require the installation and maintenance of approved backflow prevention devices at water system cross-connections; and

WHEREAS, C.R.S. §25-1-114(1)(h) requires any person connecting to a public water system to install and maintain cross-connection devices that prevent unsanitary water from entering a drinking water system that supplies water to the public; and

WHEREAS, the state of Colorado has issued the Colorado Primary Drinking Water Regulations at 5 C.C.R. 1002-11 as may be amended from time to time (Regulation 11); and

WHEREAS, Regulation 11 requires water suppliers that own and operate a public water system to protect the drinking water from potential contamination through cross-connection; and

WHEREAS, the city is required to comply with Regulation 11 and other applicable health and safety laws; and

WHEREAS, backflow prevention assemblies installed at a water service line or at a plumbing fixture prevent backflow cross-connection contamination events; and

WHEREAS, C.R.S. §31-35-402(f) empowers municipalities to "prescribe, revise, and collect. . . fees, tolls, and charges or any combination thereof for the services furnished by, or the direct or indirect connection with, or the use of, or any commodity from [city] water facilities. . . .;" and

WHEREAS, the City Council has determined that the city's existing cross-connection control program ordinance should be updated to comply with current standards and regulations relating to backflow prevention.

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

Section 1. Article V, Cross-connection Control Program, of Chapter 102, Utilities, is hereby repealed and reenacted to read as follows:

“ARTICLE V. CROSS-CONNECTION CONTROL PROGRAM

Sec. 102-271. Legislative intent and purpose.

The city owns and operates a public water system that supplies safe drinking water to citizens. As the operator of a public water system, the city is required to comply with Colorado State regulations that protect city drinking water from potential contamination from an uncontrolled cross-connection. The City Council has determined that an uncontrolled cross-connection presents a risk to the integrity of the public water system and to the health and safety of the public. It is the intent of the City Council to protect the city’s water system from contamination due to backflow from a private water system, and to provide for the maintenance of a continuing cross-connection control program to help prevent the contamination of the city’s water system. The purpose of this Ordinance is to comply with Colorado health and safety laws and regulations that require the city to protect its public water system from contaminants or pollutants that could enter the distribution system by backflow from a customer's water supply system through the service connection.

Sec. 102-272. Authority.

The authority to establish and implement a cross-connection control program is derived from the city’s powers and authority as a home rule city under articles 15 and 35 of Title 31 of the Colorado Revised Statutes, from C.R.S. §25-1-114(1)(h), and from the International Plumbing Code as adopted and amended by the city. This program is conducted under Regulation 11 of the Colorado Primary Drinking Water Regulations issued by Colorado Department of Public Health and Environment at 5 C.C.R. 1002-11, as may be amended from time to time.

Sec. 102-273. Applicability.

This Ordinance applies to all commercial, industrial, dedicated irrigation, and multi-family residential service connections within the city’s water system, and to any persons outside the city who are, by contract or agreement with the city, users of the public water system. This Ordinance does not apply to single-family residential service connections unless the city becomes aware of a cross-connection at a single-family connection.

Sec. 102-274. Definitions.

Air gap is a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel installed in accordance with standard ASME A112.1.2.

Annual inspection due date means July 31 of each year.

Approved means accepted or acceptable under an applicable specification or standard stated or cited by the city as suitable for the proposed use.

Backflow means the reverse flow of water, fluid, or gas caused by back pressure or back siphonage.

Backflow contamination event means backflow into a public water system from an uncontrolled cross-connection such that the water quality no longer meets the Colorado Primary Drinking Water Regulations or presents an immediate health or safety risk to the public.

Backflow prevention assembly or *assembly* means any mechanical device installed at a water service line or at a plumbing fixture to prevent a backflow contamination event.

Backflow prevention method or *method* means any procedure, process, or technique, or a non-testable device, installed at a water service line or at a plumbing fixture to prevent a backflow contamination event.

Certified cross-connection control technician or *technician* means a person who possesses a valid backflow prevention assembly tester certification from one of the following approved organizations: American Society of Sanitary Engineering (ASSE) or the American Backflow Prevention Association (ABPA).

City means the City of Arvada.

City water system or *public water system* means the system of pipes and other constructed conveyances owned and operated by the city that provide to the public water for human consumption, and includes the source and distribution facilities owned by the city to the point of the water system connection. The source includes all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system. The distribution system includes the network of conduits used for the delivery of water from the source to a private property owner's system.

Containment means the installation of a backflow prevention assembly or a backflow prevention method at any connection to the public water system that supplies an auxiliary water system, location, facility, or area such that backflow from a cross-connection into the public water system is prevented.

Containment by isolation means the installation of backflow prevention assemblies or backflow prevention methods at all cross-connections identified within a customer's water system such that backflow from a cross-connection into the public water system is prevented.

Controlled means having a properly installed, maintained, and tested or inspected backflow prevention assembly or backflow prevention method that prevents backflow through a cross-connection.

Cross-connection means any connection that could allow any water, fluid, or gas such that the water quality could present an unacceptable health and/or safety risk to the public, to flow from any pipe, plumbing fixture, or a customer's water system into the city's water distribution system or any other part of the public water system through backflow.

Day means a calendar day.

Director means the director of the utilities department or a designee thereof.

Multi-family means a single residential connection to the public water system's distribution system from which three or more separate dwelling units are supplied water.

Person or customer means the owner of private property upon which a pipe, plumbing fixture, or water system is located beginning at the point where the water leaves the meter service connection, and includes an occupant, tenant, or manager of the property. It also includes a person who receives any service from the city water system, and any person upon whose property there exists a non-metered connection with the city water system. A person or customer may be an individual or an association, partnership, company, or corporation, or an officer of any such entity.

Service connection or *water service connection* means the terminal end of the city's service connection from the city water system (i.e., at the customer's stop box shut-off valve or meter). Service connection or water service connection also includes the water service connection from a fire hydrant and all other temporary or emergency water service connections from the city's water system.

Single-family means a single dwelling unit that is supplied by its own separate service line, a dwelling comprised of multiple dwelling units where each dwelling unit is supplied by a separate service line, or two separate single dwelling units supplied by a common service line.

Suspend, suspension, terminate, or termination means to stop or prevent the connection of a customer's plumbing or water system to the city's water system, and includes the termination of water service under the provisions of this article.

Uncontrolled means not having a properly installed and maintained and tested or inspected backflow prevention assembly or backflow prevention method, or the backflow prevention assembly or backflow prevention method does not prevent backflow through a cross-connection.

Water distribution system means any combination of pipes, tanks, pumps, or other facilities that delivers water from a source or treatment facility to a customer.

Water supply system means a water distribution system, piping, connection fittings, valves and appurtenances within a building, structure, or premises. Water supply systems may also be referred to as premises plumbing systems.

Writing or written means a communication in written format including emails or other electronic communication capable of being produced in a written format, but does not include instant messaging, text messaging, or telephone messages.

Sec. 102-275. Duties and powers of the director.

- (a) *General.* The director is authorized and directed to implement, administer, and enforce the provisions of this article. The director has the authority to:
 - (1) Implement and administer a cross-connection control program and may develop written rules and regulations outlining the processes and procedures for surveying property for the purpose of establishing the extent of protection required for the city's water system and for other aspects of the program;
 - (2) Determine and implement a process to select a backflow prevention assembly or backflow prevention method to control a cross-connection;
 - (3) Establish and administer an annual cross-connection inspection program and communications plan therefor;
 - (4) Require access to the property of customers receiving water service to conduct a cross-connection control survey, and survey all service connections within the water distribution system to determine if the connection is a cross-connection;
 - (5) Control all service connections within the water distribution system if the connection is a cross-connection;
 - (6) In a case where a backflow prevention assembly required by this article is not installed, tested, or maintained as required under this article, or if a backflow prevention assembly has been removed or bypassed, or if an uncontrolled cross-connection exists on the customer's property, the director may:
 - (i) Control the cross-connection;
 - (ii) Remove the cross-connection;
 - (iii) Order the customer with the uncontrolled cross connection to take all necessary actions to ensure the connection is controlled;

- (iii) Suspend water service to the cross-connection. If water service is suspended, it shall not be restored until the conditions or defects that caused the uncontrolled cross-connection are corrected. In this case, the director shall give notice to the customer of the director's action, as well as of any order or orders necessary to ensure the customer's cross-connection is brought into compliance with this article as soon as is reasonably practicable after the director takes action to protect the cross-connection;
 - (iv) Except in cases where the director has determined there is an acute risk to the public's health, safety, or welfare, the director may grant a one-time compliance extension of no more than an additional 14 days to a customer who has requested an extension under sec. 102-276(f) of this article; or
 - (v) Take any other action as authorized by this article.
- (7) Control any service connection within the water distribution system in lieu of a survey if the service connection is controlled with an air gap or reduced pressure zone backflow prevention assembly;
 - (8) Inspect, test or require the testing of, or audit any backflow prevention assembly or backflow prevention method used to control a cross-connection at any time to ensure compliance with this Chapter 102;
 - (9) Create and administer a licensing program for technicians;
 - (10) Establish and collect fees for the administration of the program. Any such fees shall be set in accordance with sections 2-261—263 of this Code;
 - (11) Maintain records of cross-connection surveys, and of the installation, testing, and repair of all backflow prevention assemblies installed for containment and containment by isolation purposes;
 - (12) Render interpretations of this article and adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall be in compliance with the intent and purpose of this article, and shall not have the effect of waiving requirement specifically provided for in this article;
 - (13) Discontinue service of water to any property if uncontrolled cross-connections exist on the property, if any defect is found in an installed backflow prevention method or assembly, if a backflow prevention assembly or method has been removed or bypassed or does not adequately protect public health, or otherwise in accordance with this article; and

- (14) Otherwise implement, administer, and enforce the provisions of this Ordinance.

Sec. 102-276. Customer responsibilities.

- (a) *Controlled cross-connection required.* Each customer shall ensure that any cross-connection on the customer's property is controlled with an appropriate assembly or method as designated in this article. If the city becomes aware of a single-family residential connection to the public water system that is a cross-connection, the city will determine the type of backflow prevention assembly or backflow prevention method to control the cross-connection. The city will notify the customer of this determination, and the customer must install this type of assembly or method.
- (b) *Appropriate device or method.* Each customer shall ensure that each assembly, method, or non-testable device located on the customer's property is appropriate for the identified contaminant at the cross-connection as set forth in the following table:

Table 102-276(b)
Appropriate Backflow Prevention Assemblies, Methods, or Non-testable Devices

Assembly or Method Type	Typical Appropriate Uses
Reduced Pressure Zone Backflow Prevention Assembly ("RPZ")	Appropriate for any identified contaminant except direct connections to sewer or installations which may impair the integrity of the assembly to function as designed.
Reduced Pressure Zone Fire Protection Backflow Prevention Assembly ("RPF")	Appropriate for cross connections to fire suppression systems.
Reduced Pressure Zone Detector Fire Protection Backflow Prevention Assembly ("RPD")	
Double Check Backflow Prevention Assembly ("DC")	Appropriate for cross connections to fire suppression systems except when upstream of a chemical other than food grade glycerin.
Double Check Fire Protection Backflow Prevention Assembly ("DCF")	
Double Check Detector Fire Protection Backflow Prevention Assembly ("DCD")	
Pressure Vacuum Breaker Backflow Prevention Assembly ("PVB")*	Appropriate for any identified contaminant except direct connections to sewer or installations which may impair the integrity of the assembly to function as designed. Not appropriate for connections subject to backpressure.
Spill-Resistant Vacuum	

Breaker (“SVB”)*	
Air Gap (“AG”)*	Appropriate for any identified contaminant. All cross connections can be controlled using an air gap installed in accordance with standard ASME A112.1.1.
Block and Bleed Valve or Double Block and Bleed Valve (“BB”)*	Appropriate for membrane chemical-clean-in-place and filter-to-waste at supplier’s facilities.
Check Valve (“CV”)*	The Director shall have discretion as to whether these methods are appropriate.
Hydraulic Conditions (“HC”)*	

(c) *Installation to comply with applicable code.* The installation of each assembly or method shall comply with the International Plumbing Code, technical requirements, specifications, or other applicable standards, or any rule or regulation established by the director. Each assembly or method used is subject to the approval of the director. An assembly or method type marked with an asterisk in Table 102-276(b) requires the written approval of the director prior to installation. A customer may submit to the director a request to install an alternate assembly. The submission must be in writing, and must outline the exact nature of the alternate assembly, and detail with specificity the reason or reasons why the alternate assembly will provide the same or greater level of protection against backflow or backflow events as the assembly required under Table 102-276(b). Upon receipt of such a request by a customer, the director may, but is not required to, stay or defer any enforcement or other action authorized by this article based on the nature and potential severity of the risk presented by the delay.

(1) Proper clearance required. The customer must maintain the required clearance around the backflow prevention assembly to allow for testing and maintenance.

(d) *Other.* Each customer shall ensure that any backflow prevention assembly or method on the customer’s property is inspected, tested, maintained, and is properly repaired or replaced as necessary.

(1) Repair. Each customer shall ensure each backflow prevention assembly or method located on the customer’s property is repaired and retested or replaced as necessary whenever the assembly or method is found to be defective.

(2) Records. Each customer shall keep records and reports of inspections, tests, repairs, retests, and replacements for a minimum of three years.

(3) Costs. All costs related to the design, submittal, installation, inspection, re-inspection, maintenance, testing, repairs, and replacement related to

backflow prevention assemblies and methods shall be borne by the customer.

- (e) *Annual inspection report required; annual inspection due date; duties.* Following the initial installation, each customer shall, on or before July 31 of each subsequent year, test any backflow prevention assembly or method on the customer's property in accordance with this article, and submit to the director the annual inspection report.
- (f) *Responsibilities in an uncontrolled cross-connection compliance action.* If a customer is ordered by the director to install at the customer's water service connection an approved backflow prevention assembly or method, or to take any other action to ensure the installation is completed in accordance with the requirements of this article, the installation or other action shall be completed by the customer and a completed inspection report submitted to the director within the time frame noted in the director's notice and order, unless the customer requests and the director issues a written extension of that time.
- (g) *Duty to obey.* Each customer shall comply with any order of the director issued under this article, including an order to allow access to and entry into any structure, property, or premises for the purposes outlined in this article. Each customer shall cooperate with the survey process, and with the installation, inspection, testing, maintenance, repair, and replacement of backflow prevention assemblies.

Sec. 102-277. Annual inspection program; failure to comply; compliance procedures.

- (a) *Late notice.* If a customer fails to submit an annual inspection report on or before the annual inspection due date as required under sec. 102-276(e), the director shall, within 28 days of the annual inspection due date, send a late notice to the customer.
 - (1) *Contents.* The late notice shall contain a notice that a late fee in an amount forth in the utilities administrative fees and costs schedule will be added to the water bill for the property. In the case of a property that is owned by one individual, one or more individuals, or a business entity, but which contains more than one assembly, the late fee will be assessed against each assembly on the property and otherwise as set forth in the utilities administrative fees and costs schedule. The late notice shall remind the customer and property owner of the obligation to comply with the annual inspection requirement, order them to submit a completed, valid inspection report to the director within 28 days of the date of the late notice, and state that fees, charges, and other penalties will continue to be assessed if the inspection report is not submitted as required.

- (b) *First violation notice.* If a customer fails to submit an inspection report within 28 days of the date of the late notice, the director shall, within 35 days of the date of the late notice, send a first violation notice to the customer.
- (1) Contents. The first violation notice shall contain a notice that a charge in an amount set forth in the utilities administrative fees and costs schedule will be added to the water bill for the property as a civil charge. In the case of a property that is owned by one individual, one or more individuals, or a business entity, but which contains more than one assembly, the civil charge will be assessed against each assembly on the property and otherwise as set forth in the utilities administrative fees and costs schedule. If the customer or property owner provides proof of compliance with the annual inspection program within 14 days of the date of the first violation notice, the director shall waive one-half of the civil charge assessed under this subsection (b). The notice shall also remind the customer and property owner of the obligation to comply with the annual inspection requirement, order them to submit a completed valid inspection report to the director within 28 days of the date of the first violation notice, and state that additional fees, charges, and other penalties will be assessed if the report is not submitted as required.
- (c) *Second violation notice.* If a customer fails to submit an inspection report within 28 days of the date of the first violation notice, the director shall, within 35 days of the date of the first violation notice, send a second violation notice to the customer.
- (1) Contents. The second violation notice shall contain a notice that a charge in an amount set forth in the utilities administrative fees and costs schedule will be added to the water bill for the property as a civil charge. In the case of a property that is owned by one individual, one or more individuals, or a business entity, but which contains more than one assembly, the civil charge will be assessed against each assembly on the property and otherwise as set forth in the utilities administrative fees and costs schedule. If the customer or property owner provides proof of compliance with the annual inspection program within 14 days of the date of the second violation notice, the director shall waive one-fourth of the civil charge assessed under this subsection (c). The notice shall also remind the customer and property owner of the obligation to comply with the annual inspection requirement, and notify them that service will be terminated in accordance with the provisions of this article if the report is not submitted as required.
- (d) *Termination notice.* If a customer fails to submit an inspection report within 21 days of date of the second violation notice, the director shall send a notice of termination of service to the customer. The termination notice shall also contain a notice that a water shut-off, restoration, and other fees and costs as set forth in the

utilities administrative fees and costs schedule will be assessed against the property as applicable. Water service shall be terminated no sooner than seven days after the date of the termination notice, and shall remain terminated until such time as the property is brought into compliance with the requirements of the annual inspection program.

- (e) *Mailing and posting of notices.* Each late notice, violation notice, or termination notice issued under this section shall be mailed to the customer by first class U.S. Mail. In addition, a termination notice shall be posted on the property. In the event that the property owner is different than the customer, the late notice, violation notice, and termination notice shall also be mailed to the listed owner, at the address on file with the applicable county tax assessor's office. Each notice must state any appeal available. The City's inability to comport strictly with the time deadlines set forth herein for the mailing or posting of any late notice, violation notice, or termination notice shall not impact the enforcement action.
- (f) *Other actions authorized.* Nothing in this section is intended to limit the duties and powers of the director as set forth in sec. 102-275. The director may, at any time after a customer fails to submit an inspection report in accordance with the requirements of subsection 102-276(e), and in addition to the actions described in this section, take any other action authorized by this article, including issuing a summons and complaint.

Sec. 102-278. Uncontrolled cross-connection: compliance procedures.

- (a) *Notice and order.* The director shall give written notice to any customer whose uncontrolled cross-connection or plumbing system complexity has been found to present a risk to the city's water distribution system through an uncontrolled cross-connection.
 - (1) *Contents of notice and order.* The notice and order shall set forth any order or orders stating the actions necessary to control the cross-connection, and allow the customer 14 days from the date of the notice and order to comply with each order listed in the notice and order. The notice and order shall also remind the customer and property owner of the obligation to control the cross-connection on the property, and note that inspection fees, re-inspection fees, and other fees, charges, and penalties will be assessed for non-compliance. The director may order a customer to take, permit, or allow any action reasonably necessary to ensure the connection is in compliance with the provisions of this article, including but not limited to ordering that:
 - (i) An approved backflow prevention assembly or method be installed or reinstalled at each service connection to the premises in a location that provides access for inspection, testing, maintenance, and repair, and that testing be done in compliance with this article;

- (ii) An assembly or method provide for adequate drainage from the discharge of water from reduced pressure principle backflow prevention assemblies, and that such discharge shall be conveyed in a manner which does not impact waters of the city or the state;
 - (iii) Appropriate winterization actions be undertaken and completed to protect an assembly or method from freezing. The director may allow an assembly or method used for seasonal services to be removed in lieu of being protected from freezing. Any assembly or method removed under this subsection must be tested by a technician upon reinstallation; and
 - (iv) Where a backflow prevention assembly or method is installed on a water supply system using storage water heating equipment such that thermal expansion causes an increase in pressure, a device for controlling pressure shall be installed.
- (b) *Violation notice.* If a customer fails to comply with the order or orders of the director within 14 days of the date of the notice and order, the director shall, within 21 days of the date of the notice and order, send a violation notice to the customer.
 - (1) *Contents.* The violation notice shall re-state the order or orders stating the actions necessary to control the cross-connection, and may give the customer an additional 14 days from the date of the violation notice to comply with the order or orders. The notice shall also remind the customer and property owner of the obligation to comply with the order or orders of the director, and note that inspection fees, re-inspection fees, and other fees, charges, and penalties will continue to be assessed due to non-compliance. The notice will inform the customer that a cross-connection inspection fee as set forth in the utilities administrative fees and costs schedule will be added to the water bill.
- (d) *Termination notice.* In the event that the customer does not comply within 42 days of the date of the notice and order issued by the director under subsection (a)(1) of this section, or within the period of any extension requested by the customer and granted by the director under subsection 102-275(a)(6), whichever date is applicable, the director shall send a notice of termination of service to the customer. The termination notice shall also contain a notice that a water shut-off, restoration, and other fees and costs as set forth in the utilities administrative fees and costs schedule will be assessed against the property as applicable. Water service shall be terminated no sooner than seven days after the date of the termination notice, and shall remain terminated until such time as the property is brought into compliance with the requirements of this article.

- (e) *Mailing and posting of notices.* Each notice and order, violation notice, or termination notice issued under this section shall be mailed to the customer by first class U.S. Mail. In addition, a termination notice shall be posted on the property. In the event that the property owner is different than the customer, the notice and order, violation notice, and termination notice shall also be mailed to the listed owner, at the address on file with the applicable county tax assessor's office. Each notice must state any appeal available. The City's inability to comport strictly with the time deadlines set forth herein for the mailing or posting of a notice and order, violation notice, or termination notice shall not impact the enforcement action.
- (f) *Other actions authorized.* Nothing in this section is intended to limit the duties and powers of the director as set forth in sec. 102-275. The director may, at any time after an uncontrolled cross-connection or other similar situation is discovered, and in addition to the actions described in this section, take any other action authorized by this article, including issuing a summons and complaint.

Sec. 102-279. Fees, charges, and expenses to be lien upon property.

- (a) *Debt due and owing.* Unless paid within 63 days of assessment, all fees, rates, charges, penalties, or expenses incurred by the city under this article constitute a debt due and owing to the city, and the city has the right to recover on any such debt in the manner provided by law in any court of competent jurisdiction.
- (b) *Lien.* Unless paid within 63 days of assessment, all fees, rates, charges, penalties, or expenses incurred by the city under this article constitute a perpetual lien on and against the property served, and any such lien may be foreclosed by the city at any time in the manner as provided by the laws of the state for the foreclosure of mechanics' liens or in accordance with chapter 59 of this Code entitled "Municipal Liens." Such lien foreclosure by the city is subject to all rights of redemption granted by C.R.S. §38-39-101 *et seq.*, as amended.

Sec. 102-280. Certified cross-connection control technician: report requirements.

- (a) *Technician.* Every test of a backflow prevention assembly, and every inspection of a non-testable assembly or a backflow prevention method, shall be conducted by a certified cross-control technician.
- (b) *Calibration of equipment.* Each testing gauge used to test a backflow prevention assembly shall be tested and calibrated for accuracy at least once annually.
- (c) *Submission of reports.* Reports of tests, inspections, repairs, retests, and re-inspections shall be in writing and shall be submitted by the testing company or technician to the city by mail, via an online city portal, or by email no later than seven days following the test, repair, retest, or re-inspection.

- (d) *Contents of reports.* A report submitted to the city under this section shall include, but is not limited to, the following information:
- (1) Assembly or method type;
 - (2) Assembly or method location;
 - (3) Assembly make, model, and serial number;
 - (4) Assembly size;
 - (5) Test date;
 - (6) Test results including all results that would justify a pass or fail outcome;
 - (7) Certified cross-connection control technician certification agency;
 - (8) Technician's certification number;
 - (9) Technician's certification expiration date. If a certification has expired, the certification is invalid;
 - (10) Test kit manufacturer, model, and serial number;
 - (11) Test kit calibration date; and
 - (12) Whether, and to what extent, the inspected backflow prevention assembly or method requires any repair.

Sec. 102-281. Appeals of a determination or order of the director.

- (a) *Filing; timeliness.* A customer whose property is affected by a determination of the director made under sec. 102-276 (b) or (c), who is subject to a notice or order of the director made under sec. 102-277 or 278, may appeal that determination or order on a form prescribed by the city and available from the director on the city's website or by hard copy. The appeal must be in writing and be submitted to the city clerk within 14 days of the date of the director's determination or order. An appeal form that is not complete in all respects or that does not state the grounds for appeal shall be promptly returned by the clerk to the customer. The customer may resubmit an appeal form deemed incomplete by the clerk, and the clerk shall accept it, if the resubmitted form is complete and submitted to the clerk within the deadline set forth this subsection. Compliance with the 14-day time limit noted in this subsection (a) shall be a jurisdictional prerequisite to any appeal brought under this article. Failure to comply shall bar any such appeal.
- (b) *Grounds.* The appeal shall be based on a claim that:

- (1) The provisions of this article do not apply;
 - (2) The true intent of this article has been incorrectly interpreted by the director; or
 - (3) The customer has previously filed with the director a written plan outlining the installation of an equally good or better assembly than that which has been rejected by the director.
- (c) *Procedure.* The appeal form, and any other documentation submitted to the city clerk by the customer, as well as any response or documentation submitted by the director, will be submitted by the city clerk to the city manager for review. Notwithstanding any other provision of this Code, the appeal of the director's determination shall consist of a review of all relevant documentation on file with the City in the case, as well as the appeal form and any accompanying materials. All documents may be reviewed electronically. The city bears the burden of proof in an appeal to establish that the director's action or determination was reasonable in light of the intent of this article, that the terms of this article applied to the customer in question, and, in a case where the customer is appealing the type of assembly required by the director, that the type of assembly previously filed by the customer and rejected by the director does not function as well as the assembly required by the director. The city manager or their designee shall review the information submitted, and within 14 days of the date of the filing of the appeal, issue a written decision on the appeal. The decision must contain the reason or reasons for the decision. The decision must set forth appeal rights, if any. The decision may be mailed by first class U.S. Mail or furnished to the customer electronically. Should the city manager fail to issue a written decision on the appeal within the time frame set forth herein, the claim shall be deemed denied, and the customer may proceed as if an adverse decision has been issued.
- (d) *Appeal of city manager's decision.* The city manager's decision, or denial of an appeal as a result of the manager's failure to issue a written decision, shall be considered a final agency decision. The appeal may proceed under Rule 106 of the Colorado Rules of Civil Procedure.

Sec. 102-282. Right of entry.

- (a) *Generally.* The city shall have the right of entry to survey any structure or premises within the city for the presence of a cross-connection, to inspect a cross-connection, to assess possible contamination risk, to test the backflow assembly or method, to audit any backflow assembly or method, to determine compliance with this article, whenever there is reasonable cause to believe there exists in a structure or upon a premises a condition in violation of this article, or otherwise to enforce this Code. This right of entry shall be a condition of water service in order to protect the health, safety and welfare of customers throughout the city's

distribution system.

- (b) *Process.* The director is authorized to exercise the city's right of entry at reasonable times to perform the duties imposed by this Code. If the structure or premises is occupied, the director shall present credentials to the occupant and request entry. If the structure or premises is unoccupied, the director shall first make a reasonable effort to contact the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the director may apply to the municipal court for a warrant if the warrant relates to a violation of this article, involves a serious threat to public safety or order, and the violation is not also a violation prohibited by state statute for which a search warrant could be issued by a district or county court. The purpose of the warrant may be to enter the premises and any structure thereon to survey the premises and any structure thereon for the presence of a cross-connection, to search for and inspect the uncontrolled connection or source of the suspected contamination risk, to collect water samples, to assess possible contamination risk, to audit or test the backflow assembly or method, and to determine compliance with and otherwise enforce this article. The director shall also have recourse to any other remedy provided by law to secure entry.

Sec. 102-283. Conflicts.

If a dispute or conflict arises between a provision of this article and the provisions of any technical code, specification, rule, or regulation adopted by the city, the director shall determine which assembly, non-testable device, or method is most appropriate for the circumstance based on the identified contaminant and other relevant hazards.

Sec. 102-284. Unlawful acts.

- (a) *Annual inspection program.* It shall be unlawful for any person to fail or refuse to submit an annual inspection report as required under this article.
- (b) *Uncontrolled cross-connection.* It shall be unlawful for any person to make, install, maintain, permit, or allow an uncontrolled cross-connection.
- (c) *Inspection.* It shall be unlawful for any person to make, install, maintain, permit or allow a backflow prevention assembly or method that has not been tested or inspected in accordance with the provisions of this article.
 - (1) It shall be unlawful for any person to fail to provide the results of a backflow prevention assembly test or of an inspection required under this article upon request of the director.
- (d) *Refusal to allow entry.* It shall be unlawful for any person who owns or occupies property upon which a cross-connection is located to refuse to allow the director to survey or inspect the property in accordance with the provisions of this article.

- (e) *Failure to obey.* It shall be unlawful for any person to fail to obey an order, rule, or regulation issued by the director under this article. For purpose of this subsection (e), “fail to obey” means and includes a customer’s failure to test a backflow prevention method or assembly pursuant to this article.
- (f) *Uncertified technician.* It shall be unlawful for any person who knows or should know that he or she is not a certified cross-connection control technician, or whose certification is invalid, to:
 - (1) Hold himself or herself out to another person as being a certified cross-connection control technician;
 - (2) In exchange for anything of value, conduct any test or inspection required under this article; or
 - (3) Submit to the city any report required under this article, except that an employee of company by whom a certified technician is employed may submit a report.
- (g) *Invalid report.* It shall be unlawful for any person to submit a test or inspection report required by this article that is not complete and correct in every respect.
- (h) *Illegal to test without certification.* It shall be unlawful for any person who holds himself or herself out to be a certified technician or who performs or attempts to perform a test or inspection required under this article to fail to immediately provide proof that he or she is a certified technician upon request of the director.
- (i) *Illegal to remove a posted termination notice.* It shall be unlawful for any person to deface, render illegible, or remove a termination notice that has been posted on a property by order of the director under this article without the prior written permission of the director.

Sec. 102-285. Penalty; continuing violation.

- (a) *Penalty.* A violation of this article shall be punished by a fine or imprisonment not to exceed the limits established in section 1-5 of this Code.
- (b) *Continuing violation.* In accordance with section 1-5 of this Code, every day any violation of this article continues or is permitted or allowed to continue shall constitute a separate offense.
- (c) *Concurrent remedies.* The initiation of a prosecution for a violation of this article shall not preclude the director from instituting other appropriate action to restrain, correct, or abate a violation or to prevent illegal occupancy of a structure or premises, or to stop an illegal act, conduct, or the utilization of an uncontrolled

cross-connection on or about any property. The initiation of a prosecution for a violation of this article shall also not preclude the director from taking any actions under sections 102-277 or 278.

Secs. 102-286 – 350. Reserved.”

Section 2. Severability. Should any provision of this ordinance be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared unconstitutional or invalid. The city council declares it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. This ordinance shall be effective on January 1, 2023.

INTRODUCED, READ, AND ORDERED PUBLISHED this 7th day of November, 2022.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney:

BY: _____

Publication Dates: November 10, 2022

REDLINE/STRIKEOVER VERSION

FOR INFORMATION ONLY -- NOT PART OF THE ORDINANCE

Underlined indicates new material
~~Strikethrough~~ indicates deleted material

ARTICLE V. ~~CROSS~~-CONNECTION CONTROL PROGRAM

~~DIVISION 1. GENERALLY~~

Sec. 102-271. ~~Short title.~~

~~This article is known and may be cited as the "Arvada Cross Connection Control Ordinance."~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~

Sec. 102-272. Legislative intent and purpose.

The city owns and operates a public water system that supplies safe drinking water to citizens. As the operator of a public water system, the city is required to comply with Colorado State regulations that protect city drinking water from potential contamination from an uncontrolled cross-connection. The City Council has determined that an uncontrolled cross-connection presents a risk to the integrity of the public water system and to the health and safety of the public. It is the intent of the City Council to protect the city's water system from contamination due to backflow from a private water system, and to provide for the maintenance of a continuing cross-connection control program to help prevent the contamination of the city's water system. The purpose of this Ordinance is to comply with Colorado health and safety laws and regulations that require the city to protect its public water system from contaminants or pollutants that could enter the distribution system by backflow from a customer's water supply system through the service connection.

Sec. 102-272.(a) ~~It is the intent of the city council to protect the city water system from contamination or pollution by backflow from an owner's internal distribution system or private water system, and to provide for the maintenance of a continuing program of cross connection control, which will systematically prevent the contamination or pollution of the city's water system.~~

~~(b) The Colorado Cross Connection Control Manual, endorsed by the Colorado Department of Public Health and Environment, and the International Plumbing Code are hereby adopted and incorporated by reference.~~

~~(c) In the event that this article, the International Plumbing Code, and the Colorado Cross-Connection Control Manual do not provide technical requirements, specifications, or standards applicable to a particular matter, the Colorado Plumbing Code shall apply. In the event that the technical requirements, specifications, or standards stated in this article, the International Plumbing Code, and the Colorado Cross-Connection Control Manual conflict each other or with those stated in the Colorado Plumbing Code, whichever technical requirement, specification, or standard is most restrictive shall apply. In the event that this~~

~~article, the International Plumbing Code, the Colorado Cross-Connection Control Manual, and the Colorado Plumbing Code provide technical requirements, specifications, or standards on a single matter in terms so distinct that determining which provision is more restrictive is not readily apparent, the Colorado Plumbing Code shall apply.~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~ **Authority.**

The authority to establish and implement a cross-connection control program is derived from the city's powers and authority as a home rule city under articles 15 and 35 of Title 31 of the Colorado Revised Statutes, from C.R.S. §25-1-114(1)(h), and from the International Plumbing Code as adopted and amended by the city. This program is conducted under Regulation 11 of the Colorado Primary Drinking Water Regulations issued by Colorado Department of Public Health and Environment at 5 C.C.R. 1002-11, as may be amended from time to time.

Sec. 102-273. ~~Responsibility~~ **Applicability.**

~~(a) The director of utilities is hereby delegated the responsibility for implementing a cross connection control program in accordance with this article and for enforcement thereof. If a backflow preventer is required at the city water service connection to any owner's premises for the protection of the city water system, the director of utilities shall give notice in writing to the owner to install an approved backflow preventer at each service connection to the premises. The owner shall install an approved backflow preventer at the owner's own expense.~~

~~(b) No provision of this article exempts the owner from the cross connection control provisions for internal water distribution systems as contained in the most recently adopted International Plumbing Code, which has been adopted by reference in chapter 26.~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~

This Ordinance applies to all commercial, industrial, dedicated irrigation, and multi-family residential service connections within the city's water system, and to any persons outside the city who are, by contract or agreement with the city, users of the public water system. This Ordinance does not apply to single-family residential service connections unless the city becomes aware of a cross-connection at a single-family connection.

Sec. 102-274. **Definitions.**

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Administrative authority* means the individual official, board, department, or agency established and authorized by a state, county, city, or other political subdivision created by law to administer and enforce the provisions of the regulations and codes as adopted or amended. This definition shall include the administrative authority's duly authorized representative.~~

Air gap is a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel installed in accordance with standard ASME A112.1.2.

Annual inspection due date means July 31 of each year.

Approved means accepted or acceptable under an applicable specification or standard stated or cited by the city as suitable for the proposed use ~~under procedures and authority of the water supplier, administrative authority.~~

Approved backflow prevention assembly ~~means an assembly listed or approved by any of the following:~~

- ~~(1) University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research list of approved backflow prevention assemblies.~~
- ~~(2) An assembly listed and approved by the American Society of Sanitary Engineering.~~
- ~~(3) An assembly meeting the requirements of the American Water Works Association's standards C510 or C511, which are hereby adopted by reference in the present form as the city standard.~~

Approved testing agency ~~means an organization primarily established for purposes of testing to approved standards and approved by the administrative authority.~~

Auxiliary water supply ~~means any water supply on or available to the premises other than the city approved public potable water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, pond, lake, etc., or "used waters" or "industrial fluids." These waters may be polluted or contaminated or may be objectionable and constitute an unacceptable water source over which the city does not have sanitary control.~~

Backflow means the ~~undesirable reversal of the direction of reverse~~ flow of the water or mixtures of water and other liquid, gases, or other substances into the distribution pipes of the potable water supply from any source or sources water, fluid, or gas caused by backpressure and/or back-pressure or back siphonage.

Backflow ~~connection~~contamination event means any arrangement whereby backflow can occur.

~~Backflow prevention~~ device means any device, assembly, method, or type of construction designed to prevent backflow into the a public water supply by containing the owner's water system from the public water system, including any of the following:

- ~~(1) Air gap (AG) means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of said vessel. An approved air gap will be at least double the diameter of the supply pipe, measured vertically, above the top of the rim of the vessel; and, in no case, less than one inch. When an air gap is used at the service connection to prevent the contamination or pollution of the public potable water system, an emergency bypass shall be installed around the air gap system and an approved reduced pressure principle assembly will be installed in the bypass system. an uncontrolled cross-connection such that the water quality no longer~~
- ~~(2) Double check valve assembly (DC or DCVA) means an assembly of two independently operating approved check valves with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve. The entire assembly shall be an approved backflow prevention assembly. The entire backflow preventer shall meet the design and performance specifications and approval of a recognized and city approved~~

~~testing agency for backflow preventers. To be approved, these backflow preventers must be readily accessible for in-line testing and maintenance.~~

~~(3) *Reduced pressure principle device (RP or RPPA)* means an assembly of two independently operating approved check valves with a hydraulic automatic operating differential relief valve between the two check valves. The assembly shall be located between two tightly closing (resilient seated) shut-off valves, and have four properly located test cocks for the testing of the check and relief valves. The entire assembly shall be an approved backflow prevention assembly. The assembly will operate to maintain the pressure in the zone between the two check valves at a level less than the pressure on the public water supply side of the assembly. At cessation of normal flow, the pressure between the two check valves will be less than the pressure on the public water supply of the backflow preventer. In case of leakage of either of the check valves, the differential relief valve will operate to maintain the reduced pressure in the zone between the check valves by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve will open to the atmosphere. To be approved, these backflow preventers must be readily accessible for in-line testing and maintenance, and be installed in a location where no part of the backflow preventer will be submerged.~~

~~(4) *Spill-resistant vacuum breaker* means an assembly consisting of one check valve force-loaded closed and an air inlet vent valve force loaded open to atmosphere, positioned downstream of the check valve, and located between and including two tightly closing shutoff valves and a test cock.~~

~~(5) *Vacuum breaker, atmospheric non-pressure type* means a vacuum breaker consisting of an air inlet opening and a nonloaded floating check disk valve designed to prevent back-siphonage only. The assembly shall not be subjected to continuous static line pressure or backpressure or be installed where it would be under pressure for more than 12 continuous hours.~~

~~(6) *Vacuum breaker, pressure type* means a vacuum breaker, designed to prevent back-siphonage only, consisting of a spring-loaded check valve, a spring-loaded air inlet opening, a tightly closing shut-off valve on each side of the assembly, and two appropriately located test cocks. The assembly shall not be subjected to backpressure. The entire assembly shall be an approved backflow prevention assembly.~~

~~*Back pressure* means the backflow of water or other contaminated fluids caused by a pump, elevated tank, boiler or other means that could create pressure within the owner's system greater than the city supply pressure.~~

~~*Back-siphonage* means the backflow of potentially contaminated water into the potable water supply as a result of the pressure in the potable water system falling below atmospheric pressure of the plumbing fixtures, pools, tanks, or vats connected to the potable water distribution piping.~~

~~*Building supply* means all piping and fittings carrying potable water from the water meter or other source of water supply to a building or other point of use or distribution on the lot. Building supply shall also mean water service.~~

~~*Certified backflow preventer inspector and tester* means a person who has passed a Colorado Department of Public Health and Environment approved or sponsored inspection tester course, and who meets the requirements of the Colorado Primary Drinking Water Regulations under Article 12.2 Cross-Connection Control Technician Certification as a certified inspector/tester. The certified backflow prevention assembly inspector/tester shall show competence to test and~~

~~maintain backflow prevention assemblies to the satisfaction of the administrative authority having jurisdiction, or presents an immediate health or safety risk to the public.~~

Backflow prevention ~~*Cheek valve assembly or assembly*~~ means ~~a self-closing~~ any mechanical device, which is designed installed at a water service line or at a plumbing fixture to prevent a backflow contamination event.

Backflow prevention method or method means any procedure, process, or technique, or a non-testable device, installed at a water service line or at a plumbing fixture to prevent a backflow contamination event.

Certified ~~permit the flow of fluids in~~ *cross-connection control technician or technician* means a person who possesses a valid backflow prevention assembly tester certification from one direction and to close if there is a reversal of the following approved organizations: American Society of Sanitary Engineering (ASSE) or the American Backflow Prevention Association (ABPA).

City means the City of Arvada.

~~Code~~

City water system or "this Code," public water system means ~~these regulations, subsequent amendments thereto or any emergency rule or regulation which the administrative authority having jurisdiction may lawfully adopt.~~

~~*Compliance period* means the time between the receipt by the owner~~ system ~~of a notice from the director of utilities or his designee thereof to install, test, or repair a backflow prevention assembly~~ pipes ~~and the day upon which such installation, testing, or repair shall be completed or ready for inspection by the director of utilities or his designee thereof.~~

~~*Containment protection* means the installation of an approved backflow prevention assembly, or method, on the water service line serving any premises, location, facility or area immediately downstream from meter on main service line, or upstream from all other connections. Protection by containment shall be used when the potable water system may be contaminated or polluted by substances used or stored within a building or premises.~~

~~*Contamination* means any impairment of the quality of the potable water by pollution from sewage, industrial fluids or waste liquids, compounds or other materials to a degree, which creates an actual hazard to the public health through poisoning or through the spread of disease, any physical, chemical, biological, or radiological substance or matter~~ constructed conveyances owned and operated by the city ~~that has an adverse effect on water.~~

~~*Critical level* means the critical level C-L or C/L marking on a backflow prevention assembly or vacuum breaker, which is a point conforming to approved standards and established by the testing laboratory (usually stamped on the assembly by the manufacturer), which determines the minimum elevation above the flood level rim of the fixture or receptacle served at which the assembly may be installed. When a backflow preventer does not bear a critical level marking, the bottom of the vacuum breaker, combination valve, or the bottom of any such approved backflow preventer (valve body) shall constitute the critical level.~~

~~*Cross connection* means any physical arrangement whereby a provide to the public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other assembly which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination or pollution to the public water supply as a result of backflow. Bypass arrangements, jumper (swing) connections, removable sections, swivel or changeover devices, four-way valves, or other temporary or permanent devices through which, or because of which, backflow could occur are considered to be cross connections.~~

~~*Cross connections, controlled* means a connection between a potable water system and a nonpotable water system with an approved backflow preventer properly installed and tested in accordance with approved procedures that will demonstrate operational protection commensurate with the degree of hazard.~~

~~*Department* having jurisdiction means the administrative authority, including any other law enforcement agency affected by any provision of this Code, whether such agency is specifically named or not.~~

~~*Director of utilities*, or *director* means the person appointed by the city manager to supervise the operation of the municipal water utility and who is charged with certain duties and responsibilities by this article.~~

~~*Flood level rim* means the edge of the receptacle from which water overflows.~~

~~*Hazard, degree of* is determined from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the public potable water system and includes the following types:~~

~~*Hazard, health* means any condition, assembly, or practice in the water supply system and its operation, which could create, or in the judgment of the director of utilities, may create a danger to the health and the well being of the water consumer. An example of a health hazard is a structural defect, including cross connections, in a water supply system or a direct connection of a potable water supply line to a sanitary sewer.~~

~~*Hazard, plumbing* means a plumbing type cross connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air gap separation or backflow preventer. Unprotected plumbing type cross connections are considered to be a health hazard.~~

~~*Hazard, pollution* means an actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be a threat to life or be dangerous to health.~~

~~*Hazard, system* means an actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system caused by a cross connection.~~

~~*Industrial fluids system* means any system containing a fluid or solution, which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollution or plumbing hazard if introduced into an approved water supply. This may include, but not be limited to, polluted or contaminated waters; all types~~

~~of process water and "used waters" originating from the public water system which may have deteriorated in sanitary quality; chemicals in fluid form; cooling tower and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters such as from wells, springs, streams, rivers, lakes, dams, ponds, retention pits, irrigation canals or systems, etc.; oils, gases, glycerins, paraffins, caustic and acid solutions and other liquid and gaseous fluids used in industrial or other purposes or for firefighting purposes.~~

~~*Isolation* means the control of a cross connection within a building's plumbing system by the installation of approved backflow prevention assembly or method at or near the potential sources of pollution or contamination.~~

~~*Main* means the principal artery of any system of continuous piping to which branches may be connected.~~

~~*Multifamily dwelling* means a building containing two or more residential units. Multifamily dwelling includes apartment buildings, condominium buildings, townhouse buildings and lofts or other combination of residence/work space in a building or buildings that are primarily residential facilities.~~

~~*Multistory building* means any building having two or more levels, excluding the basement, or over 40 feet in height. Single family units are excluded from this definition.~~

~~*Nonpotable water* means water that is not safe for human consumption or that does not meet the requirements set forth in the Colorado Primary Drinking Water Regulations. This includes water that is unsafe or unpalatable to drink because it contains pollutants, contaminants, minerals, or infectious agents.~~

~~*Plumbing system* means and includes all potable water supply and distribution pipes, all plumbing fixtures and traps, all drainage and vent pipes, all building drains, including their respective joints and connections, devices, receptacles, and appurtenances within the property lines of the premises and shall include potable water piping, potable water treating or using equipment, fuel gas piping, water heaters and vents for same.~~

~~*Pollution* means an impairment of the quality of the potable water to a degree which does not create a hazard to the public health, but which does adversely and unreasonably affect the aesthetic qualities of such potable water for domestic use.~~

~~*Potable water* means water free from impurities in amounts sufficient to cause disease or harmful physiological effects. The bacteriological, chemical, and radiological quality shall conform to the Colorado Primary Drinking Water Regulations and be satisfactory for drinking, culinary, and domestic purposes.~~

~~*Submerged inlet* means a water pipe or extension thereto from the public water supply terminating in a tank, vessel, fixture or appliance, which may contain water of questionable quality, waste or other contaminant, and which is unprotected against backflow. Vacuum means any pressure less than atmospheric pressure.~~

~~*Vacuum breaker.* See "backflow preventer."~~

~~*Water-distributing pipe* means a water-distributing pipe in a building or premises, which conveys potable water from the building supply pipe to the plumbing fixtures and other water outlets.~~

~~Water service connection means the terminal end of the city's service connection from the city water system, i.e., at the owner's stop box shut-off valve or meter. If a meter is installed at the end of the service connection, then the service connection means the downstream end of the meter. There will be no unprotected takeoffs from the service line ahead of any meter or backflow preventer located at the point of delivery to the owner's water system. This shall include irrigation systems and fire sprinkler systems. Service connection will also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.~~

~~Water utility main means a water supply pipe or system of pipes, installed and maintained by the city, township, county, public utility company or other public entity, on public property, in the street or in an approved dedicated easement of public or community use.~~

~~Water supplier means any person or group owning and/or operating a public potable water supply.~~

~~Water supply system means the building supply pipe, the water distributing pipes and the necessary connecting pipes, fittings, control valves, and all appurtenances carrying or supplying potable water in or adjacent to the building or premises.~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~

~~Secs. 102-275—102-299. Reserved.~~

DIVISION 2. REQUIREMENTS, and includes the

~~Sec. 102-300. Noncity owned water systems.~~

- ~~(a) Any owner receiving water service from a noncity owned water system located entirely or partially within the city boundaries shall have all cross connections controlled and backflow prevention that is comparable to that which is otherwise required in this article.~~
- ~~(b) No certificate of occupancy shall be issued for any new construction, or for substantial reconstruction of any existing building or structure, unless the owner presents evidence of compliance with this section. The term "substantial reconstruction" means any construction for which a building permit is required by the city. The director shall promulgate the form of, and require completion of, a certificate of compliance which the owner shall present to the city prior to, and as a condition of, issuance of a certificate of occupancy.~~
- ~~(c) In lieu of a certificate of compliance promulgated by the city, the director may accept a verified certificate of compliance or comparable document issued by the directors or managers of the noncity owned water system which document attests that a backflow prevention assembly acceptable to the owner of the water system has been duly installed. Provided said document is authentic and provides the information otherwise required by the city for issuance of a certificate of occupancy, the director may accept said alternate proof of compliance.~~
- ~~(d) In addition to examination of the written documentation of compliance, the director may require that any backflow prevention assembly be physically inspected by the city prior to issuance of a certificate of occupancy. The director may deny issuance of a certificate of~~

~~occupancy if the backflow prevention assembly is not properly installed, tested and operational at the time of inspection. The owner shall be required to submit copies of any test of the backflow prevention assembly to the city's building inspection division for examination prior to issuance of a certificate of occupancy.~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~

~~**Sec. 102-301. Water system.**~~

~~The city water system consists of the source and distribution facilities owned by the water system to the point of the water service connection. The source includes all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system. The distribution system includes the network of conduits used for the delivery of water from the source to the owner's system. The owner's system begins at the point where the water leaves the meter service connection. a private property owner's system.~~

Containment means the installation of a backflow prevention assembly or a backflow prevention method at any connection to the public water system that supplies an auxiliary water system, location, facility, or area such that backflow from a cross-connection into the public water system is prevented.

Containment by isolation means the installation of backflow prevention assemblies or backflow prevention methods at all cross-connections identified within a customer's water system such that backflow from a cross-connection into the public water system is prevented.

Controlled means having a properly installed, maintained, and tested or inspected backflow prevention assembly or backflow prevention method that prevents backflow through a cross-connection.

Cross-connection means any connection that could allow any water, fluid, or gas such that the water quality could present an unacceptable health and/or safety risk to the public, to flow from any pipe, plumbing fixture, or a customer's water system into the city's water distribution system or any other part of the public water system through backflow.

Day means a calendar day.

Director ~~(Ord. No. 4188, § 1, 12-7-2009)~~ means the director of the utilities department or a designee thereof.

Multi-family means a single residential connection to the public water system's distribution system from which three or more separate dwelling units are supplied water.

Person or customer means the owner of private property upon which a pipe, plumbing fixture, or water system is located beginning at the point where the water leaves the meter service connection, and includes an occupant, tenant, or manager of the property. It also includes a person who receives any service from the city water system, and any person upon whose property there exists a non-metered connection with the city water system. A person or customer

may be an individual or an association, partnership, company, or corporation, or an officer of any such entity.

Service connection or water service connection means the terminal end of the city's service connection from the city water system (i.e., at the customer's stop box shut-off valve or meter). Service connection or water service connection also includes the water service connection from a fire hydrant and all other temporary or emergency water service connections from the city's water system.

Single-family means a single dwelling unit that is supplied by its own separate service line, a dwelling comprised of multiple dwelling units where each dwelling unit is supplied by a separate service line, or two separate single dwelling units supplied by a common service line.

Suspend, suspension, terminate, or termination means to stop or prevent the connection of a customer's plumbing or water system to the city's water system, and includes the termination of water service under the provisions of this article.

Uncontrolled means not having a properly installed and maintained and tested or inspected backflow prevention assembly or backflow prevention method, or the backflow prevention assembly or backflow prevention method does not prevent backflow through a cross-connection.

Water distribution system means any combination of pipes, tanks, pumps, or other facilities that delivers water from a source or treatment facility to a customer.

Water supply system means a water distribution system, piping, connection fittings, valves and appurtenances within a building, structure, or premises. Water supply systems may also be referred to as premises plumbing systems.

Writing or written means a communication in written format

~~Sec. 102-302. Installation.~~

~~(a) ————— An approved backflow preventer shall be installed at or near the property line or immediately inside the structure being served; but, in all cases, before the first branch line leading off the service line wherever any of the following conditions exist:~~

~~(1) ——— In the case of premises having an auxiliary water supply which is not or may not be of safe bacteriological or chemical quality and which is not acceptable as an additional source by the director of utilities, the public water system will be protected against backflow from the premises by installing a backflow preventer in the service line appropriate to the degree of hazard.~~

~~(2) ——— In the case of premises in which any industrial fluids or any other objectionable substance is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected against backflow from the premises by installing a backflow preventer in the service line appropriate to the degree of hazard. This will include the handling of process waters and waters originating from the public water system which have been subject to deterioration in quality.~~

~~(3) In the case of premises having internal cross connections that cannot be permanently corrected and controlled, or having intricate plumbing and piping arrangements, or where entry to all portions of the premises is not readily accessible for inspection purposes making it impracticable or impossible to ascertain whether or not dangerous cross connections exist, the public water system shall be protected against backflow from the premises by installing a backflow preventer in the service line.~~

~~(b) Backflow preventers shall be installed in an accessible location to facilitate inspection, testing, and maintenance. Adequate drainage area for the backflow preventer must be provided for in the event that water is discharged.~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~

~~Sec. 102-303. Inspections, testing, and repair.~~

~~(a) It is the responsibility of the owner to have certified inspections and operational tests made on backflow preventers upon installation and at least once per year thereafter. All irrigation sprinkler systems must be tested within two weeks of start-up of the system in the spring. The director of utilities may require certified inspections at more frequent intervals.~~

~~(b) These inspections and tests shall be made at the expense of the owner and will be performed by a certified inspector/tester approved by the director of utilities. A backflow preventer will be repaired or replaced at the expense of the owner whenever a backflow preventer is found to be defective.~~

~~(c) All equipment used in the testing of backflow preventers shall be calibrated and checked for accuracy yearly, or more often, and proof of compliance shall be submitted to the director of utilities upon request.~~

~~(d) The director of utilities retains the right to test or otherwise check the installation and operation of any backflow preventer at anytime to assure proper installation and operation.~~

~~(e) Upon presentation of proper credentials, the director of utilities' representatives shall have the right to enter and inspect all buildings and premises for cross connections to determine whether hazards exist. This right of entry shall be a condition of water service in order to protect the health, safety, and welfare of the people of the city. Throughout the city's water distribution system, where building security is required, the backflow prevention assemblies shall be located in an area not subject to security. In the event that entry is denied, the director may seek a search warrant or terminate water service.~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~

~~Sec. 102-304. Compliance.~~

~~(a) The compliance period for installation, inspection and testing, or repair of a backflow prevention device, including emails or other electronic communication capable of being produced in a written format, but does not include instant messaging, text messaging, or telephone messages.~~

Sec. 102-275. Duties and powers of the director.

(a) General. The director is authorized and directed to implement, administer, and enforce the provisions of this article. The director has the authority to:

- (1) Implement and administer a cross-connection control program and may develop written rules and regulations outlining the processes and procedures for surveying property for the purpose of establishing the extent of protection required for the city's water system and for other aspects of the program;
- (2) Determine and implement a process to select a backflow prevention assembly or backflow prevention method to control a cross-connection;
- (3) Establish and administer an annual cross-connection inspection program and communications plan therefor;
- (4) Require access to the property of customers receiving water service to conduct a cross-connection control survey, and survey all service connections within the water distribution system to determine if the connection is a cross-connection;
- (5) Control all service connections within the water distribution system if the connection is a cross-connection;
- (6) ~~air~~-In a case where a backflow prevention assembly required by this article is not installed, tested, or maintained as required under this article, or if a backflow prevention assembly has been removed or bypassed, or if an uncontrolled cross-connection exists on the customer's property, the director may:
 - (i) Control the cross-connection;
 - (ii) Remove the cross-connection;
 - (iii) Order the customer with the uncontrolled cross connection to take all necessary actions to ensure the connection is controlled;
 - (iii) Suspend water service to the cross-connection. If water service is suspended, it shall not be restored until the conditions or defects that caused the uncontrolled cross-connection are corrected. In this case, the director shall give notice to the customer of the director's action, as well as of any order or orders necessary to ensure the customer's cross-connection is brought into compliance with this article as soon as is reasonably practicable after the director takes action to protect the cross-connection;
 - (iv) Except in cases where the director has determined there is an acute risk to the public's health, safety, or welfare, the director may grant a one-time compliance extension of no more than an additional 14

days to a customer who has requested an extension under sec. 102-276(f) of this article; or

(v) Take any other action as authorized by this article.

(7) Control any service connection within the water distribution system in lieu of a survey if the service connection is controlled with an air gap ("AG"), double check valve assembly ("DC"), pressure vacuum breaker (PVB) or or reduced pressure zone backflow prevention assembly;

(8) Inspect, test or require the testing of, or audit any backflow prevention assembly or backflow prevention method used to control a cross-connection at any time to ensure compliance with this Chapter 102;

(9) Create and administer a licensing program for technicians;

(10) Establish and collect fees for the administration of the program. Any such fees shall be set in accordance with sections 2-261—263 of this Code;

(11) Maintain records of cross-connection surveys, and of the installation, testing, and repair of all backflow prevention assemblies installed for containment and containment by isolation purposes;

(12) Render interpretations of this article and adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall be in compliance with the intent and purpose of this article, and shall not have the effect of waiving requirement specifically provided for in this article;

(13) Discontinue service of water to any property if uncontrolled cross-connections exist on the property, if any defect is found in an installed backflow prevention method or assembly, if a backflow prevention assembly or method has been removed or bypassed or does not adequately protect public health, or otherwise in accordance with this article; and

(14) Otherwise implement, administer, and enforce the provisions of this Ordinance.

Sec. 102-principal 276. Customer responsibilities.

(e) *Controlled cross-connection required.* Each customer shall ensure that any cross-connection on the customer's property is controlled with an appropriate assembly or method as designated in this article. If the city becomes aware of a single-family residential connection to the public water system that is a cross-connection, the city will determine the type of backflow prevention assembly or backflow prevention method to control the cross-connection. The city will notify

the customer of this determination, and the customer must install this type of assembly or method.

- (f) Appropriate device or method. Each customer shall ensure that each assembly, method, or non-testable device ("RP"), ~~shall be as follows: located on the customer's property is appropriate for the identified contaminant at the cross-connection as set forth in the following table:~~

Table 102-276(b)
Appropriate Backflow Prevention Assemblies, Methods, or Non-testable Devices

<u>Assembly or Method Type</u>		<u>Typical Appropriate Uses</u>
<u>Type of Premises or Specific Application</u>	<u>Reduced Pressure Zone Backflow Prevention Device Assembly ("RPZ")</u>	<u>Compliance Period</u> <u>Appropriate for any identified contaminant except direct connections to sewer or installations which may impair the integrity of the assembly to function as designed.</u>
Existing facilities:		
Any establishment with a backflow incident (suspect occurrence or documented)	AG or RP	10 days from date of occurrence
Automotive service station or repair shop	AG or RP	45 days
Auxiliary water supply	AG or RP	45 days
Boilers; nondomestic	AG or RP	45 days
Carbonators	AG or RP	45 days
Commercial service line greater than four-inch diameter	AG or RP	60 days
Carwash	AG or RP	45 days
Food processing and packing plant	AG or RP	45 days
Greenhouse	AG or RP	45 days
Hair salon	AG or RP	45 days
Hospital, outpatient care and long-term facility	AG or RP	45 days
Hotel or lodging facility	AG or RP	45 days
Irrigation—Lawn and landscaping	AG, PVB or RP	45 days
Kennel—Boarding only	AG or RP	45 days
Laboratory—Clinical and chemical	AG or RP	45 days
Laundry or dry cleaning service	AG or RP	45 days
Manufacturing and industrial facility (to be determined on an individual basis)	AG or RP	45 days
Medical office	AG or RP	45 days
Morgue and mortuary	AG or RP	45 days
Multifamily dwelling	AG or RP	45 days
Multi-storied buildings	AG or RP	45 days

Photographic studio and laboratory	AG or RP	45 days
Sewage treatment plant	AG or RP	45 days
School with laboratory	AG or RP	45 days
Shell business development space	AG or RP	45 days
Solar heating system with make-up water	RP	45 days
Spa	AG or RP	45 days
Swimming pool	AG or RP	45 days
Veterinary office	AG or RP	45 days
Water treatment plant	AG or RP	45 days
New construction:		
Fire line—No chemicals added <u>Reduced Pressure Zone Fire Protection Backflow Prevention Assembly (“RPF”)</u>	AG, RP, or DC	Prior to Certificate of Occupancy or final inspection by the building division <u>Appropriate for cross connections to fire suppression systems.</u>
Fire line—Chemical added <u>Reduced Pressure Zone Detector Fire Protection Backflow Prevention Assembly (“RPD”)</u>	AG or RP	
New construction or alteration requiring a building permit:		
Any establishment with a backflow incident (suspect or occurrence documented)	AG or RP	10 days from date of occurrence
Automotive service station or shop	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division
Auxiliary water supply	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division
Boilers; nondomestic	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division
Carbonators	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division
Commercial service line greater than four-inch diameter <u>Double</u>	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division <u>Appropriate for cross connections to fire</u>

<u>Check Backflow Prevention Assembly (“DC”)</u>		<u>suppression systems except when upstream of a chemical other than food grade glycerin.</u>	
<u>Carwash</u>		<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division</u>
<u>Fire line—Chemicals added Double Check Fire Protection Backflow Prevention Assembly (“DCF”)</u>		<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division</u>
<u>Fire line—No chemicals added Double Check Detector Fire Protection Backflow Prevention Assembly (“DCD”)</u>		<u>AG or DC or RP</u>	
<u>Food processing and packing plant</u>		<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division</u>
<u>Greenhouse</u>		<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division</u>
<u>Hospital, outpatient care and long-term facility</u>		<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division</u>
<u>Hotel and lodging</u>		<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division</u>
<u>Irrigation—Lawn and Landscaping</u>	<u>AG, PVB or RP Pressure Vacuum Breaker Backflow Prevention Assembly (“PVB”)*</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division Appropriate for any identified contaminant except direct connections to sewer or installations which may impair the integrity of the assembly to function as designed. Not appropriate for connections subject to backpressure.</u>	
<u>Kennel—Boarding only Spill-Resistant Vacuum Breaker (“SVB”)*</u>		<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection</u>

		by the building division
<u>Air Gap (“AG”)*</u>	<u>Appropriate for any identified contaminant. All cross connections can be controlled using an air gap installed in accordance with standard ASME A112.1.1.</u>	
<u>Block and Bleed Valve or Double Block and Bleed Valve (“BB”)*</u>	<u>Laboratory—Clinical and chemical Appropriate for membrane chemical-clean-in-place and filter-to-waste at supplier’s facilities.</u>	<u>AG or RP</u> <u>Prior to Certificate of Occupancy or final inspection by the building division</u>
<u>Laundry and cleaning service</u>	<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division</u>
<u>Manufacturing and industrial facility (to be determined on an individual basis) Check Valve (“CV”)*</u>	<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division The Director shall have discretion as to whether these methods are appropriate.</u>
<u>Medical office Hydraulic Conditions (“HC”)*</u>	<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division</u>
<u>Morgue and mortuary</u>	<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division</u>
<u>Multi-Family dwelling</u>	<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division</u>
<u>Multi-storied building</u>	<u>AG or RP</u>	<u>Prior to Certificate of Occupancy or final inspection by the building division</u>

Photographic studio and lab	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division
Sewage treatment plant	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division
School with laboratory	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division
Shell business development space	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division
Solar heating system with make-up water system	RP	Prior to Certificate of Occupancy or final inspection by the building division
Spa	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division
Swimming pool	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division
Veterinary office	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division
Water treatment plant	AG or RP	Prior to Certificate of Occupancy or final inspection by the building division

(g) Installation to comply with applicable code. The installation of each assembly or method shall comply with the International Plumbing Code, technical requirements, specifications, or other applicable standards, or any rule or regulation established by the director. Each assembly or method used is subject to the approval of the director. An assembly or method type marked with an asterisk in Table 102-276(b) requires the written approval of the director prior to installation. A customer may submit to the director a request to install an alternate assembly. The submission must be in writing, and must outline the exact nature of the alternate assembly, and detail with specificity the reason or

reasons why the alternate assembly will provide the same or greater level of protection against backflow or backflow events as the assembly required under Table 102-276(b). Upon receipt of such a request by a customer, the director may, but is not required to, stay or defer any enforcement or other action authorized by this article based on the nature and potential severity of the risk presented by the delay.

- (1) Proper clearance required. The customer must maintain the required clearance around the backflow prevention assembly to allow for testing and maintenance.
- (h) Other. Each customer shall ensure that any backflow prevention assembly or method on the customer's property is inspected, tested, maintained, and is properly repaired or replaced as necessary.
 - (1) Repair. Each customer shall ensure each backflow prevention assembly or method located on the customer's property is repaired and retested or replaced as necessary whenever the assembly or method is found to be defective.
 - (2) Records. Each customer shall keep records and reports of inspections, tests, repairs, retests, and replacements for a minimum of three years.
 - (3) Costs. All costs related to the design, submittal, installation, inspection, re-inspection, maintenance, testing, repairs, and replacement related to backflow prevention assemblies and methods shall be borne by the customer.
- (e) Annual inspection report required; annual inspection due date; duties. Following the initial installation, each customer shall, on or before July 31 of each subsequent year, test any backflow prevention assembly or method on the customer's property in accordance with this article, and submit to the director the annual inspection report.
- (f) Responsibilities in an uncontrolled cross-connection compliance action. If a customer is ordered by the director to install at the customer's water service connection an approved backflow prevention assembly or method, or to take any other action to ensure the installation is completed in accordance with the requirements of this article, the installation or other action shall be completed by the customer and a completed inspection report submitted to the director within the time frame noted in the director's notice and order, unless the customer requests and the director issues a written extension of that time.
- (g) Duty to obey. Each customer shall comply with any order of the director issued under this article, including an order to allow access to and entry into any structure, property, or premises for the purposes outlined in this article. Each

customer shall cooperate with the survey process, and with the installation, inspection, testing, maintenance, repair, and replacement of backflow prevention assemblies.

Sec. 102-277. Annual inspection program; failure to comply; compliance procedures.

(a) *Late notice.* If a customer fails to submit an annual inspection report on or before the annual inspection due date as required under sec. 102-276(e), the director shall, within 28 days of the annual inspection due date, send a late notice to the customer.

(1) *Contents.* The late notice shall contain a notice that a late fee in an amount forth in the utilities administrative fees and costs schedule will be added to the water bill for the property. In the case of a property that is owned by one individual, one or more individuals, or a business entity, but which contains more than one assembly, the late fee will be assessed against each assembly on the property and otherwise as set forth in the utilities administrative fees and costs schedule. The late notice shall remind the customer and property owner of the obligation to comply with the annual inspection requirement, order them to submit a completed, valid inspection report to the director within 28 days of the date of the late notice, and state that fees, charges, and other penalties will continue to be assessed if the inspection report is not submitted as required.

(b) *First violation notice.* If a customer fails to submit an inspection report within 28 days of the date of the late notice, the director shall, within 35 days of the date of the late notice, send a first violation notice to the customer.

(1) *Contents.* The first violation notice shall contain a notice that a charge in an amount set forth in the utilities administrative fees and costs schedule will be added to the water bill for the property as a civil charge. In the case of a property that is owned by one individual, one or more individuals, or a business entity, but which contains more than one assembly, the civil charge will be assessed against each assembly on the property and otherwise as set forth in the utilities administrative fees and costs schedule. If the customer or property owner provides proof of compliance with the annual inspection program within 14 days of the date of the first violation notice, the director shall waive one-half of the civil charge assessed under this subsection (b). The notice shall also remind the customer and property owner of the obligation to comply with the annual inspection requirement, order them to submit a completed valid inspection report to the director within 28 days of the date of the first violation notice, and state that additional fees, charges, and other penalties will be assessed if the report is not submitted as required.

(c) *Second violation notice.* If a customer fails to submit an inspection report within 28 days of the date of the first violation notice, the director shall, within 35 days of the date of the first violation notice, send a second violation notice to the customer.

(1) *Contents.* The second violation notice shall contain a notice that a charge in an amount set forth in the utilities administrative fees and costs schedule will be added to the water bill for the property as a civil charge. In the case of a property that is owned by one individual, one or more individuals, or a business entity, but which contains more than one assembly, the civil charge will be assessed against each assembly on the property and otherwise as set forth in the utilities administrative fees and costs schedule. If the customer or property owner provides proof of compliance with the annual inspection program within 14 days of the date of the second violation notice, the director shall waive one-fourth of the civil charge assessed under this subsection (c). The notice shall also remind the customer and property owner of the obligation to comply with the annual inspection requirement, and notify them that service will be terminated in accordance with the provisions of this article if the report is not submitted as required.

(d) *Termination notice.* If a customer fails to submit an inspection report within 21 days of date of the second violation notice, the director shall send a notice of termination of service to the customer. The termination notice shall also contain a notice that a water shut-off, restoration, and other fees and costs as set forth in the utilities administrative fees and costs schedule will be assessed against the property as applicable. Water service shall be terminated no sooner than seven days after the date of the termination notice, and shall remain terminated until such time as the property is brought into compliance with the requirements of the annual inspection program.

(e) *Mailing and posting of notices.* Each late notice, violation notice, or termination notice issued under this section shall be mailed to the customer by first class U.S. Mail. In addition, a termination notice shall be posted on the property. In the event that the property owner is different than the customer, the late notice, violation notice, and termination notice shall also be mailed to the listed owner, at the address on file with the applicable county tax assessor's office. Each notice must state any appeal available. The City's inability to comport strictly with the time deadlines set forth herein for the mailing or posting of any late notice, violation notice, or termination notice shall not impact the enforcement action.

(f) *Other actions authorized.* Nothing in this section is intended to limit the duties and powers of the director as set forth in sec. 102-275. The director may, at any time after a customer fails to submit an inspection report in accordance with the requirements of subsection 102-276(e), and in addition to the actions described in

this section, take any other action authorized by this article, including issuing a summons and complaint.

Sec. 102-278. Uncontrolled cross-connection: compliance procedures.

(a) Notice and order. The director shall give written notice to any customer whose uncontrolled cross-connection or plumbing system complexity has been found to present a risk to the city's water distribution system through an uncontrolled cross-connection.

(1) Contents of notice and order. The notice and order shall set forth any order or orders stating the actions necessary to control the cross-connection, and allow the customer 14 days from the date of the notice and order to comply with each order listed in the notice and order. The notice and order shall also remind the customer and property owner of the obligation to control the cross-connection on the property, and note that inspection fees, re-inspection fees, and other fees, charges, and penalties will be assessed for non-compliance. The director may order a customer to take, permit, or allow any action reasonably necessary to ensure the connection is in compliance with the provisions of this article, including but not limited to ordering that:

(i) An approved backflow prevention assembly or method be installed or reinstalled at each service connection to the premises in a location that provides access for inspection, testing, maintenance, and repair, and that testing be done in compliance with this article;

(ii) An assembly or method provide for adequate drainage from the discharge of water from reduced pressure principle backflow prevention assemblies, and that such discharge shall be conveyed in a manner which does not impact waters of the city or the state;

(iii) Appropriate winterization actions be undertaken and completed to protect an assembly or method from freezing. The director may allow an assembly or method used for seasonal services to be removed in lieu of being protected from freezing. Any assembly or method removed under this subsection must be tested by a technician upon reinstallation; and

(iv) Where a backflow prevention assembly or method is installed on a water supply system using storage water heating equipment such that thermal expansion causes an increase in pressure, a device for controlling pressure shall be installed.

(b) Violation notice. If a customer fails to comply with the order or orders of the director within 14 days of the date of the notice and order, the director shall,

within 21 days of the date of the notice and order, send a violation notice to the customer.

(1) Contents. The violation notice shall re-state the order or orders stating the actions necessary to control the cross-connection, and may give the customer an additional 14 days from the date of the violation notice to comply with the order or orders. The notice shall also remind the customer and property owner of the obligation to comply with the order or orders of the director, and note that inspection fees, re-inspection fees, and other fees, charges, and penalties will continue to be assessed due to non-compliance. The notice will inform the customer that a cross-connection inspection fee as set forth in the utilities administrative fees and costs schedule will be added to the water bill.

(d) ~~Unless otherwise noted in this section, compliance periods are from the date this section becomes effective.~~ Termination notice. In the event that the customer does not comply within 42 days of the date of the notice and order issued by the director under subsection (a)(1) of this section, or within the period of any extension requested by the customer and granted by the director under subsection 102-275(a)(6), whichever date is applicable, the director shall send a notice of termination of service to the customer. The termination notice shall also contain a notice that a water shut-off, restoration, and other fees and costs as set forth in the utilities administrative fees and costs schedule will be assessed against the property as applicable. Water service shall be terminated no sooner than seven days after the date of the termination notice, and shall remain terminated until such time as the property is brought into compliance with the requirements of this article.

(e) Mailing and posting of notices. Each notice and order, violation notice, or termination notice issued under this section shall be mailed to the customer by first class U.S. Mail. In addition, a termination notice shall be posted on the property. In the event that the property owner is different than the customer, the notice and order, violation notice, and termination notice shall also be mailed to the listed owner, at the address on file with the applicable county tax assessor's office. Each notice must state any appeal available. The City's inability to comport strictly with the time deadlines set forth herein for the mailing or posting of a notice and order, violation notice, or termination notice shall not impact the enforcement action.

(f) Other actions authorized. Nothing in this section is intended to limit the duties and powers of the director as set forth in sec. 102-275. The director may, at any time after an uncontrolled cross-connection or other similar situation is discovered, and in addition to the actions described in this section, take any other action authorized by this article, including issuing a summons and complaint.

~~(b) The owner of any building or facility not listed in the foregoing table may be required by the director of utilities to install a backflow preventer as provided in section 102-214 if the director determines that the water supply system or contaminants in the system present a hazard. The director will determine the compliance period and backflow preventers required.~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~

Sec. 102-279. Fees, charges,

Sec. 102-305. Reporting and record-keeping.

~~(a) The certified backflow prevention inspector will report on approved report forms the results of inspections, tests, and maintenance to the director of utilities and the water **expenses to be lien upon property owner**. This report will be submitted to the director of utilities within five days following the completion of the inspection, test, or maintenance of the backflow preventer.~~

~~(c) *Debt due and owing.* Unless paid within 63 days of assessment, all fees, rates, charges, penalties, or expenses incurred by the city under this article constitute a debt due and owing to the city, and the city has the right to recover on any such debt in the manner provided by law in any court of competent jurisdiction.~~

~~(d) *Lien.* Unless paid within 63 days of assessment, all fees, rates, charges, penalties, or expenses incurred by the city under this article constitute a perpetual lien on and against the property served, and any such lien may be foreclosed by the city at any time in the manner as provided by the laws of the state for the foreclosure of mechanics' liens or in accordance with chapter 59 of this Code entitled "Municipal Liens." Such lien foreclosure by the city is subject to all rights of redemption granted by C.R.S. §38-39-101 *et seq.*, as amended.~~

Sec. 102-~~(b) The certified inspector/tester shall also, on a form approved by the city, attach a card or tag to the backflow preventers following each inspection, test, or maintenance activity to document and date the activities performed.~~

~~(c) The certified inspector, the property owner, and the director of utilities shall keep records of all inspections, tests, or maintenance activities, including materials and replacement parts, for a period of not less than three years.~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~

Sec. 102-306. Variances.

~~(a) In the event that strict application of the requirements of this article would inflict an unnecessary and unreasonable hardship and unreasonable practical difficulty upon the owner, and other means of accomplishing the purposes of this article are available, then the owner may seek and be granted a variance from that portion of the regulations creating the hardship and unreasonable practical difficulty. Additional expense alone shall be insufficient to create a hardship and unreasonable practical difficulty for purposes of this section.~~

~~(b) — The owner shall submit a request for a variance to the director on a form prescribed by the director. The director may submit the application to staff for review and comment. The director shall review the variance application for completeness and in light of the purposes of this article and departmental staff comments and recommendations. The director may grant the application, or may grant the application with conditions, or may deny the application. The grounds for denial shall be specified in a written denial.~~

~~(c) — The director may approve the application for variance if he finds all of the following:~~

~~(1) — Special circumstance (such as physical limitations on construction, or inaccessibility of utility lines) that are not common to the structures or buildings as they currently exist, and that strict compliance with this article as a consequence of the physical nature of the building or structure would be impractical; and~~

~~(2) — There is an alternative identifiable, viable, and verifiable means to protect the city water system from contamination or pollution by backflow from the owner's internal distribution system or water system; and~~

~~(3) — The variance is not needed as a result of the actions of the owner, or because of the owner's failure to otherwise comply with the requirements of this article.~~

~~(d) — A variance shall not be permanent, but shall lapse or be terminated under any of the following conditions:~~

~~(1) — The building or structure to which the variance applies remains uncompleted or unoccupied for more than 180 consecutive days after issuance of the variance; or~~

~~(2) — The building or structure is demolished, or undergoes a substantial remodeling that does or could alleviate the conditions giving rise to the original variance; or~~

~~(3) — The owner fails to comply with the conditions or requirements of the variance, or fails to comply with any other requirement of this article not otherwise excused or abated by the variance; or~~

~~(4) — The owner modifies or alters the owner's internal water or distribution system as approved by the city variance without first obtaining approval by the city.~~

~~(e) — Except for the matters provided for in the variance, an owner shall not be otherwise excused from compliance with the requirements of this article as a consequence of grant of a variance.~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~

~~Sec. 102-307. Backflow~~ **280. Certified cross-connection control technician: report requirements.**

(a) Technician. Every test of a backflow prevention assemblies.

~~(a) — Only approved assembly, and every inspection of a non-testable assembly or a backflow prevention assemblies method, shall be used. conducted by a certified cross-control technician.~~

~~(b) — A~~

~~(b) — Calibration of equipment. Each testing gauge used to test a backflow prevention assembly shall be tested and calibrated for accuracy at least once annually.~~

~~(c) — Submission of reports. Reports of tests, inspections, repairs, retests, and re-inspections shall be in writing and shall be submitted by the testing company or~~

technician to the city by mail, via an online city portal, or by email no later than seven days following the test, repair, retest, or re-inspection.

(d) Contents of reports. A report submitted to the city under this section shall include, but is not limited to, the following information:

(1) Assembly or method type;

(2) Assembly or method location;

(3) ~~have a unique~~ Assembly make, model, and serial number;

(4) ~~attached to the backflow preventer by the~~ Assembly size;

(5) Test date;

(6) Test results including all results that would justify a pass or fail outcome;

(7) Certified cross-connection control technician certification agency;

(8) Technician's certification number;

(9) Technician's certification expiration date. If a certification has expired, the certification is invalid;

(10) Test kit manufacturer-, model, and serial number;

(e) Any

(11) Test kit calibration date; and

(12) Whether, and to what extent, the inspected backflow prevention assembly or method requires any repair.

Sec. 102-~~already installed, which~~281. Appeals of a determination or order of the director.

(b) Filing; timeliness. A customer whose property is affected by a determination of the director made under sec. 102-276 (b) or (c), who is subject to a notice or order of the director made under sec. 102-277 or 278, may appeal that determination or order on a form prescribed by the city and available from the director on the city's website or by hard copy. The appeal must be in writing and be submitted to the city clerk within 14 days of the date of the director's determination or order. An appeal form that is not ~~an approved backflow prevention assembly~~, complete in all respects or that does not state the grounds for appeal shall be ~~replaced~~ promptly returned by the clerk to the customer. The customer may resubmit an appeal form deemed incomplete by the clerk, and the clerk shall accept it, if the resubmitted form is complete and submitted to the clerk within the deadline set forth this subsection. Compliance with ~~an approved backflow prevention assembly within~~

~~60 days after adoption of the 14-day time limit noted in this subsection (a) shall be a jurisdictional prerequisite to any appeal brought under this article, unless the backflow prevention assembly fails an annual operational test. If the backflow prevention assembly fails. Failure to comply shall bar any such test, it will be replaced with an approved backflow prevention assembly in accordance with sections 102-216 and 102-218.~~appeal.

(b) *Grounds.* The appeal shall be based on a claim that:

(1) The provisions of this article do not apply;

(2) ~~(d) — The following references have~~ The true intent of this article has been incorrectly interpreted by the director; or

(3) The customer has previously filed with the director a written plan outlining the installation of an equally good or better assembly than that which has been rejected by the director.

(c) ~~approved~~Procedure. The appeal form, and any other documentation submitted to the city clerk by the customer, as well as any response or documentation submitted by the director, will be submitted by the city clerk to the city manager for review. Notwithstanding any other provision of this Code, the appeal of the director's determination shall consist of a review of all relevant documentation on file with the City in the case, as well as the appeal form and any accompanying materials. All documents may be reviewed electronically. The city bears the burden of proof in an appeal to establish that the director's action or determination was reasonable in light of the intent of this article, that the terms of this article applied to the customer in question, and, in a case where the customer is appealing the type of assembly required by the director, that the type of assembly previously filed by the customer and rejected by the director does not function as well as the assembly required by the director. The city manager or their designee shall review the information submitted, and within 14 days of the date of the filing of the appeal, issue a written decision on the appeal. The decision must contain the reason or reasons for the decision. The decision must set forth appeal rights, if any. The decision may be mailed by first class U.S. Mail or furnished to the customer electronically. Should the city manager fail to issue a written decision on the appeal within the time frame set forth herein, the claim shall be deemed denied, and the customer may proceed as if an adverse decision has been issued.

(d) *Appeal of city manager's decision.* The city manager's decision, or denial of an appeal as a result of the manager's failure to issue a written decision, shall be considered a final agency decision. The appeal may proceed under Rule 106 of the Colorado Rules of Civil Procedure.

Sec. 102 ~~of utilities~~ 282. Right of entry.

- (c) Generally. The city shall have the right of entry to survey any structure or premises within the city for the presence of a cross-connection, to inspect a cross-connection, to assess possible contamination risk, to test the backflow assembly or method, to audit any backflow assembly or method, to determine compliance with this article, whenever there is reasonable cause to believe there exists in a structure or upon a premises a condition in violation of this article, or otherwise to enforce this Code. This right of entry shall be a condition of water service in order to protect the health, safety and welfare of customers throughout the city's distribution system.
- (d) Process. The director is authorized to exercise the city's right of entry at reasonable times to perform the duties imposed by this Code. If the structure or premises is occupied, the director shall present credentials to the occupant and request entry. If the structure or premises is unoccupied, the director shall first make a reasonable effort to contact the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the director may apply to the municipal court for a warrant if the warrant relates to a violation of this article, involves a serious threat to public safety or order, and the violation is not also a violation prohibited by state statute for which a search warrant could be issued by a district or county court. The purpose of the warrant may be to enter the premises and any structure thereon to survey the premises and any structure thereon for the presence of a cross-connection, to search for and inspect the uncontrolled connection or source of the suspected contamination risk, to collect water samples, to assess possible contamination risk, to audit or test the backflow assembly or method, and to determine compliance with and otherwise enforce this article. The director shall also have recourse to any other remedy provided by law to secure entry.

Sec. 102-283. Conflicts.

If a dispute or conflict arises between a provision of this article and the provisions of any technical code, specification, rule, or regulation adopted by the city, the director shall determine which assembly, non-testable device, or method is most appropriate for the circumstance based on the identified contaminant and other relevant hazards.

Sec. 102-284. Unlawful acts.

- (h) Annual inspection program. It shall be unlawful ~~for testing, certifying and approving backflow prevention assemblies; any person to fail or refuse to submit an annual inspection report as required under this article.~~
- (i) Uncontrolled cross-connection. It shall be unlawful for any person to make, install, maintain, permit, or allow an uncontrolled cross-connection.
- (j) Inspection. It shall be unlawful for any person to make, install, maintain, permit

or allow a backflow prevention assembly or method that has not been tested or inspected in accordance with the provisions of this article.

(1) It shall be unlawful for any person to fail to provide the results of a backflow prevention assembly test or of an inspection required under this article upon request of the director.

(k) *Refusal to allow entry.* It shall be unlawful for any person who owns or occupies property upon which a cross-connection is located to refuse to allow the director to survey or inspect the property in accordance with the provisions of this article.

(l) *Failure to obey.* It shall be unlawful for any person to fail to obey an order, rule, or regulation issued by the director under this article. For purpose of this subsection (e), “fail to obey” means and includes a customer’s failure to test a backflow prevention method or assembly pursuant to this article.

(m) *Uncertified technician.* It shall be unlawful for any person who knows or should know that he or she is not a certified cross-connection control technician, or whose certification is invalid, to:

(1) Hold himself or herself out to another person as being a certified cross-connection control technician;

(2) In exchange for anything of value, conduct any test or inspection required under this article; or

(3) (1) — ~~The American Society of Sanitary Engineering 901 Canterbury, Suite~~ Submit to the city any report required under this article, except that an employee of company by whom a certified technician is employed may submit a report.

(n) *Invalid report.* It shall be unlawful for any person to submit a test or inspection report required by this article that is not complete and correct in every respect.

(h) *Illegal to test without certification.* It shall be unlawful for any person who holds himself or herself out to be a certified technician or who performs or attempts to perform a test or inspection required under this article to fail to immediately provide proof that he or she is a certified technician upon request of the director.

(i) *Illegal to remove a posted termination notice.* It shall be unlawful for any person to deface, render illegible, or remove a termination notice that has been posted on a property by order of the director under this article without the prior written permission of the director.

Sec. 102-285. Penalty; continuing violation.

Penalty. A, Westlake, OH 44145.

(2) ~~The University of Southern California Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, KAP 200 University Park MC-2531, Los Angeles, CA 90089-2531.~~

(3) ~~American Water Works Association Standards C510 and C511, 6666 West Quincy Avenue, Denver, CO 80235.~~

~~The director of utilities may create a list of additional approved references.~~

~~(c) Backflow prevention assemblies that may be subjected to back pressure or back siphonage that have been fully tested and granted a seal of approval and are listed on the current list of "approved backflow prevention assemblies," and newly installed backflow prevention assemblies which have been inspected and installed to the satisfaction of the director of utilities, are deemed to be in compliance with this article.~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~

~~Secs. 102-308 — 102-330. Reserved.~~

~~DIVISION 3. ENFORCEMENT AND FEES~~

~~Sec. 102-331. Violation.~~

~~(d) (a) — Any person who violates any provision violation of this article shall be subject to the penalties set forth punished by a fine or imprisonment not to exceed the limits established in section 1-5 of this Code. Each day that such violation occurs or~~

~~(e) Continuing violation. In accordance with section 1-5 of this Code, every day any violation of this article continues or is permitted or allowed to continue shall constitute a separate offense.~~

~~(f) Concurrent remedies. The initiation of a prosecution for a violation of this article shall not preclude the director from instituting other appropriate action to restrain, correct, or abate a violation or to prevent illegal occupancy of a structure or premises, or to stop an illegal act, conduct, or the utilization of an uncontrolled cross-connection on or about any property. The initiation of a prosecution for a violation of this article shall also not preclude the director from taking any actions under sections 102-277 or 278.~~

~~Secs. (b) — Failure of the customer to cooperate in the installation, maintenance, testing or inspection of backflow preventers required by this division, or who violates any provision of this article, shall be subject to the penalties set forth in section 1-5, and after notice and hearing, may be subject to termination of water service.~~

~~(c) Service of water to any premises may be discontinued if unprotected cross-connections exist on the premises. The water service may be discontinued if the backflow preventer has been removed or bypassed or when any defect is found in an installed backflow preventer. Service shall not be restored until such conditions or defects are corrected.~~

~~(d) Discontinuance of water service may be summary, immediate and without written notice whenever, in the judgment of the director of utilities, such action is necessary to protect the public potable water supply or the distribution system from an imminent threat to public health.~~

~~(Ord. No. 4188, § 1, 12-7-2009)~~

~~Sees. 102-332—102-286 – 350. Reserved. Reserved.~~



REPORT TO CITY COUNCIL ORDINANCE FIRST READING

**AGENDA ITEM
8.C.4.**

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: CB22-082, An Ordinance Repealing, Retitling, and Reenacting Section 58-1, Powers of Judge, of Article I, In General, of Chapter 58, Municipal Court, of the Arvada City Code, and Repealing Certain Other Provisions of Article I of Chapter 58 (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

Report in Brief

The Arvada Municipal Court is a crucial part of our city government. Its primary purpose is to ensure justice in matters coming before it, and to help maintain Arvada's quality of life. Although the Municipal Court plays a vital role in municipal operations, very few existing City Code provisions address the powers of the Court, or its authority to conduct its business. Although these topics are addressed to one extent or another in state law and various appellate decisions, Arvada's presiding Municipal Court Judge, Kathryn Kurtz, has recommended that the City Code be revised to more accurately reflect the nature of Municipal Court operations.

Specific highlights of the proposed Ordinance are set forth in the discussion section, below.

The Arvada team recommends that the CB22-082, An Ordinance Repealing, Retitling, And Reenacting Section 58-1, Powers Of Judge, Of Article I, In General, Of Chapter 58, Municipal Court, Of The Arvada City Code, And Repealing Certain Other Provisions Of Article I Of Chapter 58 be approved on first reading, ordered published in full, and a public hearing set for December 5, 2022 at 6:15 p.m.

Financial Impact

No financial impacts are anticipated.

Background

The current section outlining the jurisdiction and authority of the Municipal Court (section 58-1 of Chapter 58) is two sentences long. Best practices for courtroom operations indicate that the jurisdiction and authority of a court should be set forth with enough clarity to reduce confusion and enhance the understanding of the public around the powers of the Municipal Court.

Discussion

The proposed Ordinance:

- Sets forth the jurisdiction and powers of the Court in greater detail than that contained in the current ordinance. Provisions about the emergency powers of the Court have been moved from Chapter 26 to this Chapter 58;
- States that the Colorado Municipal Court Rules of Procedure apply to proceedings of the Court, although the presiding judge retains the authority to adopt local rules consistent with the Rules of Procedure;
- Declares sessions of Court to be open to the public, except in certain cases involving juvenile defendants. This is intended to protect juveniles from harm and is in accord with best practices of juvenile courts in Colorado;
- Explains the sentencing authority of the Court and allows the Court to impose alternative useful public service or community service work sentences in cases where doing so is in the best interests of the juvenile;

SUBJECT: CB22-082, An Ordinance Repealing, Retitling, and Reenacting Section 58-1, Powers of Judge, of Article I, In General, of Chapter 58, Municipal Court, of the Arvada City Code, and Repealing Certain Other Provisions of Article I of Chapter 58 (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

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- Acknowledges the role probation officers play in providing pre-sentencing investigations and otherwise evaluating and supervising those sentenced to probation.
- Outlines the circumstances under which bail is appropriate;
- Clarifies the contempt powers of the judge, and outlines the processes and penalties in place for those found to be in contempt; clarifies the penalties for contempt, such that the maximum fine for contempt is lower than the maximum fine for violation of an unlawful act provision;
- Specifies the circumstances under which a municipal court judge may appoint defense counsel that is paid for by the City; and
- Recognizes the important role that parents of juveniles in the criminal justice system play in planning for the treatment of the juvenile by allowing parents to be held accountable for their parental responsibilities.

Certain other provisions of Chapter 58 are being repealed; these provisions were either obsolete or are addressed in the proposed Ordinance.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

NA

Strategic Alignment

The proposed action aligns with the following Principle stated as part of the Safe Community section of the City Council's 2020-2025 Strategic Plan: "Provides an independent, fair, and impartial justice system that efficiently processes the court docket, renders fair and just decisions, and holds all stakeholders accountable."

Alternative Courses of Action

NA

Recommendation for Action

The Arvada team recommends that the CB22-082, An Ordinance Repealing, Retitling, And Reenacting Section 58-1, Powers Of Judge, Of Article I, In General, Of Chapter 58, Municipal Court, Of The Arvada City Code, And Repealing Certain Other Provisions Of Article I Of Chapter 58 be approved on first reading, ordered published in full, and a public hearing set for December 5, 2022 at 6:15 p.m.

Suggested Motion:

I move that CB22-082, An Ordinance Repealing, Retitling, And Reenacting Section 58-1, Powers Of Judge, Of Article I, In General, Of Chapter 58, Municipal Court, Of The Arvada City Code, And Repealing Certain Other Provisions Of Article I Of Chapter 58, be (approved on first reading, ordered published in full, and a public hearing set for December 5, 2022 at 6:15 p.m.) (rejected).

Prepared by:
Alyssa Gleinn, Legal Specialist-Prosecution

SUBJECT: CB22-082, An Ordinance Repealing, Retitling, and Reenacting Section 58-1, Powers of Judge, of Article I, In General, of Chapter 58, Municipal Court, of the Arvada City Code, and Repealing Certain Other Provisions of Article I of Chapter 58 (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

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Reviewed by:

Approved by:

Nora Steenson, Deputy City Attorney 10/18/2022

Kathryn Kurtz, Municipal Judge 10/18/2022

Rachel Morris, City Attorney 10/24/2022

Lorie Gillis, City Manager 10/24/2022

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 22-082
ORDINANCE NO. _____

AN ORDINANCE REPEALING, RETITLING, AND REENACTING SECTION 58-1,
POWERS OF JUDGE, OF ARTICLE I, IN GENERAL, OF CHAPTER 58, MUNICIPAL
COURT, OF THE ARVADA CITY CODE, AND REPEALING CERTAIN OTHER
PROVISIONS OF ARTICLE I OF CHAPTER 58

WHEREAS, section 6 of article XX of the Colorado Constitution grants home rule cities the power to “provide, regulate, conduct and control. . . .the creation of municipal courts: the definition and regulation of the jurisdiction, powers and duties thereof”; and

WHEREAS, section 8.2 of the Charter for the City of Arvada establishes the municipal court for the City of Arvada; and

WHEREAS, the City Council of the City of Arvada wishes to clarify the jurisdiction and powers of the Arvada Municipal Court.

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

Section 1. Section 58-1, Powers of Judge, of Article I, In General, of Chapter 58 of the Arvada City Code is hereby repealed, retitled, and reenacted to read as follows:

“Sec. 58-1. Jurisdiction and powers of the municipal court.

(a) *Creation and governance.* The municipal court, having been established, is governed by the provisions of Article 10 of Title 13 of the Colorado Revised Statutes, as amended, except as otherwise specifically provided in the City Charter or in this Code.

(b) *Jurisdiction.* The municipal court has original jurisdiction of all cases arising under the ordinances of the city with full power to punish violators thereof by the imposition of such fines and penalties as set forth in this Code or by court rule, and by enforcing all orders of the court.

(c) *Powers.* The municipal court has all powers relating to the operation of the court as set forth in C.R.S. section 13-10-114, as may be from time to time amended, subject to any rules of procedure governing the operation and conduct of a court promulgated by the Colorado Supreme Court. A municipal court judge has the authority to assess fees and costs in accordance with section 58-13 of this Code and otherwise in accordance with the court’s published fines, fees, and costs schedule. A municipal court judge may hold a person in contempt as set forth herein, and has the power to punish a person deemed to be in contempt.

(1) Emergency powers. Upon the declaration by the city manager of a civil emergency, emergency, or local disaster under Chapter 26 of this Code, the presiding municipal court judge may issue special, standing, or other orders pertaining to court procedures, the location of judicial proceedings, and the time frames within which judicial proceedings are held. An order issued under this subsection must state the reason or reason the order is necessary, and must comport with the Constitutions of the United States and of Colorado.

(i) An order issued under this subsection may remain in effect for no longer than 91 days, unless the emergency declaration that necessitated the order, or an extension thereof, is still in effect at the end of the 91 day period. If the emergency declaration or extension thereof is still in effect at the end of 91 day period, the presiding judge may extend the order another 91 days. An order issued under this subsection shall remain in effect even if the emergency declaration under which it was issued, or an extension thereof, has been lifted or rescinded, except that it may be lifted or vacated at any time by the presiding municipal court judge.

(d) *Procedures.* The procedures of the court shall be in accordance with the Municipal Court Rules of Procedure as promulgated by the Colorado Supreme Court. The presiding municipal court judge has the authority to issue local rules of procedure consistent with any rule of procedure adopted by the Colorado Supreme Court.

(1) Court of record. The municipal court shall be a court of record. The presiding municipal court judge shall provide for the keeping of a verbatim record of the proceedings and evidence at trials by any electronic or other means.

(e) *Sessions of court.* There shall be regular sessions of court for all proceedings held in the municipal court, except that a municipal court judge may hold a special session of court at any time.

(1) Sessions open. All sessions of the municipal court shall be open, except where the nature of the case is such that it would be in the interest of justice to exclude persons not directly connected with the proceeding. In those cases, a municipal court judge may order that the courtroom be cleared of all persons not directly connected with the proceeding. A municipal judge may order the general public to be excluded from any hearing, trial, or other proceeding involving a juvenile charged with any violation of the Arvada City Code other than those set forth in Chapter 54, Motor Vehicles and Traffic, on its own motion or on the motion of the defense or the prosecution if the court determines that it is in the best interest of the juvenile or the community to exclude the general public. If such a finding is made, the court shall admit only such persons as have an interest in the case or work of the court, including persons whom the city attorney, the juvenile, or the juvenile's parents or guardian wishes to be present. Notwithstanding the above, the judge retains the authority to sequester named or potential witnesses in any proceeding.

(i) In a case where a person refuses or fails to leave the courtroom after having been ordered under this subsection by a municipal court judge to do so, the judge shall have the power to order the person to immediately show cause why the person

should not be punished for contempt for the failure or refusal. If the judge finds that the failure or refusal was not justified by good cause or excusable neglect, the judge may impose punitive sanctions under its contempt powers under subsection (m) of this section.

(f) *Failure to appear for court – defendants.* In a case where a person is summoned to appear, ordered to appear by a municipal judge, or ordered to appear as a condition of a bond at the municipal court, and such person fails to appear at the time and place designated in the summons or order, the judge shall have the power to issue a show cause order for the failure to appear. The order shall command the defendant to appear before the municipal court to show cause why the defendant should not be punished for contempt. Upon appearance of the defendant on such show cause order, if the judge finds that the failure to appear was not justified by good cause or excusable neglect, the judge may impose punitive sanctions under its contempt powers under subsection (m) of this section.

(1) Warrants allowed. Nothing in this section shall prohibit the court from issuing a warrant for a defendant who fails to appear.

(2) Traffic infraction cases. The municipal court shall not issue a warrant for a defendant's failure to appear as ordered in the summons and complaint in a traffic infraction matter. Instead, the court is authorized to enter a default judgment in the matter.

(g) *Attendance of witnesses; compliance with process required.* In a case where a person is summoned or subpoenaed as a juror or as a witness to the municipal court in accordance with applicable rules of the court and this Code, and fails to appear at the time and place designated in the summons or subpoena, the judge shall have power to issue a contempt citation to the juror or witness for the failure to appear. The citation shall command the juror or witness to appear before the municipal court to show cause why that juror or witness should not be punished for contempt. Upon appearance of the juror or witness on such show cause order, if the court finds that the failure to appear was not justified by good cause or excusable neglect, the court may impose punitive sanctions under its contempt powers under subsection (m) of this section.

(h) *Attendance of parent in a juvenile matter – required.* In a case where a summons and complaint for a violation of the Arvada City Code is issued to a person under the age of 18 years, the municipal court may, when the court determines that it is in the best interests of the juvenile to do so, join the juvenile's parent as a respondent to the case.

(1) Joinder process. The court may advise a parent of being joined as a respondent in a juvenile case by issuing a subpoena by certified mail, return receipt requested, addressed to the juvenile's address shown on the summons and complaint. The subpoena shall contain a copy of the summons and complaint, and an order that the parent appear with the juvenile at each court appearance scheduled thereafter. Service by mail is complete upon return of the receipt signed by the parent. In the alternative, the court may, at the juvenile's first appearance or during any subsequent proceeding in the case, verbally advise the juvenile's parent in-person that the parent is being joined as a respondent to the case involving the juvenile, and order the parent to appear at each court appearance scheduled thereafter. Service by advisement is complete when the parent is advised on the record of the joinder.

(2) Failure to appear – contempt. Should a parent who has been properly joined in a juvenile case fail to appear as ordered by the court, the judge shall have the power to issue a citation to the parent for the failure to appear. The citation shall command the parent to appear before the municipal court to show cause why the parent should not be punished for contempt. Upon appearance of the parent on such show cause order, if the court finds that the failure to appear was not justified by good cause or excusable neglect, the court may impose punitive sanctions under its contempt powers under subsection (m) of this section. For purposes of this chapter, “parent” means a natural or adoptive parent, and includes the juvenile’s guardian, legal custodian, or the person with whom the juvenile resides, if other than the juvenile’s parent, guardian, or legal custodian.

(3) Emancipated minor. This subsection (h) shall not apply to any person whose parental rights have been terminated pursuant to the provisions of the Colorado Children’s Code or the parent of an emancipated minor. If the parent of a juvenile cannot be found, the court may, in its discretion, proceed with the case without the presence of a parent.

(i) *Sentencing authority.*

(1) Sentencing options. A municipal court judge may sentence a defendant to pay a fine or to be imprisoned as set forth in section 1-5 of this Code. As part of any sentence, a judge may impose any reasonable condition deemed appropriate by the judge based on all facts and circumstances known to the judge. These conditions include, but are not limited to, ordering a defendant to:

(i) Undergo a mental health, substance abuse, or other evaluation as the judge may deem appropriate to the facts of the case, and to complete any treatment or classes recommended as a result of the evaluation;

(ii) Complete a class or other educational endeavor;

(iii) Perform useful public service or community service work at a non-profit or other entity deemed appropriate by the judge. In the case of a juvenile, the judge may order the juvenile to perform useful public service or community service work at a non-profit or other entity deemed appropriate by the judge, or to perform community service for the juvenile’s parent, but only if performing such service for the juvenile’s parent would be in the best interests of the juvenile. For purposes of this chapter, “juvenile” means a municipal court defendant who is under the age of 18 years on the date of the violation;

(iv) Utilize or participate in existing community resources, including, but not limited to: veterans’ services, services for those experiencing homelessness, or services for the under- or unemployed. In ordering a defendant to utilize an existing community resource, a judge may specify the nature of the service and may designate a specific service provider, as deemed appropriate to the facts of the case;

(v) Have no contact with a victim, witness, or co-defendant in the case;

(vi) Not return to the location of the offense;

(vii) Pay restitution to a victim in an amount ordered by the judge, in conformance with restitution procedures promulgated by the presiding municipal court judge, except that restitution shall not be ordered in a misdemeanor traffic offense or noncriminal traffic infraction case;

(viii) Be evaluated by a probation officer and placed on probation for a period not to exceed 12 months from the date of sentencing. In placing a juvenile on probation, a municipal court judge may, upon a finding that one or more home visits by a probation officer is in the juvenile's best interest, order a probation officer to conduct a home visit or visits at the juvenile's home or place of abode, and may order a police officer to accompany a probation officer on the visit or visits; and

(ix) Perform any other action or engage in any other activity or refrain from performing any other action or engaging in any other activity as the judge may deem appropriate based on the facts of the case and within the bounds of the law.

(2) Parental responsibility. Whenever a parent has been properly joined in a juvenile case as set forth in subsection (h) of this section, and a plea or finding of guilty is entered, a judge may order the parent to:

(i) Cooperate in a pre-sentence investigation as directed by the court;

(ii) Attend classes or counseling sessions designed to contribute to the rehabilitation of the juvenile or the parent's ability to provide proper parental care and supervision of the juvenile;

(iii) Complete useful public service or community service designed to contribute to the rehabilitation of the juvenile;

(iv) Make restitution to the victim as otherwise set forth in this section; and

(v) Pay any court costs, fees, or fines imposed in the matter.

In a case where a parent fails to comply with the order of a judge under this subsection, the judge shall have power to issue a contempt citation to the parent for the failure to comply. The citation shall command the parent to appear before the municipal court to show cause why the parent should not be punished for contempt. Upon appearance of the parent on such show cause order, if the court finds that the failure to comply was not justified by good cause or excusable neglect, the court may impose punitive sanctions under its contempt powers under subsection (m) of this section.

(3) *Proof of completion.* A municipal court judge may require a defendant, parent, or other person subject to an order of the court to show proof of completion of a sentence, condition, requirement, or other order of the court.

(4) *Stay or suspension of sentence.* A municipal court judge may stay or suspend all or a portion of a sentence, including, but not limited to, a fine, imprisonment, community service work, or any other sentencing condition imposed in a case on condition of successful completion of any component of a sentence ordered by a judge.

(j) *Probation.* A probation officer shall report directly to the municipal court administrator. A probation officer has all the powers and duties set forth in C.R.S. section 19-2.5-1107, as may be from time to time amended, except those which by their nature cannot apply to municipal proceedings. A probation officer shall conduct investigations of, evaluate, and supervise probationers in conformance with the probation officer's job description and as otherwise set forth herein.

(k) *Appeals.* Appeals from the municipal court shall be in accordance with C.R.S. sections 13-6-310 and 16-2-114, and the applicable rules of procedure set forth in C.R.S. section 13-10-116, as these statutes may be from time to time amended.

(l) *Bail.* A municipal court judge may by rule designate the court administrator, the deputy court administrator, a court clerk, or any responsible and appropriate member of the Arvada police department to admit a person arrested and in the custody of the police department to bail. The presiding municipal court judge shall provide by rule for the conditions and circumstances under which such admission to bail will be granted pending appearance before the court and the amount of bail to be required for various types of violation. The bail so required may, at the election of the accused, be in the form of cash security, real property, tangible or intangible personal property, or an acceptable corporate surety bond, or a bond with adequate or acceptable private sureties. When provided by rule promulgated by the presiding municipal court judge, bail may be upon personal recognizance without security or surety. Except as otherwise set forth herein, the giving of bail shall be in accordance with Rule 246 of the Municipal Court Rules of Procedure promulgated by the Colorado Supreme Court.

(m) *Contempt – presumption and penalties.*

(1) *Presumption of a willful act.* For purposes of a contempt proceeding under subsection 58-1(f) or (g), proof that the summons or subpoena was duly served or that the person was otherwise properly advised of the obligation to appear, that the person was not excused from appearance by the court, and that the person failed to appear at the time scheduled shall raise a rebuttable presumption that the failure to appear was willful.

(2) *Adult.* Any person 18 years of age or older who is found by a municipal court judge to be in contempt under subsections 58-1(e), (f), (g), or (h) shall, for each offense, be subject to a penalty not to exceed six months in jail or a fine not to exceed \$1,000.00, or both such fine and imprisonment.

(3) Juvenile. Any juvenile who is found by a municipal court judge to be in contempt under subsections 58-1(e), (f), or (g) shall, for each offense, be subject to a penalty not to exceed \$1,000.00 or performing useful public service or community service work in accordance with the provision of this section, or both such fine and service.

(i) In addition, a juvenile may be sentenced to in-home detention for a period not to exceed 90 days. As part of an in-home detention penalty, a municipal court judge may issue a specific order or orders that allow for or restrict the juvenile's ability to engage in certain activities or attend certain events during the period of in-home detention.

(4) Stay or suspension of penalty. A municipal court judge may stay or suspend all or a portion of a penalty for contempt, including, but not limited to, a fine, imprisonment, useful public service or community service work, in-home detention, or any other penalty imposed in a case on condition that the contemptuous behavior not be repeated, or upon successful completion of any component of a sentence or penalty ordered by a judge.

(n) *Defense counsel.*

(1) Appointment. A municipal court judge may appoint counsel at the City's expense for a defendant deemed indigent when:

(i) The defendant is an adult charged with a municipal ordinance violation or misdemeanor traffic offense where imprisonment is a possibility and for which the city attorney is recommending imprisonment; or

(ii) The defendant is an adult about whom a motion to impose a suspended jail sentence has been filed.

(2) Determination of indigency. A municipal court judge must, following diligent inquiry, make a finding on the record that a defendant is indigent before appointing counsel for the defendant.

(3) Serves under contract. An attorney appointed to serve as counsel for a municipal court defendant under this subsection shall work under a contract with the city."

Section 2. Sections 58-8, 58-9, 58-11, and 58-12 of Article I, In General, of Chapter 58, Municipal Court, are hereby repealed and designated as "Reserved."

Section 3. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts thereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

Section 4. Effective date. This ordinance shall take effect January 1, 2023.

INTRODUCED, READ, AND ORDERED PUBLISHED this 7th day of November, 2022.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney:

By: _____

Publication Dates: November 10, 2022

REDLINE/STRIKEOVER VERSION

FOR INFORMATION ONLY -- NOT PART OF THE ORDINANCE

Underlined indicates new material
Strikethrough indicates deleted material

Sec. 58-1. ~~Powers of judge~~ Jurisdiction and powers of the municipal court.

(a) *Creation and governance.* The municipal ~~judge shall have full power and authority to~~
~~make and adopt rules and regulations for conducting court, having been established, is governed~~
~~by the business provisions of Article 10 of Title 13 of the municipal court and shall have all~~
~~powers incident to a court of record~~ Colorado Revised Statutes, as amended, except as otherwise

~~specifically provided in relation to the attendance of witnesses, the punishment for contempt and City Charter or in this Code.~~

(b) *Jurisdiction.* The municipal court has original jurisdiction of all cases arising under the ordinances of the city with full power to punish violators thereof by the imposition of such fines and penalties as set forth in this Code or by court rule, and by enforcing all orders of the court.

(c) *Powers.* ~~The municipal judge shall also have the power to order restitution in addition to all fines, fees, and costs.~~ court has all powers relating to the operation of the court as set forth in C.R.S. section 13-10-114, as may be from time to time amended, subject to any rules of procedure governing the operation and conduct of a court promulgated by the Colorado Supreme Court. A municipal court judge has the authority to assess fees and costs in accordance with section 58-13 of this Code and otherwise in accordance with the court's published fines, fees, and costs schedule. A municipal court judge may hold a person in contempt as set forth herein, and has the power to punish a person deemed to be in contempt.

~~(Code 1960, § 1-21; Code 1981, § 18-3; Ord. No. 2297, § 9, 5-5-1986; Ord. No. 4067, § 1. 5-7-2007)¶¶~~

~~State law reference(s) Powers of judges, C.R.S. § 13-10-112. ¶¶~~

~~Sec. 58-8. Compliance with process, required.¶¶~~

~~It shall be unlawful for any person willfully to fail to appear in response to any summons or subpoena of the municipal court after having been duly served such summons or subpoena in accordance with sections 58-4 – 58-6. ¶¶~~

~~(Code 1960, § 1-24(a); Code 1981, § 18-12)¶¶~~

~~Sec. 58-9.~~

(1) *Emergency powers.* Upon the declaration by the city manager of a civil emergency, emergency, or local disaster under Chapter 26 of this Code, the presiding municipal court judge may issue special, standing, or other orders pertaining to court procedures, the location of judicial proceedings, and the time frames within which judicial proceedings are held. An order issued under this subsection must state the reason or reason the order is necessary, and must comport with the Constitutions of the United States and of Colorado.

(i) An order issued under this subsection may remain in effect for no longer than 91 days, unless the emergency declaration that necessitated the order, or an extension thereof, is still in effect at the end of the 91 day period. If the emergency declaration or extension thereof is still in effect at the end of 91 day period, the presiding judge may extend the order another 91 days. An order issued under this subsection shall remain in effect even if the emergency declaration under which it was issued, or an extension thereof, has been lifted or rescinded, except that it may be lifted or vacated at any time by the presiding municipal court judge.

(d) *Procedures.* The procedures of the court shall be in accordance with the Municipal Court Rules of Procedure as promulgated by the Colorado Supreme Court. The presiding municipal

court judge has the authority to issue local rules of procedure consistent with any rule of procedure adopted by the Colorado Supreme Court.

(1) *Court of record.* The municipal court shall be a court of record. The presiding municipal court judge shall provide for the keeping of a verbatim record of the proceedings and evidence at trials by any electronic or other means.

(e) *Sessions of court.* There shall be regular sessions of court for all proceedings held in the municipal court, except that a municipal court judge may hold a special session of court at any time.

(1) *Sessions open.* All sessions of the municipal court shall be open, except where the nature of the case is such that it would be in the interest of justice to exclude persons not directly connected with the proceeding. In those cases, a municipal court judge may order that the courtroom be cleared of all persons not directly connected with the proceeding. A municipal judge may order the general public to be excluded from any hearing, trial, or other proceeding involving a juvenile charged with any violation of the Arvada City Code other than those set forth in Chapter 54, Motor Vehicles and Traffic, on its own motion or on the motion of the defense or the prosecution if the court determines that it is in the best interest of the juvenile or the community to exclude the general public. If such a finding is made, the court shall admit only such persons as have an interest in the case or work of the court, including persons whom the city attorney, the juvenile, or the juvenile's parents or guardian wishes to be present. Notwithstanding the above, the judge retains the authority to sequester named or potential witnesses in any proceeding.

(i) In a case where a person refuses or fails to leave the courtroom after having been ordered under this subsection by a municipal court judge to do so, the judge shall have the power to order the person to immediately show cause why the person should not be punished for contempt for the failure or refusal. If the judge finds that the failure or refusal was not justified by good cause or excusable neglect, the judge may impose punitive sanctions under its contempt powers under subsection (m) of this section.

(f) *Failure to appear for court – defendants.* In a case where a person is summoned to appear, ordered to appear by a municipal judge, or ordered to appear as a condition of a bond at the municipal court, and such person fails to appear at the time and place designated in the summons or order, the judge shall have the power to issue a show cause order for the failure to appear. The order shall command the defendant to appear before the municipal court to show cause why the defendant should not be punished for contempt. Upon appearance of the defendant on such show cause order, if the judge finds that the failure to appear was not justified by good cause or excusable neglect, the judge may impose punitive sanctions under its contempt powers under subsection (m) of this section.

(1) *Warrants allowed.* Nothing in this section shall prohibit the court from issuing a warrant for a defendant who fails to appear.

(2) Traffic infraction cases. The municipal court shall not issue a warrant for a defendant's failure to appear as ordered in the summons and complaint in a traffic infraction matter. Instead, the court is authorized to enter a default judgment in the matter.

(g) *Attendance of witnesses; compliance with process required.* In a case where a person is summoned or subpoenaed as a juror or as a witness to the municipal court in accordance with applicable rules of the court and this Code, and fails to appear at the time and place designated in the summons or subpoena, the judge shall have power to issue a contempt citation to the juror or witness for the failure to appear. The citation shall command the juror or witness to appear before the municipal court to show cause why that juror or witness should not be punished for contempt. Upon appearance of the juror or witness on such show cause order, if the court finds that the failure to appear was not justified by good cause or excusable neglect, the court may impose punitive sanctions under its contempt powers under subsection (m) of this section.

(h) *Attendance of parent in a juvenile matter – required.* In a case where a summons and complaint for a violation of the Arvada City Code is issued to a person under the age of 18 years, the municipal court may, when the court determines that it is in the best interests of the juvenile to do so, join the juvenile's parent as a respondent to the case.

(1) Joinder process. The court may advise a parent of being joined as a respondent in a juvenile case by issuing a subpoena by certified mail, return receipt requested, addressed to the juvenile's address shown on the summons and complaint. The subpoena shall contain a copy of the summons and complaint, and an order that the parent appear with the juvenile at each court appearance scheduled thereafter. Service by mail is complete upon return of the receipt signed by the parent. In the alternative, the court may, at the juvenile's first appearance or during any subsequent proceeding in the case, verbally advise the juvenile's parent in-person that the parent is being joined as a respondent to the case involving the juvenile, and order the parent to appear at each court appearance scheduled thereafter. Service by advisement is complete when the parent is advised on the record of the joinder.

(2) Failure to appear – contempt. Should a parent who has been properly joined in a juvenile case fail to appear as ordered by the court, the judge shall have the power to issue a citation to the parent for the failure to appear. The citation shall command the parent to appear before the municipal court to show cause why the parent should not be punished for contempt. Upon appearance of the parent on such show cause order, if the court finds that the failure to appear was not justified by good cause or excusable neglect, the court may impose punitive sanctions under its contempt powers under subsection (m) of this section. For purposes of this chapter, "parent" means a natural or adoptive parent, and includes the juvenile's guardian, legal custodian, or the person with whom the juvenile resides, if other than the juvenile's parent, guardian, or legal custodian.

(3) Emancipated minor. This subsection (h) shall not apply to any person whose parental rights have been terminated pursuant to the provisions of the Colorado Children's Code or the parent of an emancipated minor. If the parent of a juvenile cannot be found, the court may, in its discretion, proceed with the case without the presence of a parent.

(i) *Sentencing authority.*

(1) Sentencing options. A municipal court judge may sentence a defendant to pay a fine or to be imprisoned as set forth in section 1-5 of this Code. As part of any sentence, a judge may impose any reasonable condition deemed appropriate by the judge based on all facts and circumstances known to the judge. These conditions include, but are not limited to, ordering a defendant to:

(i) Undergo a mental health, substance abuse, or other evaluation as the judge may deem appropriate to the facts of the case, and to complete any treatment or classes recommended as a result of the evaluation;

(ii) Complete a class or other educational endeavor;

(iii) Perform useful public service or community service work at a non-profit or other entity deemed appropriate by the judge. In the case of a juvenile, the judge may order the juvenile to perform useful public service or community service work at a non-profit or other entity deemed appropriate by the judge, or to perform community service for the juvenile's parent, but only if performing such service for the juvenile's parent would be in the best interests of the juvenile. For purposes of this chapter, "juvenile" means a municipal court defendant who is under the age of 18 years on the date of the violation;

(iv) Utilize or participate in existing community resources, including, but not limited to: veterans' services, services for those experiencing homelessness, or services for the under- or unemployed. In ordering a defendant to utilize an existing community resource, a judge may specify the nature of the service and may designate a specific service provider, as deemed appropriate to the facts of the case;

(v) Have no contact with a victim, witness, or co-defendant in the case;

(vi) Not return to the location of the offense;

(vii) Pay restitution to a victim in an amount ordered by the judge, in conformance with restitution procedures promulgated by the presiding municipal court judge, except that restitution shall not be ordered in a misdemeanor traffic offense or noncriminal traffic infraction case;

(viii) Be evaluated by a probation officer and placed on probation for a period not to exceed 12 months from the date of sentencing. In placing a juvenile on probation, a municipal court judge may, upon a finding that one or more home visits by a probation officer is in the juvenile's best interest, order a probation officer to conduct a home visit or visits at the juvenile's home or place of abode, and may order a police officer to accompany a probation officer on the visit or visits; and

(ix) Perform any other action or engage in any other activity or refrain from performing any other action or engaging in any other activity as the judge may deem appropriate based on the facts of the case and within the bounds of the law.

(2) Parental responsibility. Whenever a parent has been properly joined in a juvenile case as set forth in subsection (h) of this section, and a plea or finding of guilty is entered, a judge may order the parent to:

(i) Cooperate in a pre-sentence investigation as directed by the court;

(ii) Attend classes or counseling sessions designed to contribute to the rehabilitation of the juvenile or the parent's ability to provide proper parental care and supervision of the juvenile;

(iii) Complete useful public service or community service designed to contribute to the rehabilitation of the juvenile;

(iv) Make restitution to the victim as otherwise set forth in this section; and

(v) Pay any court costs, fees, or fines imposed in the matter.

In a case where a parent fails to comply with the order of a judge under this subsection, the judge shall have power to issue a contempt citation to the parent for the failure to comply. The citation shall command the parent to appear before the municipal court to show cause why the parent should not be punished for contempt. Upon appearance of the parent on such show cause order, if the court finds that the failure to comply was not justified by good cause or excusable neglect, the court may impose punitive sanctions under its contempt powers under subsection (m) of this section.

(3) Proof of completion. A municipal court judge may require a defendant, parent, or other person subject to an order of the court to show proof of completion of a sentence, condition, requirement, or other order of the court.

(4) Stay or suspension of sentence. A municipal court judge may stay or suspend all or a portion of a sentence, including, but not limited to, a fine, imprisonment, community service work, or any other sentencing condition imposed in a case on condition of successful completion of any component of a sentence ordered by a judge.

(j) *Probation.* A probation officer shall report directly to the municipal court administrator. A probation officer has all the powers and duties set forth in C.R.S. section 19-2.5-1107, as [may be from time to time](#) amended, except those which by their nature cannot apply to municipal proceedings. A probation officer shall conduct investigations of, evaluate, and supervise probationers in conformance with the probation officer's job description and as otherwise set forth herein.

(k) *Appeals.* Appeals from the municipal court shall be in accordance with C.R.S. sections 13-6-310 and 16-2-114, and the applicable rules of procedure set forth in C.R.S. section 13-10-116, as these statutes may be from time to time amended.

(l) *Bail.* A municipal court judge may by rule designate the court administrator, the deputy court administrator, a court clerk, or any responsible and appropriate member of the Arvada police department to admit a person arrested and in the custody of the police department to bail. The presiding municipal court judge shall provide by rule for the conditions and circumstances under which such admission to bail will be granted pending appearance before the court and the amount of bail to be required for various types of violation. The bail so required may, at the election of the accused, be in the form of cash security, real property, tangible or intangible personal property, or an acceptable corporate surety bond, or a bond with adequate or acceptable private sureties. When provided by rule promulgated by the presiding municipal court judge, bail may be upon personal recognizance without security or surety. Except as otherwise set forth herein, the giving of bail shall be in accordance with Rule 246 of the Municipal Court Rules of Procedure promulgated by the Colorado Supreme Court.

(m) *Contempt – presumption and penalties.*

(1) Presumption of a willful act.¶

For purposes of ~~prosecution~~ **a contempt proceeding** under ~~this section,~~ **subsection 58-1(f) or (g),** proof that the summons or subpoena was duly served **or that that the person was otherwise properly advised of the obligation to appear,** that the person was not excused from appearance by the court, and that the person failed to appear at the time scheduled shall raise a rebuttable presumption that the failure to appear was willful.-

~~(Code 1960, § 1-24(b), Code 1981, § 18-13)¶~~

(2) *Adult.* Any person 18 years of age or older who is found by a municipal court judge to be in contempt under subsections 58-1(e), (f), (g), or (h) shall, for each offense, be subject to a penalty not to exceed six months in jail or a fine not to exceed \$1,000.00, or both such fine and imprisonment.

(3) *Juvenile.* Any **juvenile** who is found by a municipal court judge to be in contempt under subsections 58-1(e), (f), or (g) shall, for each offense, be subject to a penalty not to exceed \$1,000.00 or performing useful public service or community service work in accordance with the provision of this section, or both such fine and service.

(i) In addition, a juvenile may be sentenced to in-home detention for a period not to exceed 90 days. As part of an in-home detention penalty, a municipal court judge may issue specific **order or orders** that allow for or restrict the juvenile's ability to engage in certain activities or attend certain events during the period of in-home detention.

(4) *Stay or suspension of penalty.* A municipal court judge may stay or suspend all or a portion of a penalty for contempt, including, but not limited to, a fine, imprisonment, useful public service or community service work, in-home detention, or any other penalty imposed in a

case on condition that the contemptuous behavior not be repeated, or upon successful completion of any component of a sentence or penalty ordered by a judge.

(n) *Defense counsel.*

(1) Appointment. A municipal court judge may appoint counsel at the City's expense for a defendant deemed indigent when:

(i) The defendant is an adult charged with a municipal ordinance violation or misdemeanor traffic offense where imprisonment is a possibility and for which the city attorney is recommending imprisonment; or

(ii) The defendant is an adult about whom a motion to impose a suspended jail sentence has been filed.

(2) Determination of indigency. A municipal court judge must, following diligent inquiry, make a finding on the record that a defendant is indigent before appointing counsel for the defendant.

(3) Serves under contract. An attorney appointed to serve as counsel for a municipal court defendant under this subsection shall work under a contract with the city.¶

~~Sec. 58-11. Record of proceedings.¶~~

~~There shall be an electronic recording made of the proceedings of the municipal court. Cassette copies and typed transcripts of the record will be prepared by the municipal court for the actual cost of preparation. ¶~~

~~(Code 1981, § 18-15; Ord. No. 1477, § 1, 6-19-1978; Ord. No. 2460, § 1, 11-9-1987)¶~~

~~State law reference(s) Time, docket fee, bond, C.R.S. § 13-10-117. ¶~~

~~Sec. 58-12. Fines and sentences; suspension or stay of execution.¶~~

~~The municipal judge may suspend or stay the execution of any sentence or fine of any violator, or any portion thereof, and place said violator on probation for a period not to exceed 12 months, or impose any other reasonable condition pursuant to law which the court may deem proper. ¶~~

~~(Code 1960, § 1-9.1; Code 1981, § 18-16)¶~~

~~State law reference(s) Similar provisions, C.R.S. § 13-10-113.~~



REPORT TO CITY COUNCIL ORDINANCE FIRST READING

**AGENDA ITEM
8.C.5.**

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: CB22-083, An Ordinance Amending Section 98-70, Exempt Sales and Repealing and Reenacting Section 98-78, Exemptions of Article III, Sales and Use Tax, of Chapter 98, Taxation, of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

Report in Brief

Colorado House Bill 21-1162 eliminates the use of single-use plastic bags provided by retail establishments. The amendments to the ordinance also exempts the fee collected from customers for the use of single-use plastic bags during the transition period prior to the elimination of single-use plastic bags from Arvada sales tax. These amendments to the ordinance also exempt the State of Colorado's enacted retail delivery fee from Arvada sales tax.

The Arvada team recommends that the City Council approve CB22-083, An Ordinance Amending Section 98-70, Exempt Sales and Repealing and Reenacting Section 98-78, Exemptions of Article III, Sales and Use Tax, of Chapter 98, Taxation, of the Arvada City Code.

Financial Impact

Approval of the exemption of these fees will have no financial impact as they are not collected today.

Background

Colorado House Bill 21-1162 eliminates the use of single-use plastic carryout bags in order to mitigate harmful effects on the state's natural resources and the environment. House Bill 21-1162 requires retail businesses to charge customers \$0.10 for each single-use plastic bag provided to customers beginning January 1, 2023. Retail businesses must remit \$0.06 per bag to the City of Arvada to be used by the City in support of recycling, composting or other waste diversion programs and related outreach and education activities. The proposed amendments to the Arvada Code of Ordinances exempts the single-use plastic bag fee from Arvada sales tax.

Colorado Senate Bill 21-260 enacted a retail delivery fee of \$0.27 per delivery to be charged by businesses to its customers and remitted to the State of Colorado to be utilized to help fund state's transportation system. The proposed amendments to the Arvada Code of Ordinances exempts the retail delivery fee from Arvada sales tax.

Discussion

Amending chapter 98 of the Arvada Code of Ordinances will exempt the bag fees and the retail delivery fees enacted by the State of Colorado from Arvada sales tax. Exempting these fees from Arvada sales tax will significantly reduce the complexity of tax collection for the business community and is in line with the recommendation provided by the Colorado Municipal League.

Public Contact

Posting of the City Council agenda

SUBJECT: CB22-083, An Ordinance Amending Section 98-70, Exempt Sales and Repealing and Reenacting Section 98-78, Exemptions of Article III, Sales and Use Tax, of Chapter 98, Taxation, of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

PAGE: 2
ITEM: 8.C.5.

Commission Recommendation

Strategic Alignment

The proposed amendments to the Arvada Code of Ordinances directly support the Community Resilience and Sustainability strategic result as well as mitigate any increase in the level of complexity for retailers to do business in Arvada.

Alternative Courses of Action

Recommendation for Action

The Arvada team recommends that the City Council approve CB22-083, An Ordinance Amending Section 98-70, Exempt Sales and Repealing and Reenacting Section 98-78, Exemptions of Article III, Sales and Use Tax, of Chapter 98, Taxation, of the Arvada City Code.

Suggested Motion:

I move that CB22-083, An Ordinance Amending Section 98-70, Exempt Sales and Repealing and Reenacting Section 98-78, Exemptions of Article III, Sales and Use Tax, of Chapter 98, Taxation, of the Arvada City Code, be (approved on first reading, ordered published in full, and a public hearing set for December 5, 2022 at 6:15 p.m.) (rejected).

Prepared by:
Ezequiel Vasquez, Revenue Manager

Reviewed by:

Approved by:

Jenna Belec, Executive Assistant	10/18/2022
Bryan Archer, Director of Finance	10/18/2022
Gail Walker, Legal Specialist-Contracts	10/20/2022
Laura Hemler, Assistant City Attorney	10/21/2022
Rachel Morris, City Attorney	10/25/2022
Linda Haley, Deputy City Manager	10/25/2022
Lorie Gillis, City Manager	10/26/2022

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. CB22-083
ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 98-70, EXEMPT SALES AND REPEALING AND
REENACTING SECTION 98-78, EXEMPTIONS OF ARTICLE III, SALES AND USE TAX,
OF CHAPTER 98, TAXATION, OF THE ARVADA CITY CODE

WHEREAS, the City of Arvada, Colorado, (“City”), is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution, the right to enact, administer, and enforce sales and use taxes is clearly within the constitutional grant of power to the City and is necessary to raise revenue with which to conduct the affairs and render the services performed by the City; and

WHEREAS, pursuant to such authority, the City has adopted and enacted Chapter 98 of the Arvada City Code (the “Code”), under which City sales and use tax is levied; and

WHEREAS, the Colorado Legislature passed House Bill 21-1162, which seeks to eliminate the use of single-use plastic bags in order to mitigate the harmful effects on Colorado’s environment and requires retail businesses to impose and collect certain fees; and

WHEREAS, beginning January 1, 2023, retail businesses must charge customers \$0.10 for each single-use plastic bag provided; and

WHEREAS, the retail businesses must then remit \$0.06 of the \$0.10 charge to the City to be used by the City to support recycling, composting, or other waste diversion programs and related outreach and education activities;

WHEREAS, beginning July 1, 2022, retail businesses began charging customers a \$0.27 retail delivery fee per delivery, which is remitted to the State of Colorado to fund the State’s transportation system; and

WHEREAS, the City does not wish to impose local sales tax on the carryout bag fees or the retail delivery fees enacted by the State of Colorado that would otherwise be taxable under the Code.

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

Section 1. Section 98-70, Exempt sales, of Article III, Sales and Use Tax, of Chapter 98, Taxation, of the Arvada City Code is hereby amended by adding subsections (x) and (y) to subsection (9), to read as follows:

“Sec. 98-70, Exempt sales.

. . . .

x. All retail delivery fees consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-1-1303(8), as such sections existed on June 17, 2021.

y. All carryout bag fees imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021.

....”

Section 2. Section 98-78, Exemptions, of Article III, Sales and Use Tax, of Chapter 98, Taxation, of the Arvada City Code is hereby repealed and reenacted to read as follows:

“Sec. 98-78. Exemptions.

(1) There shall be exempt from the tax provided in section 98-77, the storage, use, distribution and consumption of the following:

- a. Any personal property on which a sales tax has been paid to the city.
- b. Tangible personal property which, if it were sold at retail within the city would be exempt from sales tax under the provisions of section 98-70.
- c. Tangible personal property brought into the city by a nonresident for his own use, storage or consumption while temporarily within this city.
- d. Tangible personal property of a resident, which was acquired prior to his becoming a resident.
- e. Where mobile machinery is acquired exclusively for business or commercial use and where such machinery is stored in the city, but solely and exclusively used outside the city, the use tax may be prorated. When a taxpayer is able to establish to the satisfaction of the enforcement officer that a taxable item meets the above requirements, the tax may be prorated by determining the number of days within a calendar year that the machinery is stored within the city, and apply that fraction of a year into the normal applicable use tax.
- f. Tangible personal property purchased or leased from a nonresident vendor by a person engaged within the city in the business of manufacturing for wholesale sale or compounding for wholesale sale, when such tangible personal property is:
 - i. An article, substance or commodity which becomes an ingredient or component part of the product manufactured, which product is itself tangible personal property, and the container, label and shipping case thereof.

- ii. Machinery and specific processing equipment and repair parts and replacements thereof, exclusively and directly used in manufacturing tangible personal property. The purchases must be capitalized to qualify for the exemption and each purchase order or invoice must be more than \$500.00. There is no limit on the amount that can be exempt as long as the \$500.00 minimum on each purchase is met.
 - g. All sales of food purchased with food stamps or purchased with funds provided by the special supplemental program for women, infants and children. For this exemption, "food" shall be as defined in 7 USC 2012(g).
 - h. Research and development equipment sold or leased when the purchase price of each piece of equipment is \$100.00 or more and the aggregate purchase price for all such pieces of equipment is over \$1,000.00 annually. For purposes of determining purchase price, each piece of equipment shall be considered separately.
 - i. The storage, use, distribution or consumption of any article of tangible personal property purchased at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user. A credit shall be granted against the city's use tax with respect to such transactions equal in amount to the lawfully imposed municipal corporation sales or use taxes previously paid by the purchaser or user. The amount of the credit shall not exceed 3.46 percent. If the rate of sales or use tax to such municipal corporation is less than the rate imposed by this article, the net difference shall be paid to the finance director. This credit shall not apply if the tax paid was not legally due under the laws of such municipal or the laws of the municipal corporation are not compatible with those of the city as to specific taxation and exemption as applied to the transaction in question. Nor does the credit extend to construction materials used in a project for which a city building permit is required.
 - j. All retail delivery fees consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-1-1303(8), as such sections existed on June 17, 2021.
 - k. All carryout bag fees imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021.
- (2) The city manager shall be authorized, in his or her discretion, to enter into agreements with persons engaged within the city in the business of manufacturing to effectuate the exemptions set forth in subsection (1)(f) above, whenever such an agreement will

promote the best interest of the city. The city manager shall timely report any such agreement to city council verbally or in writing.”

Section 3. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts thereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

Section 4. Effective date. This ordinance shall take effect on January 1, 2023.

INTRODUCED, READ, AND ORDERED PUBLISHED this 7th day of November, 2022.

PASSED, ADOPTED, AND APPROVED this ____ day of _____, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

Publication Dates: November 10, 2022

REDLINE/STRIKETHROUGH VERSION

FOR INFORMATION ONLY -- NOT PART OF THE ORDINANCE

Underlined indicates new material
~~Strikethrough~~ indicates deleted material

Sec. 98-70. Exempt sales.

There shall be exempt from taxation under the provisions of this article the items of sales and services including, but not limited to the following:

- (1) All sales to the United States Government, to the state, its departments and institutions and the political subdivisions thereof in their governmental capacities only.
- (2) All sales to religious, charitable and eleemosynary corporations, in the conduct of the regular religious, charitable and eleemosynary functions and activities.
- (3) All sales, which the city is prohibited from taxing under the Constitution of the United States or the state.
- (4) All sales of cigarettes.
- (5) All charges for lodging service as provided for in section 98-66(1)e. to any occupant who is a permanent resident and who enters into a written agreement for occupancy or use for a period of at least 30 consecutive days during the calendar year.
- (6) All sales of commodities, which are taxed under the provisions of the Colorado Motor Fuel Tax of 1933.
- (7) Newspapers as legally defined in C.R.S. § 24-70-102, as amended.
- (8) Every vendor selling items otherwise taxable, but exempted by C.R.S. § 39-26-114(7), as amended, for sales through vending machines shall pay the sales tax provided in section 98-66.
- (9) Additional provisions of exemption from the tax under this article:
 - a. All sales of tangible personal property if both the following conditions exist: The sales are to those who reside or do business outside the city for their use outside the city and the article or commodity is delivered to the purchaser by common carrier, by mail or conveyed by the seller.
 - b. All sales of tangible personal property to a public utility doing business both within and outside the city, for use in its business outside the city, even though sale and/or delivery thereof is made within the city.
 - c. All sales of farm machinery, machinery parts, livestock, poultry, and livestock and poultry feeds and drugs, seeds and fertilizers to purchasers for use outside the city even though sale and/or delivery is made within the city, except that trucks of one ton manufactured rated capacity or less and lawn and garden tillers, mowers and renovators are not to be considered as farm machinery.

- d. All permits, licenses, service charges, fines and assessments, for benefit or penalty, charged by and in accordance with the Code.
- e. All sales of personal property, provided that such sales are infrequently conducted that the sale occurs at the residence of the owner, that the property to be sold was originally purchased for use by members of the household where such sale is being conducted, but not including sales conducted by a professional or compensated agent of the owner of the items to be sold. For purposes of this section, infrequent shall mean not exceeding a consecutive three-day period or a total of 21 days per calendar year.
- f. All sales by churches, clubs, lodges, parent-teacher associations, student organizations, youth organizations and organizations chartered by the state as nonprofit corporations, provided that such sales are infrequently conducted, that no regular place of sale is maintained and that all proceeds from such sales are used for the activities of the organization conducting the sale.
- g. Tangible personal property purchased or leased from a resident vendor by a person engaged within the city in the business of manufacturing for wholesale sale or compounding for wholesale sale, when such tangible personal property is:
 - 1. An article, substance or commodity which becomes an ingredient or component part of the product manufactured, which product is itself tangible personal property, and the container, label and shipping case thereof.
 - 2. Machinery and specific processing equipment and repair parts and replacements thereof, exclusively and directly used in manufacturing tangible personal property. The purchases must be capitalized to qualify for the exemption and each purchase order or invoice must be more than \$500.00. There is no limit on the amount that can be exempt as long as the \$500.00 minimum on each purchase is met.
- h. All sales of food purchased with food stamps or purchased with funds provided by the special supplemental program for women, infants and children. For this exemption, "food" shall be as defined in 7 USC 2012(g).
- i. Any sale or lease of research and development equipment in which the purchase price of each piece of equipment is \$100.00 or more and the aggregate purchase price for all such pieces of equipment is over \$1,000.00 annually. For purposes of determining purchase price, each piece of equipment shall be considered separately.
- j. All sales of construction materials (as defined in section 98-61) if such materials are picked up by the purchaser, and if the purchaser of such materials presents to the retailer a valid building permit evidencing that a local tax has been paid or will be paid. For construction materials used in the building, erection, alteration, or repair of structures, highways, roads, streets and other public works owned and used for an exempt organization, the general contractor constructing the project must obtain an exemption certificate from the state department of revenue for the project.
- k. The sales of commercial packaging materials (as defined in section 98-61).

- l. All sales of medical supplies, which include, insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose useable for treatment of insulin reactions; urine and blood-testing kits and materials; insulin measuring and injecting devices, including hypodermic syringes and needles; prosthetic devices; wheelchairs and hospital beds; drugs or materials when furnished by a doctor as part of professional services provided to a patient.
- m. All sales of prescription drugs for humans.
- n. All sales of prescription drugs for animals.
- o. All sales of prosthetic devices for humans.
- p. All sales of therapeutic devices if such a device, appliance or related accessory has a retail value of more than \$100.00 and is sold in accordance with a written recommendation from a licensed doctor.
- q. All sales made to schools, other than schools held or conducted for private or corporate profit.
- r. Tangible personal property sold for rental or leasing inventory provided that such property is not otherwise used for customer demonstration or display.
- s. Nontaxable service sales. The amount equal to the consideration received for installation labor or services sold with tangible personal property, if such services are separately stated on the invoice from the tangible personal property sold; except that manufacturing or fabricating or other processing labor is never exempt.
- t. Recreation services.
- u. Security systems services.
- v. Sound system services.
- w. Custom software programs written specifically for the user and billed on an hourly labor basis are not taxable.
- x. All retail delivery fees consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-1-1303(8), as such sections existed on June 17, 2021.
- y. All carryout bag fees imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021.

(10) The city manager shall be authorized, in his or her discretion, to enter into agreements with persons engaged within the city in the business of manufacturing to effectuate the exemptions set forth in subsection (9)(g) above, whenever such an agreement will

promote the best interest of the city. The city manager shall timely report any such agreement to city council verbally or in writing.

Section. 98-78. Exemptions.

(1) There shall be exempt from the tax provided in section 98-77, the storage, use, distribution and consumption of the following:

- a. Any personal property on which a sales tax has been paid to the city.
- b. Tangible personal property which, if it were sold at retail within the city would be exempt from sales tax under the provisions of section 98-70.
- c. Tangible personal property brought into the city by a nonresident for his own use, storage or consumption while temporarily within this city.
- d. Tangible personal property of a resident, which was acquired prior to his becoming a resident.
- e. Where mobile machinery is acquired exclusively for business or commercial use and where such machinery is stored in the city, but solely and exclusively used outside the city, the use tax may be prorated. When a taxpayer is able to establish to the satisfaction of the enforcement officer that a taxable item meets the above requirements, the tax may be prorated by determining the number of days within a calendar year that the machinery is stored within the city, and apply that fraction of a year into the normal applicable use tax.
- f. Tangible personal property purchased or leased from a nonresident vendor by a person engaged within the city in the business of manufacturing for wholesale sale or compounding for wholesale sale, when such tangible personal property is:
 - i. An article, substance or commodity which becomes an ingredient or component part of the product manufactured, which product is itself tangible personal property, and the container, label and shipping case thereof.
 - ii. Machinery and specific processing equipment and repair parts and replacements thereof, exclusively and directly used in manufacturing tangible personal property. The purchases must be capitalized to qualify for the exemption and each purchase order or invoice must be more than \$500.00. There is no limit on the amount that can be exempt as long as the \$500.00 minimum on each purchase is met.
- g. All sales of food purchased with food stamps or purchased with funds provided by the special supplemental program for women, infants and children. For this exemption, "food" shall be as defined in 7 USC 2012(g).

- h. Research and development equipment sold or leased when the purchase price of each piece of equipment is \$100.00 or more and the aggregate purchase price for all such pieces of equipment is over \$1,000.00 annually. For purposes of determining purchase price, each piece of equipment shall be considered separately.
 - i. The storage, use, distribution or consumption of any article of tangible personal property purchased at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user. A credit shall be granted against the city's use tax with respect to such transactions equal in amount to the lawfully imposed municipal corporation sales or use taxes previously paid by the purchaser or user. The amount of the credit shall not exceed 3.46 percent. If the rate of sales or use tax to such municipal corporation is less than the rate imposed by this article, the net difference shall be paid to the finance director. This credit shall not apply if the tax paid was not legally due under the laws of such municipal or the laws of the municipal corporation are not compatible with those of the city as to specific taxation and exemption as applied to the transaction in question. Nor does the credit extend to construction materials used in a project for which a city building permit is required.
 - j. All retail delivery fees consisting of the community access retail delivery fee imposed in C.R.S. § 24-38.5-303(7), the clean fleet retail delivery fee imposed in C.R.S. § 25-7.5-103(8), the clean transit retail delivery fee imposed in C.R.S. § 43-4-1203(7), the retail delivery fee imposed in C.R.S. § 43-4-218(3), the bridge and tunnel retail delivery fee imposed in C.R.S. § 43-4-805 (5)(g.7), and the air pollution mitigation retail delivery fee imposed in C.R.S. § 43-1-1303(8), as such sections existed on June 17, 2021.
 - k. All carryout bag fees imposed in C.R.S. § 25-17-505, as such section existed on July 6, 2021.
- (2) ~~(10)~~ The city manager shall be authorized, in his or her discretion, to enter into agreements with persons engaged within the city in the business of manufacturing to effectuate the exemptions set forth in subsection ~~(6)~~ (1)(f) above, whenever such an agreement will promote the best interest of the city. The city manager shall timely report any such agreement to city council verbally or in writing.



REPORT TO CITY COUNCIL ORDINANCE FIRST READING

**AGENDA ITEM
8.C.6.**

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: CB22-084, An Ordinance Amending Subsection 102-34(c) of Section 102-34, Application for Service and Payment of Fees, of Article II, Chapter 102, Utilities, of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

Report in Brief

The City's Infrastructure Worksystem continues to prepare for investments in operations and infrastructure as part of our ongoing commitment to continue to provide reliable water, sewer, and stormwater drainage services to our community. This work is in support of Strategic Result 3 (SR3), the Water, Sewer, and Stormwater Master Plans and their implementation.

On Monday, October 17, 2022, the City Council approved CB 22-071, an Ordinance Amending Sections 74-91 and 74-92 of Chapter 74, Planning and Development, and Various Sections of Chapter 102, Utilities, of the Arvada City Code Pertaining to System Development Charges (Ordinance No. 4819). CB 22-071 will go into effect on July 1, 2023. On approval of CB 22-071, the City Council directed staff to prepare an ordinance that would allow for payment of system development charges (also known as "tap fees") earlier in the development process, in order to provide additional opportunity for payment of system development charges at the lower rate set in the current code up through and including June 30, 2023. The ordinance before the City Council complies with the Council's directive, and will adjust the timing of when System Development Charges shall be paid. Currently, a System Development Charge can only be paid after the foundation is poured and inspected. Under this ordinance, the timing would move up to when a building permit is approved and ready to be issued.

Upon City Council approval, this ordinance will be effective through and including June 30, 2023, afterwhich CB 22-071 will supersede and replace this ordinance.

The Arvada team recommends that the City Council approve CB22-084, An Ordinance Amending Subsection 102-34(c) of Section 102-34, Application for Service and Payment of Fees, of Article II, Chapter 102, Utilities, of the Arvada City Code, on first reading.

Financial Impact

The City team estimates that the financial impact of this ordinance, together with the delayed effective of the updated system development charges from January 1, 2023 to July 1, 2023, as approved at the October 17, 2022 business meeting, will reduce revenue to the water and sewer enterprise funds by an amount in the range of \$2.8 million to \$4 million.

Background

Over the past two years, the City team has provided information and updates to the Council related to the water, sewer, and stormwater master planning efforts. The Council recently adopted the 2023 water/sewer rates, fees and charges to support these efforts. The changes to rates and fees will go into effect on January 1, 2023, and in response to stakeholder feedback, the changes to system development charges will go into effect on July 1, 2023, a delay of six months.

As a follow up component to the adopted System Development Charges, Council asked the city team to return with an ordinance that adjusts the timing of when a System Development Charge is paid.

Discussion

The ordinance before Council will adjust the timing of when the System Development Charges are due for payment. Under the current City code, system development charges cannot be paid until a foundation is poured and inspected. Under the new ordinance, the timing would move up to when a building permit is approved and ready to issue. The proposed change will create more clarity in the development timeline, and will also define the expiration of a system development charge as the same expiration as a building permit.

Upon City Council approval, this ordinance will be effective through and including June 30, 2023, after which CB 22-071 will supersede and replace this ordinance. This ordinance allows developments that have an approved building permit on or before June 30, 2023, to purchase their System Development Charge at the 2022 price.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

The recommendation to adjust the timing of the payment of System Development Charges aligns with the following Strategic Result within the Infrastructure Priority Area of the City Council Strategic Plan:

Update the water, sewer, and stormwater master plans.

In addition, adjusting the timing of the payment of System Development Charges aligns with the following Principle stated within the Infrastructure Priority Area:

Provides the community with a safe, reliable, high-quality water supply, drainage system, and wastewater disposal services for full city build-out, as defined by the Comprehensive Plan. This includes maintaining utility rates at the lowest practical levels with accurate billing that supports replacement of aging infrastructure in order to maintain robust utility systems.

Alternative Courses of Action

Approve the ordinance to adjust the timing of when System Development Charges are paid, to be at the time that an approved building permit is issued.

Do not approve the ordinance. The city team does not recommend this alternative. Amending the code language will provide clarity to the development community. In addition, as this ordinance will be effective through and including June 30, 2023, those developments that have approved building permits on or before June 30, 2023 can pay the 2022 price.

Recommendation for Action

The Arvada team recommends that the City Council approve Alternative No.1, CB22-084, An Ordinance Amending Subsection 102-34(c) of Section 102-34.

Suggested Motion:

I move that CB22-084, An Ordinance Amending Subsection 102-34(c) of Section 102-34, Application for Service and Payment of Fees, of Article II, Chapter 102, Utilities, of the Arvada City Code, be (approved on first reading, ordered published in full, and a public hearing set for December 5, at 6:15 p.m.) (rejected).

Prepared by:

SUBJECT: CB22-084, An Ordinance Amending Subsection 102-34(c) of Section 102-34, Application for Service and Payment of Fees, of Article II, Chapter 102, Utilities, of the Arvada City Code (Public Hearing to be set for December 5, 2022 at 6:15 p.m.)

PAGE: 3
ITEM: 8.C.6.

Christine Gray, Utilities Business Manager

Reviewed by:

Approved by:

Sharon Israel, Director of Utilities	10/20/2022
Bryan Archer, Director of Finance	10/20/2022
Ryan Stachelski, Director of Community and Economic Development	10/20/2022
Jessica Morales, Assistant City Attorney	10/21/2022
Kelsy Sargent, Assistant City Attorney	10/21/2022
Tammy Hedlund, Legal Specialist	10/21/2022
Don Wick, Deputy City Manager	10/21/2022
Rachel Morris, City Attorney	10/24/2022
Lorie Gillis, City Manager	10/24/2022

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 22-084
ORDINANCE NO. _____

AN ORDINANCE AMENDING SUBSECTION 102-34(c) OF SECTION 102-34,
APPLICATION FOR SERVICE AND PAYMENT OF FEES, OF ARTICLE II, CHAPTER 102,
UTILITIES, OF THE ARVADA CITY CODE

WHEREAS, on October 17, 2022, City Council approved CB 22-071, an Ordinance Amending Sections 74-91 and 74-92 of Chapter 74, Planning and Development, and Various Sections of Chapter 102, Utilities, of the Arvada City Code Pertaining to System Development Charges (Ordinance No. 4819); and

WHEREAS, CB 22-071 will not go into effect until July 1, 2023; and

WHEREAS, the purpose, in part, of CB 22-071 was to raise water system development charges, known under the current code as water tap fees, and sewer system development charges, known under the current code as sewer tap fees, as of July 1, 2023; and

WHEREAS, prior to the implementation of CB 22-071 on July 1, 2023, City Council wishes to make water and sewer tap fees payable earlier in the development process; and

WHEREAS, by making water and sewer tap fees payable earlier in the development process, it is City Council's intent to provide additional opportunity for applicants to pay water and sewer tap fees at the lower rate set in the current code up through and including June 30, 2023; and

WHEREAS, it is intended that on and after July 1, 2023, CB 22-071 will supersede and replace this ordinance.

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

Section 1. Subsection (c) of Section 102-34, Application for service and payment of fees, of Article II, Water and Sewer, of Chapter 102, Utilities, of the Arvada City Code is hereby amended to read as follows:

“Sec. 102-34. Application for service and payment of fees.

. . . .

- (c) Water and sewer tap fees for all classes of residential and nonresidential buildings within the city, plus a prorated portion of the water tap fee for irrigation of open space when applicable, may be paid as early as the time an approved building permit is presented to the utilities manager, but no later than the time the temporary certificate of occupancy or a certificate of occupancy is issued by the building inspection division. The tap fees to be paid are those in existence at the time payment is made. If paid at the time the temporary certificate of occupancy or

certificate of occupancy is issued, fees will be paid to the city by one of the following methods: (1) cash, (2) wire transfer with confirmed receipt by the city's bank, (3) cashier's check issued by an institution, (4) official check issued by a financial institution, or (5) a check certified by a financial institution. An irrigation tap can be used only for irrigation purposes. If tap fees are paid by some other type of check, the check must clear the bank before a temporary certificate of occupancy or a certificate of occupancy is issued for a building.

....”

Section 2. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts thereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

Section 3. This ordinance shall be effective beginning five days after publication following final passage. This ordinance shall be effective through and including June 30, 2023, after which date it will expire and have no further effect.

INTRODUCED, READ, AND ORDERED PUBLISHED this 7th day of November, 2022.

PASSED, ADOPTED, AND APPROVED this ____ day of December, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel Morris, City Attorney

Publication Dates: November 10, 2022

REDLINE/STRIKEOVER VERSION

FOR INFORMATION ONLY – NOT PART OF THE ORDINANCE

Underlined indicates new material
~~Strikethrough~~ indicates deleted material

Sec. 102-34. Application for service and payment of fees.

....

- (c) Water and sewer tap fees for all classes of residential and nonresidential buildings within the city, plus a prorated portion of the water tap fee for irrigation of open space when applicable, may be paid as early as the time an approved building permit is presented to the utilities manager, ~~may be paid upon presentation of a valid building permit accompanied by written proof satisfactory to the utilities manager that the concrete pour that completes the building foundation has been finished,~~ but no later than the time the temporary certificate of occupancy or a certificate of occupancy is issued by the building inspection division. The tap fees to be paid are those in existence at the time payment is made. If paid at the time the temporary certificate of occupancy or certificate of occupancy is issued, fees will be paid to the city by one of the following methods: (1) cash, (2) wire transfer with confirmed receipt by the city's bank, (3) cashier's check issued by an institution, (4) official check issued by a financial institution, or (5) a check certified by a financial institution. An irrigation tap can be used only for irrigation purposes. If tap fees are paid by some other type of check, the check must clear the bank before a temporary certificate of occupancy or a certificate of occupancy is issued for a building.

....



REPORT TO CITY COUNCIL OTHER

AGENDA ITEM
9.A.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: Notice of Correction to the Amended and Restated Service Plan for Sabell Metropolitan District No. 2 Dated November 18, 2019 in Order to Clarify Certain Inconsistencies

Report in Brief

This item provides notice of a correction to the Amended and Restated Service Plan for Sabell Metropolitan District No. 2 dated November 18, 2019 in order to clarify certain inconsistencies, namely to correct it to read "shall not" instead of "shall" in the third paragraph of Section I of VI. Financial Plan. This item also provides notice that the corrected Amended and Restated Service Plan is to be considered effective as of November 18, 2019, as the corrected language was the intent of both the District and the City when it was passed on that date.

Financial Impact

The is no formal action being taken for this agenda item.

Background

The Original Service Plan for Sabell Metropolitan District Nos. 1 & 2 was approved on September 17, 2018 pursuant to Resolution No. R18-099 (the "Original Service Plan"). Prior to the public hearing for the Original Service Plan, the District discovered a typo in the Original Service Plan in the 3rd paragraph of Section I. The District noted the error during the public hearing to change "shall" to "shall not." The City Council approved the change. This change is noted in the City Council Minutes from September 17, 2018. The Original Service Plan reflects this change. The language from this paragraph was as follows:

"The Maximum Debt Mill Levy for the repayment of Debt shall not apply to the Districts' ability to increase their mill levy as necessary for provision of operation and maintenance services to their taxpayers and service users."

This language was intended by the City Council and the District.

In November 2019, the Original Service Plan required an amendment related to boundary legal descriptions. More specifically, the amendment sought to expand the boundaries of Sabell Metropolitan District No. 2 to include all of Sabell Metropolitan District No. 1 and to also change the name of Sabell Metropolitan District No. 2 to Sabell Metropolitan District. The amendment was not intended to impact any of the financial terms of the Original Service Plan. See page 2 of the Report to City Council Resolution for Resolution No. R19-120.

When the Amended Service Plan was drafted, it was both the District's and the City's intention to only show changes to the Original Service Plan that were in redline. Neither the District nor the City intended to make changes outside of what was in the redlines. However, the District failed to update the Original Service Plan to include the "shall not" modification that was made prior to passing the Original Service Plan. Therefore, the modification that was made to the Original Service Plan and approved by Council was not included in the draft of the Amended and Restated Service Plan. Nor was it part of the redlines. The Amended and Restated Service Plan for Sabell Metropolitan District No. 2 to be known as Sabell Metropolitan District, was approved by City Council on November 18, 2019 pursuant to Resolution No. R19-120 (the "Amended Service

Plan”). Based on this oversight in the 3rd paragraph of Section I of the Financial Plan Article of the Amended Service Plan, it reads “shall” instead of “shall not.” In whole, that paragraph currently and incorrectly reads:

"The Maximum Debt Mill Levy for the repayment of Debt shall apply to the District’s ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users." (emphasis added).

This error does not reflect the District or City Council’s intention. This is supported by the attached record.

Discussion

The City's legal team has reviewed this request for a correction and does believe that the error falls within the realm of a scrivener's error. The record from September 17th, 2018 clearly shows the City Council's and District's intent to agree that the language says "shall not". Additionally, there is no additional record of formal or information discussion between the City and the District to amend that language during the November 18, 2019 amendment. As such, the City team believes that the agreement can be corrected without City Council action. This agenda item is intended to publicly acknowledge and remedy the error, in addition to assisting the public and City team in tracking the current form of the agreement.

Public Contact

Posting on this agenda.

Commission Recommendation

N/A

Strategic Alignment

Approval of the Amended and Restated Service Plan as described herein aligns with the City Council Strategic Plan Priority Area of Infrastructure which states that "Arvada's future will be built upon well maintained streets, sidewalks, trails and recreation amenities." In addition, the District also aligns with the Priority Area of Organizational and Service Effectiveness with regard to "fiscally responsible government to guide and support growth."

Alternative Courses of Action

Recommendation for Action

No formal action is required for this agenda item.

Suggested Motion:

N/A

Prepared by:
Toni Riebschlager, Law Office Administrator

Reviewed by:

Approved by:

SUBJECT: Notice of Correction to the Amended and Restated Service Plan for Sabell
Metropolitan District No. 2 Dated November 18, 2019 in Order to Clarify Certain
Inconsistencies

PAGE: 3
ITEM: 9.A.

Ryan Stachelski, Director of Community and Economic Development	10/19/2022
Bryan Archer, Director of Finance	10/20/2022
Brad Moloney, Deputy City Attorney	10/20/2022
Rachel Morris, City Attorney	10/24/2022
Lorie Gillis, City Manager	10/24/2022

Enclosure, exhibits & attachments required to support the report

AMENDED AND RESTATED SERVICE PLAN

FOR

SABELL METROPOLITAN DISTRICT NO. 2

TO BE KNOWN AS SABELL METROPOLITAN DISTRICT

CITY OF ARVADA, COLORADO

Prepared

by

WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122

Approved on

November 18, 2019

Corrected on

November 7, 2022

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LIST OF EXHIBITS

EXHIBIT A	Legal Descriptions
EXHIBIT B	Arvada Vicinity Map
EXHIBIT C-1	District Boundary Map
EXHIBIT C-2	Inclusion Area Boundary Map
EXHIBIT D	Amended and Restated Intergovernmental Agreement between the District and Arvada
EXHIBIT E	Cost Estimates – Public Improvements

I. INTRODUCTION

A. Background.

On September 17, 2018, by Resolution R18-099, the City Council approved the Service Plan (the “**Original Service Plan**”) for Sabell Metropolitan District Nos. 1 and 2 (together, the “**Districts**”). Sabell Metropolitan District No. 2 is currently in the process of changing its name to Sabell Metropolitan District (the “**District**”).

At the time of City approval of the Original Service Plan it was anticipated that the Districts would together undertake the financing and construction of the Public Improvements. Following the City approval of the Original Service Plan, the District was organized at an election held in November 2018. District No. 1 procedurally held an election in November 2018, however, it was later discovered that due to a scrivener’s error in the labeling of the legal description for District No. 1, there were no eligible electors within the boundaries of District No. 1 at the time of the election. As a result, District No. 1 was never organized.

Since approval of the Original Service Plan, development plans for the Project have proceeded quicker than anticipated. As such, a dual district structure is no longer necessary. This Amended and Restated Service Plan is to eliminate reference to District No. 1 and recognize that the District will operate independently.

The District is currently in the process of including within its boundaries the property that was intended to be included into Sabell Metropolitan District No. 1 as well as to include certain property described in the original inclusion area boundaries set forth in Original Service Plan, which property has since been purchased by the developer of the Project.

B. Purpose and Intent.

The City Council has adopted an Ordinance establishing Chapter 91 which governs the creation of Special Districts in Arvada. The District is an independent unit of local government, separate and distinct from the City, and, except as may otherwise be provided for by State or local law or this Service Plan, its activities are subject to review by the City only insofar as they may deviate in a material matter from the requirements of the Service Plan. It is intended that the District will provide a part or all of the Public Improvements for the use and benefit of all anticipated inhabitants and taxpayers of the District. The primary purpose of the District will be to finance the construction of these Public Improvements.

The District is not being created to provide ongoing operations and maintenance services other than as specifically set forth in this Service Plan.

C. Need for the District.

There are currently no other governmental entities, including the City, located in the immediate vicinity of the District that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction installation, relocation, redevelopment, and financing of the Public Improvements needed for the Project. Formation of the District is therefore

necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.

D. Objective of the City Regarding District's Service Plan.

The City's objective in approving the Service Plan for the District is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term and at a tax mill levy no higher than the Maximum Debt Mill Levy, and/or repaid by Fees as limited by Section V.A.15.

This Service Plan is intended to establish a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs pursuant to the approved Conceptual Site Plan for the property. Operation and maintenance services are allowed through an intergovernmental agreement with the City, attached as **Exhibit D**.

It is the intent of the District to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, and if the District has authorized operating functions under an intergovernmental agreement with the City, to retain only the power necessary to impose and collect taxes or Fees to pay for these costs.

The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Fees or from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term. It is the intent of this Service Plan to assure to the extent possible that no property bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount and that no property developed for a residential use bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

II. DEFINITIONS

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Board: means the board of directors of the District.

Bond, Bonds or Debt: means bonds or other obligations for the payment of which the District has promised to impose an ad valorem property tax mill levy, and/or collect Fee revenue.

City: means the City of Arvada, Colorado.

City Code: means the City Code of the City of Arvada, Colorado.

City Council: means the City Council of the City of Arvada, Colorado.

District: means Sabell Metropolitan District No. 2, to be known as Sabell Metropolitan District.

District Boundaries: means the original boundaries of the District's area described in the District Boundary Map and as such boundaries will exist following inclusion of the property described in the introduction hereof.

District Boundary Map: means the map attached hereto as **Exhibit C-1**, describing the District's Boundaries.

End User: means any owner, or tenant of any owner, of any taxable improvement within the District, who is intended to become burdened by the imposition of ad valorem property taxes subject to the Maximum Debt Mill Levy. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an End User. The business entity that constructs homes or commercial structures is not an End User.

External Financial Advisor: means a consultant that: (i) advises Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (ii) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place; and (iii) is not an officer or employee of the District and has not been otherwise engaged to provide services in connection with the transaction related to the applicable Debt.

Fees: means any fee imposed by the District for services, programs or facilities provided by the District, as described in Section V.A.15. below.

Financial Plan: means the Financial Plan described in Section VI which describes (i) how the Public Improvements are to be financed; (ii) how the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from property taxes for the first budget year. The financial plan is based upon current estimates and will change based on actual development of the Project.

Inclusion Area Boundaries: means the boundaries of the area described in the Inclusion Area Boundary Map.

Inclusion Area Boundary Map: means the map attached hereto as **Exhibit C-2**, describing the property proposed for inclusion within the District.

Maximum Debt Mill Levy: means the maximum mill levy the District is permitted to impose for payment of Debt as set forth in Section VI.C below.

Maximum Debt Mill Levy Imposition Term: means the maximum term for imposition of a mill levy on a particular property as set forth in Section VI.D below.

Project: means the development or property commonly referred to as Sabell.

Public Improvements: means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Special District Act, except as specifically limited in Section V below that benefit the Service Area and serve the future taxpayers and inhabitants of the Service Area as determined by the Board of the District.

Service Area: means the property within the District Boundaries.

Service Plan: means this amended and restated service plan for the District approved by City Council.

Service Plan Amendment: means an amendment to the Service Plan approved by City Council in accordance with the City's ordinance and the applicable state law.

Special District Act: means Section 32-1-101, *et seq.*, of the Colorado Revised Statutes, as amended from time to time.

State: means the State of Colorado.

Taxable Property: means real or personal property within the Service Area subject to ad valorem taxes imposed by the District.

III. BOUNDARIES

The area of the District Boundaries includes approximately twenty-five (25) acres. A legal description of the District Boundaries and the Inclusion Area Boundaries is attached hereto as **Exhibit A**. A vicinity map is attached hereto as **Exhibit B**. A map of the District Boundaries is attached hereto as **Exhibit C-1**, and a map of the Inclusion Area Boundaries is attached hereto as **Exhibit C-2**.

IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION

The Service Area consists of approximately twenty-five acres of residential land. The current assessed valuation of the Service Area is \$0 for purposes of this Service Plan and, at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The population of the District at build-out is estimated to be approximately six-hundred twenty-two (622) people (based on 2.5 persons per residence and 249 single-family residential units).

Approval of this Service Plan by the City does not imply approval of the development of a specific area within the District, nor does it imply approval of the number of residential units or the total site/floor area of commercial or industrial buildings identified in this Service Plan or any of the exhibits attached thereto or any other Development Plan.

V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

A. Powers of the District and Service Plan Amendment.

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

1. Operations and Maintenance Limitation. The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the City or other appropriate jurisdiction or owners association in a manner consistent with the approved Development Plans and other rules and regulations of the City and applicable provisions of the City Code. The District shall not be authorized to operate and maintain any part or all of the Public Improvements unless the provision of such operation and maintenance is pursuant to an intergovernmental agreement with the City. The District is required and obligated to operate and maintain park and recreation improvements. Unless otherwise specified in the intergovernmental agreement, in the form attached as Exhibit D, all parks and trails shall be open to the general public free of charge.

2. Fire Protection Limitation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to an intergovernmental agreement with the City. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.

3. Television Relay and Translation Limitation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project, unless such facilities and services are provided pursuant to an intergovernmental agreement with the City.

4. Telecommunication Facilities. The District agrees that no telecommunication facilities owned, operated or otherwise allowed by the District shall affect the ability of the City to expand its public safety telecommunication facilities or impair existing telecommunication facilities.

5. Construction Standards Limitation. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The District will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

6. Zoning and Land Use Requirements. The District shall be subject to all of the City's zoning, subdivision, building code and other land use requirements.

7. Growth Limitations. The District acknowledges that the City shall not be limited in implementing Council or voter approved growth limitations, even though such actions may reduce or delay development within the District and the realization of the District's revenue.

8. Privately Placed Debt Limitation. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of an External Financial Advisor substantially as follows:

We are [I am] an External Financial Advisor within the meaning of the District's Service Plan.

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

9. Eminent Domain Limitation. The District shall not be authorized to utilize the power of eminent domain except as otherwise provided pursuant to an intergovernmental agreement with the City.

10. Water Rights/Resources Limitation. The District shall not acquire, own, manage, adjudicate or develop water rights or resources except as otherwise provided pursuant to an intergovernmental agreement with the City.

11. Inclusion Limitation. The District shall not include within its boundaries any property outside the Service Area without the prior written consent of the City Council. The District shall not include within any of its boundaries any property inside the Inclusion Area Boundaries without the prior written consent of the City Council except upon petition of the fee owner or owners of one hundred percent (100%) of such property as provided in Section 32-1-401(1)(a), C.R.S.

12. Overlap Limitation. The District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the District.

13. Initial Debt Limitation. On or before the effective date of approval by the City of an Approved Conceptual Site Plan, the District shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any Fees used for the purpose of repayment of Debt.

14. Total Debt Issuance Limitation. The District shall not issue Debt in excess of Thirty Million Dollars (\$30,000,000).

15. Fee Limitation. The District may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to repayment of debt shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said Taxable Property. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the District.

16. Public Improvement Fee Limitation. The District shall not impose, collect, receive, spend or pledge to any Debt any fee, assessment, tax or charge which is collected by a retailer in the District on the sale of goods or services by such retailer and which is measured by the sales price of such goods or services, except as provided pursuant to an intergovernmental agreement with the City.

17. Sales and Use Tax. The District shall not exercise its City sales and use tax exemption.

18. Monies from Other Governmental Sources. The District shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities that the City is eligible to apply for, except pursuant to an intergovernmental agreement with the City. This Section shall not apply to specific ownership taxes which shall be distributed to and be a revenue source for the District without any limitation.

19. Consolidation Limitation. The District shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the City.

20. Bankruptcy Limitation. All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve a Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

(b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Service Plan Amendment. The City shall be entitled to all remedies available at law to enjoin such actions of the District.

21. Reimbursement Agreement. It is unknown whether reimbursement agreements with third-party developers or adjacent landowners will be necessary or desirable after the District's organization. Any such agreement would provide the means to reimburse the District for costs of improvements that benefit third-party landowners. If a reimbursement agreement exists or is entered into for an improvement financed by the District, any and all resulting reimbursements received for such improvement shall be deposited in the respective District's debt service fund and used for the purpose of retiring the District's debt.

22. Service Plan Amendment Requirement. This Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments. Actions of the District which violate the limitations set forth in V.A.1-21 above or in VI.B-G shall be deemed to be material modifications to this Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

B. Preliminary Engineering Survey.

The District shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of the Public Improvements within and without the boundaries of the District, to be more specifically defined in an Approved Conceptual Site Plan. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the Service Area and is approximately Eleven-Million Five-Hundred Twenty-Eight Thousand Two Hundred and Twenty-Three Dollars (\$11,528,223). A cost estimate for the Public Improvements is attached hereto and incorporated herein as **Exhibit E**.

All of the Public Improvements will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the City and shall be in accordance with the requirements of the Approved Conceptual Site Plan. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements. The actual Public Improvements to be constructed will be determined by the City, and variations from the estimate shall not constitute a material modification of this Service Plan. All Public Improvements contemplated herein benefit the residents, property owners, and taxpayers of the District, and such benefit accrues to such residents, property owners, and taxpayers of the District regardless of the specific or general location of the various Public Improvements.

The Public Improvements generally depicted and described in the cost estimates have been presented for illustration only, and the exact design, subphasing of construction and location of the Public Improvements will be determined at the time of City approvals and public works approval and such decisions shall not be considered to be a material modification of the Service Plan.

VI. FINANCIAL PLAN

A. General.

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by the District. The Financial Plan for the District shall be to issue such Debt as the District can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy, Fees and other legally available revenues. The total Debt that the District shall be permitted to issue shall not exceed Thirty Million Dollars (\$30,000,000) and shall be permitted to be issued on a schedule and in such year or years as the District determines shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. All bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including general ad valorem taxes and Fees to be imposed upon all Taxable Property within the District. The District will also rely upon various other revenue sources authorized by law. Specifically, these revenue sources are Fees, specific ownership taxes, interest income, developer operating advances, and advances for infrastructure.

The parameters in the Financial Plan are based upon current estimates and will change based on actual development of the Project. The Financial Plan is one projection of the issuance of Debt by the District based on certain development assumptions. It is expected that actual development (including, but not limited to product types, market values, and absorption rates) will vary from that projected and illustrated in the Financial Plan, which variations and deviations shall not constitute a material modification of this Service Plan.

Notwithstanding anything in this Service Plan to the contrary, the projections set forth in this Service Plan and the Financial Plan are projections based upon current market conditions. The actual amounts, interest rates, and terms of any Debt will likely change from that reflected in the Financial Plan and each issue of Debt will be based upon the actual conditions existing at the time of issuance, subject to the limitations of the Service Plan.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed eighteen percent (18%). The proposed maximum underwriting discount will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Debt Mill Levy.

The “Maximum Debt Mill Levy” shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Debt, and shall be determined as follows:

1. If the total amount of aggregate District Debt exceeds fifty percent (50%) of the District’s assessed valuation, the Maximum Debt Mill Levy shall be fifty (50) mills;

provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2017, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. If the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

3. For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 above, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "**District**" as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

D. Maximum Debt Mill Levy Imposition Term.

The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed which exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board of Directors of the District are residents of the District and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings as set forth in Section 11-56-101, C.R.S., *et seq.*

E. Debt Repayment Sources.

The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service and for operations and maintenance. The District may also rely upon the following specific revenue sources authorized by law Fees, specific ownership taxes, interest income, developer operating advances, and developer advances for infrastructure. At the District's discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(l), C.R.S., as amended from time to time and as limited by Section V.A. 15-16. In no event shall the debt service mill levy in the District exceed the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term, except

pursuant to an intergovernmental agreement between the District and the City, and except pursuant to Section VI.D above.

F. Debt Instrument Disclosure Requirement.

In the text of each Bond and any other instrument representing and constituting Debt, the District shall set forth a statement in substantially the following form:

By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Service Plan for creation of the District.

Similar language describing the limitations in respect of the payment of the principal of and interest on Debt set forth in this Service Plan shall be included in any document used for the offering of the Debt for sale to persons, including, but not limited to, a developer of property within the boundaries of the District.

G. Security for Debt.

The District shall not pledge any revenue or property of the City as security for the indebtedness set forth in this Service Plan. Approval of this Service Plan shall not be construed as a guarantee by the City of payment of any of the District's obligations; nor shall anything in the Service Plan be construed so as to create any responsibility or liability on the part of the City in the event of default by the District in the payment of any such obligation.

H. TABOR Compliance.

The District will comply with the provisions of TABOR. In the discretion of the Board, the District may set up other qualifying entities to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by the District will remain under the control of the District's Board, and any such entity shall be subject to and bound by all terms, conditions, and limitations of the Service Plan and intergovernmental agreement, attached as **Exhibit D**.

I. District Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be One-Hundred Thousand Dollars (\$100,000), which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget for the District is estimated to be Fifty Thousand Dollars (\$50,000) which is anticipated to be derived from property taxes and other revenues.

The Maximum Debt Mill Levy for the repayment of Debt shall not apply to the District's ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users.

VII. ANNUAL REPORT

A. General.

The District shall be responsible for submitting an annual report to the City Clerk within six months of the close of the fiscal year.

B. Reporting of Significant Events.

The annual report shall include information as to any of the following:

1. Boundary changes made or proposed to the District's boundaries as of December 31 of the prior year.
2. Intergovernmental Agreements with other governmental entities either entered into or proposed as of December 31 of the prior year.
3. Copies of the District's rules and regulations, if any, as of December 31 of the prior year.
4. A summary of any litigation which involves the District's Public Improvements as of December 31 of the prior year.
5. Status of the District's construction of the Public Improvements as of December 31 of the prior year.
6. A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the City as of December 31 of the prior year.
7. The assessed valuation of the District for the current year.
8. Current year budget including a description of the Public Improvements to be constructed in such year.
9. Audit of the District's financial statements, for the year ending December 31 of the previous year, prepared in accordance with generally accepted accounting principles or audit exemption, if applicable.
10. Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument.
11. Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.

VIII. DISSOLUTION

Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file a petition in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall dissolution occur until the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes.

IX. DISCLOSURE NOTICES

The District will provide a written notice of disclosure to all initial purchasers of property in the District that describes the impact of the District's mill levy and fees on each residential property along with the purchase contract. The District shall record the notice of disclosure for each property within the District with Jefferson County at the time the subdivision plat is recorded, or provide the City with a copy of the recorded notice of disclosure if the subdivision plat has already been filed. The notice of disclosure shall include the maximum mill levy that may be assessed and associated taxes that may be imposed on the residential property for each year the District is in existence.

The District will provide information to potential residential buyers and prominently display the key provisions of the District at all sales offices. Such information shall include the maximum mill levy and associated taxes and fees that may be imposed on each property for each year the District is in existence and the improvements that are or have been paid for by the District.

X. INTERGOVERNMENTAL AGREEMENT

The form of the amended and restated intergovernmental agreement required by the City Code, relating to the limitations imposed on the District's activities, is attached hereto as **Exhibit D**. The District shall approve the amended and restated intergovernmental agreement in the form attached as **Exhibit D** at its first Board meeting after its organizational election. Failure of the District to execute the amended and restated intergovernmental agreement as required herein shall constitute a material modification and shall require a Service Plan Amendment. The City Council shall approve the amended and restated intergovernmental agreement in the form attached as **Exhibit D**.

XI. CONCLUSION

It is submitted that this Service Plan for the District, as required by Section 32-1-203(2), C.R.S., and Chapter 91 of the City Code, establishes that:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the District;
2. The existing service in the area to be served by the District is inadequate for present and projected needs;
3. The District is capable of providing economical and sufficient service to the area within its proposed boundaries; and

4. The area to be included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

5. Adequate service is not, and will not be, available to the area through the City or county or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.

6. The facility and service standards of the District are compatible with the facility and service standards of the City within which the special districts are to be located and each municipality which is an interested party under Section 32-1-204(1), C.R.S.

7. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City Code.

8. The proposal is in compliance with any duly adopted City, regional or state long-range water quality management plan for the area.

9. The creation of the District is in the best interests of the area proposed to be served.

EXHIBIT A

Legal Description

SABELL METROPOLITAN DISTRICT:

SHEET 1 OF 2

OCTOBER 2, 2019

LOTS 1-77 BLOCK 1, LOTS 80-86 BLOCK 1, LOTS 1-41 BLOCK 2, LOTS 55-66 BLOCK 2, TRACT A BLOCK 1, TRACT A BLOCK 1, TRACT E BLOCK 1, TRACT F BLOCK 1, TRACT G BLOCK 1, TRACT K BLOCK 1, TRACT M BLOCK 1, TRACT B BLOCK 2, TRACT H BLOCK 2, TRACT L BLOCK 2, TRACT N BLOCK 2, TRACT O BLOCK 2, TRACT R BLOCK 2, TRACT C BLOCK 3, TRACT D BLOCK 3, TRACT I BLOCK 3, TRACT P BLOCK 3

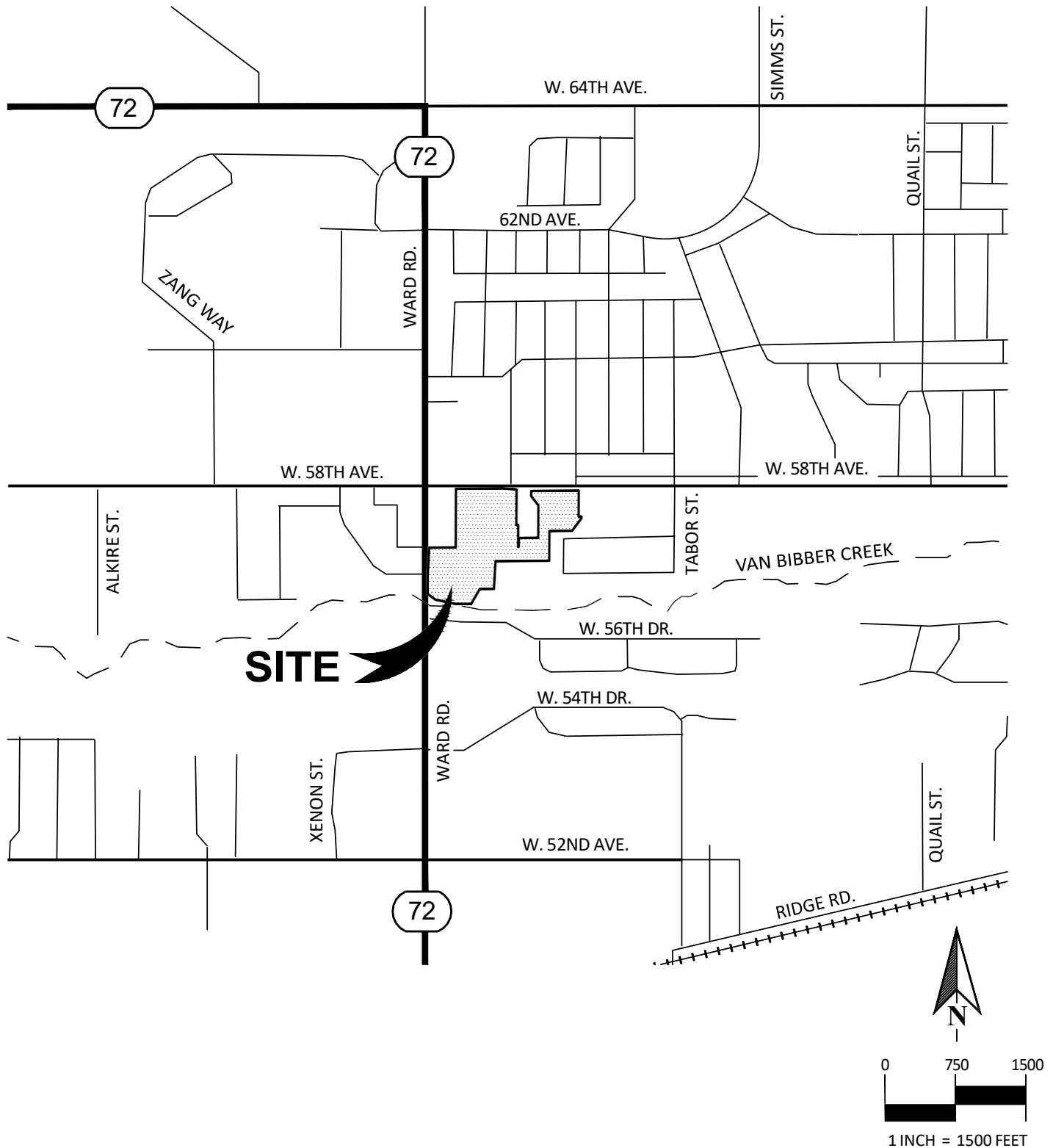
SABELL SUBDIVISION, A SUBDIVISION RECORDED AT RECEPTION NUMBER 2019046492 AND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.

EXHIBIT B

Arvada Vicinity Map

EXHIBIT B

SABELL METROPOLITAN DISTRICT



TITLE:
SABELL METROPOLITAN DISTRICT - VICINITY MAP

LOCATION:
A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:	DATE:	PROJECT NO:	AREA:	PATH:
1"=1500'	05-26-17	0009-1615		J:\0009\1615\SURVEY\EXHIBITS\DISTRICT BOUNDARIES\SABELL_DISTRICT_VICINITY_MAP.DWG



KT ENGINEERING

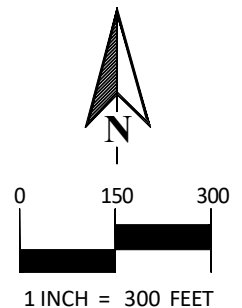
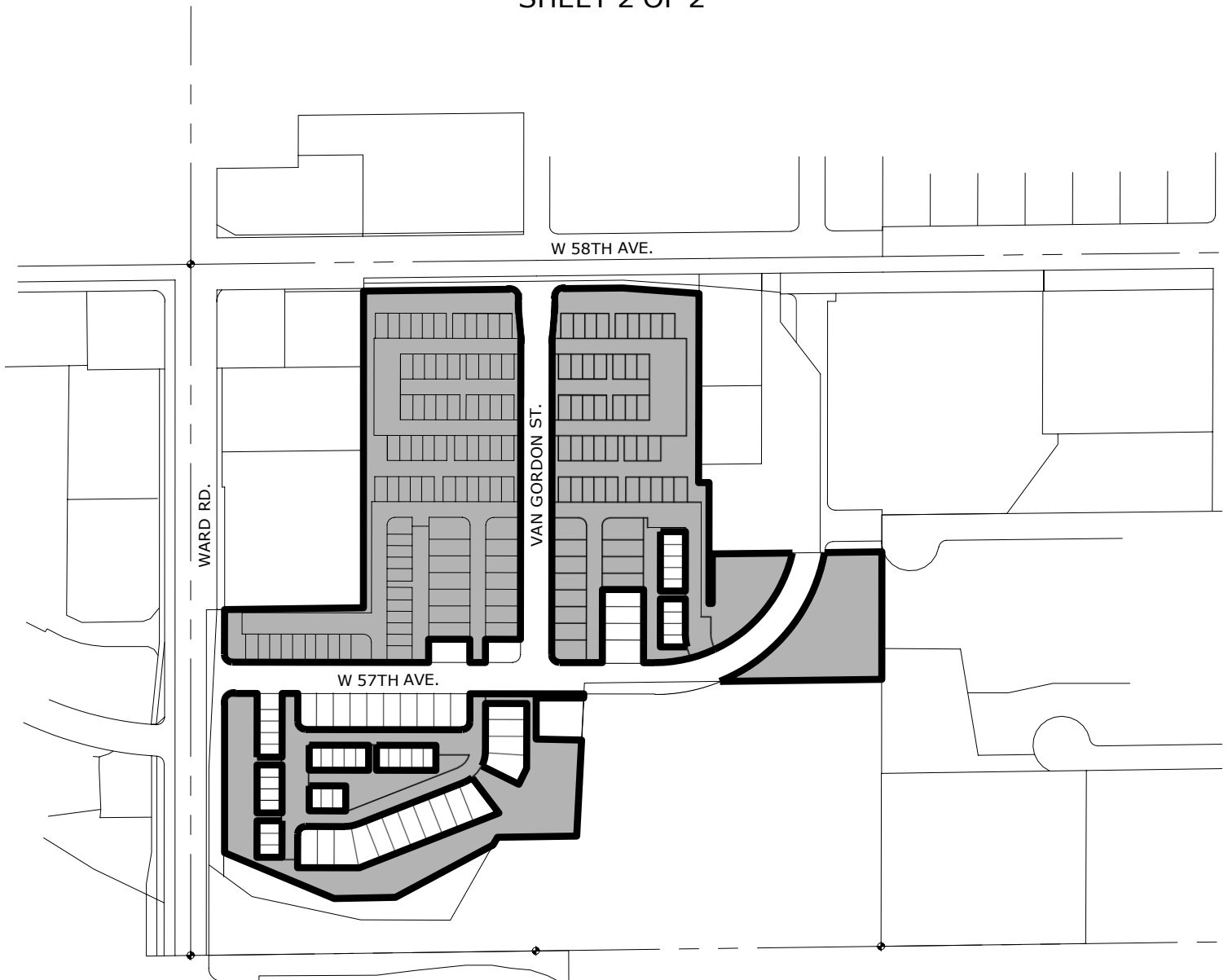
12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

EXHIBIT C-1

District Boundary Map

SABELL METROPOLITAN DISTRICT

SHEET 2 OF 2



KT ENGINEERING

12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

TITLE:

SABELL METROPOLITAN DISTRICT

LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:

1"=300'

DATE:

10-02-19

PROJECT NO:

0009-1615

AREA:

PATH:

J:\0009\1615\SURVEY\EXHIBITS\DISTRICT
BOUNDARIES\SABELL_DISTRICT_EXHIBIT.DWG

EXHIBIT C-2

Inclusion Area Boundary Map

SABELL METROPOLITAN DISTRICT INCLUSION AREA 1:

SHEET 1 OF 2

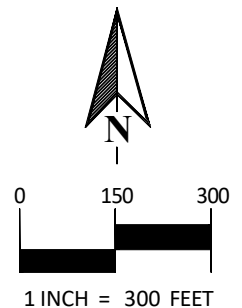
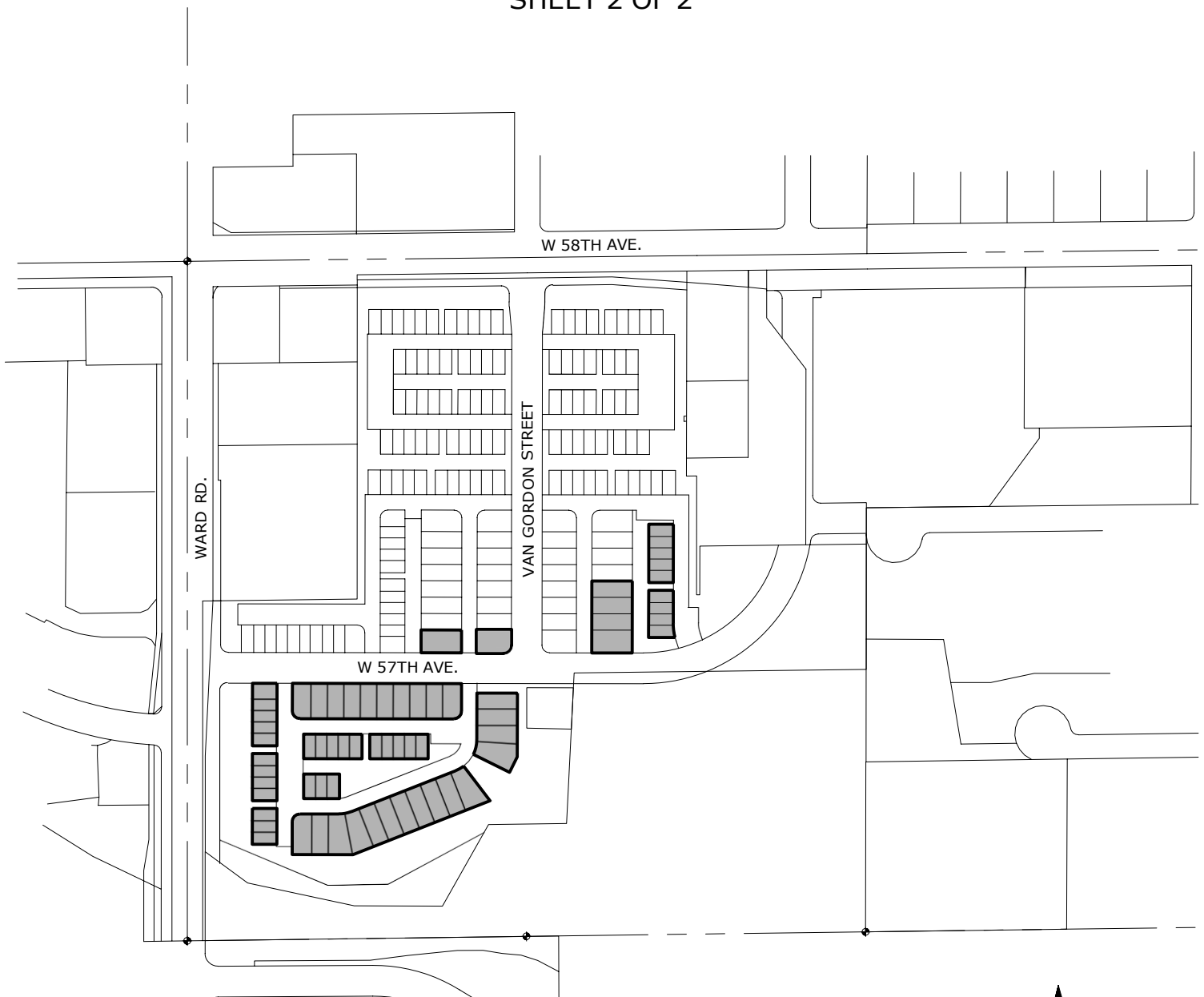
OCTOBER 2, 2019

LOTS 78 AND 79 BLOCK 1, LOTS 42-54 BLOCK 2, LOTS 1-50 BLOCK 3

SABELL SUBDIVISION, A SUBDIVISION RECORDED AT RECEPTION NUMBER 2019046492 AND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.

SABELL METROPOLITAN DISTRICT

SHEET 2 OF 2



KT ENGINEERING

12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

TITLE:

SABELL METROPOLITAN DISTRICT - INCLUSION AREA 1

LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:

1"=300'

DATE:

10-02-19

PROJECT NO:

0009-1615

AREA:

PATH:

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BOUNDARIES\SABELL_DISTRICT-INCLUSION-AREA 1.DWG

SABELL METROPOLITAN DISTRICT INCLUSION AREA 2:

SHEET 1 OF 2

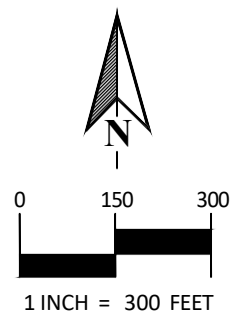
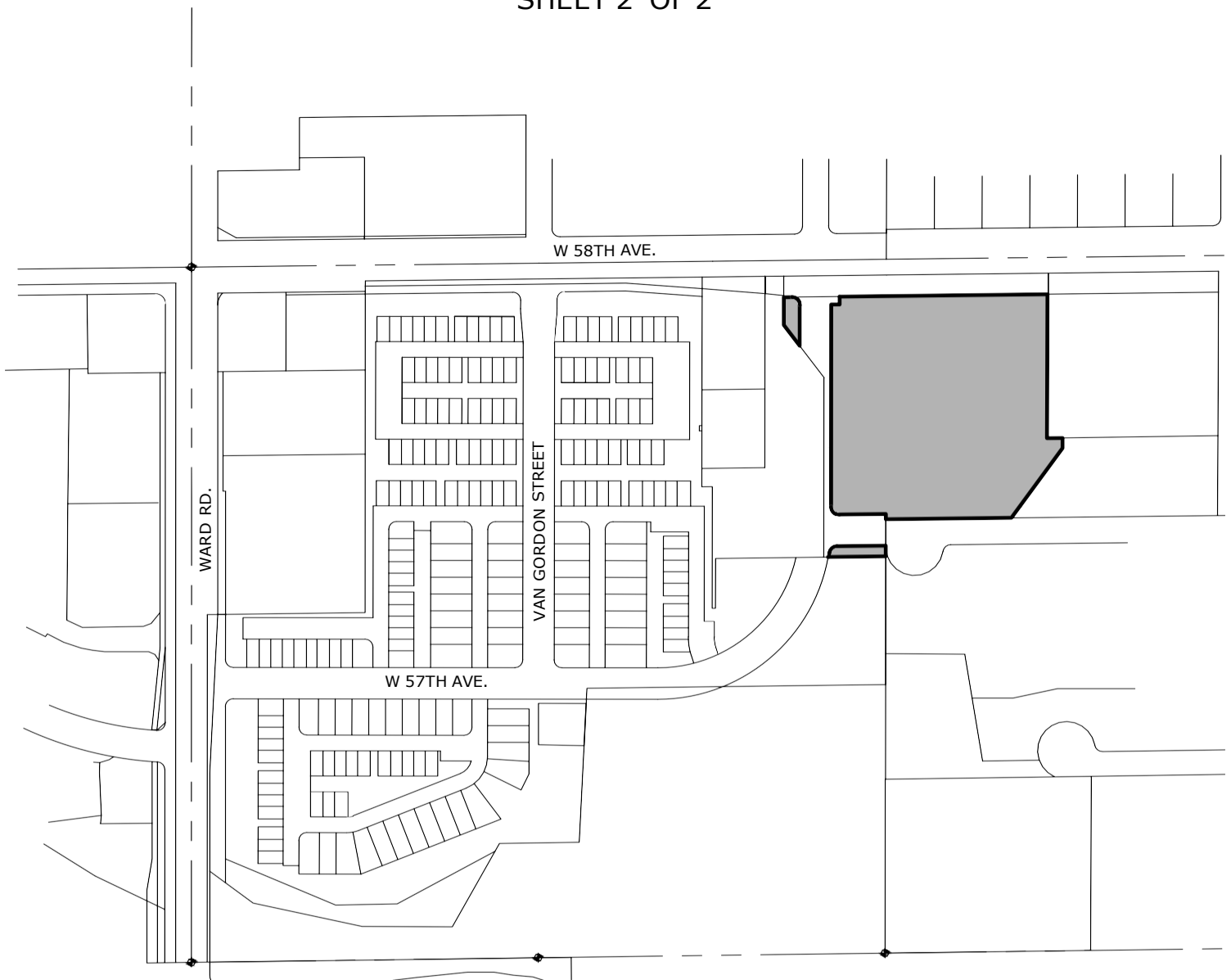
OCTOBER 2, 2019

TRACT U BLOCK 3, TRACT J BLOCK 4, TRACT T BLOCK 5

SABELL SUBDIVISION, A SUBDIVISION RECORDED AT RECEPTION NUMBER 2019046492 AND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.

SABELL METROPOLITAN DISTRICT

SHEET 2 OF 2



KT ENGINEERING

12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

TITLE:

SABELL METROPOLITAN DISTRICT - INCLUSION AREA 2

LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:

1"=300'

DATE:

10-02-19

PROJECT NO:

0009-1615

AREA:

PATH:

J:\0009\1615\SURVEY\EXHIBITS\DISTRICT
BOUNDARIES\SABELL_DISTRICT-INCLUSION-AREA 2.DWG

EXHIBIT D

Amended and Restated Intergovernmental Agreement between the District and Arvada

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF ARVADA, COLORADO
AND SABELL METROPOLITAN DISTRICT NO. 2**

THIS AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made and entered into as of the __ day of _____, 2019, by and between the CITY OF ARVADA, a home-rule municipal corporation of the State of Colorado (“City”) and SABELL METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”). The City and the District are collectively referred to as the “Parties.”

RECITALS

WHEREAS, the City previously approved a Service Plan for Sabell Metropolitan District No. 1 and the District on September 17, 2018 pursuant to Resolution R18-099 (“Original Service Plan”); and

WHEREAS, Sabell Metropolitan District No. 1 (“District No. 1”) procedurally held an organizational election in November 2018, however, it was later discovered that due to a scrivener’s error in the labeling of the legal description for District No. 1, there were no eligible electors within the boundaries of District No. 1 at the time of the election and as a result Sabell Metropolitan District No. 1 was not organized; and

WHEREAS, pursuant to the Original Service Plan and the Arvada City Code, the District and the City entered into that certain Intergovernmental Agreement dated March 15, 2019 (the “Original IGA”); and

WHEREAS, since approval of the Original Service Plan, development plans for the Project have proceeded quicker than anticipated, a dual district structure is no longer necessary and the District will operate independently; and

WHEREAS, the City approved the Amended and Restated Service Plan for the District on November 18, 2019 pursuant to Resolution ____ (the “Amended Service Plan”); and

WHEREAS, the Amended Service Plan makes reference to the execution of an intergovernmental agreement between the City and the District, as required by the Arvada City Code; and

WHEREAS, the City and the District have determined it to be in the best interests of their respective taxpayers, residents and property owners to amend and restate the Original IGA to modify certain provisions related to the Regional Contribution and terminate the Original IGA.

NOW THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

1. Operations and Maintenance. The District shall dedicate the Public Improvements, as defined in the Amended Service Plan, to the City or other appropriate jurisdiction or owners association in a manner consistent with the approved development plans and other rules and regulations of the City and applicable provisions of the City Code. The District shall be authorized to operate and maintain any part or all of the Public Improvements which are not dedicated to the City or other appropriate jurisdiction, including park and recreation improvements, without the consent of the City, in accordance with the approved development plans.

2. Fire Protection. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services without a modification of this Agreement by the Parties. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.

3. Television Relay and Translation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services without a modification of this Agreement by the Parties, except for the installation of conduit as a part of a street construction project.

4. Telecommunication Facilities. The District agrees that no telecommunication facilities owned, operated or otherwise allowed by the District shall affect the ability of the City to expand its public safety telecommunication facilities or impair existing telecommunication facilities.

5. Construction Standards Limitation. The District will use reasonable efforts to insure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The District will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

6. Zoning and Land Use Requirements. The District agrees that their activities shall be subject to all of the City's applicable zoning, subdivision, building code and other land use requirements.

7. Issuance of Privately Placed Debt. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of an External Financial Advisor substantially as follows:

We are [I am] an External Financial Advisor within the meaning of the District's Amended Service Plan.

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

provisions, is reasonable considering the financial circumstances of the District.

8. Overlap Limitation. The District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the District.

9. Initial Debt. On or before the effective date of approval by the City of an Approved Conceptual Site Plan and approval and execution of this Agreement, the District shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any Fees used for the purpose of repayment of Debt.

10. Total Debt Issuance. The District shall not issue Debt in excess of Thirty Million Dollars (\$30,000,000).

11. Bond Counsel Opinion. Prior to the issuance of any bond issue, the District shall provide a copy of an opinion of a bond counsel acceptable to the City stating that the bond issue satisfies Chapter 91 of the City Code of the City of Arvada, the Amended Service Plan, and the requirements of state law.

12. Fee Limitation. The District may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to repayment of debt shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said Taxable Property. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the District.

13. Public Improvement Fee Limitation. The District shall not impose, collect, receive, spend or pledge to any Debt any fee, assessment, tax or charge which is collected by a retailer in the District on the sale of goods or services by such retailer and which is measured by the sales price of such goods or services, without a modification of this Agreement by the Parties.

14. Sales and Use Tax. The District shall not exercise their City sales and use tax exemption.

15. Monies from Other Governmental Sources. The District agrees not to apply for or accept Conservation Trust Funds, Great Outdoors Colorado Trust Funds, or other funds available from or through governmental or non-profit entities that the City is eligible to apply for without administrative approval from the City. This Section shall not apply to specific ownership taxes which shall be distributed to and a revenue source for the District without any limitation.

16. Consolidation. The District shall not file a request with any Court to consolidate with another Title 32 district without prior written approval of the City Council as evidenced by a resolution after a public hearing thereon.

17. Bankruptcy. All of the limitations contained in the Amended Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve a service plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a service plan amendment; and

(b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approved necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943 (b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of the Amended Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a service plan amendment. The City shall be entitled to all remedies available at law to enjoin such actions of the District.

18. Dissolution. Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file petitions in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall dissolution occur until (i) the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes, and (ii) the District has provided for the operation and maintenance of all Public Improvements owned or operated by the District.

19. Disclosure. The District will use reasonable efforts to assure that all developers of property located within the District provide written notice to all initial purchasers of property within the District that discloses the Maximum Debt Mill Levy, as well as a general description of the District’s authority to impose and collect rates, fees, toll, and charges or other revenues (the “Disclosure Information”). The District shall file the form of notice with the City Manager and Community Development director prior to the initial issuance of debt by the District imposing the mill levy that is subject to the Maximum Debt Mill Levy, and shall record the notice of disclosure with Jefferson County at the time the subdivision plat is recorded, or provide the City with a copy of the recorded notice of disclosure if the subdivision plat has already been filed.

The District will use reasonable efforts to assure that the Disclosure Information, at least equal in size and font to all other pertinent information, is displayed at all sales offices.

20. Service Plan Amendment Requirement. Actions of the District which violates the limitations set forth in V.A.1-20 or VI.B-G of the Amended Service Plan shall be deemed to be material modifications to the Amended Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

21. Maximum Debt Mill Levy. The “Maximum Debt Mill Levy” shall be the maximum mill levy the District is permitted to impose upon the Taxable Property within the District for payment of Debt, and shall be determined as follows:

(a) If the total amount of aggregate District Debt exceeds fifty percent (50%) of the District’s assessed valuation, the Maximum Debt Mill Levy shall be fifty (50) mills; provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2017, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

(b) If the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District’s assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

(c) For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 of the Amended Service Plan, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District’s Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term “District” as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

22. Maximum Debt Mill Levy Imposition Term. The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed which exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board of Directors of the District are residents of the District and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings as set forth in Section 11-56-101, C.R.S.; et seq.

23. Regionally Significant Improvements. The District agrees to fund up to \$1,174,786.80 (“**Regional Contribution**”), towards regionally significant improvements located at 52nd Avenue and Ward Road as more particularly set forth on Exhibit A attached hereto and incorporated herein by this reference (the “**Regional Improvements**”). The Regional Contribution shall be paid from bond proceeds and shall be payable to the City when the District issues Debt. The City agrees that it shall use the Regional Contribution to fund Regional

Improvements that shall be owned, operated and maintained by a public entity, as more fully set forth in a separate intergovernmental agreement to be entered into between the Parties.

24. Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District: Sabell Metropolitan District No. 2
White Bear Ankele Tanaka & Waldron, Attorneys at Law
2154 E. Commons Ave, Suite 2000
Centennial, Colorado 80122
Attn: Kristin Bowers Tompkins, Esq.
Phone: (303) 858-1800
Fax: (303) 858-1801

To the City: City of Arvada
8101 Ralston Road
P.O. Box 8101
Arvada, CO 80001-8101
Attn: Rachel Morris, Esq.
Phone: (720) 898-7193
Fax: (720) 898-7175

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

25. Amendment. This Agreement may be amended, modified, changed or terminated in whole or in part by a written agreement duly authorized and executed by the Parties hereto and without amendment to the Amended Service Plan.

26. Assignment. Neither Party hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without having first obtained the prior written consent of the other Party, which consent will not be unreasonably withheld. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

27. Default/Remedies. Upon the occurrence of any event of breach or default by either party, the non-defaulting party shall provide written notice to the other party. The defaulting party shall immediately proceed to cure or remedy such breach or default, and in any event, such breach or default shall be cured within 15 days after receipt of the notice. Following the cure period in the event of a breach or default of this Agreement by either Party, the non-defaulting Party shall be entitled to exercise all remedies available by law or in equity, specifically including

suits for specific performance and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.

28. Governing Law. This agreement shall be governed and construed under the laws of the State of Colorado.

29. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

30. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and the City any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions and provisions in this Agreement by and on behalf of the District and the City shall be for the sole and exclusive benefit of the District and the City.

31. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provisions contained herein, the intention being that such provisions are severable.

32. Annual Report. The District shall submit an annual report to the City in every year following the year in which the Order and Decree creating the District has been issued until the year following the dissolution of the District. Such annual report shall be submitted no later than August 1 of each year and shall include information as provided by City Code.

33. No Liability of City. The City has no obligation whatsoever to construct any improvements that the District is required to construct, or pay any debt or liability of the District including any bonds.

34. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

35. Defined Terms. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Amended Service Plan.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

SABELL METROPOLITAN DISTRICT NO. 2, a
quasi-municipal corporation and political
subdivision of the State of Colorado

By: _____
President

ATTEST:

By: _____

Its: _____

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

CITY OF ARVADA

Name: _____

Title: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Regional Improvements

EXHIBIT E

Cost Estimates – Public Improvements

ITEM	(All)
DESCRIPTION	(Multiple Items)

Values						
	TOTAL COST	MOBILIZATION	CONTINGENCY (10%)	WARRANTY / PERMITS (5%)	STAKEOUT / MATERIAL / TESTING (9%)	TOTAL
COMBINED						
EARTHWORK	1,328,113	5,000	132,811	66,406	159,374	1,691,703
SANITARY	1,166,688	10,000	116,669	58,334	105,002	1,456,694
STORM	1,391,485	10,000	139,149	69,574	125,234	1,735,442
WATER	952,075	10,000	95,207	47,604	85,687	1,190,573
CONCRETE	1,259,550	17,000	125,955	62,978	113,360	1,578,842
PAVING	1,151,079	9,000	115,108	57,554	103,597	1,436,338
LANDSCAPING	898,666	10,000	89,867	44,933	107,840	1,151,305
DEMOLITION	412,500	5,000				417,500
EROSION CONTROL	579,061					579,061
MANAGEMENT FEE	290,766					290,766
Grand Total	9,429,982	76,000	814,766	407,383	800,092	11,528,223

ITEM		COST	MOBILIZATION	CONTINGENCY (10%)	STAKEOUT / MATERIAL / TESTING (12%)	WARRANTY / PERMITS (5%)	TOTAL
A	EARTHWORK	1,328,113	5,000	132,811	66,406	159,374	1,691,703
B	SANITARY	1,166,688	10,000	116,669	58,334	105,002	1,456,694
C	STORM	1,391,485	10,000	139,149	69,574	125,234	1,735,442
D	WATER	952,075	10,000	95,207	47,604	85,687	1,190,573
E	CONCRETE	1,259,550	17,000	125,955	62,978	113,360	1,578,842
F	PAVING	1,151,079	9,000	115,108	57,554	103,597	1,436,338
G	LANDSCAPING	898,666	10,000	89,867	44,933	107,840	1,151,305
H	DEMOLITION	412,500	5,000	-	-	-	417,500
I	EROSION CONTROL	579,061	-	-	-	-	579,061
J	MANAGEMENT FEE	290,766	-	-	-	-	290,766
							\$11,528,223

COMBINED ITEM	SANITARY (Multiple Items)
------------------	------------------------------

Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
4' Diameter Manhole (0-10')	EA	35	11,578	202,606
4" PVC Service (30' Avg.)	EA	209	3,066	320,423
4" Underdrain Service	EA	209	1,032	107,852
6" Perf PVC UD SDR - 35 in sock (Same Trench)	LF	6,092	44	134,024
8" PVC (0-10' Depth) w/ Squeege	LF	6,092	110	335,060
Testing	LF	6,092	8	25,130
Tie to existing	EA	2	5,500	5,500
Underdrain Cleanout (2 per MH)	EA	70	1,031	36,094
Grand Total		18,801	22,369	1,166,688

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	4' Diameter Manhole (0-10')	EA	\$35	\$11,578	\$202,606
B	4" PVC Service (30' Avg.)	EA	\$209	\$3,066	\$320,423
C	4" Underdrain Service	EA	\$209	\$1,032	\$107,852
D	6" Perf PVC UD SDR - 35 in sock (Same Trench)	LF	\$6,092	\$44	\$134,024
E	8" PVC (0-10' Depth) w/ Squeege	LF	\$6,092	\$110	\$335,060
F	Testing	LF	\$6,092	\$8	\$25,130
G	Tie to existing	EA	\$2	\$5,500	\$5,500
H	Underdrain Cleanout (2 per MH)	EA	\$70	\$1,031	\$36,094
					\$1,166,688

COMBINED
ITEM

STORM
(All)

Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
10' Type R Inlet	EA	10	47,500	237,500
15' Type R Inlet	EA	1	27,313	27,313
18" RCP CL III TG/ C-443 0-8' w/squeege	LF	1,173	257	150,437
24" FES	EA	2	3,563	7,125
24" RCP CL III TG/ C-443 0-8' w/squeege	LF	672	342	114,912
30" RCP CL III TG/ C-443 0-8' w/squeege	LF	974	202	196,626
36" FES	EA	1	4,750	4,750
36" RCP CL III TG/ C-443 0-8' w/squeege	LF	288	249	71,820
48" FES	EA	1	10,688	10,688
48" RCP CL III TG/ C-443 0-8' w/squeege	LF	131	356	46,669
5' Diameter MH (0-8) w/24" Cover	EA	19	27,075	257,213
6' Diameter MH (0-8) w/24" Cover	EA	1	20,188	20,188
Type C Inlet	EA	6	21,375	64,125
Type D Inlet	EA	4	10,688	42,750
Type D Inlet Outlet Structure	EA	2	118,750	118,750
Type L Riprap (Emergency Overflow)	CY	36	546	9,833
Type M Riprap	CY	40	546	10,788
Grand Total		3,361	294,386	1,391,485

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	10' Type R Inlet	EA	\$10	\$47,500	\$237,500
B	15' Type R Inlet	EA	\$1	\$27,313	\$27,313
C	18" RCP CL III TG/ C-443 0-8' w/squeege	LF	\$1,173	\$257	\$150,437
D	24" FES	EA	\$2	\$3,563	\$7,125
E	24" RCP CL III TG/ C-443 0-8' w/squeege	LF	\$672	\$342	\$114,912
F	30" RCP CL III TG/ C-443 0-8' w/squeege	LF	\$974	\$202	\$196,626
G	36" FES	EA	\$1	\$4,750	\$4,750
H	36" RCP CL III TG/ C-443 0-8' w/squeege	LF	\$288	\$249	\$71,820
I	48" FES	EA	\$1	\$10,688	\$10,688
J	48" RCP CL III TG/ C-443 0-8' w/squeege	LF	\$131	\$356	\$46,669
K	5' Diameter MH (0-8) w/24" Cover	EA	\$19	\$27,075	\$257,213
L	6' Diameter MH (0-8) w/24" Cover	EA	\$1	\$20,188	\$20,188
M	Type C Inlet	EA	\$6	\$21,375	\$64,125
N	Type D Inlet	EA	\$4	\$10,688	\$42,750
O	Type D Inlet Outlet Structure	EA	\$2	\$118,750	\$118,750
P	Type L Riprap (Emergency Overflow)	CY	\$36	\$546	\$9,833
Q	Type M Riprap	CY	\$40	\$546	\$10,788

\$1,391,485

COMBINED ITEM	WATER (All)
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Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
3/4" Water Service	EA	153	2,200	336,600
8" MJ Bends 11.25 w/ Restraints	EA	9	1,169	5,259
8" MJ Bends 22.5 w/ Restraints	EA	3	1,169	1,753
8" MJ Bends 45 w/ Restraints	EA	14	584	8,181
8" MJ Epoxy Coated Tee w/ Restraints	EA	9	825	7,425
8" MJ Gate Valve W/Box & Restraints	EA	28	4,331	60,638
8" PVC C-150 w/Bedding & 12ga Tracer wire	LF	6,049	88	266,156
8" Wet Tap	EA	2	6,875	13,750
8" x 6" Swivel Tee w/ Restraints	EA	12	2,200	13,200
CI,Clear Water & Pressure Test	EA	2	6,188	6,188
FH Assy, 5 1/2' Bury	EA	12	18,288	109,725
Water Services	EA	56	2,200	123,200
Grand Total		6,349	46,116	952,075

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	3/4" Water Service	EA	\$153	\$2,200	\$336,600
B	8" MJ Bends 11.25 w/ Restraints	EA	\$9	\$1,169	\$5,259
C	8" MJ Bends 22.5 w/ Restraints	EA	\$3	\$1,169	\$1,753
D	8" MJ Bends 45 w/ Restraints	EA	\$14	\$584	\$8,181
E	8" MJ Epoxy Coated Tee w/ Restraints	EA	\$9	\$825	\$7,425
F	8" MJ Gate Valve W/Box & Restraints	EA	\$28	\$4,331	\$60,638
G	8" PVC C-150 w/Bedding & 12ga Tracer wire	LF	\$6,049	\$88	\$266,156
H	8" Wet Tap	EA	\$2	\$6,875	\$13,750
I	8" x 6" Swivel Tee w/ Restraints	EA	\$12	\$2,200	\$13,200
J	CI,Clear Water & Pressure Test	EA	\$2	\$6,188	\$6,188
K	FH Assy, 5 1/2' Bury	EA	\$12	\$18,288	\$109,725
L	Water Services	EA	\$56	\$2,200	\$123,200
					\$952,075

COMBINED ITEM	CONCRETE (All)
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Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
3' Concrete Pan	SF	1,089	30	16,199
6" Concrete Parking Areas	SF	13,688	16	107,793
6" Thick Sidewalk	SF	23,504	8	185,094
8" Thick Crossspan (500 SF EA)	SF	8,500	30	126,438
Fibermesh and Environmental Impact Fee	LS	2	55,125	55,125
Handicap Ramps w/ Domes	EA	35	5,950	104,125
Mountable Curb & Gutter (2' Pan)	LF	3,871	70	135,485
Subgrade Prep and Backfill Walk, Ramps, and Cross	SF	12,389	11	65,042
Vertical 6" Curb & Gutter (2' Pan)	LF	4,461	27	121,005
Modular Block Retaining Walls	LF	1,401	245	343,245
Grand Total		68,940	61,511	1,259,550

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	3' Concrete Pan	SF	\$1,089	\$30	\$16,199
B	6" Concrete Parking Areas	SF	\$13,688	\$16	\$107,793
C	6" Thick Sidewalk	SF	\$23,504	\$8	\$185,094
D	8" Thick Crossspan (500 SF EA)	SF	\$8,500	\$30	\$126,438
E	Fibermesh and Environmental Impact Fee	LS	\$2	\$55,125	\$55,125
F	Handicap Ramps w/ Domes	EA	\$35	\$5,950	\$104,125
G	Mountable Curb & Gutter (2' Pan)	LF	\$3,871	\$70	\$135,485
H	Subgrade Prep and Backfill Walk, Ramps, and Crossspan	SF	\$12,389	\$11	\$65,042
I	Vertical 6" Curb & Gutter (2' Pan)	LF	\$4,461	\$27	\$121,005
J	Modular Block Retaining Walls	LF	\$1,401	\$245	\$343,245
					\$1,259,550

COMBINED ITEM	PAVING (All)
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Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
Asphalt Paving (7.5" Depth)	SY	16,203	116	935,723
Asphalt Removal	SF	930	21	19,530
Manhole Adjustments	EA	55	2,013	55,344
Range Points	EA	26	1,138	14,788
Sawcutting	LF	620	9	5,425
Subgrade Prep	SY	17,493	12	107,145
Water Valve Adjustments	EA	30	875	13,125
Grand Total		35,357	4,183	1,151,079

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	Asphalt Paving (7.5" Depth)	SY	\$16,203	\$116	\$935,723
B	Asphalt Removal	SF	\$930	\$21	\$19,530
C	Manhole Adjustments	EA	\$55	\$2,013	\$55,344
D	Range Points	EA	\$26	\$1,138	\$14,788
E	Sawcutting	LF	\$620	\$9	\$5,425
F	Subgrade Prep	SY	\$17,493	\$12	\$107,145
G	Water Valve Adjustments	EA	\$30	\$875	\$13,125
					\$1,151,079



**SUMMARY OF MINUTES OF THE MEETING OF THE ARVADA CITY COUNCIL HELD
SEPTEMBER 17, 2018**

1. Call to Order – 6:20 p.m. – Council Chambers
2. Moment of Reflection and Pledge of Allegiance
3. Roll Call of Councilmembers

Those Present: Mayor Marc Williams, Mayor Pro Tem John Marriott, Councilmember Bob Fifer, Councilmember Nancy Ford, Councilmember Mark McGoff, Councilmember Dot Miller

Mayor Pro Tem Marriott moved to excuse David Jones from the meeting.

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, McGoff, Miller

Those Absent: Jones

The Motion was Approved

Mark Deven, City Manager; Lorie Gillis, Deputy City Manager; Chris Daly, City Attorney; Burt Knight, Director of Public Works; Ryan Stachelski, Director of Growth and Economic Development; Matt Knight, City Engineer; Brita Van Horne, Deputy Director of Growth and Economic Development; John Firouzi, Traffic Engineer and Kristen Rush, City Clerk.

4. Recognitions and Communication
 - A. Proclamation for Constitution Week presented by Councilmember McGoff

Councilmember McGoff said the United States Constitution stands as a testament to the tenacity of Americans throughout history to maintain their liberties, freedoms and inalienable rights. The Daughters of the American Revolution began the tradition of celebrating the Constitution for one week in September, beginning in 1955. During Constitution Week citizens are asked to reflect on their responsibility to protect and defend the Constitution and study the historical events which led to the framing of the Constitution in September, 1787.

The Doctor Susan Anderson Chapter, National Society of the Daughters of the American Revolution was organized in Arvada in 2008. Members of the chapter are present to accept this proclamation for Constitution Week, with Regent Shilah Low as the spokesperson.

- B. Recognition of Charles Wiebeck, Eagle Scout presented by Councilmember Miller

Councilmember Miller said that city council recognizes Charles Franklin Wiebeck for achieving the rank of Eagle Scout, the highest rank a Boy Scout can attain. Only 6% ever earn this honor.

For his Eagle Project, Charles worked on the trees at Arvada West. The project required several months of planning during which Charles raised donations to help pay for the trees, was able to negotiate a significant discount and put together a large group of volunteers. He and his volunteers dug up old trees, removed rotten stumps and planted 9 new trees.

Charles Wiebeck is currently a junior enrolled at Arvada West High School where he is President of the junior class. After graduation, he hopes to study Botany at Colorado State University and someday work at the Center for Disease Control.

6. Public Comment –

Edward Porter, Arvada Resident, addressed council regarding the cabin on the Sabell's property.
Randy Morman, Representing the Sustainability Committee, addressed council regarding our current waste haul system.

Luke Richard, Representing the Sustainability Committee, addressed council regarding waste hauling and recycling options for Arvada citizens.

Cristina Gonzalez-Avram, Representing the Sustainability Committee, addressed council regarding waste hauling for Arvada residents.

Steven Nixon, Representing the Sustainability Committee, addressed council regarding waste hauling and recycling.

Vicki Pyne, Candidate for State Representative, addressed council regarding the sign code.

Sharon Kohnen, Representing Festival Committee, invited everyone to “Arvada Days” on September 22 at the Clear Creek Valley Park at 58th and Tennyson.

7. New Business

A. Consent Agenda

- | | | |
|----|---------|---|
| 1. | R18-096 | A Resolution Amending the Number of Members of the Arvada Arts and Culture Commission |
| 2. | R18-097 | A Resolution Authorizing the Submission of the 2018 Justice Assistance Grant Application for the Arvada Police Department |

Councilmember Ford moved that R18-096, A Resolution Amending the Number of Members of the Arvada Arts and Culture Commission; R18-097, A Resolution Authorizing the Submission of the 2018 Justice Assistance Grant Application for the Arvada Police Department, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, McGoff, Miller

Those Absent: Jones

The Motion was Approved

9. Public Hearings

- | | | |
|----|---------|--|
| A. | R18-098 | A Resolution Approving the Proposed Service Plan for the Haskins Station Metropolitan District |
|----|---------|--|

Mayor Williams opened the public hearing on R18-098.

Mark Deven, City Manager, reviewed this resolution with council.

Chris Elliott, Representing Applicant, was present to answer questions

Summer Clark, Arvada Resident, was present but did not speak, for the issue

Chuck Ochsner, Arvada Resident, spoke in favor of the issue

Tim Knapp, Arvada Resident, spoke in favor of the issue

Marycate Brickey, Arvada Resident, was present but did not speak, against the issue

Meghan Murphy, Attorney Representing Applicant, spoke regarding an error in the 3rd paragraph of Section I of the Service Plan that should read “shall not” instead of “shall”

The public hearing was closed.

Councilmember Fifer moved that R18-098, A Resolution Approving the Proposed Service Plan for the Haskins Station Metropolitan District, be approved with a correction to the 3rd paragraph of Section I of the Service Plan that should read “shall not” instead of “shall”.

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, McGoff, Miller

Those Absent: Jones

The Motion was Approved

B. R18-099 A Resolution Approving the Proposed Service Plan for the Sabell Metropolitan District Nos. 1 & 2

Mayor Williams opened the public hearing on R18-099.

Mark Deven, City Manager, reviewed this resolution with council.

Matthew Cavanaugh, Representing Applicant, was present to answer questions.

Meghan Murphy, Attorney Representing Applicant, spoke regarding an error in the 3rd paragraph of Section I of the Service Plan that should read “shall not” instead of “shall”.

Mayor Pro Tem Marriott moved that R18-099, A Resolution Approving the Proposed Service Plan for the Sabell Metropolitan District Nos. 1 & 2, be approved with a correction to the 3rd paragraph of Section I of the Service Plan that should read “shall not” instead of “shall”.

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, McGoff, Miller

Those Absent: Jones

The Motion was Approved

C. Citizen Comments on the 2019 Annual Action Plan, Proposed Use of Year 2019 CDBG Funds, and Year 2018 Funding from the Human Services Funding Pool

Mayor Williams opened the public hearing.

The following public agencies addressed City Council:

1. Margo Sobocinski and Karen Pramenko, Carin’ Clinic

Mayor Williams closed the public hearing and stated no further action is being taken this evening. This item will come back to City Council in November for formal action.

10. Public Comment – Five Minute Limit - none

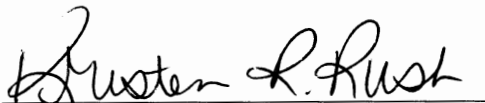
11. Reports from City Council –

- A. Councilmember McGoff reported on the opening of the trail at the Rocky Flats National Wildlife Refuge.
 - B. Mayor Williams noted the passing of Don Klene, long time attorney in Arvada.
 - C. Mayor Williams said that former Mayor Bob Frie was recognized by the 1st Judicial Bar Association.
 - D. Councilmember McGoff noted the passing of long time Historical Society member Jack Raven.
12. City Manager Reports –
- Mark Deven, City Manager, reviewed the upcoming workshop schedule with council.
13. City Attorney Reports – none
14. Adjournment at 7:40 p.m.



Marc Williams, Mayor

SEAL:



Kristen R. Rush, City Clerk



**SERVICE PLAN
FOR
SABELL METROPOLITAN DISTRICTS NOS. 1 & 2
CITY OF ARVADA, COLORADO**

Prepared

by

WHITE BEAR ANKELE TANAKA & WALDRON
2154 EAST COMMONS AVENUE, SUITE 2000
CENTENNIAL, COLORADO 80122

Approved September 17, 2018
With Exhibits A and C- 2 Corrected and Approved
June 27, 2019,
effective *nunc pro tunc* to September 17, 2018

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EXHIBIT C-2	Inclusion Area Boundary Map
EXHIBIT D	Intergovernmental Agreement between the Districts and Arvada
EXHIBIT E	Cost Estimates – Public Improvements

I. INTRODUCTION

A. Purpose and Intent.

The City Council has adopted an Ordinance establishing Chapter 91 which governs the creation of Special Districts in Arvada. The Districts are independent units of local government, separate and distinct from the City, and, except as may otherwise be provided for by State or local law or this Service Plan, their activities are subject to review by the City only insofar as they may deviate in a material matter from the requirements of the Service Plan. It is intended that the Districts will provide a part or all of the Public Improvements for the use and benefit of all anticipated inhabitants and taxpayers of the Districts. The primary purpose of the Districts will be to finance the construction of these Public Improvements.

The Districts are not being created to provide ongoing operations and maintenance services other than as specifically set forth in this Service Plan.

B. Need for the Districts.

There are currently no other governmental entities, including the City, located in the immediate vicinity of the Districts that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction installation, relocation, redevelopment, and financing of the Public Improvements needed for the Project. Formation of the Districts is therefore necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.

C. Objective of the City Regarding Districts' Service Plan.

The City's objective in approving the Service Plan for the Districts is to authorize the Districts to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the Districts. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term and at a tax mill levy no higher than the Maximum Debt Mill Levy, and/or repaid by Fees as limited by Section V.A.15.

This Service Plan is intended to establish a limited purpose for the Districts and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs pursuant to the approved Conceptual Site Plan for the property. Operation and maintenance services are allowed through an intergovernmental agreement with the City, attached as **Exhibit D**.

It is the intent of the Districts to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, and if the Districts have authorized operating functions under an intergovernmental

agreement with the City, to retain only the power necessary to impose and collect taxes or Fees to pay for these costs.

The Districts shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Fees or from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term. It is the intent of this Service Plan to assure to the extent possible that no property bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount and that no property developed for a residential use bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the Districts.

II. DEFINITIONS

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Board or Boards: means the board of directors of one District, or the boards of directors of both Districts in the aggregate, as the context may provide.

Bond, Bonds or Debt: means bonds or other obligations for the payment of which the Districts have promised to impose an *ad valorem* property tax mill levy, and/or collect Fee revenue.

City: means the City of Arvada, Colorado.

City Code: means the City Code of the City of Arvada, Colorado.

City Council: means the City Council of the City of Arvada, Colorado.

Districts: means collectively Sabell Metropolitan District No. 1 and Sabell Metropolitan District No. 2.

District Boundaries: means the original boundaries of the Districts' area described in the District Boundary Map.

District Boundary Map: means the map attached hereto as **Exhibit C-1**, describing the Districts' original boundaries.

District No. 1: means the Sabell Metropolitan District No. 1.

District No. 2: means the Sabell Metropolitan District No. 2.

End User: means any owner, or tenant of any owner, of any taxable improvement within the Districts, who is intended to become burdened by the imposition of *ad valorem* property taxes subject to the Maximum Debt Mill Levy. By way of illustration, a resident

homeowner, renter, commercial property owner, or commercial tenant is an End User. The business entity that constructs homes or commercial structures is not an End User.

External Financial Advisor: means a consultant that: (i) advises Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (ii) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place; and (iii) is not an officer or employee of the Districts and has not been otherwise engaged to provide services in connection with the transaction related to the applicable Debt.

Fees: means any fee imposed by the Districts for services, programs or facilities provided by the Districts, as described in Section V.A.15. below.

Financial Plan: means the Financial Plan described in Section VI which describes (i) how the Public Improvements are to be financed; (ii) how the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from property taxes for the first budget year. The financial plan is based upon current estimates and will change based on actual development of the Project.

Inclusion Area Boundaries: means the boundaries of the area described in the Inclusion Area Boundary Map.

Inclusion Area Boundary Map: means the map attached hereto as **Exhibit C-2**, describing the property proposed for inclusion within the District.

Maximum Debt Mill Levy: means the maximum mill levy the Districts are permitted to impose for payment of Debt as set forth in Section VI.C below.

Maximum Debt Mill Levy Imposition Term: means the maximum term for imposition of a mill levy on a particular property as set forth in Section VI.D below.

Project: means the development or property commonly referred to as Sabell.

Public Improvements: means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Special District Act, except as specifically limited in Section V below that benefit the Service Area and serve the future taxpayers and inhabitants of the Service Area as determined by the Boards of the Districts.

Service Area: means the property within the District Boundaries.

Service Plan: means this service plan for the Districts approved by City Council.

Service Plan Amendment: means an amendment to the Service Plan approved by City Council in accordance with the City's ordinance and the applicable state law.

Special District Act: means Section 32-1-101, et seq., of the Colorado Revised Statutes, as amended from time to time.

State: means the State of Colorado.

Taxable Property: means real or personal property within the Service Area subject to ad valorem taxes imposed by the Districts.

III. BOUNDARIES

The area of the District Boundaries includes approximately twenty-five (25) acres. A legal description of the District Boundaries and the Inclusion Area Boundaries is attached hereto as **Exhibit A**. A vicinity map is attached hereto as **Exhibit B**. A map of the District Boundaries is attached hereto as **Exhibit C-1**, and a map of the Inclusion Area Boundaries is attached hereto as **Exhibit C-2**.

IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION

The Service Area consists of approximately twenty-five acres of residential land. The current assessed valuation of the Service Area is \$0 for purposes of this Service Plan and, at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The population of the District at build-out is estimated to be approximately six-hundred twenty-two (622) people (based on 2.5 persons per residence and 249 single-family residential units).

Approval of this Service Plan by the City does not imply approval of the development of a specific area within the Districts, nor does it imply approval of the number of residential units or the total site/floor area of commercial or industrial buildings identified in this Service Plan or any of the exhibits attached thereto or any other Development Plan.

V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

A. Powers of the Districts and Service Plan Amendment.

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

1. Operations and Maintenance Limitation. The purpose of the Districts is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The Districts shall dedicate the Public Improvements to the City or other appropriate jurisdiction or owners association in a manner consistent with the approved Development Plans and other rules and regulations of the City and applicable provisions of the City Code. The Districts shall not be authorized to operate and maintain any part or all of the Public Improvements unless the provision of such operation and maintenance is pursuant to an intergovernmental agreement with the City. The Districts are required and obligated to operate and maintain park and recreation improvements. Unless otherwise specified in the

intergovernmental agreement, in the form attached as **Exhibit D**, all parks and trails shall be open to the general public free of charge.

2. Fire Protection Limitation. The Districts shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to an intergovernmental agreement with the City. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.

3. Television Relay and Translation Limitation. The Districts shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project, unless such facilities and services are provided pursuant to an intergovernmental agreement with the City.

4. Telecommunication Facilities. The Districts agree that no telecommunication facilities owned, operated or otherwise allowed by the Districts shall affect the ability of the City to expand its public safety telecommunication facilities or impair existing telecommunication facilities.

5. Construction Standards Limitation. The Districts will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The Districts will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

6. Zoning and Land Use Requirements. The Districts shall be subject to all of the City's zoning, subdivision, building code and other land use requirements.

7. Growth Limitations. The Districts acknowledge that the City shall not be limited in implementing Council or voter approved growth limitations, even though such actions may reduce or delay development within the Districts and the realization of the Districts' revenue.

8. Privately Placed Debt Limitation. Prior to the issuance of any privately placed Debt, the issuing District shall obtain the certification of an External Financial Advisor substantially as follows:

We are [I am] an External Financial Advisor within the meaning of the District's Service Plan.

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

including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

9. Eminent Domain Limitation. The Districts shall not be authorized to utilize the power of eminent domain except as otherwise provided pursuant to an intergovernmental agreement with the City.

10. Water Rights/Resources Limitation. The Districts shall not acquire, own, manage, adjudicate or develop water rights or resources except as otherwise provided pursuant to an intergovernmental agreement with the City.

11. Inclusion Limitation. The Districts shall not include within any of their boundaries any property outside the Service Area without the prior written consent of the City Council. The District shall not include within any of its boundaries any property inside the Inclusion Area Boundaries without the prior written consent of the City Council except upon petition of the fee owner or owners of one hundred percent (100%) of such property as provided in Section 32-1-401(1)(a), C.R.S.

12. Overlap Limitation. The Districts shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the Districts unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the Districts.

13. Initial Debt Limitation. On or before the effective date of approval by the City of an Approved Conceptual Site Plan, the Districts shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any Fees used for the purpose of repayment of Debt.

14. Total Debt Issuance Limitation. The Districts shall not issue Debt in excess of Thirty Million Dollars (\$30,000,000).

15. Fee Limitation. The Districts may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to repayment of debt shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said Taxable Property. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the Districts.

16. Public Improvement Fee Limitation. The Districts shall not impose, collect, receive, spend or pledge to any Debt any fee, assessment, tax or charge which is collected by a retailer in the Districts on the sale of goods or services by such retailer and which is measured by the sales price of such goods or services, except as provided pursuant to an intergovernmental agreement with the City.

17. Sales and Use Tax. The Districts shall not exercise their City sales and use tax exemption.

18. Monies from Other Governmental Sources. The Districts shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities that the City is eligible to apply for, except pursuant to an intergovernmental agreement with the City. This Section shall not apply to specific ownership taxes which shall be distributed to and be a revenue source for the Districts without any limitation.

19. Consolidation Limitation. The Districts shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the City.

20. Bankruptcy Limitation. All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve a Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

(b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Service Plan Amendment. The City shall be entitled to all remedies available at law to enjoin such actions of the Districts.

21. Reimbursement Agreement. It is unknown whether reimbursement agreements with third-party developers or adjacent landowners will be necessary or desirable after the Districts’ organization. Any such agreement would provide the means to reimburse the Districts for costs of improvements that benefit third-party landowners. If a reimbursement agreement exists or is entered into for an improvement financed by the Districts, any and all resulting reimbursements received for such improvement shall be deposited in the respective District’s debt service fund and used for the purpose of retiring the District’s debt.

22. Service Plan Amendment Requirement This Service Plan has been designed with sufficient flexibility to enable the Districts to provide required services and facilities under evolving circumstances without the need for numerous amendments. Actions of the Districts which violate the limitations set forth in

V.A.1-21 above or in VI.B-G shall be deemed to be material modifications to this Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the Districts.

B. Preliminary Engineering Survey.

The Districts shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of the Public Improvements within and without the boundaries of the Districts, to be more specifically defined in an Approved Conceptual Site Plan. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the Service Area and is approximately Eleven-Million Five-Hundred Twenty-Eight Thousand Two Hundred and Twenty-Three Dollars (\$11,528,223). A cost estimate for the Public Improvements is attached hereto and incorporated herein as **Exhibit E**.

All of the Public Improvements will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the City and shall be in accordance with the requirements of the Approved Conceptual Site Plan. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements. The actual Public Improvements to be constructed will be determined by the City, and variations from the estimate shall not constitute a material modification of this Service Plan. All Public Improvements contemplated herein benefit the residents, property owners, and taxpayers of the Districts, and such benefit accrues to such residents, property owners, and taxpayers of the Districts regardless of the specific or general location of the various Public Improvements.

The Public Improvements generally depicted and described in the cost estimates have been presented for illustration only, and the exact design, subphasing of construction and location of the Public Improvements will be determined at the time of City approvals and public works approval and such decisions shall not be considered to be a material modification of the Service Plan.

VI. FINANCIAL PLAN

A. General.

The Districts shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from their revenues and by and through the proceeds of Debt to be issued by the Districts. The Financial Plan for the Districts shall be to issue such Debt as the Districts can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy, Fees and other legally available revenues. The total Debt that the Districts shall be permitted to issue shall not exceed Thirty Million Dollars (\$30,000,000) and shall be permitted to be issued on a schedule and in such year or years as the Districts determine shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. All bonds and other Debt issued by the Districts may be payable from any and all legally available revenues of the

Districts, including general ad valorem taxes and Fees to be imposed upon all Taxable Property within the Districts. The Districts will also rely upon various other revenue sources authorized by law. Specifically, these revenue sources are Fees, specific ownership taxes, interest income, developer operating advances, and advances for infrastructure.

The parameters in the Financial Plan are based upon current estimates and will change based on actual development of the Project. The Financial Plan is one projection of the issuance of Debt by the Districts based on certain development assumptions. It is expected that actual development (including, but not limited to product types, market values, and absorption rates) will vary from that projected and illustrated in the Financial Plan, which variations and deviations shall not constitute a material modification of this Service Plan.

Notwithstanding anything in this Service Plan to the contrary, the projections set forth in this Service Plan and the Financial Plan are projections based upon current market conditions. The actual amounts, interest rates, and terms of any Debt will likely change from that reflected in the Financial Plan and each issue of Debt will be based upon the actual conditions existing at the time of issuance, subject to the limitations of the Service Plan.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed eighteen percent (18%). The proposed maximum underwriting discount will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Debt Mill Levy.

The “Maximum Debt Mill Levy” shall be the maximum mill levy the Districts are permitted to impose upon the taxable property within the Districts for payment of Debt, and shall be determined as follows:

1. If the total amount of aggregate District Debt exceeds fifty percent (50%) of the issuing District’s assessed valuation, the Maximum Debt Mill Levy shall be fifty (50) mills; provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2017, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. If the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the issuing District’s assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to

the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

3. For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 above, so that the issuing District is entitled to pledge to its payment an unlimited ad valorem mill levy, the issuing District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the issuing District's Debt to assessed ratio. All Debt issued by the Districts must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the Districts are composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "Districts" as used herein shall be deemed to refer to the Districts and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

D. Maximum Debt Mill Levy Imposition Term.

The Districts shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed which exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board of Directors of the District are residents of the District and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings as set forth in Section 11-56-101, C.R.S., et seq.

E. Debt Repayment Sources.

The Districts may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service and for operations and maintenance. The Districts may also rely upon the following specific revenue sources authorized by law Fees, specific ownership taxes, interest income, developer operating advances, and developer advances for infrastructure. At the Districts' discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(l), C.R.S., as amended from time to time and as limited by Section V.A. 15-16. In no event shall the debt service mill levy in the Districts exceed the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term, except pursuant to an intergovernmental agreement between the Districts and the City.

F. Debt Instrument Disclosure Requirement.

In the text of each Bond and any other instrument representing and constituting Debt, the Districts shall set forth a statement in substantially the following form:

By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Service Plan for creation of the District.

Similar language describing the limitations in respect of the payment of the principal of and interest on Debt set forth in this Service Plan shall be included in any document used for the offering of the Debt for sale to persons, including, but not limited to, a developer of property within the boundaries of the Districts.

G. Security for Debt.

The Districts shall not pledge any revenue or property of the City as security for the indebtedness set forth in this Service Plan. Approval of this Service Plan shall not be construed as a guarantee by the City of payment of any of the Districts' obligations; nor shall anything in the Service Plan be construed so as to create any responsibility or liability on the part of the City in the event of default by the Districts in the payment of any such obligation.

H. TABOR Compliance.

The Districts will comply with the provisions of TABOR. In the discretion of the Board, the Districts may set up other qualifying entities to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by the Districts will remain under the control of the Districts' Boards, and any such entity shall be subject to and bound by all terms, conditions, and limitations of the Service Plan and intergovernmental agreement, attached as **Exhibit D**.

I. Districts' Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the Districts' organization and initial operations, are anticipated to be One-Hundred Thousand Dollars (\$100,000), which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the Districts will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget for the Districts is estimated to be Fifty Thousand Dollars (\$50,000) which is anticipated to be derived from property taxes and other revenues.

The Maximum Debt Mill Levy for the repayment of Debt shall not apply to the Districts' ability to increase their mill levy as necessary for provision of operation and maintenance services to their taxpayers and service users.

VII. ANNUAL REPORT

A. General.

The Districts shall be responsible for submitting an annual report to the City Clerk within six months of the close of the fiscal year.

B. Reporting of Significant Events.

The annual report shall include information as to any of the following:

1. Boundary changes made or proposed to the Districts' boundaries as of December 31 of the prior year.
2. Intergovernmental Agreements with other governmental entities either entered into or proposed as of December 31 of the prior year.
3. Copies of the Districts' rules and regulations, if any, as of December 31 of the prior year.
4. A summary of any litigation which involves the Districts' Public Improvements as of December 31 of the prior year.
5. Status of the Districts' construction of the Public Improvements as of December 31 of the prior year.
6. A list of all facilities and improvements constructed by the Districts that have been dedicated to and accepted by the City as of December 31 of the prior year.
7. The assessed valuation of the Districts for the current year.
8. Current year budget including a description of the Public Improvements to be constructed in such year.
9. Audit of the Districts' financial statements, for the year ending December 31 of the previous year, prepared in accordance with generally accepted accounting principles or audit exemption, if applicable.
10. Notice of any uncured events of default by the Districts, which continue beyond a ninety (90) day period, under any Debt instrument.
11. Any inability of the Districts to pay their obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.

VIII. DISSOLUTION

Upon an independent determination of the City Council that the purposes for which the Districts were created have been accomplished, the Districts agree to file petitions in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall dissolution occur until the Districts have provided for the payment or discharge of all of their outstanding indebtedness and other financial obligations as required pursuant to State statutes.

IX. DISCLOSURE NOTICES

The Districts will provide a written notice of disclosure to all initial purchasers of property in the Districts that describes the impact of the Districts' mill levy and fees on each residential property along with the purchase contract. The Districts shall record the notice of disclosure for

each property within the Districts with Jefferson County at the time the subdivision plat is recorded, or provide the City with a copy of the recorded notice of disclosure if the subdivision plat has already been filed. The notice of disclosure shall include the maximum mill levy that may be assessed and associated taxes that may be imposed on the residential property for each year the Districts are in existence.

The Districts will provide information to potential residential buyers and prominently display the key provisions of the approved Districts at all sales offices. Such information shall include the maximum mill levy and associated taxes and fees that may be imposed on each property for each year the Districts are in existence and the improvements that are or have been paid for by the Districts.

X. INTERGOVERNMENTAL AGREEMENT

The form of the intergovernmental agreement required by the City Code, relating to the limitations imposed on the Districts' activities, is attached hereto as **Exhibit D**. The Districts shall approve the intergovernmental agreement in the form attached as **Exhibit D** at their first Board meeting after their organizational election. Failure of the Districts to execute the intergovernmental agreement as required herein shall constitute a material modification and shall require a Service Plan Amendment. The City Council shall approve the intergovernmental agreement in the form attached as **Exhibit D**.

XI. CONCLUSION

It is submitted that this Service Plan for the Districts, as required by Section 32-1-203(2), C.R.S., and Chapter 91 of the City Code, establishes that:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the Districts;
2. The existing service in the area to be served by the Districts is inadequate for present and projected needs;
3. The Districts are capable of providing economical and sufficient service to the area within its proposed boundaries; and
4. The area to be included in the Districts has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
5. Adequate service is not, and will not be, available to the area through the City or county or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.
6. The facility and service standards of the Districts are compatible with the facility and service standards of the City within which the special districts are to be located and each municipality which is an interested party under Section 32-1-204(1), C.R.S.

7. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City Code.

8. The proposal is in compliance with any duly adopted City, regional or state long-range water quality management plan for the area.

9. The creation of the Districts is in the best interests of the area proposed to be served.

EXHIBIT A

Legal Descriptions

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8 BEING N 00°01'05" E AND MONUMENTED AS FOLLOWS:

-NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8, BEING A FOUND 2" ALUMINUM CAP IN RANGE BOX, PLS 1802, PER MON. REC. DATED 5/29/14.

-SOUTH 1/4 CORNER OF SECTION 8, BEING A FOUND 3.25" BRASS CAP IN RANGE BOX, PLS 16406, PER MON. REC. DATED 5/29/14.

COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 8;

THENCE N 89°14'06" E ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8 A DISTANCE OF 35.00 FEET TO THE SOUTHEAST CORNER OF A CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 94105346;

THENCE N 00°01'05" E ALONG THE EASTERLY LINE OF SAID CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314 A DISTANCE OF 173.32 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND RECORDED AT RECEPTION NUMBER;

THENCE N 00°01'05" E CONTINUING ALONG SAID EASTERLY LINE OF THAT CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314 A DISTANCE OF 187.28 FEET;

THENCE N 02°51'21" E CONTINUING ALONG SAID EASTERLY LINE OF THAT CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314 A DISTANCE OF 171.90 FEET TO THE **POINT OF BEGINNING**;

THENCE N 02°51'21" E CONTINUING ALONG SAID EASTERLY LINE OF THAT CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314 A DISTANCE OF 131.09 FEET TO THE SOUTHWEST CORNER OF THAT CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2372 AT PAGE 108;

THENCE N 89°17'37" E ALONG THE SOUTHERLY LINE OF SAID CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2372 AT PAGE 108 AND THE SOUTHERLY LINE OF PARK LANE CENTER, A SUBDIVISION RECORDED AT RECEPTION NUMBER 80043702 A DISTANCE OF 281.27 FEET TO THE SOUTHEAST CORNER OF SAID PARK LANE CENTER;

THENCE N 00°02'34" E ALONG THE EASTERLY LINE OF SAID PARK LANE CENTER AND THE EASTERLY LINE OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER F2064032 AND THE EXTENSION THEREOF A DISTANCE OF 622.74 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 78088757;

THENCE N 89°21'08" E ALONG THE SOUTHERLY LINE OF SAID PARCEL OF LAND RECORDED AT RECEPTION NUMBER 78088757 AND THE SOUTHERLY LINE OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 78060938 A DISTANCE OF 497.30 FEET;

THENCE S 85°56'12" E CONTINUING ALONG SAID SOUTHERLY LINE OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 78060938 A DISTANCE OF 146.10 FEET TO THE NORTHWEST CORNER OF THAT PARCEL OF LAND RECORDED AT BOOK 1759 AT PAGE 401;

LAND DESCRIPTION:
DISTRICT NO. 1 6/20/19

SHEET 2 OF 3

THENCE ALONG THE WESTERLY AND SOUTHERLY LINES OF SAID PARCEL OF LAND
RECORDED AT BOOK 1759 AT PAGE 401 THE FOLLOWING TWO (2) COURSES:

1) S 00°05'31" W A DISTANCE OF 378.03 FEET;

2) N 89°21'08" E A DISTANCE OF 20.00 FEET TO A POINT ON THE WEST LINE OF THE EAST 1/2 OF
THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 8;

THENCE S 00°05'31" W ALONG SAID WEST LINE A DISTANCE OF 94.26 FEET;

THENCE N 89°55'58" W A DISTANCE OF 93.30 FEET;

THENCE S 00°04'02" W A DISTANCE OF 111.01 FEET;

THENCE N 89°55'58" W A DISTANCE OF 111.00 FEET;

THENCE S 00°04'02" W A DISTANCE OF 170.44 FEET;

THENCE N 89°55'58" W A DISTANCE OF 157.00 FEET;

THENCE N 00°04'02" E A DISTANCE OF 74.44 FEET;

THENCE N 89°55'58" W A DISTANCE OF 176.00 FEET;

THENCE S 00°04'02" W A DISTANCE OF 74.44 FEET;

THENCE N 89°55'58" W A DISTANCE OF 412.86 FEET TO THE **POINT OF BEGINNING.**

THE ABOVE DESCRIBED PARCEL CONTAINS AN AREA OF 475,552 SQUARE FEET, OR 10.9172
ACRES MORE OR LESS.

I, CHRISTOPHER H. McELVAIN, A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO
HEREBY CERTIFY THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME OR UNDER MY
DIRECT SUPERVISION AND CHECKING.

CHRISTOPHER H. McELVAIN, P.L.S. NO. 36561
FOR AND ON BEHALF OF KT ENGINEERING LLC

LAND DESCRIPTION:
DISTRICT NO. 2 8/30/18

SHEET 1 OF 1

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8 BEING N 00°01'05" E AND MONUMENTED AS FOLLOWS:

-NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8, BEING A FOUND 2" ALUMINUM CAP IN RANGE BOX, PLS 1802, PER MON. REC. DATED 5/29/14.

-SOUTH 1/4 CORNER OF SECTION 8, BEING A FOUND 3.25" BRASS CAP IN RANGE BOX, PLS 16406, PER MON. REC. DATED 5/29/14.

COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 8;

THENCE N 21°19'18" E A DISTANCE OF 603.89 FEET TO THE **POINT OF BEGINNING**;

THENCE N 00°04'02" E A DISTANCE OF 54.00 FEET;

THENCE S 89°55'58" E A DISTANCE OF 20.00 FEET;

THENCE S 00°04'02" W A DISTANCE OF 54.00 FEET;

THENCE N 89°55'58" W A DISTANCE OF 20.00 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL CONTAINS AN AREA OF 1080 SQUARE FEET, OR 0.0248 ACRES MORE OR LESS.

I, CHRISTOPHER H. McELVAIN, A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

CHRISTOPHER H. McELVAIN, P.L.S. NO. 36561
FOR AND ON BEHALF OF KT ENGINEERING LLC

LAND DESCRIPTION:

SHEET 1 OF 3

DISTRICT INCLUSION AREA 1 6/20/19

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8 BEING N 00°01'05" E AND MONUMENTED AS FOLLOWS:

-NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8, BEING A FOUND 2" ALUMINUM CAP IN RANGE BOX, PLS 1802, PER MON. REC. DATED 5/29/14.

-SOUTH 1/4 CORNER OF SECTION 8, BEING A FOUND 3.25" BRASS CAP IN RANGE BOX, PLS 16406, PER MON. REC. DATED 5/29/14.

COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 8;

THENCE N 89°14'06" E ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8 A DISTANCE OF 35.00 FEET TO THE SOUTHEAST CORNER OF A CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 94105346;

THENCE N 00°01'05" E ALONG THE EASTERLY LINE OF SAID CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314 A DISTANCE OF 173.32 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND RECORDED AT RECEPTION NUMBER 94105346 AND THE **POINT OF BEGINNING;**

THENCE N 00°01'05" E CONTINUING ALONG SAID EASTERLY LINE OF THAT CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314 A DISTANCE OF 187.28 FEET;

THENCE N 02°51'21" E CONTINUING ALONG SAID EASTERLY LINE OF THAT CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314 A DISTANCE OF 171.90 FEET;

THENCE S 89°55'58" E A DISTANCE OF 412.86 FEET;

THENCE N 00°04'02" E A DISTANCE OF 74.44 FEET;

THENCE S 89°55'58" E A DISTANCE OF 176.00 FEET;

THENCE S 00°04'02" W A DISTANCE OF 74.44 FEET;

THENCE S 89°55'58" E A DISTANCE OF 157.00 FEET;

THENCE N 00°04'02" E A DISTANCE OF 170.44 FEET;

THENCE S 89°55'58" E A DISTANCE OF 111.00 FEET;

THENCE N 00°04'02" E A DISTANCE OF 111.01 FEET;

THENCE S 89°55'58" E A DISTANCE OF 93.30 FEET TO A POINT ON THE WEST LINE OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 8;

THENCE S 00°05'31" W ALONG SAID WEST LINE A DISTANCE OF 137.77 FEET TO A POINT ON THE SOUTH LINE OF SAID EAST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8;

LAND DESCRIPTION:

SHEET 2 OF 3

DISTRICT INCLUSION AREA 1 6/20/19

THENCE N 89°17'37" E ALONG SAID SOUTH LINE A DISTANCE OF 6.38 FEET;

THENCE ALONG THE WESTERLY AND NORTHERLY LINES OF THAT PARCEL OF LAND KNOWN AS PARCEL A - PARCEL II RECORDED AT RECEPTION NUMBER 2016004042 THE FOLLOWING THREE (3) COURSES:

1) N 00°04'02" E A DISTANCE OF 95.00 FEET;

2) N 89°17'37" E A DISTANCE OF 325.03 FEET TO A POINT TO A POINT ON THE WESTERLY BOUNDARY OF TIMBERLINE FARMS, A SUBDIVISION RECORDED AT RECEPTION NO. 2017039328;

THENCE S 00°04'09" W ALONG SAID WESTERLY LINE A DISTANCE OF 244.55 FEET TO THE NORTHEAST CORNER OF SAID PARCEL OF LAND RECORDED AT RECEPTION NUMBER 94105346;

THENCE S 89°17'26" W ALONG THE NORTHERLY LINE OF SAID PARCEL OF LAND RECORDED AT RECEPTION NUMBER 94105346 A DISTANCE OF 289.76 FEET;

THENCE ALONG A **CURVE TO THE RIGHT** HAVING A CHORD OF S 77°21'59" W 148.63 FEET, A RADIUS OF 338.00 FEET, AN ARC OF 149.84 FEET, AND A DELTA OF 25°24'07";

THENCE N 89°55'58" W A DISTANCE OF 136.84 FEET TO A POINT ON SAID NORTHERLY LINE OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 94105346;

THENCE ALONG SAID NORTHERLY LINE OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 94105346 THE FOLLOWING SIX (6) COURSES:

1) S 02°53'54" W A DISTANCE OF 265.19 FEET;

2) S 89°12'02" W A DISTANCE OF 152.02 FEET;

3) S 29°32'02" W A DISTANCE OF 182.89 FEET;

4) N 89°45'03" W A DISTANCE OF 172.12 FEET;

5) N 77°54'07" W A DISTANCE OF 212.86 FEET;

6) N 53°45'25" W A DISTANCE OF 102.51 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL CONTAINS AN AREA OF 434,059 SQUARE FEET, OR 9.9646 ACRES MORE OR LESS.

I, CHRISTOPHER H. McELVAIN, A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

CHRISTOPHER H. McELVAIN, P.L.S. NO. 36561
FOR AND ON BEHALF OF KT ENGINEERING LLC

LAND DESCRIPTION:

INCLUSION AREA NO. 2 8/30/18

SHEET 1 OF 3

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE WEST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8 BEING N 00°01'05" E AND MONUMENTED AS FOLLOWS:

-NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8, BEING A FOUND 2" ALUMINUM CAP IN RANGE BOX, PLS 1802, PER MON. REC. DATED 5-29-14.

-SOUTH 1/4 CORNER OF SECTION 8, BEING A FOUND 3.25" BRASS CAP IN RANGE BOX, PLS 16406, PER MON. REC. DATED 5-29-14.

COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 8;

THENCE N 89°14'06" E ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8 A DISTANCE OF 35.00 FEET TO THE SOUTHEAST CORNER OF A CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 94105346;

THENCE N 00°01'05" E ALONG THE EASTERLY LINE OF SAID CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314 A DISTANCE OF 173.32 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND RECORDED AT RECEPTION NUMBER 94105346;

THENCE N 00°01'05" E CONTINUING ALONG SAID EASTERLY LINE OF THAT CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314 A DISTANCE OF 187.28 FEET;

THENCE N 02°51'21" E CONTINUING ALONG SAID EASTERLY LINE OF THAT CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2276 AT PAGE 314 A DISTANCE OF 303.00 FEET TO THE SOUTHWEST CORNER OF THAT CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2372 AT PAGE 108;

THENCE N 89°17'37" E ALONG THE SOUTHERLY LINE OF SAID CDOT ROW PARCEL OF LAND RECORDED AT BOOK 2372 AT PAGE 108 AND THE SOUTHERLY LINE OF PARK LANE CENTER, A SUBDIVISION RECORDED AT RECEPTION NUMBER 80043702 A DISTANCE OF 281.27 FEET TO THE SOUTHEAST CORNER OF SAID PARK LANE CENTER;

THENCE N 00°02'34" E ALONG THE EASTERLY LINE OF SAID PARK LANE CENTER AND THE EASTERLY LINE OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER F2064032 AND THE EXTENSION THEREOF A DISTANCE OF 622.74 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 78088757;

THENCE N 89°21'08" E ALONG THE SOUTHERLY LINE OF SAID PARCEL OF LAND RECORDED AT RECEPTION NUMBER 78088757 AND THE SOUTHERLY LINE OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 78060938 A DISTANCE OF 497.30 FEET;

THENCE S 85°56'12" E CONTINUING ALONG SAID SOUTHERLY LINE OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 78060938 A DISTANCE OF 146.10 FEET TO THE NORTHWEST CORNER OF THAT PARCEL OF LAND RECORDED AT BOOK 1759 AT PAGE 401;

THENCE ALONG THE WESTERLY AND SOUTHERLY LINES OF SAID PARCEL OF LAND RECORDED AT BOOK 1759 AT PAGE 401 THE FOLLOWING TWO (2) COURSES:

1) S 00°05'31" W A DISTANCE OF 378.03 FEET;

LAND DESCRIPTION:

INCLUSION AREA NO. 2 8/30/18

SHEET 2 OF 3

2) N 89°21'08" E A DISTANCE OF 20.00 FEET TO A POINT ON THE WEST LINE OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 8;

THENCE S 00°05'31" W ALONG SAID WEST LINE A DISTANCE OF 232.03 FEET TO A POINT ON THE SOUTH LINE OF SAID EAST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 8;

THENCE N 89°17'37" E ALONG SAID SOUTH LINE A DISTANCE OF 6.38 FEET;

THENCE ALONG THE WESTERLY AND NORTHERLY LINES OF THAT PARCEL OF LAND KNOWN AS PARCEL A - PARCEL II RECORDED AT RECEPTION NUMBER 2016004042 THE FOLLOWING TWO (2) COURSES:

1) N 00°04'02" E A DISTANCE OF 95.00 FEET;

2) N 89°17'37" E A DISTANCE OF 206.62 FEET TO THE **POINT OF BEGINNING**;

3) N 00°04'02" E CONTINUING ALONG SAID WESTERLY LINE OF THAT PARCEL OF LAND KNOWN AS PARCEL A - PARCEL II RECORDED AT RECEPTION NUMBER 2016004042 A DISTANCE OF 342.69 FEET TO A POINT ON THE WESTERLY LINE OF THAT PARCEL OF LAND KNOWN AS PARCEL A - PARCEL I RECORDED AT RECEPTION NUMBER 2016004042;

THENCE ALONG THE WESTERLY LINE OF SAID PARCEL OF LAND KNOWN AS PARCEL A - PARCEL I RECORDED AT RECEPTION NUMBER 2016004042 THE FOLLOWING TWO (2) COURSES;

1) N 37°31'58" W A DISTANCE OF 126.02 FEET;

2) N 00°04'02" E A DISTANCE OF 53.34 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 83035017;

THENCE N 89°21'08" E ALONG THE SOUTHERLY LINE OF SAID PARCEL OF LAND RECORDED AT RECEPTION NUMBER 83035017 DISTANCE OF 503.41 FEET TO THE NORTHWEST CORNER OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER 92076295;

THENCE ALONG THE WESTERLY AND SOUTHERLY LINE OF SAID PARCEL OF LAND RECORDED AT RECEPTION NUMBER 92076295 THE FOLLOWING TWO (2) COURSES:

1) S 00°13'10" W A DISTANCE OF 274.45 FEET;

2) N 89°31'51" E A DISTANCE OF 29.80 FEET TO THE NORTHWEST CORNER OF THAT PARCEL OF LAND RECORDED AT RECEPTION NUMBER F0198998;

THENCE ALONG THE WESTERLY LINE OF SAID PARCEL OF LAND RECORDED AT RECEPTION NUMBER F0198998 THE FOLLOWING TWO (2) COURSES:

1) S 00°11'02" W A DISTANCE OF 19.62 FEET;

2) S 36°19'28" W A DISTANCE OF 164.99 FEET TO A POINT ON THE NORTHERLY LINE OF TIMBERLINE FARMS, A SUBDIVISION RECORDED AT RECEPTION NO. 2017039328;

LAND DESCRIPTION:

INCLUSION AREA NO. 2 8/30/18

SHEET 3 OF 3

THENCE ALONG THE NORTHERLY AND WESTERLY LINE OF SAID TIMBERLINE FARMS THE FOLLOWING TWO (2) COURSES:

1) S 89°21'40" W A DISTANCE OF 239.55 FEET;

2) S 00°04'09" W A DISTANCE OF 70.79 FEET;

THENCE S 89°17'37" W A DISTANCE OF 118.41 TO THE **POINT OF BEGINNING.**

THE ABOVE DESCRIBED PARCEL CONTAINS AN AREA OF 195,892 SQUARE FEET, OR 4.4971 ACRES MORE OR LESS.

I, CHRISTOPHER H. McELVAIN, A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

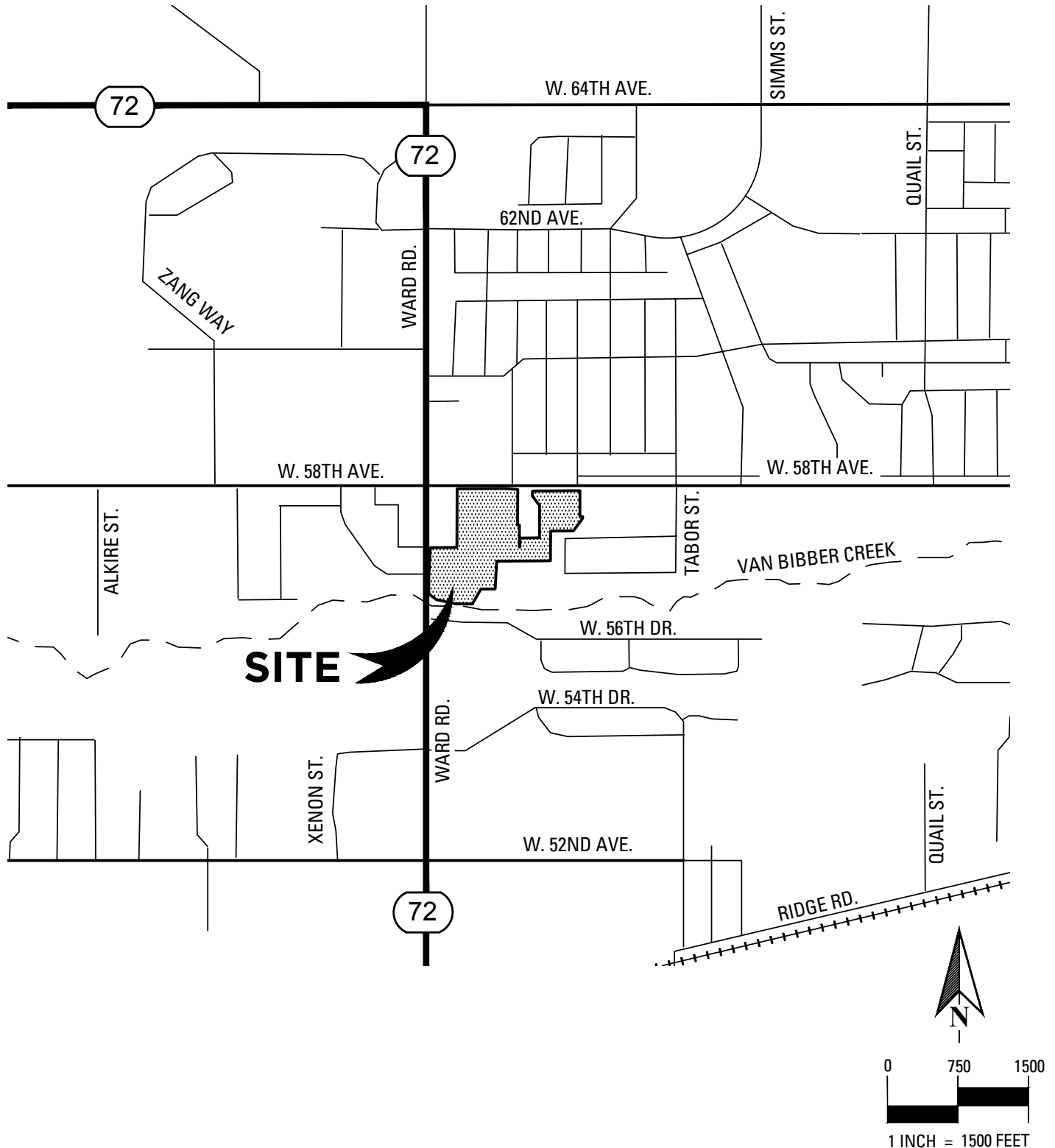
CHRISTOPHER H. McELVAIN, P.L.S. NO. 36561
FOR AND ON BEHALF OF KT ENGINEERING LLC

EXHIBIT B

Arvada Vicinity Map

EXHIBIT B

SABELL METROPOLITAN DISTRICT



TITLE:
SABELL METROPOLITAN DISTRICT - VICINITY MAP

LOCATION:
A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE: 1"=1500'	DATE: 05-26-17	PROJECT NO: 0009-1615	AREA:	PATH: J:\0009\1615\SURVEY\EXHIBITS\DISTRICT BOUNDARIES\SABELL_DISTRICT_VICINITY_MAP.DWG
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KT ENGINEERING

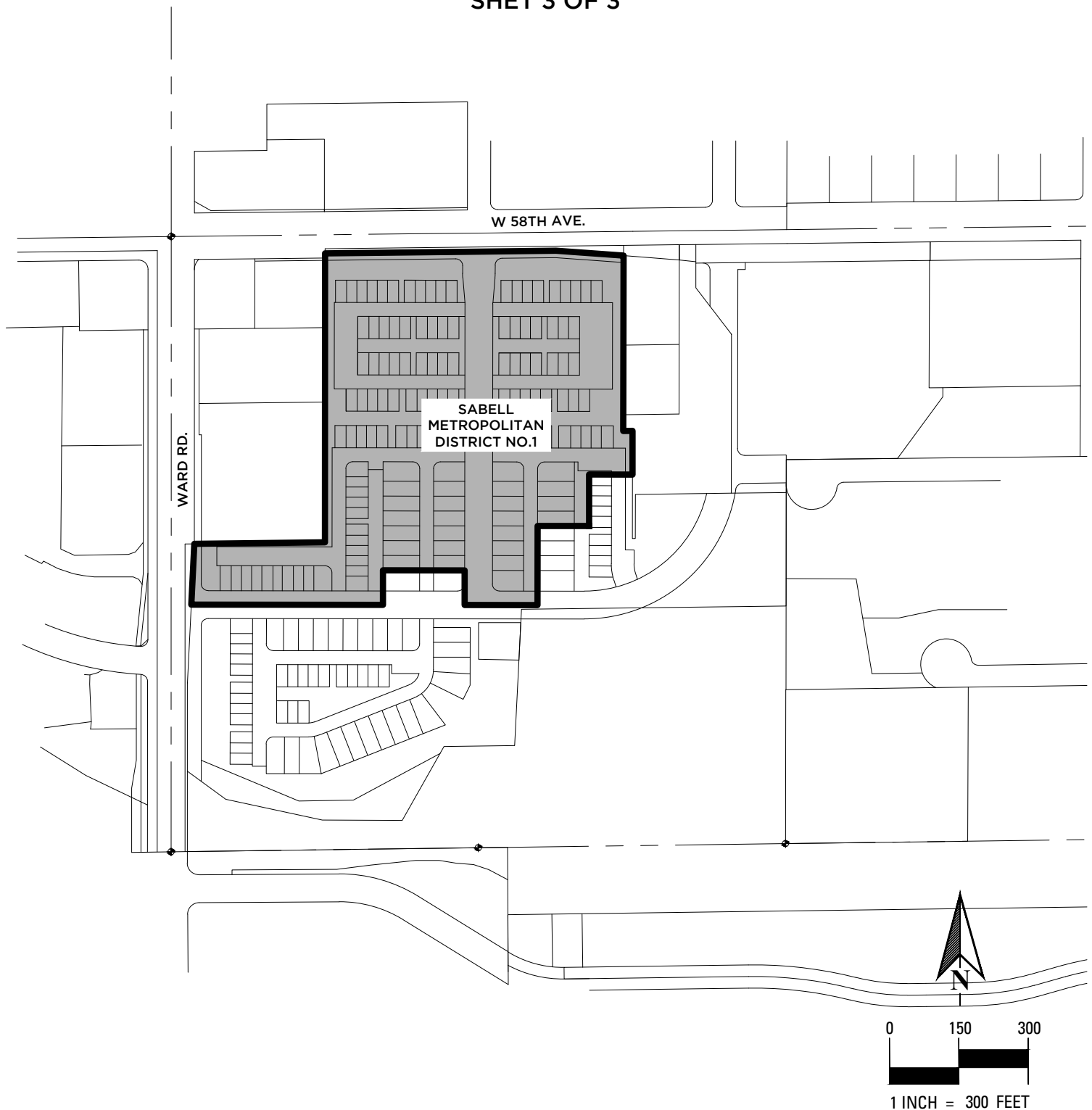
12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

EXHIBIT C-1

Districts Boundary Map

SABELL METROPOLITAN DISTRICT NO. 1

SHEET 3 OF 3



KT ENGINEERING

12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

TITLE:

SABELL METROPOLITAN DISTRICT NO. 1

LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:

1"=300'

DATE:

06-20-19

PROJECT NO:

0009-1615

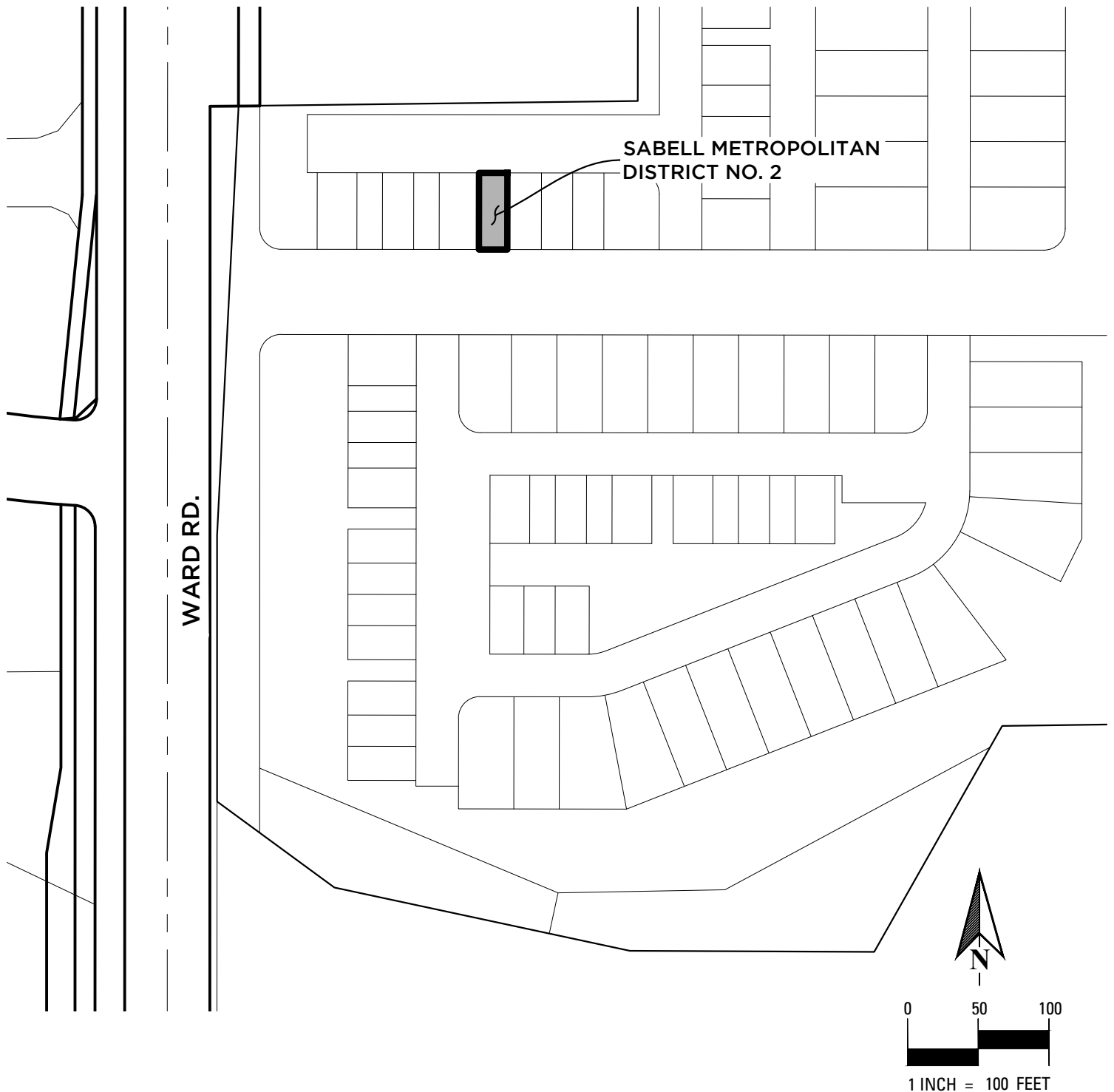
AREA:

10.92 AC

PATH:

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BOUNDARIES\SABELL_DISTRICT_NO_1_EXHIBIT.DWG

SABELL METROPOLITAN DISTRICT NO. 2



KT ENGINEERING

12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

TITLE:

SABELL METROPOLITAN DISTRICT NO. 2

LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:

1"=100'

DATE:

08-08-18

PROJECT NO:

0009-1615

AREA:

1,080 SF

PATH:

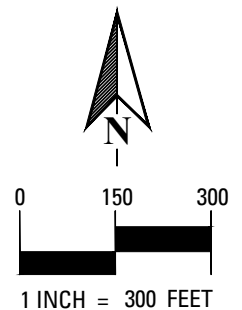
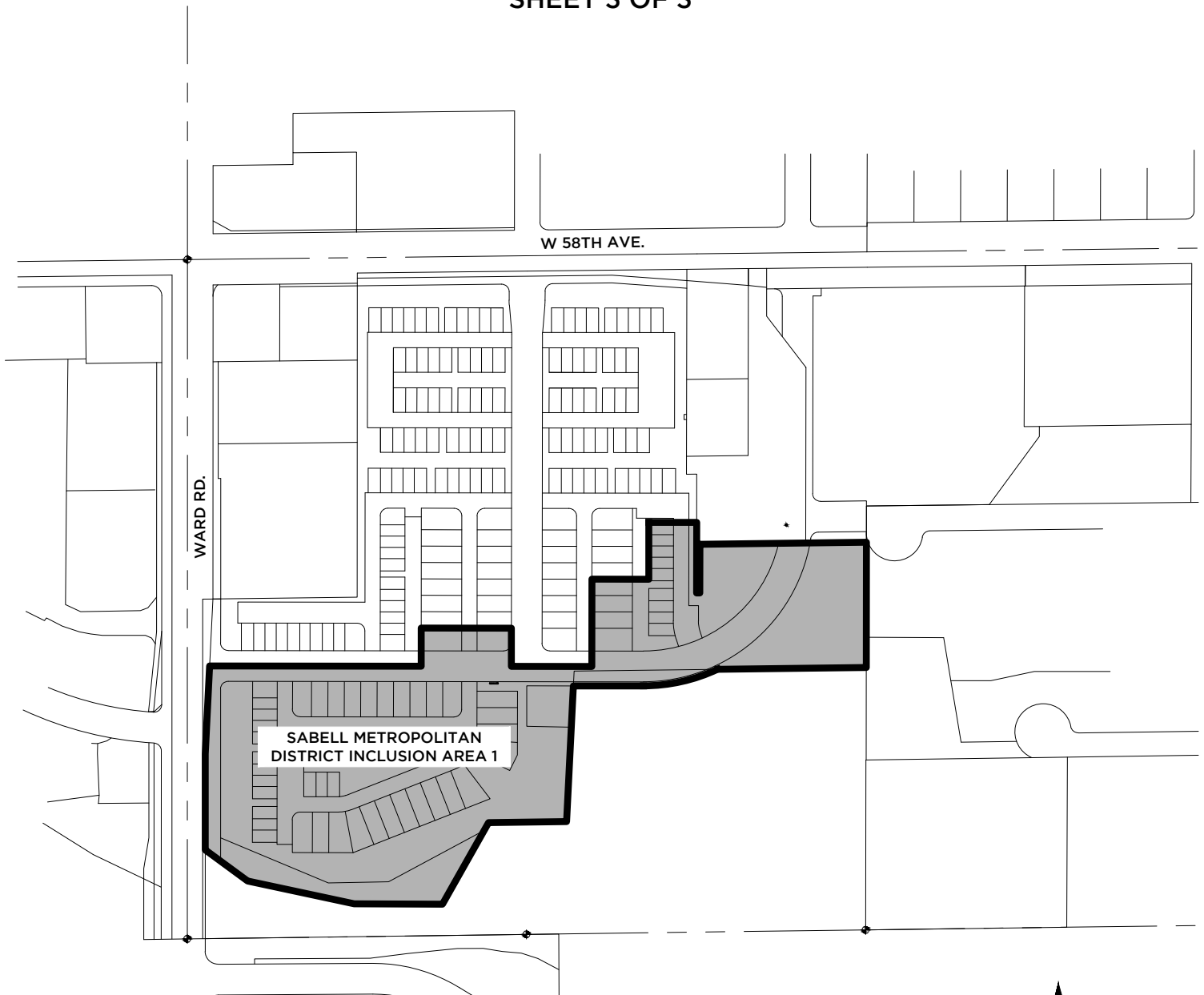
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BOUNDARIES\SABELL_DISTRICT-CONTROL PARCEL.DWG

EXHIBIT C-2

Inclusion Area Boundary Map

SABELL METROPOLITAN DISTRICT

SHEET 3 OF 3



KT ENGINEERING

12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

TITLE:

SABELL METROPOLITAN DISTRICT - INCLUSION AREA 1

LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:

1"=300'

DATE:

06-20-19

PROJECT NO:

0009-1615

AREA:

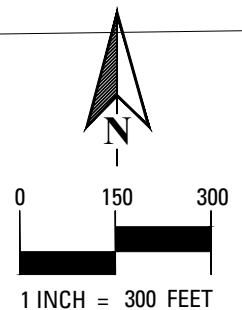
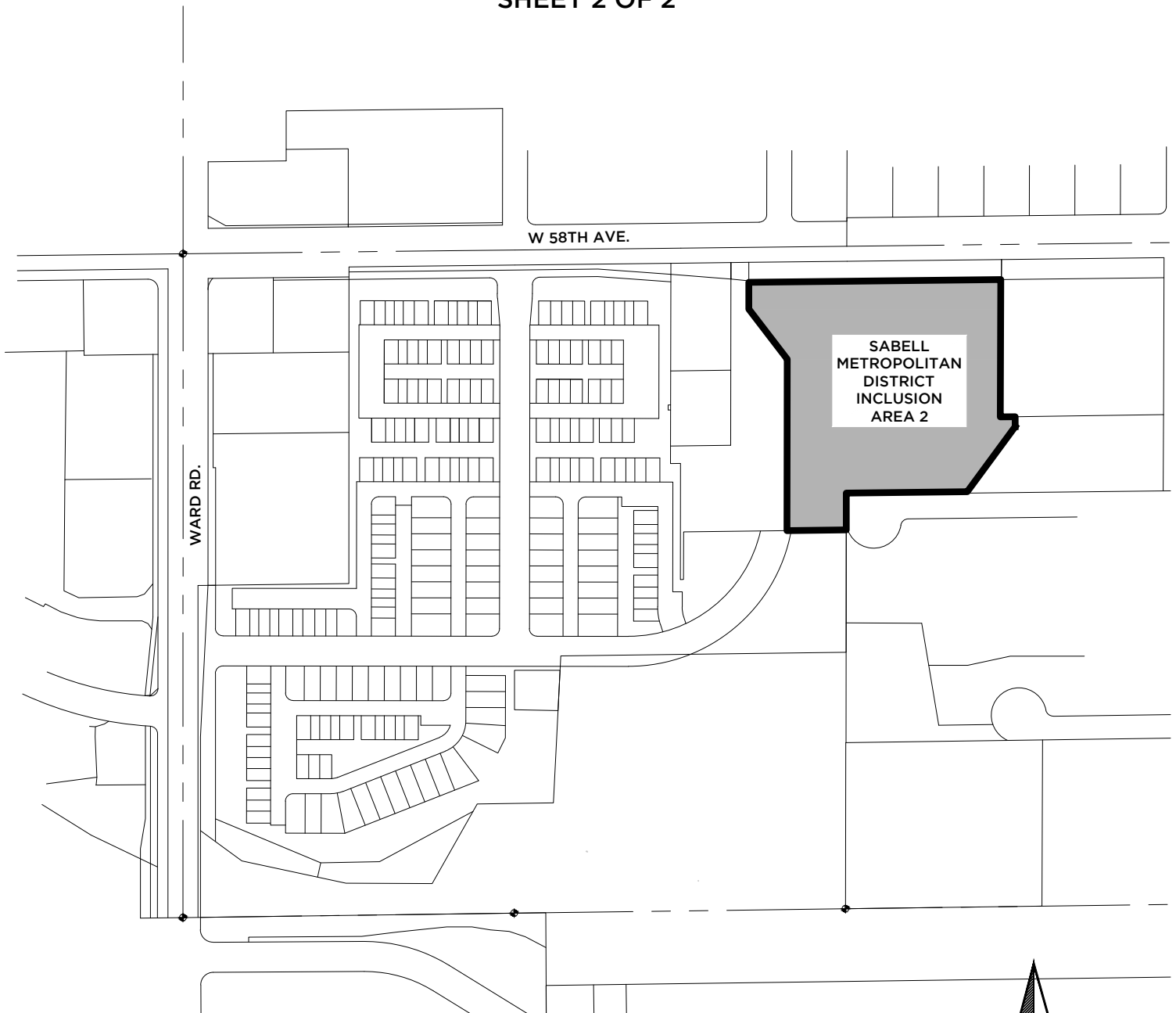
9.96 AC

PATH:

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BOUNDARIES\SABELL_DISTRICT-INCLUSION-AREA 1.DWG

SABELL METROPOLITAN DISTRICT

SHEET 2 OF 2



KT ENGINEERING

12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

TITLE:

SABELL METROPOLITAN DISTRICT - INCLUSION AREA 2

LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:

1"=300'

DATE:

08-29-18

PROJECT NO:

0009-1615

AREA:

4.48 AC

PATH:

J:\0009\1615\SURVEY\EXHIBITS\DISTRICT
BOUNDARIES\SABELL_DISTRICT-INCLUSION-AREA 2.DWG

EXHIBIT D

Intergovernmental Agreement between the District and Arvada

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF ARVADA, COLORADO
AND SABELL METROPOLITAN DISTRICT NOS. 1 & 2**

THIS AGREEMENT is made and entered into as of the ____ day of _____, 2018, by and between the CITY OF ARVADA, a home-rule municipal corporation of the State of Colorado ("City") and SABELL METROPOLITAN DISTRICT NOS. 1 & 2, quasi-municipal corporations and political subdivisions of the State of Colorado (collectively, the "Districts"). The City and the District are collectively referred to as the "Parties."

RECITALS

WHEREAS, the Districts were organized to provide those services and to exercise powers more specifically set forth in the Districts' Service Plan approved by the City on _____, 2018 ("Service Plan"); and

WHEREAS, the Service Plan makes reference to the execution of an intergovernmental agreement between the City and the Districts, as required by the Arvada City Code; and

WHEREAS, the City and the Districts have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this intergovernmental agreement ("Agreement").

NOW THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

1. Operations and Maintenance. The Districts shall dedicate the Public Improvements, as defined in the Service Plan, to the City or other appropriate jurisdiction or owners association in a manner consistent with the approved development plans and other rules and regulations of the City and applicable provisions of the City Code. The Districts shall be authorized to operate and maintain any part or all of the Public Improvements which are not dedicated to the City or other appropriate jurisdiction, including park and recreation improvements, without the consent of the City, in accordance with the approved development plans.

2. Fire Protection. The Districts shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services without a modification of this Agreement by the Parties. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.

3. Television Relay and Translation. The Districts shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services without a modification of this Agreement by the Parties, except for the installation of conduit as a part of a street construction project.

4. Telecommunication Facilities. The Districts agree that no telecommunication facilities owned, operated or otherwise allowed by the District shall affect the ability of the City to expand its public safety telecommunication facilities or impair existing telecommunication facilities.

5. Construction Standards Limitation. The Districts will use reasonable efforts to insure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The Districts will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

6. Zoning and Land Use Requirements. The Districts agree that their activities shall be subject to all of the City's applicable zoning, subdivision, building code and other land use requirements.

7. Issuance of Privately Placed Debt. Prior to the issuance of any privately placed Debt, the issuing District shall obtain the certification of an External Financial Advisor substantially as follows:

We are [I am] an External Financial Advisor within the meaning of the District's Service Plan.

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

8. Overlap Limitation. The Districts shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the Districts unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the Districts.

9. Initial Debt. On or before the effective date of approval by the City of an Approved Conceptual Site Plan and approval and execution of this Agreement, the Districts shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any Fees used for the purpose of repayment of Debt.

10. Total Debt Issuance. The Districts shall not issue Debt in excess of Thirty Million Dollars (\$30,000,000).

11. Bond Counsel Opinion. Prior to the issuance of any bond issue, the issuing District shall provide a copy of an opinion of a bond counsel acceptable to the City stating that the bond

issue satisfies Chapter 91 of the City Code of the City of Arvada, the approved service plan for the Districts, and the requirements of state law.

12. Fee Limitation. The Districts may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to repayment of debt shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said Taxable Property. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the Districts.

13. Public Improvement Fee Limitation. The Districts shall not impose, collect, receive, spend or pledge to any Debt any fee, assessment, tax or charge which is collected by a retailer in the Districts on the sale of goods or services by such retailer and which is measured by the sales price of such goods or services, without a modification of this Agreement by the Parties.

14. Sales and Use Tax. The Districts shall not exercise their City sales and use tax exemption.

15. Monies from Other Governmental Sources. The Districts agree not to apply for or accept Conservation Trust Funds, Great Outdoors Colorado Trust Funds, or other funds available from or through governmental or non-profit entities that the City is eligible to apply for without administrative approval from the City. This Section shall not apply to specific ownership taxes which shall be distributed to and a revenue source for the Districts without any limitation.

16. Consolidation. The Districts shall not file a request with any Court to consolidate with another Title 32 district without prior written approval of the City Council as evidenced by a resolution after a public hearing thereon.

17. Bankruptcy. All of the limitations contained in the Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve a Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

(b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approved necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943 (b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of the Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the

City as part of a Service Plan amendment. The City shall be entitled to all remedies available at law to enjoin such actions of the Districts.

18. Dissolution. Upon an independent determination of the City Council that the purposes for which a Districts were created have been accomplished, the Districts agree to file petitions in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall dissolution occur until (i) the Districts have provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes, and (ii) the Districts have provided for the operation and maintenance of all Public Improvements owned or operated by the Districts.

19. Disclosure. The Districts will use reasonable efforts to assure that all developers of property located within the Districts provide written notice to all initial purchasers of property within the Districts that discloses the Maximum Debt Mill Levy, as well as a general description of the Districts' authority to impose and collect rates, fees, toll, and charges or other revenues (the "Disclosure Information"). The Districts shall file the form of notice with the City Manager and Community Development director prior to the initial issuance of debt by the District imposing the mill levy that is subject to the Maximum Debt Mill Levy, and shall record the notice of disclosure with Jefferson County at the time the subdivision plat is recorded, or provide the City with a copy of the recorded notice of disclosure if the subdivision plat has already been filed.

The Districts will use reasonable efforts to assure that the Disclosure Information, at least equal in size and font to all other pertinent information, is displayed at all sales offices.

20. Service Plan Amendment Requirement. Actions of the Districts which violates the limitations set forth in V.A.1-20 or VI.B-G of the Service Plan shall be deemed to be material modifications to the Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the Districts.

21. Maximum Debt Mill Levy. The "Maximum Debt Mill Levy" shall be the maximum mill levy the Districts are permitted to impose upon the Taxable Property within the Districts for payment of Debt, and shall be determined as follows:

(a) If the total amount of aggregate District Debt exceeds fifty percent (50%) of the District's assessed valuation, the Maximum Debt Mill Levy shall be fifty (50) mills; provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2017, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

(b) If the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the

Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

(c) For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 of the Service Plan, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the Districts are composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "Districts" as used herein shall be deemed to refer to the Districts and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

22. Maximum Debt Mill Levy Imposition Term. The Districts shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed which exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board of Directors of the District are residents of the District and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings as set forth in Section 11-56-101, C.R.S.; et seq.

23. Regionally Significant Improvements. The Districts agrees to fund up to \$1,174,786.80 ("**Regional Contribution**"), towards regionally significant improvements located at 52nd Avenue and Ward Road ("**Regional Improvements**"). The Regional Contribution shall be paid from bond proceeds and shall be due to the City when the Districts issue Debt. The City agrees that it shall use the Regional Contribution to fund Regional Improvements that shall be owned, operated and maintained by a public entity, as more fully set forth in a separate intergovernmental agreement to be entered into between the Parties.

24. Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District:	Sabell Metropolitan District Nos. 1 & 2 White Bear Ankele Tanaka & Waldron, Attorneys at Law 2154 E. Commons Ave, Suite 2000 Centennial, Colorado 80122 Attn: Kristin Bowers Tompkins, Esq. Phone: (303) 858-1800 Fax: (303) 858-1801
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To the City:	City of Arvada 8101 Ralston Road P.O. Box 8101
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Arvada, CO 80001-8101
Attn: Christopher K. Daly, Esq.
Phone: (720) 898-7180
Fax: (720) 898-7175

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

25. Amendment. This Agreement may be amended, modified, changed or terminated in whole or in part by a written agreement duly authorized and executed by the Parties hereto and without amendment to the Service Plan.

26. Assignment. Neither Party hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without having first obtained the prior written consent of the other Party, which consent will not be unreasonably withheld. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

27. Default/Remedies. Upon the occurrence of any event of breach or default by either party, the non-defaulting party shall provide written notice to the other party. The defaulting party shall immediately proceed to cure or remedy such breach or default, and in any event, such breach or default shall be cured within 15 days after receipt of the notice. Following the cure period in the event of a breach or default of this Agreement by either Party, the non-defaulting Party shall be entitled to exercise all remedies available by law or in equity, specifically including suits for specific performance and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.

28. Governing Law. This agreement shall be governed and construed under the laws of the State of Colorado.

29. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

30. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Districts and the City any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions and provisions in this Agreement by and on behalf of the Districts and the City shall be for the sole and exclusive benefit of the Districts and the City.

31. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provisions contained herein,

the intention being that such provisions are severable.

32. Annual Report. The Districts shall submit an annual report to the City in every year following the year in which the Order and Decree creating the Districts has been issued until the year following the dissolution of the Districts. Such annual report shall be submitted no later than August 1 of each year and shall include information as provided by City Code.

33. No Liability of City. The City has no obligation whatsoever to construct any improvements that the Districts are required to construct, or pay any debt or liability of the Districts including any bonds.

34. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

35. Defined Terms. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Service Plan.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

SABELL METROPOLITAN DISTRICT NOS. 1 &
2, a quasi-municipal corporation and political
subdivision of the State of Colorado

By: _____
President

ATTEST:

By: _____

Its: _____

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the Districts

CITY OF ARVADA

Name: _____

Title: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT E

Cost Estimates – Public Improvements

ITEM	(All)
DESCRIPTION	(Multiple Items)

Values						
	TOTAL COST	MOBILIZATION	CONTINGENCY (10%)	WARRANTY / PERMITS (5%)	STAKEOUT / MATERIAL / TESTING (9%)	TOTAL
COMBINED						
EARTHWORK	1,328,113	5,000	132,811	66,406	159,374	1,691,703
SANITARY	1,166,688	10,000	116,669	58,334	105,002	1,456,694
STORM	1,391,485	10,000	139,149	69,574	125,234	1,735,442
WATER	952,075	10,000	95,207	47,604	85,687	1,190,573
CONCRETE	1,259,550	17,000	125,955	62,978	113,360	1,578,842
PAVING	1,151,079	9,000	115,108	57,554	103,597	1,436,338
LANDSCAPING	898,666	10,000	89,867	44,933	107,840	1,151,305
DEMOLITION	412,500	5,000				417,500
EROSION CONTROL	579,061					579,061
MANAGEMENT FEE	290,766					290,766
Grand Total	9,429,982	76,000	814,766	407,383	800,092	11,528,223

ITEM		COST	MOBILIZATION	CONTINGENCY (10%)	STAKEOUT / MATERIAL / TESTING (12%)	WARRANTY / PERMITS (5%)	TOTAL
A	EARTHWORK	1,328,113	5,000	132,811	66,406	159,374	1,691,703
B	SANITARY	1,166,688	10,000	116,669	58,334	105,002	1,456,694
C	STORM	1,391,485	10,000	139,149	69,574	125,234	1,735,442
D	WATER	952,075	10,000	95,207	47,604	85,687	1,190,573
E	CONCRETE	1,259,550	17,000	125,955	62,978	113,360	1,578,842
F	PAVING	1,151,079	9,000	115,108	57,554	103,597	1,436,338
G	LANDSCAPING	898,666	10,000	89,867	44,933	107,840	1,151,305
H	DEMOLITION	412,500	5,000	-	-	-	417,500
I	EROSION CONTROL	579,061	-	-	-	-	579,061
J	MANAGEMENT FEE	290,766	-	-	-	-	290,766

\$11,528,223

COMBINED ITEM	SANITARY (Multiple Items)
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		Values		
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
4' Diameter Manhole (0-10')	EA	35	11,578	202,606
4" PVC Service (30' Avg.)	EA	209	3,066	320,423
4" Underdrain Service	EA	209	1,032	107,852
6" Perf PVC UD SDR - 35 in sock (Same Trench)	LF	6,092	44	134,024
8" PVC (0-10' Depth) w/ Squeege	LF	6,092	110	335,060
Testing	LF	6,092	8	25,130
Tie to existing	EA	2	5,500	5,500
Underdrain Cleanout (2 per MH)	EA	70	1,031	36,094
Grand Total		18,801	22,369	1,166,688

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	4' Diameter Manhole (0-10')	EA	\$35	\$11,578	\$202,606
B	4" PVC Service (30' Avg.)	EA	\$209	\$3,066	\$320,423
C	4" Underdrain Service	EA	\$209	\$1,032	\$107,852
D	6" Perf PVC UD SDR - 35 in sock (Same Trench)	LF	\$6,092	\$44	\$134,024
E	8" PVC (0-10' Depth) w/ Squeege	LF	\$6,092	\$110	\$335,060
F	Testing	LF	\$6,092	\$8	\$25,130
G	Tie to existing	EA	\$2	\$5,500	\$5,500
H	Underdrain Cleanout (2 per MH)	EA	\$70	\$1,031	\$36,094
					\$1,166,688

COMBINED ITEM	STORM (All)
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Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
10' Type R Inlet	EA	10	47,500	237,500
15' Type R Inlet	EA	1	27,313	27,313
18" RCP CL III TG/ C-443 0-8' w/squeegee	LF	1,173	257	150,437
24" FES	EA	2	3,563	7,125
24" RCP CL III TG/ C-443 0-8' w/squeegee	LF	672	342	114,912
30" RCP CL III TG/ C-443 0-8' w/squeegee	LF	974	202	196,626
36" FES	EA	1	4,750	4,750
36" RCP CL III TG/ C-443 0-8' w/squeegee	LF	288	249	71,820
48" FES	EA	1	10,688	10,688
48" RCP CL III TG/ C-443 0-8' w/squeegee	LF	131	356	46,669
5' Diameter MH (0-8) w/24" Cover	EA	19	27,075	257,213
6' Diameter MH (0-8) w/24" Cover	EA	1	20,188	20,188
Type C Inlet	EA	6	21,375	64,125
Type D Inlet	EA	4	10,688	42,750
Type D Inlet Outlet Structure	EA	2	118,750	118,750
Type L Riprap (Emergency Overflow)	CY	36	546	9,833
Type M Riprap	CY	40	546	10,788
Grand Total		3,361	294,386	1,391,485

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	10' Type R Inlet	EA	\$10	\$47,500	\$237,500
B	15' Type R Inlet	EA	\$1	\$27,313	\$27,313
C	18" RCP CL III TG/ C-443 0-8' w/squeegee	LF	\$1,173	\$257	\$150,437
D	24" FES	EA	\$2	\$3,563	\$7,125
E	24" RCP CL III TG/ C-443 0-8' w/squeegee	LF	\$672	\$342	\$114,912
F	30" RCP CL III TG/ C-443 0-8' w/squeegee	LF	\$974	\$202	\$196,626
G	36" FES	EA	\$1	\$4,750	\$4,750
H	36" RCP CL III TG/ C-443 0-8' w/squeegee	LF	\$288	\$249	\$71,820
I	48" FES	EA	\$1	\$10,688	\$10,688
J	48" RCP CL III TG/ C-443 0-8' w/squeegee	LF	\$131	\$356	\$46,669
K	5' Diameter MH (0-8) w/24" Cover	EA	\$19	\$27,075	\$257,213
L	6' Diameter MH (0-8) w/24" Cover	EA	\$1	\$20,188	\$20,188
M	Type C Inlet	EA	\$6	\$21,375	\$64,125
N	Type D Inlet	EA	\$4	\$10,688	\$42,750
O	Type D Inlet Outlet Structure	EA	\$2	\$118,750	\$118,750
P	Type L Riprap (Emergency Overflow)	CY	\$36	\$546	\$9,833
Q	Type M Riprap	CY	\$40	\$546	\$10,788

\$1,391,485

COMBINED ITEM	WATER (All)
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Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
3/4" Water Service	EA	153	2,200	336,600
8" MJ Bends 11.25 w/ Restraints	EA	9	1,169	5,259
8" MJ Bends 22.5 w/ Restraints	EA	3	1,169	1,753
8" MJ Bends 45 w/ Restraints	EA	14	584	8,181
8" MJ Epoxy Coated Tee w/ Restraints	EA	9	825	7,425
8" MJ Gate Valve W/Box & Restraints	EA	28	4,331	60,638
8" PVC C-150 w/Bedding & 12ga Tracer wire	LF	6,049	88	266,156
8" Wet Tap	EA	2	6,875	13,750
8" x 6" Swivel Tee w/ Restraints	EA	12	2,200	13,200
CI,Clear Water & Pressure Test	EA	2	6,188	6,188
FH Assy, 5 1/2' Bury	EA	12	18,288	109,725
Water Services	EA	56	2,200	123,200
Grand Total		6,349	46,116	952,075

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	3/4" Water Service	EA	\$153	\$2,200	\$336,600
B	8" MJ Bends 11.25 w/ Restraints	EA	\$9	\$1,169	\$5,259
C	8" MJ Bends 22.5 w/ Restraints	EA	\$3	\$1,169	\$1,753
D	8" MJ Bends 45 w/ Restraints	EA	\$14	\$584	\$8,181
E	8" MJ Epoxy Coated Tee w/ Restraints	EA	\$9	\$825	\$7,425
F	8" MJ Gate Valve W/Box & Restraints	EA	\$28	\$4,331	\$60,638
G	8" PVC C-150 w/Bedding & 12ga Tracer wire	LF	\$6,049	\$88	\$266,156
H	8" Wet Tap	EA	\$2	\$6,875	\$13,750
I	8" x 6" Swivel Tee w/ Restraints	EA	\$12	\$2,200	\$13,200
J	CI,Clear Water & Pressure Test	EA	\$2	\$6,188	\$6,188
K	FH Assy, 5 1/2' Bury	EA	\$12	\$18,288	\$109,725
L	Water Services	EA	\$56	\$2,200	\$123,200

\$952,075

COMBINED ITEM	CONCRETE (All)
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Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
3' Concrete Pan	SF	1,089	30	16,199
6" Concrete Parking Areas	SF	13,688	16	107,793
6" Thick Sidewalk	SF	23,504	8	185,094
8" Thick Crosspan (500 SF EA)	SF	8,500	30	126,438
Fibermesh and Environmental Impact Fee	LS	2	55,125	55,125
Handicap Ramps w/ Domes	EA	35	5,950	104,125
Mountable Curb & Gutter (2' Pan)	LF	3,871	70	135,485
Subgrade Prep and Backfill Walk, Ramps, and Cross	SF	12,389	11	65,042
Vertical 6" Curb & Gutter (2' Pan)	LF	4,461	27	121,005
Modular Block Retaining Walls	LF	1,401	245	343,245
Grand Total		68,940	61,511	1,259,550

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	3' Concrete Pan	SF	\$1,089	\$30	\$16,199
B	6" Concrete Parking Areas	SF	\$13,688	\$16	\$107,793
C	6" Thick Sidewalk	SF	\$23,504	\$8	\$185,094
D	8" Thick Crosspan (500 SF EA)	SF	\$8,500	\$30	\$126,438
E	Fibermesh and Environmental Impact Fee	LS	\$2	\$55,125	\$55,125
F	Handicap Ramps w/ Domes	EA	\$35	\$5,950	\$104,125
G	Mountable Curb & Gutter (2' Pan)	LF	\$3,871	\$70	\$135,485
H	Subgrade Prep and Backfill Walk, Ramps, and Crosspan	SF	\$12,389	\$11	\$65,042
I	Vertical 6" Curb & Gutter (2' Pan)	LF	\$4,461	\$27	\$121,005
J	Modular Block Retaining Walls	LF	\$1,401	\$245	\$343,245

\$1,259,550

COMBINED ITEM	PAVING (All)
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Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
Asphalt Paving (7.5" Depth)	SY	16,203	116	935,723
Asphalt Removal	SF	930	21	19,530
Manhole Adjustments	EA	55	2,013	55,344
Range Points	EA	26	1,138	14,788
Sawcutting	LF	620	9	5,425
Subgrade Prep	SY	17,493	12	107,145
Water Valve Adjustments	EA	30	875	13,125
Grand Total		35,357	4,183	1,151,079

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	Asphalt Paving (7.5" Depth)	SY	\$16,203	\$116	\$935,723
B	Asphalt Removal	SF	\$930	\$21	\$19,530
C	Manhole Adjustments	EA	\$55	\$2,013	\$55,344
D	Range Points	EA	\$26	\$1,138	\$14,788
E	Sawcutting	LF	\$620	\$9	\$5,425
F	Subgrade Prep	SY	\$17,493	\$12	\$107,145
G	Water Valve Adjustments	EA	\$30	\$875	\$13,125
					\$1,151,079



SUMMARY OF MINUTES OF THE MEETING OF THE ARVADA CITY COUNCIL HELD NOVEMBER 18, 2019

1. Call to Order – 6:00 p.m. – Council Chambers
2. Moment of Reflection and Pledge of Allegiance
3. Roll Call of Councilmembers

Those Present: Mayor Marc Williams, Mayor Pro Tem Dot Miller, Councilmember Bob Fifer, Councilmember Nancy Ford, Councilmember David Jones, Councilmember John Marriott, Councilmember Lauren Simpson

Also present were: Mark Deven, City Manager, Lorie Gillis, Deputy City Manager; Rachel Morris, City Attorney; Bryan Archer, Director of Finance; Don Wick, Director of Public Works; Sharon Israel, Director of Utilities; Ryan Stachelski, Director of Community and Economic Development; Link Strate, Police Chief; Ben Irwin, Communications Manager and Kristen Rush, City Clerk.

4. Approval of Minutes of the October 21, 2019, City Council Meeting

The minutes stand approved.

5. Recognitions and Communications

- A. Proclamation for Small Business Saturday presented by Councilmember Fifer

Councilmember Fifer said that the Saturday after Thanksgiving (November 30, 2019) is known as Small Business Saturday. The Arvada Visitors Center, the Arvada Economic Development Association (AEDA) and Olde Town Arvada – Business Improvement District are partnering in a promotion asking people to shop Arvada Small Businesses this holiday season, highlighting the national shopping holiday – November 30 which is referred to as Small Business Saturday.

Small businesses create jobs, boost Arvada's economy, and preserve neighborhoods. Each purchase made in Arvada goes to pay for City services such as police, parks, and street maintenance. Keeping the dollars in Arvada helps create and retain quality jobs. Small businesses are the nation's largest employer and account for the majority of job growth. Next time you make a purchase, remember Shop Arvada!

Members of AEDA, Arvada Visitors Center, Olde Town Arvada Business Improvement District along with small businesses are present to accept this proclamation for Small Business Saturday.

- B. Proclamation for Hunger and Homelessness Awareness Week presented by Councilmember Ford

Councilmember Ford said that one in 11 Coloradans struggle with hunger or not having enough money to buy food. Over 3100 Jefferson County Public School students are recognized under the federal McKinney Vento Act due to their housing insecurity. That number exceeds the count for

Denver Public Schools.

This proclamation is being issued to bring awareness, advocacy and action to the concerns of homelessness and hunger in our community.

Representatives from various community partners were present to accept the proclamation.

6. Public Comment –
 - A. Katie Winner, Arvada Resident, addressed council regarding Leadership Jeffco’s 2020 class project.
7. New Business
 - A. Consent Agenda
 1. R19-105 A Resolution Authorizing a “Professional Services Agreement” and a "Software License, Maintenance and Support Agreement" Each Between the City of Arvada and Journal Technologies Inc. for Professional Services Relating to the Installation, Licensing, Maintenance, and Support of Municipal Court Management Software
 2. R19-106 A Resolution Authorizing an Agreement between the City of Arvada and Stantec for Professional Services Relating to the Civil Engineering Design of Ralston Raw Water Pump Station and Pipeline Project in an Amount Not to Exceed \$1,440,485.00, Project No. 19-WA-40
 3. R19-107 A Resolution Authorizing an Agreement between the City of Arvada and FirstBank for Provision of Loans Through the Essential Home Repairs Program
 4. R19-108 A Resolution Authorizing the Issuance of a Blanket Purchase Order in the Amount of \$600,000.00 with the Hill Petroleum Company, for the Purchase of Fuel Used in City Vehicles and Equipment
 5. R19-109 A Resolution Authorizing the Issuance of Purchase Orders in the Amount of \$400,000.00 with Av-Tech Electronics, Inc. for the Purchase of Safety Supplies, Parts, and Equipment for the Outfitting of Emergency Vehicles
 6. R19-110 A Resolution Authorizing the Issuance of Purchase Orders in the Amount of \$175,000.00 with Transwest Trucks Inc. for the Purchase of Vehicle Parts and Equipment
 7. R19-111 A Resolution Authorizing the Issuance of Purchase Orders in the Amount of \$166,520.00 with Korf Continental for the Purchase of Four 2019 Ford F250 4X4 Pickup Trucks
 8. R19-112 A Resolution Authorizing the Issuance of a Purchase Order in the Amount of \$293,583.00 to Larry H. Miller Ford for the Purchase of Seven 2019 Ford Police Interceptor Utility Vehicles
 9. R19-113 A Resolution Authorizing an Agreement By and Between the City of Arvada and SEMA Construction, Inc. for Construction Manager/General Contractor (CMGC) Services for the W. 72nd Avenue-Kipling St. to Simms St. Project in an Amount Not to Exceed \$530,000.00 Project No. 18-ST-30

10. R19-114 A Resolution Authorizing an Agreement By and Between the City of Arvada and FCI Constructors, Inc. for General Contractor Services for the Parks and Fleet Maintenance Facility in an Amount Not to Exceed \$8,144,229

Councilmember Marriott moved that R19-105, A Resolution Authorizing a "Professional Services Agreement" and a "Software License, Maintenance and Support Agreement" Each Between the City of Arvada and Journal Technologies Inc. for Professional Services Relating to the Installation, Licensing, Maintenance, and Support of Municipal Court Management Software; R19-106, A Resolution Authorizing an Agreement between the City of Arvada and Stantec for Professional Services Relating to the Civil Engineering Design of Ralston Raw Water Pump Station and Pipeline Project in an Amount Not to Exceed \$1,440,485.00, Project No. 19-WA-40; R19-107, A Resolution Authorizing an Agreement between the City of Arvada and FirstBank for Provision of Loans Through the Essential Home Repairs Program; R19-108, A Resolution Authorizing the Issuance of a Blanket Purchase Order in the Amount of \$600,000.00 with the Hill Petroleum Company, for the Purchase of Fuel Used in City Vehicles and Equipment; R19-109, A Resolution Authorizing the Issuance of Purchase Orders in the Amount of \$400,000.00 with Av-Tech Electronics, Inc. for the Purchase of Safety Supplies, Parts, and Equipment for the Outfitting of Emergency Vehicles; R19-110, A Resolution Authorizing the Issuance of Purchase Orders in the Amount of \$175,000.00 with Transwest Trucks Inc. for the Purchase of Vehicle Parts and Equipment; R19-111, A Resolution Authorizing the Issuance of Purchase Orders in the Amount of \$166,520.00 with Korf Continental for the Purchase of Four 2019 Ford F250 4X4 Pickup Trucks; R19-112, A Resolution Authorizing the Issuance of a Purchase Order in the Amount of \$293,583.00 to Larry H. Miller Ford for the Purchase of Seven 2019 Ford Police Interceptor Utility Vehicles; R19-113, A Resolution Authorizing an Agreement By and Between the City of Arvada and SEMA Construction, Inc. for Construction Manager/General Contractor (CMGC) Services for the W. 72nd Avenue-Kipling St. to Simms St. Project in an Amount Not to Exceed \$530,000.00 Project No. 18-ST-30; R19-114, A Resolution Authorizing an Agreement By and Between the City of Arvada and FCI Constructors, Inc. for General Contractor Services for the Parks and Fleet Maintenance Facility in an Amount Not to Exceed \$8,144,229, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson

The Motion was Approved

B. Resolutions

1. R19-115 A Resolution Restructuring the Membership of the Design Review Advisory Committee

Mark Deven, City Manager, reviewed this resolution with council.

Councilmember Fifer moved that R19-115, A Resolution Restructuring the Membership of the Design Review Advisory Committee, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson

The Motion was Approved

2. R19-116 A Resolution Authorizing a Second Amendment to Intergovernmental Agreement (IGA) by and between the City of Arvada and Urban Drainage and Flood Control District Regarding Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Leyden Creek from Indiana Street to 72nd Avenue, UDFCD No. 14-08.08B, Arvada Project No. 17-DR-02

Mark Deven, City Manager, reviewed this resolution with council.

Councilmember Ford moved that R19-116, A Resolution Authorizing a Second Amendment to Intergovernmental Agreement (IGA) by and between the City of Arvada and Urban Drainage and Flood Control District Regarding Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Leyden Creek from Indiana Street to 72nd Avenue, UDFCD No. 14-08.08B, Arvada Project No. 17-DR-02, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson

The Motion was Approved

3. R19-117 A Resolution Authorizing Quit Claim Deeds and Certain Assignments of Property Rights from the City of Arvada to the Jefferson Parkway Public Highway Authority of Surplus Property for Use as Right-of-Way

Rachel Morris, City Attorney, reviewed this resolution with council.

Councilmember Jones moved that R19-117, A Resolution Authorizing Quit Claim Deeds and Certain Assignments of Property Rights from the City of Arvada to the Jefferson Parkway Public Highway Authority of Surplus Property for Use as Right-of-Way, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson

The Motion was Approved

C. Ordinances (First Reading)

1. CB19-045 An Ordinance Approving a Conditional Use Permit to Allow for a Child Day Care Facility in a PUD-I (Industrial) Zone District for the Goddard School - North Table Mountain, Generally Located at 12720 W 54th Drive (Public Hearing to be set for December 2, 2019 at 6:15 p.m.)
2. CB19-046 An Ordinance Authorizing the Fifth Amendment to the 2005 Intergovernmental Agreement By and Between the City of Arvada, Colorado and the Jefferson Center Metropolitan District No. 2 (Public Hearing to be set for December 2, 2019 at 6:15 p.m.)

3. CB19-047 An Ordinance Adopting the Floodplain Map Dated November 15, 2019, as the Official Floodplain Map of the City of Arvada, Superseding that Dated February 13, 2018, and Further Adopting the Flood Insurance Study ("FIS") and the Flood Insurance Rate Maps ("FIRM") Prepared by the Federal Emergency Management Agency ("FEMA") (Public Hearing to be set for December 2, 2019 at 6:15 p.m.)
4. CB19-048 An Ordinance Authorizing the Amended and Restated Intergovernmental Agreement Between the City of Arvada, Colorado and Haskins Station Metropolitan District (Public Hearing to be set for December 2, 2019 at 6:15 p.m.)

Mayor Pro Tem Miller moved that CB19-045, An Ordinance Approving a Conditional Use Permit to Allow for a Child Day Care Facility in a PUD-I (Industrial) Zone District for the Goddard School - North Table Mountain, Generally Located at 12720 W 54th Drive; CB19-046, An Ordinance Authorizing the Fifth Amendment to the 2005 Intergovernmental Agreement By and Between the City of Arvada, Colorado and the Jefferson Center Metropolitan District No. 2; CB19-047, An Ordinance Adopting the Floodplain Map Dated November 15, 2019, as the Official Floodplain Map of the City of Arvada, Superseding that Dated February 13, 2018, and Further Adopting the Flood Insurance Study ("FIS") and the Flood Insurance Rate Maps ("FIRM") Prepared by the Federal Emergency Management Agency ("FEMA"); CB19-048, An Ordinance Authorizing the Amended and Restated Intergovernmental Agreement Between the City of Arvada, Colorado and Haskins Station Metropolitan District, be approved on first reading, ordered published in full and a public hearing set for December 2, 2019 at 6:15 p.m.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson
The Motion was Approved

8. Other
 - A. State of the Police Department Presentation

Link Strate, Police Chief, Ed Brady, Deputy Chief and A.J. DeAndrea, Deputy Chief, presented information regarding about the current state of the Police Department which included information regarding Recruitment, Retention, Crime Rates and Trends, Assaults on Arvada Police Officers, Crime Scene Investigations, Community Outreach, Evidence Storage, Records Management, Sector Policing, the G-Line, Traffic Safety, Fleet Update, Juvenile Engagement, Teen Academy, Parents Academy and the Super Bowl Ad regarding the Arvada Police Department.

- B. 3rd Quarter Financial Presentation

Bryan Archer, Finance Director, gave a presentation of the 3rd quarter 2019 financials. The presentation included revenue and expenditure highlights of the major funds including: General Fund, Parks, Tax Increments, Capital Projects, Water, Wastewater, Storm Water, Golf, Hospitality and the Internal Service Funds and an update on the current investment market.

9. Public Hearings
 - A. Estates at Ralston Ridge, Preliminary Development Plan Amendment, Generally Located North of West 72nd Avenue Surrounding the Ellis Street Cul-de-sac

B. Estates at Ralston Ridge, Preliminary Plat, Generally Located North of West 72nd Avenue Surrounding the Ellis Street Cul-de-sac

Mayor Williams opened the public hearing on Estates at Ralston Ridge, Preliminary Development Plan Amendment and Estates at Ralston Ridge, Preliminary Plat.

Rob Smetana, Planning Manager, stated that the posting logs and mailing affidavit have been received and are in order. Mayor Williams made them a part of the official record, along with the staff report.

Sworn Testimony: Connie Rubin, Representing Applicant

Councilmember Marriott moved that the Estates at Ralston Ridge, Preliminary Development Plan Amendment, Generally Located North of West 72nd Avenue Surrounding the Ellis Street Cul-de-sac, be approved. This motion is based on the findings of fact adopted by Planning Commission.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson
The Motion was Approved

Councilmember Marriott moved that Estates at Ralston Ridge, Preliminary Plat, Generally Located North of West 72nd Avenue Surrounding the Ellis Street Cul-de-sac, be approved. This motion is based on the findings of fact adopted by Planning Commission.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson
The Motion was Approved

C. GEOS Neighborhood Filing No. 2, Preliminary Plat, Generally Located South of West 69th Place and West of Juniper Court

Mayor Williams opened the public hearing on GEOS Neighborhood Filing No. 2, Preliminary Plat.

Rob Smetana, Planning Manager, stated that the posting logs and mailing affidavit have been received and are in order. Mayor Williams made them a part of the official record, along with the staff report.

Sworn Testimony: Michael Tavel, Representing Applicant
Norbert Klebl, Representing Applicant

Councilmember Ford moved that GEOS Neighborhood Filing No. 2, Preliminary Plat, Generally Located South of West 69th Place and West of Juniper Court, be approved subject to the condition of approval identified in the staff report. This motion is based the findings of fact adopted by Planning Commission.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson
The Motion was Approved

- D. 5 Star Plumbing Building, Preliminary Development Plan, Generally Located at 14420 W 67th Avenue

Mayor Williams opened the public hearing on 5 Star Plumbing Building, Preliminary Development Plan.

Rob Smetana, Planning Manager, stated that the posting logs and mailing affidavit have been received and are in order. Mayor Williams made them a part of the official record, along with the staff report.

Sworn Testimony: Mike Miller, Representing Applicant

Councilmember Fifer moved that 5 Star Plumbing Building, Preliminary Development Plan, Generally Located at 14420 W 67th Avenue, be approved subject to the attached updated condition of approval listed in the Staff Report. This motion is based on the findings of fact adopted by Planning Commission.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson
The Motion was Approved

- E. Public Hearing on the Consolidated Strategy and Plan Submission for Housing and Community Development Programs 2020-2024 and the 2020 Annual Action Plan for 2020 CDBG Funding

1. R19-118 A Resolution Authorizing the Expenditure of City of Arvada Human Services Funding Pool Funds for 2020 to Agencies Providing Emergency Help, Program Assistance, and Other Assistance to Arvada Citizens
2. R19-119 A Resolution Approving Submittal of a Consolidated Strategy and Plan Submission for Housing and Community Development Programs 2020-2024 and the 2020 Annual Action Plan for 2020 CDBG Funding

Mayor Williams opened the public hearing on Consolidated Strategy and Plan Submission for Housing and Community Development Programs, R19-118 and R19-119.

Ed Talbot, Manager, City Housing Preservation and Resources, and Vicky Pyne, representing the Human Services Advisory Board, reviewed these items with council.

No one wishing to speak for or against, the public hearing was closed.

Councilmember Fifer moved that R19-118, A Resolution Authorizing the Expenditure of City of Arvada Human Services Funding Pool Funds for 2020 to Agencies Providing Emergency Help, Program Assistance, and Other Assistance to Arvada Citizens, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson
The Motion was Approved

Councilmember Fifer moved that R19-119, A Resolution Approving Submittal of a Consolidated Strategy and Plan Submission for Housing and Community Development Programs 2020-2024 and the 2020 Annual Action Plan for 2020 CDBG Funding, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson

The Motion was Approved

- F. R19-120 A Resolution Approving the Amended and Restated Service Plan for Sabell Metropolitan District No. 2, to Be Known as Sabell Metropolitan District

Mayor Williams opened the public hearing on R19-120.

Rachel Morris, City Attorney reviewed this resolution with council.

Meghan Murphy and Matt Kavanaugh, attorneys representing the Metro District were present.

The public hearing was closed.

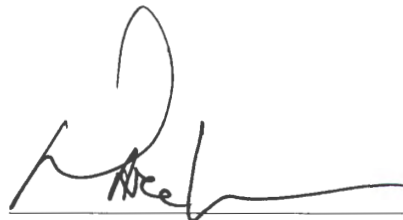
Councilmember Jones moved that R19-120, A Resolution Approving the Amended and Restated Service Plan for Sabell Metropolitan District No. 2, to Be Known as Sabell Metropolitan District, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Miller, Fifer, Ford, Jones, Marriott, Simpson

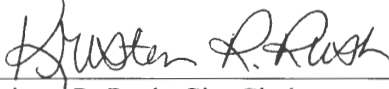
The Motion was Approved

10. Public Comment - Five Minute Limit – none
11. City Council Reports –
 - A. Councilmember Marriott reiterated the message regarding Small Business Saturday and encouraged everyone to shop local.
 - B. Councilmember Marriott reported on the first meeting of the Bond Oversight Committee.
 - C. Councilmember Ford encouraged everyone to attend the Arvada Center Art Market December 5 through 22nd.
 - D. Councilmember Simpson echoed Councilmember Marriott regarding Small Business Saturday and encouraged everyone to shop on Black Friday as well.
12. City Manager Reports –
 - A. Mark Deven, City Manager, reviewed the upcoming workshop schedule with council.
13. City Attorney Reports – none
14. Adjournment at 8:50 p.m.



Marc Williams, Mayor

SEAL:



Kristen R. Rush, City Clerk



AMENDED AND RESTATED SERVICE PLAN

FOR

SABELL METROPOLITAN DISTRICT NO. 2

TO BE KNOWN AS SABELL METROPOLITAN DISTRICT

CITY OF ARVADA, COLORADO

Prepared

by

WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122

Approved on

November 18, 2019

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LIST OF EXHIBITS

EXHIBIT A	Legal Descriptions
EXHIBIT B	Arvada Vicinity Map
EXHIBIT C-1	District Boundary Map
EXHIBIT C-2	Inclusion Area Boundary Map
EXHIBIT D	Amended and Restated Intergovernmental Agreement between the District and Arvada
EXHIBIT E	Cost Estimates – Public Improvements

I. INTRODUCTION

A. Background.

On September 17, 2018, by Resolution R18-099, the City Council approved the Service Plan (the “**Original Service Plan**”) for Sabell Metropolitan District Nos. 1 and 2 (together, the “**Districts**”). Sabell Metropolitan District No. 2 is currently in the process of changing its name to Sabell Metropolitan District (the “**District**”).

At the time of City approval of the Original Service Plan it was anticipated that the Districts would together undertake the financing and construction of the Public Improvements. Following the City approval of the Original Service Plan, the District was organized at an election held in November 2018. District No. 1 procedurally held an election in November 2018, however, it was later discovered that due to a scrivener’s error in the labeling of the legal description for District No. 1, there were no eligible electors within the boundaries of District No. 1 at the time of the election. As a result, District No. 1 was never organized.

Since approval of the Original Service Plan, development plans for the Project have proceeded quicker than anticipated. As such, a dual district structure is no longer necessary. This Amended and Restated Service Plan is to eliminate reference to District No. 1 and recognize that the District will operate independently.

The District is currently in the process of including within its boundaries the property that was intended to be included into Sabell Metropolitan District No. 1 as well as to include certain property described in the original inclusion area boundaries set forth in Original Service Plan, which property has since been purchased by the developer of the Project.

B. Purpose and Intent.

The City Council has adopted an Ordinance establishing Chapter 91 which governs the creation of Special Districts in Arvada. The District is an independent unit of local government, separate and distinct from the City, and, except as may otherwise be provided for by State or local law or this Service Plan, its activities are subject to review by the City only insofar as they may deviate in a material matter from the requirements of the Service Plan. It is intended that the District will provide a part or all of the Public Improvements for the use and benefit of all anticipated inhabitants and taxpayers of the District. The primary purpose of the District will be to finance the construction of these Public Improvements.

The District is not being created to provide ongoing operations and maintenance services other than as specifically set forth in this Service Plan.

C. Need for the District.

There are currently no other governmental entities, including the City, located in the immediate vicinity of the District that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction installation, relocation, redevelopment, and financing of the Public Improvements needed for the Project. Formation of the District is therefore

necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.

D. Objective of the City Regarding District's Service Plan.

The City's objective in approving the Service Plan for the District is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term and at a tax mill levy no higher than the Maximum Debt Mill Levy, and/or repaid by Fees as limited by Section V.A.15.

This Service Plan is intended to establish a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs pursuant to the approved Conceptual Site Plan for the property. Operation and maintenance services are allowed through an intergovernmental agreement with the City, attached as **Exhibit D**.

It is the intent of the District to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, and if the District has authorized operating functions under an intergovernmental agreement with the City, to retain only the power necessary to impose and collect taxes or Fees to pay for these costs.

The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Fees or from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term. It is the intent of this Service Plan to assure to the extent possible that no property bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount and that no property developed for a residential use bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

II. DEFINITIONS

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Board: means the board of directors of the District.

Bond, Bonds or Debt: means bonds or other obligations for the payment of which the District has promised to impose an ad valorem property tax mill levy, and/or collect Fee revenue.

City: means the City of Arvada, Colorado.

City Code: means the City Code of the City of Arvada, Colorado.

City Council: means the City Council of the City of Arvada, Colorado.

District: means Sabell Metropolitan District No. 2, to be known as Sabell Metropolitan District.

District Boundaries: means the original boundaries of the District's area described in the District Boundary Map and as such boundaries will exist following inclusion of the property described in the introduction hereof.

District Boundary Map: means the map attached hereto as **Exhibit C-1**, describing the District's Boundaries.

End User: means any owner, or tenant of any owner, of any taxable improvement within the District, who is intended to become burdened by the imposition of ad valorem property taxes subject to the Maximum Debt Mill Levy. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an End User. The business entity that constructs homes or commercial structures is not an End User.

External Financial Advisor: means a consultant that: (i) advises Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (ii) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place; and (iii) is not an officer or employee of the District and has not been otherwise engaged to provide services in connection with the transaction related to the applicable Debt.

Fees: means any fee imposed by the District for services, programs or facilities provided by the District, as described in Section V.A.15. below.

Financial Plan: means the Financial Plan described in Section VI which describes (i) how the Public Improvements are to be financed; (ii) how the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from property taxes for the first budget year. The financial plan is based upon current estimates and will change based on actual development of the Project.

Inclusion Area Boundaries: means the boundaries of the area described in the Inclusion Area Boundary Map.

Inclusion Area Boundary Map: means the map attached hereto as **Exhibit C-2**, describing the property proposed for inclusion within the District.

Maximum Debt Mill Levy: means the maximum mill levy the District is permitted to impose for payment of Debt as set forth in Section VI.C below.

Maximum Debt Mill Levy Imposition Term: means the maximum term for imposition of a mill levy on a particular property as set forth in Section VI.D below.

Project: means the development or property commonly referred to as Sabell.

Public Improvements: means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Special District Act, except as specifically limited in Section V below that benefit the Service Area and serve the future taxpayers and inhabitants of the Service Area as determined by the Board of the District.

Service Area: means the property within the District Boundaries.

Service Plan: means this amended and restated service plan for the District approved by City Council.

Service Plan Amendment: means an amendment to the Service Plan approved by City Council in accordance with the City's ordinance and the applicable state law.

Special District Act: means Section 32-1-101, *et seq.*, of the Colorado Revised Statutes, as amended from time to time.

State: means the State of Colorado.

Taxable Property: means real or personal property within the Service Area subject to ad valorem taxes imposed by the District.

III. BOUNDARIES

The area of the District Boundaries includes approximately twenty-five (25) acres. A legal description of the District Boundaries and the Inclusion Area Boundaries is attached hereto as **Exhibit A**. A vicinity map is attached hereto as **Exhibit B**. A map of the District Boundaries is attached hereto as **Exhibit C-1**, and a map of the Inclusion Area Boundaries is attached hereto as **Exhibit C-2**.

IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION

The Service Area consists of approximately twenty-five acres of residential land. The current assessed valuation of the Service Area is \$0 for purposes of this Service Plan and, at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The population of the District at build-out is estimated to be approximately six-hundred twenty-two (622) people (based on 2.5 persons per residence and 249 single-family residential units).

Approval of this Service Plan by the City does not imply approval of the development of a specific area within the District, nor does it imply approval of the number of residential units or the total site/floor area of commercial or industrial buildings identified in this Service Plan or any of the exhibits attached thereto or any other Development Plan.

V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

A. Powers of the District and Service Plan Amendment.

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

1. Operations and Maintenance Limitation. The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the City or other appropriate jurisdiction or owners association in a manner consistent with the approved Development Plans and other rules and regulations of the City and applicable provisions of the City Code. The District shall not be authorized to operate and maintain any part or all of the Public Improvements unless the provision of such operation and maintenance is pursuant to an intergovernmental agreement with the City. The District is required and obligated to operate and maintain park and recreation improvements. Unless otherwise specified in the intergovernmental agreement, in the form attached as Exhibit D, all parks and trails shall be open to the general public free of charge.

2. Fire Protection Limitation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to an intergovernmental agreement with the City. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.

3. Television Relay and Translation Limitation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project, unless such facilities and services are provided pursuant to an intergovernmental agreement with the City.

4. Telecommunication Facilities. The District agrees that no telecommunication facilities owned, operated or otherwise allowed by the District shall affect the ability of the City to expand its public safety telecommunication facilities or impair existing telecommunication facilities.

5. Construction Standards Limitation. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The District will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

6. Zoning and Land Use Requirements. The District shall be subject to all of the City's zoning, subdivision, building code and other land use requirements.

7. Growth Limitations. The District acknowledges that the City shall not be limited in implementing Council or voter approved growth limitations, even though such actions may reduce or delay development within the District and the realization of the District's revenue.

8. Privately Placed Debt Limitation. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of an External Financial Advisor substantially as follows:

We are [I am] an External Financial Advisor within the meaning of the District's Service Plan.

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

9. Eminent Domain Limitation. The District shall not be authorized to utilize the power of eminent domain except as otherwise provided pursuant to an intergovernmental agreement with the City.

10. Water Rights/Resources Limitation. The District shall not acquire, own, manage, adjudicate or develop water rights or resources except as otherwise provided pursuant to an intergovernmental agreement with the City.

11. Inclusion Limitation. The District shall not include within its boundaries any property outside the Service Area without the prior written consent of the City Council. The District shall not include within any of its boundaries any property inside the Inclusion Area Boundaries without the prior written consent of the City Council except upon petition of the fee owner or owners of one hundred percent (100%) of such property as provided in Section 32-1-401(1)(a), C.R.S.

12. Overlap Limitation. The District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the District.

13. Initial Debt Limitation. On or before the effective date of approval by the City of an Approved Conceptual Site Plan, the District shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any Fees used for the purpose of repayment of Debt.

14. Total Debt Issuance Limitation. The District shall not issue Debt in excess of Thirty Million Dollars (\$30,000,000).

15. Fee Limitation. The District may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to repayment of debt shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said Taxable Property. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the District.

16. Public Improvement Fee Limitation. The District shall not impose, collect, receive, spend or pledge to any Debt any fee, assessment, tax or charge which is collected by a retailer in the District on the sale of goods or services by such retailer and which is measured by the sales price of such goods or services, except as provided pursuant to an intergovernmental agreement with the City.

17. Sales and Use Tax. The District shall not exercise its City sales and use tax exemption.

18. Monies from Other Governmental Sources. The District shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities that the City is eligible to apply for, except pursuant to an intergovernmental agreement with the City. This Section shall not apply to specific ownership taxes which shall be distributed to and be a revenue source for the District without any limitation.

19. Consolidation Limitation. The District shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the City.

20. Bankruptcy Limitation. All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve a Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

(b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Service Plan Amendment. The City shall be entitled to all remedies available at law to enjoin such actions of the District.

21. Reimbursement Agreement. It is unknown whether reimbursement agreements with third-party developers or adjacent landowners will be necessary or desirable after the District's organization. Any such agreement would provide the means to reimburse the District for costs of improvements that benefit third-party landowners. If a reimbursement agreement exists or is entered into for an improvement financed by the District, any and all resulting reimbursements received for such improvement shall be deposited in the respective District's debt service fund and used for the purpose of retiring the District's debt.

22. Service Plan Amendment Requirement. This Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments. Actions of the District which violate the limitations set forth in V.A.1-21 above or in VI.B-G shall be deemed to be material modifications to this Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

B. Preliminary Engineering Survey.

The District shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of the Public Improvements within and without the boundaries of the District, to be more specifically defined in an Approved Conceptual Site Plan. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the Service Area and is approximately Eleven-Million Five-Hundred Twenty-Eight Thousand Two Hundred and Twenty-Three Dollars (\$11,528,223). A cost estimate for the Public Improvements is attached hereto and incorporated herein as **Exhibit E**.

All of the Public Improvements will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the City and shall be in accordance with the requirements of the Approved Conceptual Site Plan. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements. The actual Public Improvements to be constructed will be determined by the City, and variations from the estimate shall not constitute a material modification of this Service Plan. All Public Improvements contemplated herein benefit the residents, property owners, and taxpayers of the District, and such benefit accrues to such residents, property owners, and taxpayers of the District regardless of the specific or general location of the various Public Improvements.

The Public Improvements generally depicted and described in the cost estimates have been presented for illustration only, and the exact design, subphasing of construction and location of the Public Improvements will be determined at the time of City approvals and public works approval and such decisions shall not be considered to be a material modification of the Service Plan.

VI. FINANCIAL PLAN

A. General.

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by the District. The Financial Plan for the District shall be to issue such Debt as the District can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy, Fees and other legally available revenues. The total Debt that the District shall be permitted to issue shall not exceed Thirty Million Dollars (\$30,000,000) and shall be permitted to be issued on a schedule and in such year or years as the District determines shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. All bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including general ad valorem taxes and Fees to be imposed upon all Taxable Property within the District. The District will also rely upon various other revenue sources authorized by law. Specifically, these revenue sources are Fees, specific ownership taxes, interest income, developer operating advances, and advances for infrastructure.

The parameters in the Financial Plan are based upon current estimates and will change based on actual development of the Project. The Financial Plan is one projection of the issuance of Debt by the District based on certain development assumptions. It is expected that actual development (including, but not limited to product types, market values, and absorption rates) will vary from that projected and illustrated in the Financial Plan, which variations and deviations shall not constitute a material modification of this Service Plan.

Notwithstanding anything in this Service Plan to the contrary, the projections set forth in this Service Plan and the Financial Plan are projections based upon current market conditions. The actual amounts, interest rates, and terms of any Debt will likely change from that reflected in the Financial Plan and each issue of Debt will be based upon the actual conditions existing at the time of issuance, subject to the limitations of the Service Plan.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed eighteen percent (18%). The proposed maximum underwriting discount will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Debt Mill Levy.

The “Maximum Debt Mill Levy” shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Debt, and shall be determined as follows:

1. If the total amount of aggregate District Debt exceeds fifty percent (50%) of the District’s assessed valuation, the Maximum Debt Mill Levy shall be fifty (50) mills;

provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2017, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. If the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

3. For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 above, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "**District**" as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

D. Maximum Debt Mill Levy Imposition Term.

The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed which exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board of Directors of the District are residents of the District and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings as set forth in Section 11-56-101, C.R.S., *et seq.*

E. Debt Repayment Sources.

The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service and for operations and maintenance. The District may also rely upon the following specific revenue sources authorized by law Fees, specific ownership taxes, interest income, developer operating advances, and developer advances for infrastructure. At the District's discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(l), C.R.S., as amended from time to time and as limited by Section V.A. 15-16. In no event shall the debt service mill levy in the District exceed the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term, except

pursuant to an intergovernmental agreement between the District and the City, and except pursuant to Section VI.D above.

F. Debt Instrument Disclosure Requirement.

In the text of each Bond and any other instrument representing and constituting Debt, the District shall set forth a statement in substantially the following form:

By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Service Plan for creation of the District.

Similar language describing the limitations in respect of the payment of the principal of and interest on Debt set forth in this Service Plan shall be included in any document used for the offering of the Debt for sale to persons, including, but not limited to, a developer of property within the boundaries of the District.

G. Security for Debt.

The District shall not pledge any revenue or property of the City as security for the indebtedness set forth in this Service Plan. Approval of this Service Plan shall not be construed as a guarantee by the City of payment of any of the District's obligations; nor shall anything in the Service Plan be construed so as to create any responsibility or liability on the part of the City in the event of default by the District in the payment of any such obligation.

H. TABOR Compliance.

The District will comply with the provisions of TABOR. In the discretion of the Board, the District may set up other qualifying entities to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by the District will remain under the control of the District's Board, and any such entity shall be subject to and bound by all terms, conditions, and limitations of the Service Plan and intergovernmental agreement, attached as **Exhibit D**.

I. District Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be One-Hundred Thousand Dollars (\$100,000), which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget for the District is estimated to be Fifty Thousand Dollars (\$50,000) which is anticipated to be derived from property taxes and other revenues.

The Maximum Debt Mill Levy for the repayment of Debt shall apply to the District's ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users.

VII. ANNUAL REPORT

A. General.

The District shall be responsible for submitting an annual report to the City Clerk within six months of the close of the fiscal year.

B. Reporting of Significant Events.

The annual report shall include information as to any of the following:

1. Boundary changes made or proposed to the District's boundaries as of December 31 of the prior year.
2. Intergovernmental Agreements with other governmental entities either entered into or proposed as of December 31 of the prior year.
3. Copies of the District's rules and regulations, if any, as of December 31 of the prior year.
4. A summary of any litigation which involves the District's Public Improvements as of December 31 of the prior year.
5. Status of the District's construction of the Public Improvements as of December 31 of the prior year.
6. A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the City as of December 31 of the prior year.
7. The assessed valuation of the District for the current year.
8. Current year budget including a description of the Public Improvements to be constructed in such year.
9. Audit of the District's financial statements, for the year ending December 31 of the previous year, prepared in accordance with generally accepted accounting principles or audit exemption, if applicable.
10. Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument.
11. Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.

VIII. DISSOLUTION

Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file a petition in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall dissolution occur until the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes.

IX. DISCLOSURE NOTICES

The District will provide a written notice of disclosure to all initial purchasers of property in the District that describes the impact of the District's mill levy and fees on each residential property along with the purchase contract. The District shall record the notice of disclosure for each property within the District with Jefferson County at the time the subdivision plat is recorded, or provide the City with a copy of the recorded notice of disclosure if the subdivision plat has already been filed. The notice of disclosure shall include the maximum mill levy that may be assessed and associated taxes that may be imposed on the residential property for each year the District is in existence.

The District will provide information to potential residential buyers and prominently display the key provisions of the District at all sales offices. Such information shall include the maximum mill levy and associated taxes and fees that may be imposed on each property for each year the District is in existence and the improvements that are or have been paid for by the District.

X. INTERGOVERNMENTAL AGREEMENT

The form of the amended and restated intergovernmental agreement required by the City Code, relating to the limitations imposed on the District's activities, is attached hereto as **Exhibit D**. The District shall approve the amended and restated intergovernmental agreement in the form attached as **Exhibit D** at its first Board meeting after its organizational election. Failure of the District to execute the amended and restated intergovernmental agreement as required herein shall constitute a material modification and shall require a Service Plan Amendment. The City Council shall approve the amended and restated intergovernmental agreement in the form attached as **Exhibit D**.

XI. CONCLUSION

It is submitted that this Service Plan for the District, as required by Section 32-1-203(2), C.R.S., and Chapter 91 of the City Code, establishes that:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the District;
2. The existing service in the area to be served by the District is inadequate for present and projected needs;
3. The District is capable of providing economical and sufficient service to the area within its proposed boundaries; and

4. The area to be included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

5. Adequate service is not, and will not be, available to the area through the City or county or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.

6. The facility and service standards of the District are compatible with the facility and service standards of the City within which the special districts are to be located and each municipality which is an interested party under Section 32-1-204(1), C.R.S.

7. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City Code.

8. The proposal is in compliance with any duly adopted City, regional or state long-range water quality management plan for the area.

9. The creation of the District is in the best interests of the area proposed to be served.

EXHIBIT A

Legal Description

SABELL METROPOLITAN DISTRICT:

SHEET 1 OF 2

OCTOBER 2, 2019

LOTS 1-77 BLOCK 1, LOTS 80-86 BLOCK 1, LOTS 1-41 BLOCK 2, LOTS 55-66 BLOCK 2, TRACT A BLOCK 1, TRACT A BLOCK 1, TRACT E BLOCK 1, TRACT F BLOCK 1, TRACT G BLOCK 1, TRACT K BLOCK 1, TRACT M BLOCK 1, TRACT B BLOCK 2, TRACT H BLOCK 2, TRACT L BLOCK 2, TRACT N BLOCK 2, TRACT O BLOCK 2, TRACT R BLOCK 2, TRACT C BLOCK 3, TRACT D BLOCK 3, TRACT I BLOCK 3, TRACT P BLOCK 3

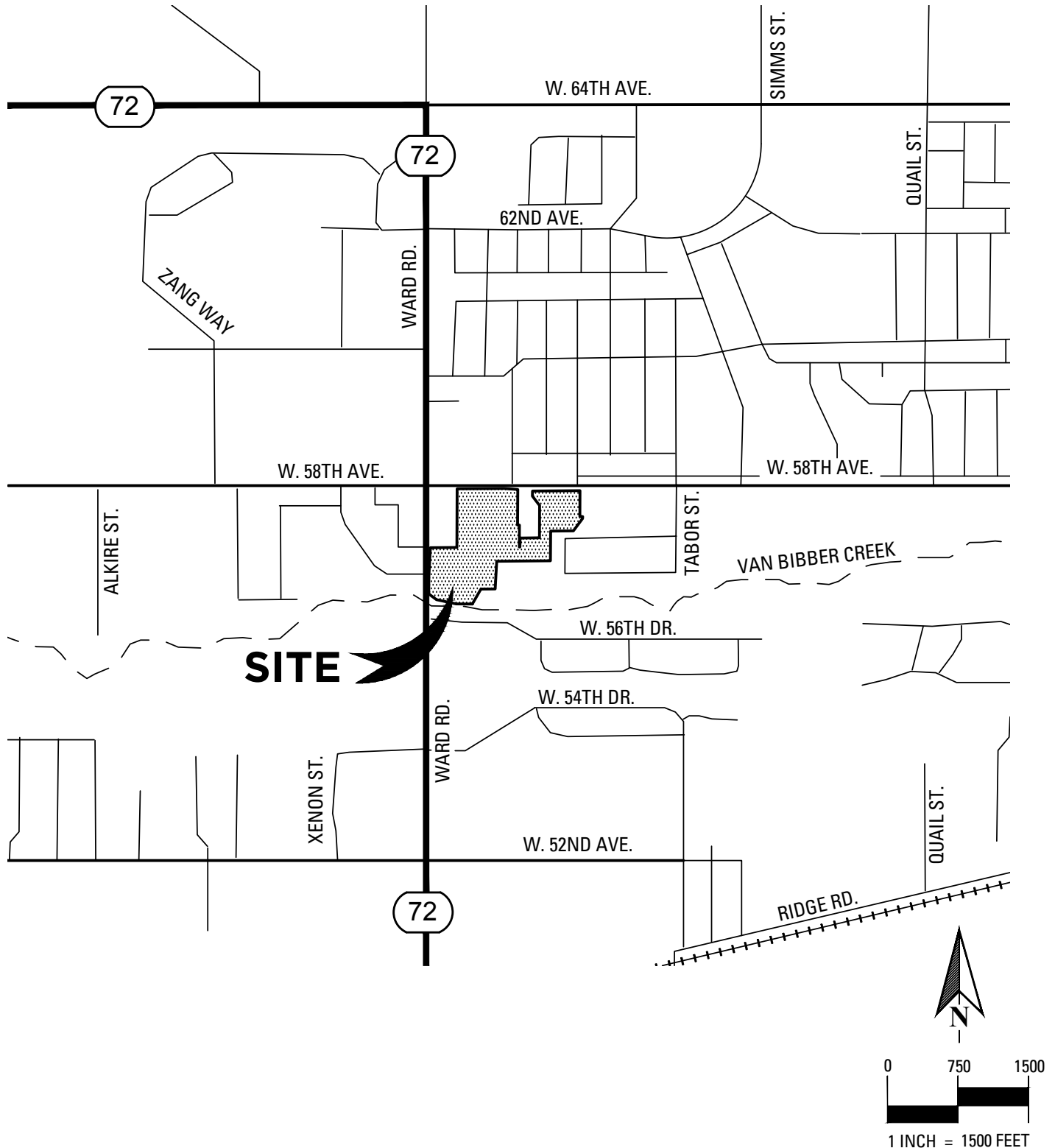
SABELL SUBDIVISION, A SUBDIVISION RECORDED AT RECEPTION NUMBER 2019046492 AND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.

EXHIBIT B

Arvada Vicinity Map

EXHIBIT B

SABELL METROPOLITAN DISTRICT



TITLE:
SABELL METROPOLITAN DISTRICT - VICINITY MAP

LOCATION:
A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:
1"=1500'

DATE:
05-26-17

PROJECT NO:
0009-1615

AREA:

PATH:

J:\0009\1615\SURVEY\EXHIBITS\DISTRICT
BOUNDARIES\SABELL_DISTRICT_VICINITY_MAP.DWG



KT ENGINEERING

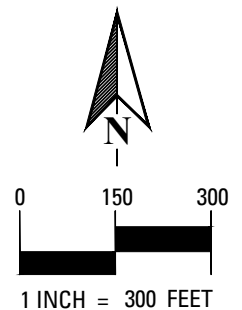
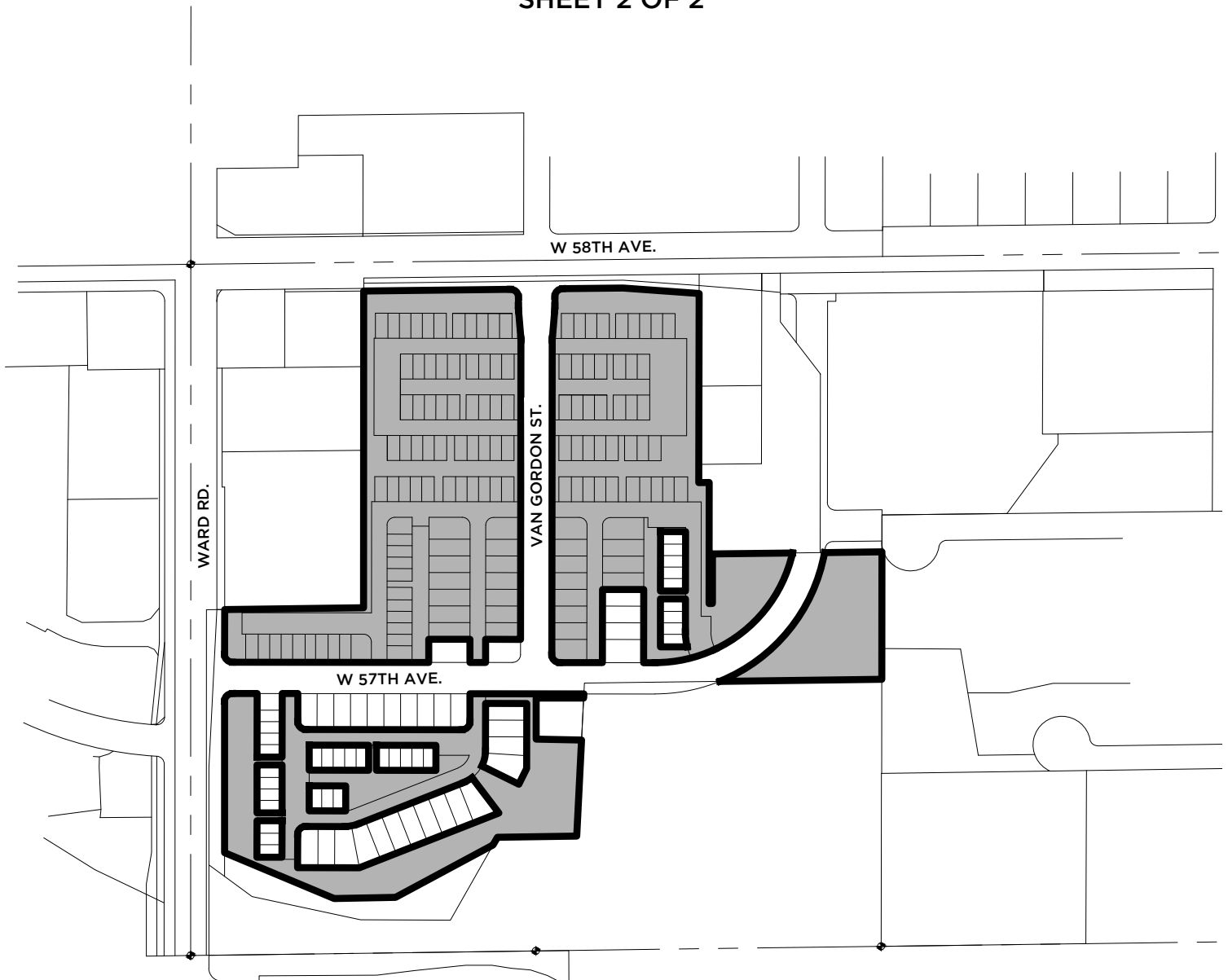
12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

EXHIBIT C-1

District Boundary Map

SABELL METROPOLITAN DISTRICT

SHEET 2 OF 2



KT ENGINEERING

12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

TITLE:

SABELL METROPOLITAN DISTRICT

LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:

1"=300'

DATE:

10-02-19

PROJECT NO:

0009-1615

AREA:

PATH:

J:\0009\1615\SURVEY\EXHIBITS\DISTRICT
BOUNDARIES\SABELL_DISTRICT_EXHIBIT.DWG

EXHIBIT C-2

Inclusion Area Boundary Map

SABELL METROPOLITAN DISTRICT INCLUSION AREA 1:

SHEET 1 OF 2

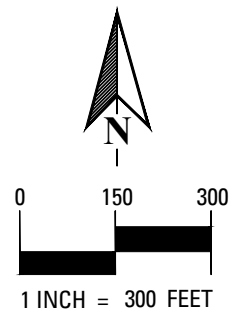
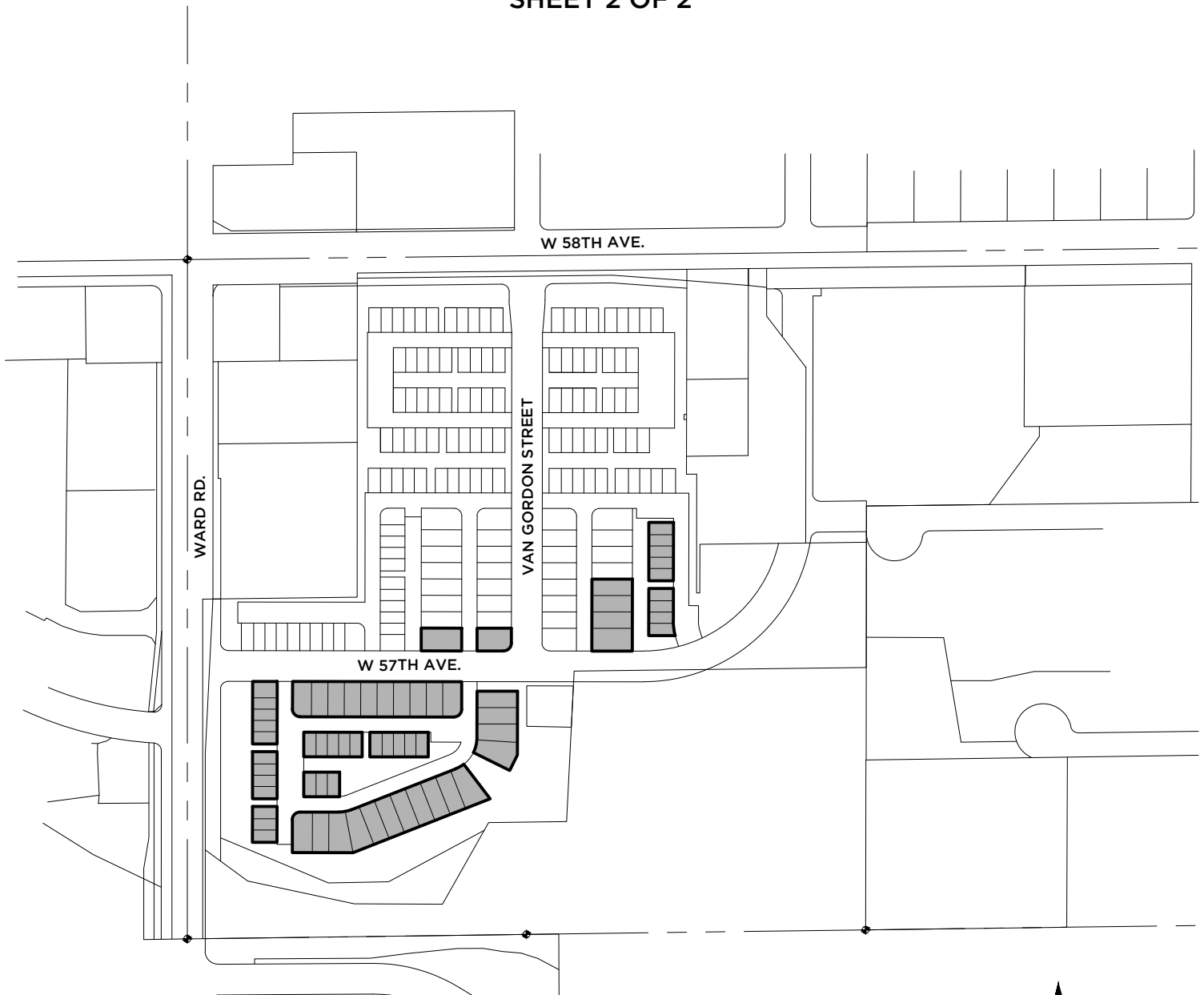
OCTOBER 2, 2019

LOTS 78 AND 79 BLOCK 1, LOTS 42-54 BLOCK 2, LOTS 1-50 BLOCK 3

SABELL SUBDIVISION, A SUBDIVISION RECORDED AT RECEPTION NUMBER 2019046492 AND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.

SABELL METROPOLITAN DISTRICT

SHEET 2 OF 2



KT ENGINEERING

12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

TITLE:

SABELL METROPOLITAN DISTRICT - INCLUSION AREA 1

LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:

1"=300'

DATE:

10-02-19

PROJECT NO:

0009-1615

AREA:

PATH:

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BOUNDARIES\SABELL_DISTRICT-INCLUSION-AREA 1.DWG

SABELL METROPOLITAN DISTRICT INCLUSION AREA 2:

SHEET 1 OF 2

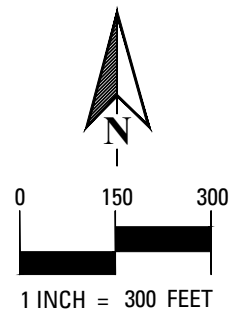
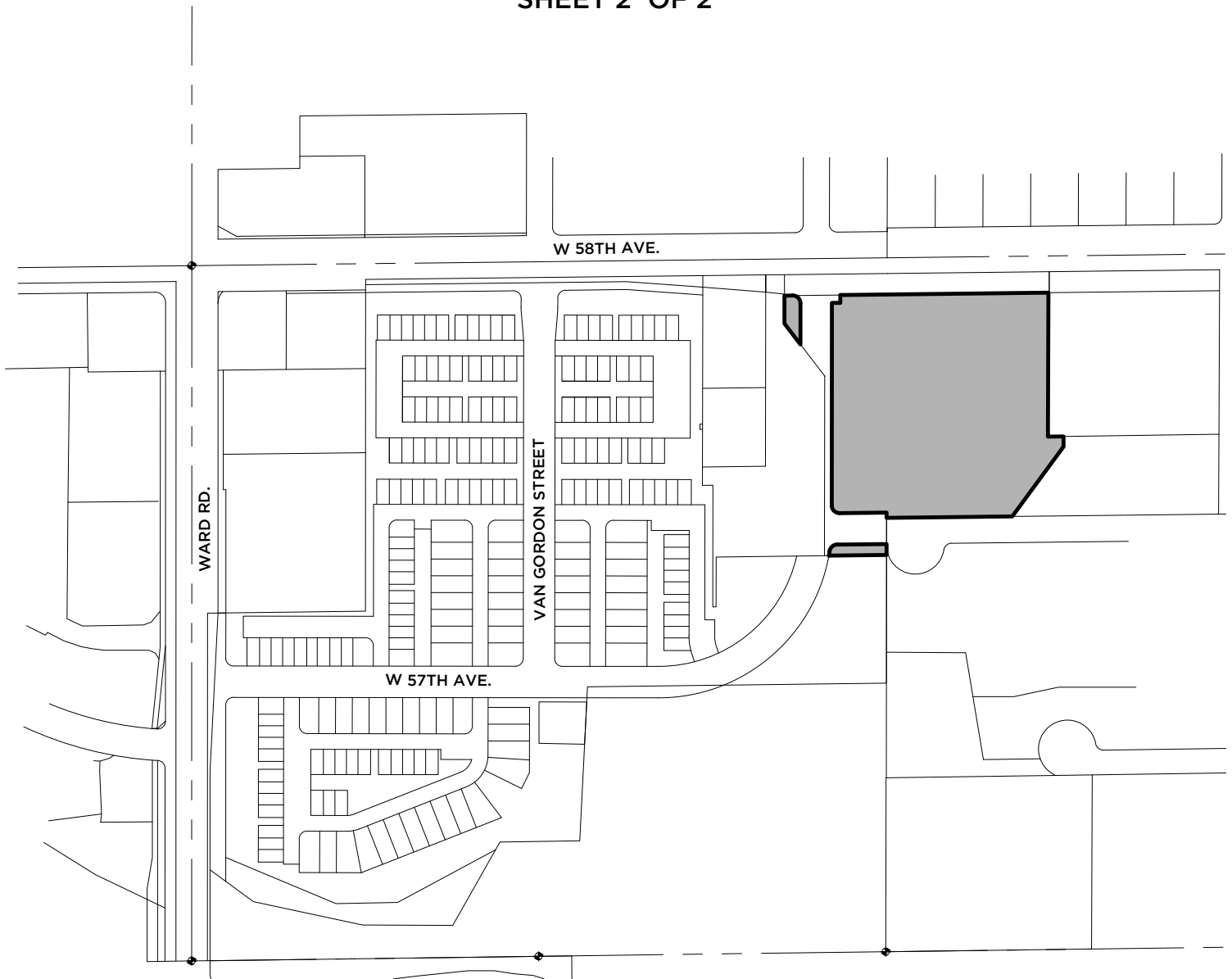
OCTOBER 2, 2019

TRACT U BLOCK 3, TRACT J BLOCK 4, TRACT T BLOCK 5

SABELL SUBDIVISION, A SUBDIVISION RECORDED AT RECEPTION NUMBER 2019046492 AND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.

SABELL METROPOLITAN DISTRICT

SHEET 2 OF 2



KT ENGINEERING

12500 W. 58th AVE. #230
ARVADA, CO 80002
PH: 720.638.5190

TITLE:

SABELL METROPOLITAN DISTRICT - INCLUSION AREA 2

LOCATION:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 8,
TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE:

1"=300'

DATE:

10-02-19

PROJECT NO:

0009-1615

AREA:

PATH:

J:\0009\1615\SURVEY\EXHIBITS\DISTRICT
BOUNDARIES\SABELL_DISTRICT-INCLUSION-AREA 2.DWG

EXHIBIT D

Amended and Restated Intergovernmental Agreement between the District and Arvada

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF ARVADA, COLORADO
AND SABELL METROPOLITAN DISTRICT NO. 2**

THIS AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made and entered into as of the ____ day of _____, 2019, by and between the CITY OF ARVADA, a home-rule municipal corporation of the State of Colorado (“City”) and SABELL METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”). The City and the District are collectively referred to as the “Parties.”

RECITALS

WHEREAS, the City previously approved a Service Plan for Sabell Metropolitan District No. 1 and the District on September 17, 2018 pursuant to Resolution R18-099 (“Original Service Plan”); and

WHEREAS, Sabell Metropolitan District No. 1 (“District No. 1”) procedurally held an organizational election in November 2018, however, it was later discovered that due to a scrivener’s error in the labeling of the legal description for District No. 1, there were no eligible electors within the boundaries of District No. 1 at the time of the election and as a result Sabell Metropolitan District No. 1 was not organized; and

WHEREAS, pursuant to the Original Service Plan and the Arvada City Code, the District and the City entered into that certain Intergovernmental Agreement dated March 15, 2019 (the “Original IGA”); and

WHEREAS, since approval of the Original Service Plan, development plans for the Project have proceeded quicker than anticipated, a dual district structure is no longer necessary and the District will operate independently; and

WHEREAS, the City approved the Amended and Restated Service Plan for the District on November 18, 2019 pursuant to Resolution _____ (the “Amended Service Plan”); and

WHEREAS, the Amended Service Plan makes reference to the execution of an intergovernmental agreement between the City and the District, as required by the Arvada City Code; and

WHEREAS, the City and the District have determined it to be in the best interests of their respective taxpayers, residents and property owners to amend and restate the Original IGA to modify certain provisions related to the Regional Contribution and terminate the Original IGA.

NOW THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

1. Operations and Maintenance. The District shall dedicate the Public Improvements, as defined in the Amended Service Plan, to the City or other appropriate jurisdiction or owners association in a manner consistent with the approved development plans and other rules and regulations of the City and applicable provisions of the City Code. The District shall be authorized to operate and maintain any part or all of the Public Improvements which are not dedicated to the City or other appropriate jurisdiction, including park and recreation improvements, without the consent of the City, in accordance with the approved development plans.

2. Fire Protection. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services without a modification of this Agreement by the Parties. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.

3. Television Relay and Translation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services without a modification of this Agreement by the Parties, except for the installation of conduit as a part of a street construction project.

4. Telecommunication Facilities. The District agrees that no telecommunication facilities owned, operated or otherwise allowed by the District shall affect the ability of the City to expand its public safety telecommunication facilities or impair existing telecommunication facilities.

5. Construction Standards Limitation. The District will use reasonable efforts to insure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The District will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

6. Zoning and Land Use Requirements. The District agrees that their activities shall be subject to all of the City's applicable zoning, subdivision, building code and other land use requirements.

7. Issuance of Privately Placed Debt. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of an External Financial Advisor substantially as follows:

We are [I am] an External Financial Advisor within the meaning of the District's Amended Service Plan.

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

provisions, is reasonable considering the financial circumstances of the District.

8. Overlap Limitation. The District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the District.

9. Initial Debt. On or before the effective date of approval by the City of an Approved Conceptual Site Plan and approval and execution of this Agreement, the District shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any Fees used for the purpose of repayment of Debt.

10. Total Debt Issuance. The District shall not issue Debt in excess of Thirty Million Dollars (\$30,000,000).

11. Bond Counsel Opinion. Prior to the issuance of any bond issue, the District shall provide a copy of an opinion of a bond counsel acceptable to the City stating that the bond issue satisfies Chapter 91 of the City Code of the City of Arvada, the Amended Service Plan, and the requirements of state law.

12. Fee Limitation. The District may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to repayment of debt shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said Taxable Property. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the District.

13. Public Improvement Fee Limitation. The District shall not impose, collect, receive, spend or pledge to any Debt any fee, assessment, tax or charge which is collected by a retailer in the District on the sale of goods or services by such retailer and which is measured by the sales price of such goods or services, without a modification of this Agreement by the Parties.

14. Sales and Use Tax. The District shall not exercise their City sales and use tax exemption.

15. Monies from Other Governmental Sources. The District agrees not to apply for or accept Conservation Trust Funds, Great Outdoors Colorado Trust Funds, or other funds available from or through governmental or non-profit entities that the City is eligible to apply for without administrative approval from the City. This Section shall not apply to specific ownership taxes which shall be distributed to and a revenue source for the District without any limitation.

16. Consolidation. The District shall not file a request with any Court to consolidate with another Title 32 district without prior written approval of the City Council as evidenced by a resolution after a public hearing thereon.

17. Bankruptcy. All of the limitations contained in the Amended Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve a service plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a service plan amendment; and

(b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approved necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943 (b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of the Amended Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a service plan amendment. The City shall be entitled to all remedies available at law to enjoin such actions of the District.

18. Dissolution. Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file petitions in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall dissolution occur until (i) the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes, and (ii) the District has provided for the operation and maintenance of all Public Improvements owned or operated by the District.

19. Disclosure. The District will use reasonable efforts to assure that all developers of property located within the District provide written notice to all initial purchasers of property within the District that discloses the Maximum Debt Mill Levy, as well as a general description of the District’s authority to impose and collect rates, fees, toll, and charges or other revenues (the “Disclosure Information”). The District shall file the form of notice with the City Manager and Community Development director prior to the initial issuance of debt by the District imposing the mill levy that is subject to the Maximum Debt Mill Levy, and shall record the notice of disclosure with Jefferson County at the time the subdivision plat is recorded, or provide the City with a copy of the recorded notice of disclosure if the subdivision plat has already been filed.

The District will use reasonable efforts to assure that the Disclosure Information, at least equal in size and font to all other pertinent information, is displayed at all sales offices.

20. Service Plan Amendment Requirement. Actions of the District which violates the limitations set forth in V.A.1-20 or VI.B-G of the Amended Service Plan shall be deemed to be material modifications to the Amended Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

21. Maximum Debt Mill Levy. The “Maximum Debt Mill Levy” shall be the maximum mill levy the District is permitted to impose upon the Taxable Property within the District for payment of Debt, and shall be determined as follows:

(a) If the total amount of aggregate District Debt exceeds fifty percent (50%) of the District’s assessed valuation, the Maximum Debt Mill Levy shall be fifty (50) mills; provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2017, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

(b) If the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District’s assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

(c) For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 of the Amended Service Plan, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District’s Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term “District” as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

22. Maximum Debt Mill Levy Imposition Term. The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed which exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board of Directors of the District are residents of the District and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings as set forth in Section 11-56-101, C.R.S.; et seq.

23. Regionally Significant Improvements. The District agrees to fund up to \$1,174,786.80 (“**Regional Contribution**”), towards regionally significant improvements located at 52nd Avenue and Ward Road as more particularly set forth on Exhibit A attached hereto and incorporated herein by this reference (the “**Regional Improvements**”). The Regional Contribution shall be paid from bond proceeds and shall be payable to the City when the District issues Debt. The City agrees that it shall use the Regional Contribution to fund Regional

Improvements that shall be owned, operated and maintained by a public entity, as more fully set forth in a separate intergovernmental agreement to be entered into between the Parties.

24. Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District: Sabell Metropolitan District No. 2
White Bear Ankele Tanaka & Waldron, Attorneys at Law
2154 E. Commons Ave, Suite 2000
Centennial, Colorado 80122
Attn: Kristin Bowers Tompkins, Esq.
Phone: (303) 858-1800
Fax: (303) 858-1801

To the City: City of Arvada
8101 Ralston Road
P.O. Box 8101
Arvada, CO 80001-8101
Attn: Rachel Morris, Esq.
Phone: (720) 898-7193
Fax: (720) 898-7175

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

25. Amendment. This Agreement may be amended, modified, changed or terminated in whole or in part by a written agreement duly authorized and executed by the Parties hereto and without amendment to the Amended Service Plan.

26. Assignment. Neither Party hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without having first obtained the prior written consent of the other Party, which consent will not be unreasonably withheld. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

27. Default/Remedies. Upon the occurrence of any event of breach or default by either party, the non-defaulting party shall provide written notice to the other party. The defaulting party shall immediately proceed to cure or remedy such breach or default, and in any event, such breach or default shall be cured within 15 days after receipt of the notice. Following the cure period in the event of a breach or default of this Agreement by either Party, the non-defaulting Party shall be entitled to exercise all remedies available by law or in equity, specifically including

suits for specific performance and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.

28. Governing Law. This agreement shall be governed and construed under the laws of the State of Colorado.

29. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

30. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and the City any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions and provisions in this Agreement by and on behalf of the District and the City shall be for the sole and exclusive benefit of the District and the City.

31. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provisions contained herein, the intention being that such provisions are severable.

32. Annual Report. The District shall submit an annual report to the City in every year following the year in which the Order and Decree creating the District has been issued until the year following the dissolution of the District. Such annual report shall be submitted no later than August 1 of each year and shall include information as provided by City Code.

33. No Liability of City. The City has no obligation whatsoever to construct any improvements that the District is required to construct, or pay any debt or liability of the District including any bonds.

34. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

35. Defined Terms. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Amended Service Plan.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

SABELL METROPOLITAN DISTRICT NO. 2, a
quasi-municipal corporation and political
subdivision of the State of Colorado

By: _____
President

ATTEST:

By: _____

Its: _____

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

CITY OF ARVADA

Name: _____

Title: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Regional Improvements

EXHIBIT E

Cost Estimates – Public Improvements

ITEM	(All)
DESCRIPTION	(Multiple Items)

Values						
	TOTAL COST	MOBILIZATION	CONTINGENCY (10%)	WARRANTY / PERMITS (5%)	STAKEOUT / MATERIAL / TESTING (9%)	TOTAL
COMBINED						
EARTHWORK	1,328,113	5,000	132,811	66,406	159,374	1,691,703
SANITARY	1,166,688	10,000	116,669	58,334	105,002	1,456,694
STORM	1,391,485	10,000	139,149	69,574	125,234	1,735,442
WATER	952,075	10,000	95,207	47,604	85,687	1,190,573
CONCRETE	1,259,550	17,000	125,955	62,978	113,360	1,578,842
PAVING	1,151,079	9,000	115,108	57,554	103,597	1,436,338
LANDSCAPING	898,666	10,000	89,867	44,933	107,840	1,151,305
DEMOLITION	412,500	5,000				417,500
EROSION CONTROL	579,061					579,061
MANAGEMENT FEE	290,766					290,766
Grand Total	9,429,982	76,000	814,766	407,383	800,092	11,528,223

ITEM		COST	MOBILIZATION	CONTINGENCY (10%)	STAKEOUT / MATERIAL / TESTING (12%)	WARRANTY / PERMITS (5%)	TOTAL
A	EARTHWORK	1,328,113	5,000	132,811	66,406	159,374	1,691,703
B	SANITARY	1,166,688	10,000	116,669	58,334	105,002	1,456,694
C	STORM	1,391,485	10,000	139,149	69,574	125,234	1,735,442
D	WATER	952,075	10,000	95,207	47,604	85,687	1,190,573
E	CONCRETE	1,259,550	17,000	125,955	62,978	113,360	1,578,842
F	PAVING	1,151,079	9,000	115,108	57,554	103,597	1,436,338
G	LANDSCAPING	898,666	10,000	89,867	44,933	107,840	1,151,305
H	DEMOLITION	412,500	5,000	-	-	-	417,500
I	EROSION CONTROL	579,061	-	-	-	-	579,061
J	MANAGEMENT FEE	290,766	-	-	-	-	290,766

\$11,528,223

COMBINED ITEM	SANITARY (Multiple Items)
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		Values		
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
4' Diameter Manhole (0-10')	EA	35	11,578	202,606
4" PVC Service (30' Avg.)	EA	209	3,066	320,423
4" Underdrain Service	EA	209	1,032	107,852
6" Perf PVC UD SDR - 35 in sock (Same Trench)	LF	6,092	44	134,024
8" PVC (0-10' Depth) w/ Squeege	LF	6,092	110	335,060
Testing	LF	6,092	8	25,130
Tie to existing	EA	2	5,500	5,500
Underdrain Cleanout (2 per MH)	EA	70	1,031	36,094
Grand Total		18,801	22,369	1,166,688

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	4' Diameter Manhole (0-10')	EA	\$35	\$11,578	\$202,606
B	4" PVC Service (30' Avg.)	EA	\$209	\$3,066	\$320,423
C	4" Underdrain Service	EA	\$209	\$1,032	\$107,852
D	6" Perf PVC UD SDR - 35 in sock (Same Trench)	LF	\$6,092	\$44	\$134,024
E	8" PVC (0-10' Depth) w/ Squeege	LF	\$6,092	\$110	\$335,060
F	Testing	LF	\$6,092	\$8	\$25,130
G	Tie to existing	EA	\$2	\$5,500	\$5,500
H	Underdrain Cleanout (2 per MH)	EA	\$70	\$1,031	\$36,094
					\$1,166,688

COMBINED ITEM	STORM (All)
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Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
10' Type R Inlet	EA	10	47,500	237,500
15' Type R Inlet	EA	1	27,313	27,313
18" RCP CL III TG/ C-443 0-8' w/squeegee	LF	1,173	257	150,437
24" FES	EA	2	3,563	7,125
24" RCP CL III TG/ C-443 0-8' w/squeegee	LF	672	342	114,912
30" RCP CL III TG/ C-443 0-8' w/squeegee	LF	974	202	196,626
36" FES	EA	1	4,750	4,750
36" RCP CL III TG/ C-443 0-8' w/squeegee	LF	288	249	71,820
48" FES	EA	1	10,688	10,688
48" RCP CL III TG/ C-443 0-8' w/squeegee	LF	131	356	46,669
5' Diameter MH (0-8) w/24" Cover	EA	19	27,075	257,213
6' Diameter MH (0-8) w/24" Cover	EA	1	20,188	20,188
Type C Inlet	EA	6	21,375	64,125
Type D Inlet	EA	4	10,688	42,750
Type D Inlet Outlet Structure	EA	2	118,750	118,750
Type L Riprap (Emergency Overflow)	CY	36	546	9,833
Type M Riprap	CY	40	546	10,788
Grand Total		3,361	294,386	1,391,485

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	10' Type R Inlet	EA	\$10	\$47,500	\$237,500
B	15' Type R Inlet	EA	\$1	\$27,313	\$27,313
C	18" RCP CL III TG/ C-443 0-8' w/squeegee	LF	\$1,173	\$257	\$150,437
D	24" FES	EA	\$2	\$3,563	\$7,125
E	24" RCP CL III TG/ C-443 0-8' w/squeegee	LF	\$672	\$342	\$114,912
F	30" RCP CL III TG/ C-443 0-8' w/squeegee	LF	\$974	\$202	\$196,626
G	36" FES	EA	\$1	\$4,750	\$4,750
H	36" RCP CL III TG/ C-443 0-8' w/squeegee	LF	\$288	\$249	\$71,820
I	48" FES	EA	\$1	\$10,688	\$10,688
J	48" RCP CL III TG/ C-443 0-8' w/squeegee	LF	\$131	\$356	\$46,669
K	5' Diameter MH (0-8) w/24" Cover	EA	\$19	\$27,075	\$257,213
L	6' Diameter MH (0-8) w/24" Cover	EA	\$1	\$20,188	\$20,188
M	Type C Inlet	EA	\$6	\$21,375	\$64,125
N	Type D Inlet	EA	\$4	\$10,688	\$42,750
O	Type D Inlet Outlet Structure	EA	\$2	\$118,750	\$118,750
P	Type L Riprap (Emergency Overflow)	CY	\$36	\$546	\$9,833
Q	Type M Riprap	CY	\$40	\$546	\$10,788

\$1,391,485

COMBINED ITEM	WATER (All)
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Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
3/4" Water Service	EA	153	2,200	336,600
8" MJ Bends 11.25 w/ Restraints	EA	9	1,169	5,259
8" MJ Bends 22.5 w/ Restraints	EA	3	1,169	1,753
8" MJ Bends 45 w/ Restraints	EA	14	584	8,181
8" MJ Epoxy Coated Tee w/ Restraints	EA	9	825	7,425
8" MJ Gate Valve W/Box & Restraints	EA	28	4,331	60,638
8" PVC C-150 w/Bedding & 12ga Tracer wire	LF	6,049	88	266,156
8" Wet Tap	EA	2	6,875	13,750
8" x 6" Swivel Tee w/ Restraints	EA	12	2,200	13,200
CI,Clear Water & Pressure Test	EA	2	6,188	6,188
FH Assy, 5 1/2' Bury	EA	12	18,288	109,725
Water Services	EA	56	2,200	123,200
Grand Total		6,349	46,116	952,075

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	3/4" Water Service	EA	\$153	\$2,200	\$336,600
B	8" MJ Bends 11.25 w/ Restraints	EA	\$9	\$1,169	\$5,259
C	8" MJ Bends 22.5 w/ Restraints	EA	\$3	\$1,169	\$1,753
D	8" MJ Bends 45 w/ Restraints	EA	\$14	\$584	\$8,181
E	8" MJ Epoxy Coated Tee w/ Restraints	EA	\$9	\$825	\$7,425
F	8" MJ Gate Valve W/Box & Restraints	EA	\$28	\$4,331	\$60,638
G	8" PVC C-150 w/Bedding & 12ga Tracer wire	LF	\$6,049	\$88	\$266,156
H	8" Wet Tap	EA	\$2	\$6,875	\$13,750
I	8" x 6" Swivel Tee w/ Restraints	EA	\$12	\$2,200	\$13,200
J	CI,Clear Water & Pressure Test	EA	\$2	\$6,188	\$6,188
K	FH Assy, 5 1/2' Bury	EA	\$12	\$18,288	\$109,725
L	Water Services	EA	\$56	\$2,200	\$123,200

\$952,075

COMBINED ITEM	CONCRETE (All)
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Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
3' Concrete Pan	SF	1,089	30	16,199
6" Concrete Parking Areas	SF	13,688	16	107,793
6" Thick Sidewalk	SF	23,504	8	185,094
8" Thick Crosspan (500 SF EA)	SF	8,500	30	126,438
Fibermesh and Environmental Impact Fee	LS	2	55,125	55,125
Handicap Ramps w/ Domes	EA	35	5,950	104,125
Mountable Curb & Gutter (2' Pan)	LF	3,871	70	135,485
Subgrade Prep and Backfill Walk, Ramps, and Cross	SF	12,389	11	65,042
Vertical 6" Curb & Gutter (2' Pan)	LF	4,461	27	121,005
Modular Block Retaining Walls	LF	1,401	245	343,245
Grand Total		68,940	61,511	1,259,550

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	3' Concrete Pan	SF	\$1,089	\$30	\$16,199
B	6" Concrete Parking Areas	SF	\$13,688	\$16	\$107,793
C	6" Thick Sidewalk	SF	\$23,504	\$8	\$185,094
D	8" Thick Crosspan (500 SF EA)	SF	\$8,500	\$30	\$126,438
E	Fibermesh and Environmental Impact Fee	LS	\$2	\$55,125	\$55,125
F	Handicap Ramps w/ Domes	EA	\$35	\$5,950	\$104,125
G	Mountable Curb & Gutter (2' Pan)	LF	\$3,871	\$70	\$135,485
H	Subgrade Prep and Backfill Walk, Ramps, and Crosspan	SF	\$12,389	\$11	\$65,042
I	Vertical 6" Curb & Gutter (2' Pan)	LF	\$4,461	\$27	\$121,005
J	Modular Block Retaining Walls	LF	\$1,401	\$245	\$343,245

\$1,259,550

COMBINED ITEM	PAVING (All)
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Values				
DESCRIPTION	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
Asphalt Paving (7.5" Depth)	SY	16,203	116	935,723
Asphalt Removal	SF	930	21	19,530
Manhole Adjustments	EA	55	2,013	55,344
Range Points	EA	26	1,138	14,788
Sawcutting	LF	620	9	5,425
Subgrade Prep	SY	17,493	12	107,145
Water Valve Adjustments	EA	30	875	13,125
Grand Total		35,357	4,183	1,151,079

ITEM	COST	UNIT	ENGINEER'S EST. QTIES	UNIT PRICE	TOTAL COST
A	Asphalt Paving (7.5" Depth)	SY	\$16,203	\$116	\$935,723
B	Asphalt Removal	SF	\$930	\$21	\$19,530
C	Manhole Adjustments	EA	\$55	\$2,013	\$55,344
D	Range Points	EA	\$26	\$1,138	\$14,788
E	Sawcutting	LF	\$620	\$9	\$5,425
F	Subgrade Prep	SY	\$17,493	\$12	\$107,145
G	Water Valve Adjustments	EA	\$30	\$875	\$13,125
					\$1,151,079



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
10.A.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: R22-067, A Resolution Setting Forth Certain Findings of Fact and Conclusions as to the Annexation of Certain Land Into the City of Arvada, Colorado, Union Estates Property, a 2.11- Acre Parcel of Land Generally Located at 12016 West 82nd Avenue

Report in Brief

This resolution is a technical, housekeeping measure intended to ensure compliance with the "Municipal Annexation Act," Section 31-12-101 et seq. Section 31-12-110 of the Act states that "upon completion of the hearing , the governing body of the annexing municipality, by resolution, shall set forth its findings of fact and its conclusions based thereon with reference to the following matters: ." Section 31-12-111 goes on to state that, after the resolution (assuming the resolution determines that the requirements of Section 31-12-104 and 31-12-105 have been met, no election is required, etc.), the governing body may thereupon annex the area by ordinance.

The Arvada team recommends that the City Council approve R22-067, A Resolution Setting Forth Certain Findings of Fact and Conclusions as to the Annexation of Certain Land Into the City of Arvada, Colorado, Union Estates Property, a 2.11- Acre Parcel of Land Generally Located at 12016 West 82nd Avenue.

Financial Impact

There is no financial impact associated with the annexation.

Background

The subject property is located at 12016 West 82nd Avenue and is currently a vacant parcel zoned A-2 (Agricultural-2) in Jefferson County. The proposed annexation complies with the Municipal Annexation Act of 1965. The purpose of the annexation is construct seven custom residential single family homes.

Discussion

The requirements of Sections 31-12-104 and 31-12-105, as referenced in the resolution (and as asserted in the Petition for Annexation), are technical requirements of eligibility for annexation (e.g., 1/6 contiguity, etc.). Meeting those requirements does not mandate annexation of a given property. Thus, in annexation proceedings, Council has the prerogative to adopt such a resolution (finding compliance with the technical requirements of Sections 31-12-104 and 31-12-105) and then reject the companion annexation ordinance (if, for example, it finds that such annexation is not in the best interests of the City).

Public Contact

Posting on City Council Agenda

Commission Recommendation

The Planning Commission held a public hearing on July 19, 2022 and voted 7-0 in favor of recommending approval to the City Council.

Strategic Alignment

This recommended action aligns with the Community and Economic Development Priority Area of the City Council Strategic Plan.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends that the City Council approve R22-067, A Resolution Setting Forth Certain Findings of Fact and Conclusions as to the Annexation of Certain Land Into the City of Arvada, Colorado, Union Estates Property, a 2.11- Acre Parcel of Land Generally Located at 12016 West 82nd Avenue.

Suggested Motion:

I move that R22-067, A Resolution Setting Forth Certain Findings of Fact and Conclusions as to the Annexation of Certain Land Into the City of Arvada, Colorado, Union Estates Property, a 2.11- Acre Parcel of Land Generally Located at 12016 West 82nd Avenue, be (approved) (rejected).

Prepared by:

Josie Suk, Development Systems and Administrative Manager

Reviewed by:

Approved by:

Josie Suk, Development Systems and Administrative Manager	10/10/2022
Carol Ibanez, Senior Planner	10/10/2022
Robert Smetana, Manager of City Planning and Development	10/10/2022
Ryan Stachelski, Director of Community and Economic Development	10/12/2022
Gail Walker, Legal Specialist-Contracts	10/13/2022
Emily Grogg, Senior Assistant City Attorney	10/13/2022
Rachel Morris, City Attorney	10/17/2022
Don Wick, Deputy City Manager	10/17/2022
Linda Haley, Deputy City Manager	10/17/2022
Lorie Gillis, City Manager	10/21/2022

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R22-067

A RESOLUTION SETTING FORTH CERTAIN FINDINGS OF FACT AND CONCLUSIONS
AS TO THE ANNEXATION OF CERTAIN LAND INTO THE CITY OF ARVADA,
COLORADO, UNION ESTATES PROPERTY, A 2.11- ACRE PARCEL OF LAND
GENERALLY LOCATED AT 12016 WEST 82ND AVENUE

WHEREAS, the City Council of Arvada, Colorado has found a petition for the annexation of the hereinafter described parcel of land to be in substantial compliance with the requirements of §31-12-107(1) C.R.S.; and

WHEREAS, the City Clerk has provided notice of public hearing on the proposed annexation by publication once per week for four successive weeks and by registered mail to the Clerk of the Board of County Commissioners, the county Attorney, the school district, and to any special district having territory in the area to be annexed; and

WHEREAS, the City Council has completed a public hearing to determine if the proposed annexation complies with Article II, Section 30 of the Colorado Constitution and §§31-12-104 and 31-12-105 C.R.S., to establish eligibility for annexation.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The City Council of the City of Arvada, State of Colorado, having examined the filings and the Petition for Annexation for certain real property, Union Estates Property, generally located at 12016 West 82nd Avenue, Arvada, Colorado, more fully described in said Petition and having held a public hearing thereon, make the following findings pursuant to Colorado State law:

1. That not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the existing boundaries of the City; and therefore, because of such contiguity, a community interest exists between the territory proposed to be annexed and the City.
2. That the area proposed to be annexed is urban or will be urbanized in the near future.
3. That the area proposed to be annexed is integrated or is capable of being integrated in the City.
4. That no land held in identical ownership has been divided or included without written consent of the owner thereof.
5. That no annexation proceedings have been commenced by another municipality.
6. That the annexation will not result in the detachment of area from a school district.
7. That the annexation will not result in the extension of a municipal boundary more than

three miles.

8. That the City has in place a plan for said three mile area.
9. That in establishing the boundaries of the area to be annexed the entire width of any street or alley is included within the area annexed.
10. That an election is not required under §31-12-107(2) C.R.S.
11. That no additional terms or conditions are imposed which require an election under §31-12-107(2) C.R.S.

Section 2. The City Council of the City of Arvada, State of Colorado, having examined the filings and the Petition for Annexation for certain real property, Union Estates Property, generally located at 12016 West 82nd Avenue, Arvada, Colorado, more fully described in said Petition and having held a public hearing thereon, make the additional following findings pursuant to Arvada's Land Development Code:

1. That the annexation is in accord with the Comprehensive Plan and the best interest of the City would be served by annexation of the subject property.
2. That the subject property is capable of being integrated into the City and developed in compliance with all applicable provisions of this Code, the Arvada City Code, and the terms of an annexation agreement.
3. That at the time any development of the subject property is completed, there will be capacity to adequately serve residents of such area with all necessary utilities, facilities, and public services.

Section 3. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 7th day of November, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: _____



REPORT TO CITY COUNCIL PUBLIC HEARING

AGENDA ITEM
10.B.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: CB22-075, An Ordinance Annexing Certain Land into the City of Arvada for Union Estates Property, a 2.11- Acre Parcel of Land Approximately Located at 12016 West 82nd Avenue (Ordinance No. 4823)

Report in Brief

Steve Lindsey, Linco Enterprises, the applicant is seeking annexation of approximately 2.11 acres located at the northwest corner of West 82nd Avenue and Union Street. The applicant is also requesting rezoning approval from Jefferson County A-2 (Agriculture) to RN-7.5 (Residential 7.5) to allow a maximum of seven single-family residential lots. A Site Plan to develop seven custom single-family homes and a Minor Subdivision are also submitted and are under the administrative review process.

The Arvada team recommends that the City Council approve CB22-075, An Ordinance Annexing Certain Land into the City of Arvada for Union Estates, a 2.11 Acre Parcel of Land Approximately Located at 12016 West 82nd Avenue, on final reading, numbered 4823 and ordered published by title only.

Financial Impact

There is no financial impact associated with the project.

Background

As part of the 2020 Land Development Code, the City rezoned and remapped the established areas of the various subdivisions for single-family detached homes zoned PUD-R (Planned Unit Development-Residential) to RN-7.5 (Residential Neighborhood). The intent of the RN zone district is to maintain the character of mature established neighborhoods to allow development and redevelopment that are consistent with the neighborhood's architectural character. The subject property is located at 12016 West 82nd Avenue and is currently a vacant parcel zoned A-2 (Agricultural-2) in Jefferson County. The Hills at Standley Lake subdivisions lie to the north, west and east sides of the property. The City's Pioneer Park is directly to the south.

Consistent with the existing neighborhoods, the proposed zoning for the property is RN-7.5. The seven lot subdivision will be custom-homes to be built by the applicant who is a custom home builder.

Discussion

The subject property is located at 12016 West 82nd Avenue and is currently a vacant parcel zoned A-2 (Agricultural-2) in Jefferson County. The proposed annexation complies with the Municipal Annexation Act of 1965. Please note the following analysis of the annexation and disconnection approval criteria completed by the Community and Economic Development team.

Div. 8-3-3 Annexation and Disconnection Approval Criteria	Finding	Rationale
1. The annexation is in accord with the Comprehensive Plan and the best interests of the City would be served by annexation of such property.	Complies	The proposed annexation complies with the Municipal Annexation Act of 1965.

2. The property is capable of being integrated into the City and developed in compliance with all applicable provisions of this Code and the Arvada City Code.	Complies	The property is capable of being integrated into the City and developed in compliance with RN-7.5 zone district standards as well as other City regulations.
3. At the time any development of the area proposed to be annexed is completed, there will be capacity to adequately serve residents of such area with all necessary utilities, facilities and public services.	Complies	All necessary utilities and facilities are available to serve and to connect to the public infrastructure when constructed.

Public Contact

The required neighborhood meeting for this project took place on November 12, 2020 . The applicant, Arvada team members, and approximately five neighbors from the Hills at Standley subdivision were in attendance.

Written notice was sent 15 days prior to the meeting, a published notice was posted in the newspaper 15 days prior to the meeting, and a public hearing sign was posted 15 days prior to the meeting.

Commission Recommendation

The Planning Commission voted 7 to 0 to recommend approval to the City Council on July 19, 2022.

Strategic Alignment

The recommended action aligns with the following Principle within the Community and Economic Development Priority Area of the City Council Strategic Plan:

Uses the Comprehensive Plan to guide planning, land use code decisions, development management, and informational and resource services that are delivered to businesses, the development community, decision-making bodies, and neighborhood partners to achieve a well-planned, aligned, sustainable, attractive, and livable community for current and future generations.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends that the City Council approve CB22-075, An Ordinance Annexing Certain Land into the City of Arvada for Union Estates Property, a 2.11- Acre Parcel of Land Approximately Located at 12016 West 82nd Avenue, on final reading, numbered 4823 and ordered published by title only.

Suggested Motion:

I move that CB22-075, An Ordinance Annexing Certain Land into the City of Arvada for Union Estates Property, a 2.11- Acre Parcel of Land Approximately Located at 12016 West 82nd Avenue, be (approved on final reading, numbered 4823 and ordered published by title only) (rejected).

This motion is based on the findings of fact adopted by the Planning Commission.

This motion is based on the following findings of fact for denial:(Recite approval criteria you believe the evidence fails to satisfy and your reasons)

SUBJECT: CB22-075, An Ordinance Annexing Certain Land into the City of Arvada for Union Estates Property, a 2.11- Acre Parcel of Land Approximately Located at 12016 West 82nd Avenue (Ordinance No. 4823)

PAGE: 3
ITEM: 10.B.

Prepared by:

Heidi Van Gieson, Administrative Specialist

Reviewed by:

Approved by:

Carol Ibanez, Senior Planner	10/10/2022
Josie Suk, Development Systems and Administrative Manager	10/12/2022
Robert Smetana, Manager of City Planning and Development	10/12/2022
Ryan Stachelski, Director of Community and Economic Development	10/13/2022
Gail Walker, Legal Specialist-Contracts	10/13/2022
Emily Grogg, Senior Assistant City Attorney	10/14/2022
Rachel Morris, City Attorney	10/17/2022
Linda Haley, Deputy City Manager	10/17/2022
Don Wick, Deputy City Manager	10/17/2022
Lorie Gillis, City Manager	10/21/2022

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 22-075
ORDINANCE NO. 4823

AN ORDINANCE ANNEXING CERTAIN LAND INTO THE CITY OF ARVADA
FOR UNION ESTATES PROPERTY, A 2.11-ACRE PARCEL OF LAND
APPROXIMATELY LOCATED AT 12016 WEST 82ND AVENUE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA,
COLORADO:

Section 1. The City Council of the City of Arvada, State of Colorado, having examined the filings and the annexation map for certain real property more fully described in said map finds as follows:

1. That a petition for annexation, together with four copies of the annexation map as required by law, was filed with the City by the owners of over fifty percent of the area of the territory hereinafter described, exclusive of public streets and alleys, and comprising more than fifty percent of the landowners of the property to be annexed.
2. That the City, by resolution at a properly noticed meeting accepted said petition and found and determined that the applicable parts of the Municipal Annexation Act of 1965, as amended, and Section 30 of Article II of the Colorado Constitution have been met and further determined that an election was not required under the Act and that no additional terms and conditions were imposed upon said annexation.
3. That the area proposed to be annexed meets the applicable requirements of Sections 31-12-104 and 31-12-105, C.R.S., and is therefore eligible for annexation to the City of Arvada.

Section 2. The following described real property, situated in the County of Jefferson, State of Colorado, be and the same hereby is annexed to the City of Arvada, to wit:

A PARCEL OF LAND LOCATED AT THE NORTHWEST CORNER OF WEST 82ND
AVENUE AND UNION STREET

More particularly described in attached Exhibit A.

Section 3. The Mayor is hereby authorized to execute, the City Clerk to attest, in form approved by the City Attorney, an Annexation Agreement pertaining to the property owned by the Petitioners.

Section 4. The Clerk of the City shall perform all statutory duties to complete said annexation.

Section 5. This Ordinance shall be effective five days after publication following final passage.

INTRODUCED, READ, AND ORDERED PUBLISHED this 17th day of October, 2022.

PASSED, ADOPTED, AND APPROVED this 7th day of November, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: _____

Publication Dates: October 20, 2022
 November 10, 2022

EXHIBIT A

AN ORDINANCE ANNEXING CERTAIN LAND INTO THE CITY OF ARVADA FOR
UNION ESTATES PROPERTY, A 2.11- ACRE PARCEL OF LAND APPROXIMATELY
LOCATED AT 12016 WEST 82ND AVENUE (ORDINANCE NO. 4813)

EXHIBIT A

PARCEL A:

A TRACT OF LAND LOCATED IN THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH P.M., JEFFERSON COUNTY, COLORADO CONSISTING OF A PORTION OF TRACT 22, DENVER VIEW GARDENS, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 2 AT PAGE 59A TOGETHER WITH A PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 22 THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 36.55 FEET TO A POINT 30 FEET NORTH OF THE PHYSICAL CENTER LINE OF WEST 82ND AVENUE (MAY 1995) AND THE TRUE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES, 13 MINUTES, 10 SECONDS EAST A DISTANCE OF 225.02 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST PARALLEL TO THE WEST LINE OF SAID TRACT 22, A DISTANCE OF 389.09 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 73.01 FEET OF LOT 21, RUSTIC ACRES; THENCE SOUTH 89 DEGREES, 43 MINUTES, 22 SECONDS WEST PARALLEL TO THE SOUTH LINE OF SAID LOT 21 A DISTANCE OF 225.00 FEET TO THE WEST LINE OF SAID LOT 21; THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 21 AND THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 384.94 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL B:

THAT PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 21; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID LOT 21, A DISTANCE OF 73.01 FEET, THENCE NORTH 89 DEGREES 43 MINUTES 22 SECONDS EAST PARALLEL TO THE SOUTH LINE OF SAID LOT 21, A DISTANCE OF 225.00 FEET, THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 73.01 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 21; THENCE SOUTH 89 DEGREES, 42 MINUTES, 23 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 225.00 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL C:

A TRACT OF LAND KNOWN AS THE EASTERLY 9.5 FEET OF BLOCK 21, DENVER VIEW GARDENS.

SAID TRACT BEING ALSO KNOWN AS A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M. DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 21, DENVER VIEW GARDENS; THENCE NORTH ALONG THE EAST LINE OF SAID BLOCK 21, 630.55 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 21, 6 FEET; THENCE SOUTHWESTERLY A DISTANCE OF 630.55 FEET, MORE OR LESS, TO A POINT ON THE SOUTH LINE OF SAID BLOCK 21, WHICH IS 9.5 FEET WEST OF THE SOUTHEAST CORNER OF

SAID BLOCK 21; THENCE EAST ALONG SAID SOUTH LINE 9.5 FEET TO THE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

ZONING AREA CONTAINS: 91,995.1 SQUARE FEET OR 2.11 ACRES.

PETITION FOR ANNEXATION

NAME OF ANNEXATION: Union Estates

APPROXIMATE LOCATION: 12161 W. 82nd Avenue

PETITION FOR ANNEXATION OF UNINCORPORATED
TERRITORY IN THE COUNTY OF JEFFERSON,
STATE OF COLORADO, TO THE CITY OF ARVADA,
STATE OF COLORADO

TO THE MAYOR AND THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

The undersigned in accordance with the Municipal Annexation Act of 1965, Chapter 31, Article 12, C.R.S. 1973, as amended, hereby petitions the City Council of the City of Arvada for annexation to the City of Arvada of the following described unincorporated territory located in the County of Jefferson, State of Colorado, to wit:

LEGAL DESCRIPTION

PROPERTY DESCRIPTION OF ANNEXATION PARCEL:

PARCEL A:

A TRACT OF LAND LOCATED IN THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH P.M., JEFFERSON COUNTY, COLORADO CONSISTING OF A PORTION OF TRACT 22, DENVER VIEW GARDENS, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 2 AT PAGE 59A TOGETHER WITH A PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 22 THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 36.55 FEET TO A POINT 30 FEET NORTH OF THE PHYSICAL CENTER LINE OF WEST 82ND AVENUE (MAY 1995) AND THE TRUE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES, 13 MINUTES, 10 SECONDS EAST A DISTANCE

OF 225.02 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST PARALLEL TO THE WEST LINE OF SAID TRACT 22, A DISTANCE OF 389.09 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 73.01 FEET OF LOT 21, RUSTIC ACRES; THENCE SOUTH 89 DEGREES, 43 MINUTES, 22 SECONDS WEST PARALLEL TO THE SOUTH LINE OF SAID LOT 21 A DISTANCE OF 225.00 FEET TO THE WEST LINE OF SAID LOT 21; THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 21 AND THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 384.94 FEET TO THE TRUE POINT OF BEGINNING , COUNTY OF JEFFERSON , STATE OF COLORADO.

PARCEL B:

THAT PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 21; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID LOT 21, A DISTANCE OF 73.01 FEET, THENCE NORTH 89 DEGREES 43 MINUTES 22 SECONDS EAST PARALLEL TO THE SOUTH LINE OF SAID LOT 21, A DISTANCE OF 225.00 FEET, THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 73.01 FEET, TO A POINT ON THE SOUTH LINE OF SAID LOT 21; THENCE SOUTH 89 DEGREES, 42 MINUTES, 23 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 225.00 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL C:

A TRACT OF LAND KNOWN AS THE EASTERLY 9.5 FEET OF BLOCK 21, DENVER VIEW GARDENS.

SAID TRACT BEING ALSO KNOWN AS A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M. DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 21,

DENVER VIEW GARDENS; THENCE NORTH ALONG THE EAST LINE OF SAID BLOCK 21, 630.55 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 21, 6 FEET; THENCE SOUTHWESTERLY A DISTANCE OF 630.55 FEET, MORE OR LESS, TO A POINT ON THE SOUTH LINE OF SAID BLOCK 21, WHICH IS 9.5 FEET WEST OF THE SOUTHEAST CORNER OF SAID BLOCK 21; THENCE EAST ALONG SAID SOUTH LINE 9.5 FEET TO THE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

ANNEXATION AREA CONTAINS: 91,995.1 SQUARE FEET OR 2.11 ACRES.

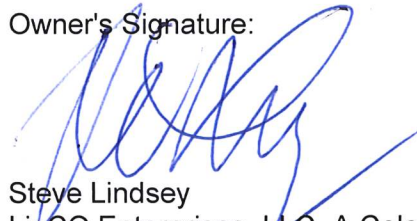
In support of the said Petition, your Petitioner alleges that:

1. It is desirable and necessary that the above-described territory be annexed to the City of Arvada.
2. No less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City of Arvada.
3. A community of interest exists between the territory proposed to be annexed and the City of Arvada.
4. The territory proposed to be annexed is urban or will be urbanized in the future.
5. The territory proposed to be annexed is integrated or is capable of being integrated with the City of Arvada.
6. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate:
 - (a) is divided into separate parts or parcels without the written consent of the landowner or landowners thereof.
 - (b) comprising twenty acres or more which, together with the buildings and improvements situated thereon, has an assessed value in excess of two-hundred thousand dollars for an ad valorem tax purpose for the year preceding the annexation is included within the territory proposed to be annexed, without the written consent of the landowner or landowners thereof.
7. No annexation proceedings have been commenced by another municipality for the annexation of part or all of the area proposed herein to be annexed to Arvada.

8. Annexation of the territory proposed to be annexed will not result in detachment of area from any school district and the attachment of the same to another school district.
9. Annexation of the area proposed to be annexed will not have the effect of extending the City of Arvada's municipal boundary more than three miles in any direction from any point of such municipal boundary in any one year.
10. No portion of a platted street or alley lies within the boundaries of the area proposed to be annexed, unless the entire width of said street or alley has been included within the boundaries of the area to be annexed.
11. The Signer of the Petition comprises the landowner of one hundred percent of the territory included in the area proposed to be annexed, exclusive of streets and alleys and any land owned by the annexing municipality.
12. All other requirements of Section 31-12-104 and 31-12-105, C.R.S., exist or have been met.
13. The mailing address of the Signer, the legal description of the land owned by such signer, and the date of signing of such signature are all shown on this Petition.
14. Attached to this Petition is the Affidavit of Circulator of this Petition that the signature hereon is the signature of the person whose name it purports to be.

Your Petitioner further requests that the City of Arvada approve the annexation of the area proposed to be annexed.

Owner's Signature:



Steve Lindsey
LinCO Enterprises, LLC. A Colorado Limited Liability
Address: 15812 W 60th Ave. Arvada CO 80007

Date of signing:

9-12-22

AFFIDAVIT OF CIRCULATOR

STATE OF COLORADO)
)ss.
COUNTY OF JEFFERSON)

Steve Lindsey, being duly sworn, upon oath, deposes and states:

1. That the affiant circulated the Petition for Annexation for the purpose of obtaining the signature of the above Petitioner.
2. That each signature thereon is the signature of the person whose name it purports to be.

[Signature]
Circulator

Notary Certificate

STATE OF Colorado)
) ss.
COUNTY OF Jefferson)

Subscribed and sworn to before me this 12th day of September 2022.

Witness my hand an official seal.

[Signature]
Notary Public

My Commission Expires: December 15, 2025



PROPERTY DESCRIPTION OF ANNEXATION PARCEL:

PARCEL A:

A TRACT OF LAND LOCATED IN THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH P.M., JEFFERSON COUNTY, COLORADO CONSISTING OF A PORTION OF TRACT 22, DENVER VIEW GARDENS, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 2 AT PAGE 59A TOGETHER WITH A PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 22; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 36.55 FEET TO A POINT 30 FEET NORTH OF THE PHYSICAL CENTER LINE OF WEST 82ND AVENUE (MAY 1995) AND THE TRUE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES, 13 MINUTES, 10 SECONDS EAST A DISTANCE OF 225.02 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST PARALLEL TO THE WEST LINE OF SAID TRACT 22, A DISTANCE OF 389.09 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 73.01 FEET OF LOT 21, RUSTIC ACRES; THENCE SOUTH 89 DEGREES, 43 MINUTES, 22 SECONDS WEST PARALLEL TO THE SOUTH LINE OF SAID LOT 21 A DISTANCE OF 225.00 FEET TO THE WEST LINE OF SAID LOT 21; THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 21 AND THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 384.94 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL B:

THAT PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 21; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID LOT 21, A DISTANCE OF 73.01 FEET; THENCE NORTH 89 DEGREES, 43 MINUTES, 22 SECONDS EAST PARALLEL TO THE SOUTH LINE OF SAID LOT 21, A DISTANCE OF 225.00 FEET; THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 73.01 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 21; THENCE SOUTH 89 DEGREES, 42 MINUTES, 23 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 225.00 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL C:

A TRACT OF LAND KNOWN AS THE EASTERLY 9.5 FEET OF BLOCK 21, DENVER VIEW GARDENS.

SAID TRACT BEING ALSO KNOWN AS A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 21, DENVER VIEW GARDENS; THENCE NORTH ALONG THE EAST LINE LINE OF SAID BLOCK 21, 630.55 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 21, 6 FEET; THENCE SOUTHWESTERLY A DISTANCE OF 630.55 FEET, MORE OR LESS, TO A POINT ON THE SOUTH LINE OF SAID BLOCK 21, WHICH IS 9.5 FEET WEST OF THE SOUTHEAST CORNER OF SAID BLOCK 21; THENCE EAST ALONG SAID SOUTH LINE 9.5 FEET TO THE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

ANNEXATION AREA CONTAINS: 91,995.1 SQUARE FEET OR 2.11 ACRES.

NOTES:

1.) THIS ANNEXATION MAP HAS BEEN PREPARED IN CONFORMANCE WITH CRS 31-12-104-(1).

2) FIRST AMERICAN TITLE INSURANCE COMPANY TITLE COMMITMENT FILE NO. 5509-373862 DATED FEBRUARY 9, 2022 AT 8:00 AM WAS USED FOR THE LEGAL DESCRIPTIONS AND RESEARCH OF EASEMENTS, RIGHTS-OF-WAY AND ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

3.) FIELD SURVEY CONDUCTED JUNE, 2020, EXISTING SURVEY MONUMENTS AS RECOVERED AND LAND SURVEY PLATS ON RECORD WITH JEFFERSON COUNTY WERE USED IN BOUNDARY CALCULATIONS.

4.) DISTANCES SHOWN HEREON ARE IN U.S. SURVEY FEET.

5.) A STRIP OF LAND LYING BETWEEN THE SUBJECT PROPERTY AND THE WESTERLY LINE OF LOTS 1A AND 2A OF THE HILLS OF STANLEY LAKE LOTS 1A AND 2A, A MINOR SUBDIVISION IS APPARENTLY REMNANT PORTIONS OF LOTS 18, 19, 20 AND 21 OF RUSTIC ACRES, BOOK 20, PAGE 36 THAT WERE NOT INCLUDED IN THE SUBSEQUENT PLATS OF THE HILLS AT STANLEY LAKE, RECEPTION NO. F0373561 OR THE HILLS OF STANLEY LAKE LOTS 1A AND 2A, A MINOR SUBDIVISION, RECEPTION NO. F0745360 AND IS NOT INCLUDED IN THIS ANNEXATION.

TABLE OF REMNANT PORTIONS OF LOTS 18-21, RUSTIC ACRES, BOOK 20, PAGE 36: DIMENSIONS ARE SHOWN APPROXIMATELY, FOR GENERAL INFORMATION PURPOSES ONLY AND BASED ON RECORDED PLAT DIMENSIONS. THESE PORTIONS OF LOTS ON THE ADJACENT PROPERTY WERE NOT INCLUDED IN THE SURVEY OR INCLUDED IN THIS ANNEXATION MAP.

A = THE WESTERLY PORTION OF LOT 21 RUSTIC ACRES, BOOK 36 (15.85' X 26.99').

B = THE WESTERLY PORTION OF LOT 20 RUSTIC ACRES, BOOK 36 (15.85' X 100').

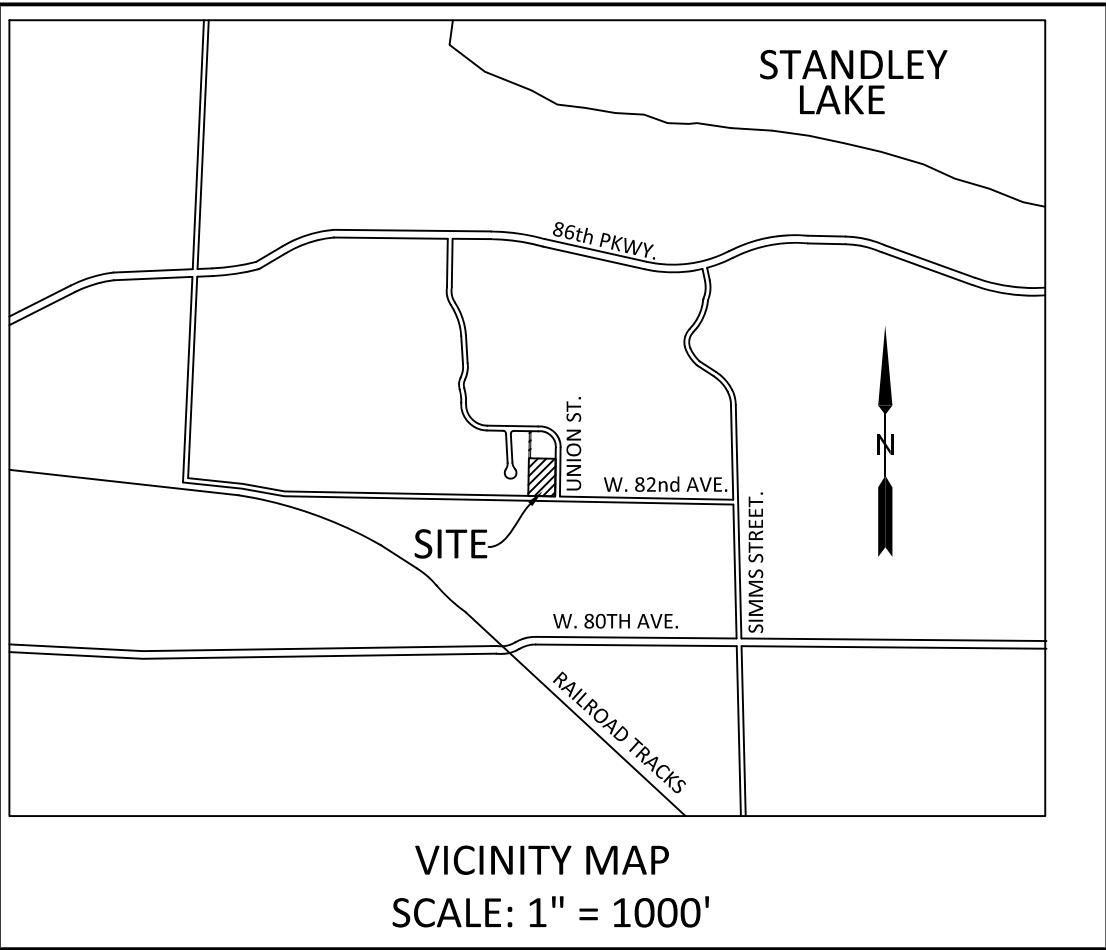
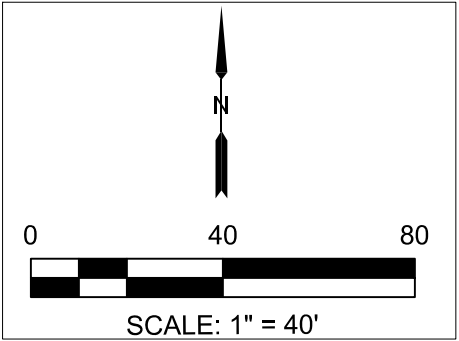
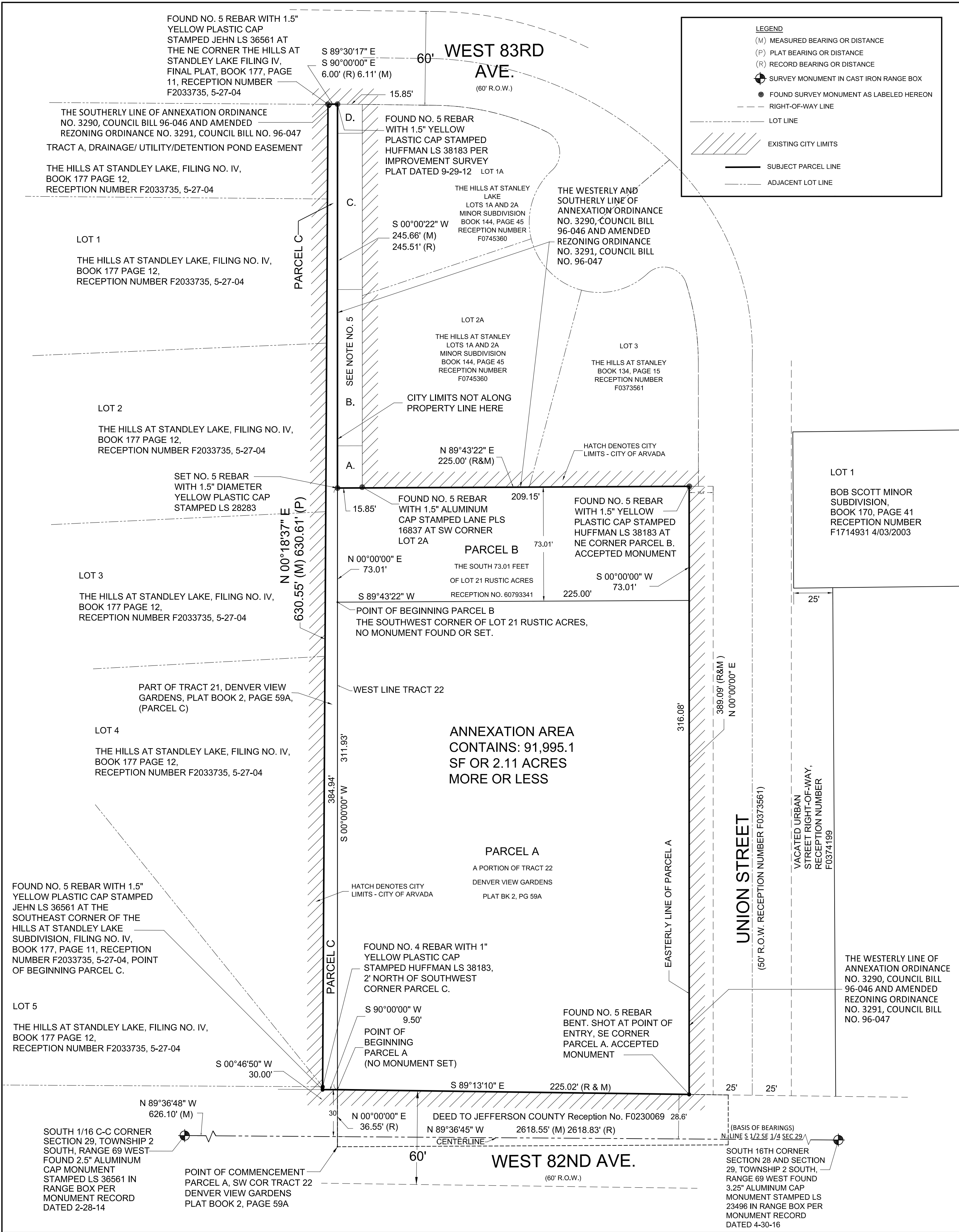
C = THE WESTERLY PORTION OF LOT 19 RUSTIC ACRES, BOOK 36 (15.85' X 100').

D = THE WESTERLY PORTION OF LOT 18 RUSTIC ACRES, BOOK 36 (15.85' X 18.44' +/-).

6.) BASIS OF BEARINGS: THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M. IS ASSUMED TO BEAR SOUTH 89°36'45" EAST BETWEEN A FOUND 2.5 INCH DIAMETER ALUMINUM CAP STAMPED LS 36561 IN RANGE BOX AT THE SOUTH 1/16TH, CENTER-CENTER CORNER OF SECTION 29 AND A FOUND 3.25 INCH DIAMETER ALUMINUM CAP MONUMENT STAMPED LS 23496 IN RANGE BOX AT THE SOUTH 1/16TH CORNER SECTIONS 28 AND 29 TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M.

UNION ESTATES
ANNEXATION MAP

PARCELS OF LAND LOCATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER
OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF JEFFERSON, STATE OF COLORADO.



TOTAL ANNEXATION AREA: 91,995.1 SQUARE FEET OR 2.11 ACRES.

TOTAL BOUNDARY ANNEXATION: 1730.93 LINEAR FEET.

TOTAL BOUNDARY CONTIGUOUS WITH CITY LIMITS: 1469.42 LINEAR FEET.

CONTIGUITY STATEMENT:

TOTAL PERIMETER OF AREA CONSIDERED FOR ANNEXATION = 1730.93 LINEAR FEET.

ONE-SIXTH OF TOTAL PERIMETER OF AREA = 288.49 LINEAR FEET.

PERIMETER OF THE AREA CONTIGUOUS WITH EXISTING CITY LIMITS = 1715.08 LINEAR FEET.

THE TOTAL CONTIGUOUS PERIMETER IS 99%, WHICH EXCEEDS THE 1/6 AREA REQUIRED.

SURVEYOR'S CERTIFICATION:

THE ABOVE DESCRIBED LAND IS CONTIGUOUS TO THE CITY OF ARVADA AND MEETS THE REQUIREMENTS SET FORTH IN COLORADO REVISED STATUTES 1973, 31-12-104-(1) THAT ONE-SIXTH OR MORE OF THE PERIMETER TO BE ANNEXED IS CONTIGUOUS WITH THE ANNEXING MUNICIPALITY.

ROBERT A. RICKARD, CO PLS NO. 28283
FOR AND ON BEHALF OF
ROCK CREEK SURVEYING, LLC

APPROVAL CERTIFICATE:

APPROVED FOR FILING BY THE CITY OF ARVADA THIS ____ DAY OF ____, 20__.

MAYOR: _____ ATTEST: _____
CITY CLERK

ORDINANCE NUMBER (S) _____

CLERK AND RECORDER:

RECEPTION NUMBER _____

ACCEPTED FOR FILING IN THE OFFICE OF THE CLERK AND RECORDER OF JEFFERSON COUNTY,
AT GOLDEN COLORADO ON THIS ____ DAY OF ____, 20__ AT ____ O'CLOCK.

BY: _____ DEPUTY CLERK
JEFFERSON COUNTY CLERK AND RECORDER

PREPARED BY:
ROCK CREEK SURVEYING, LLC
3021 GARDENIA WAY
SUPERIOR, COLORADO 80027
(303) 521-7376

06/07/2022

SHEET 1 OF 1



**UNION ESTATES
RESIDENTIAL ANNEXATION & DEVELOPMENT AGREEMENT**

THIS ANNEXATION & DEVELOPMENT AGREEMENT ("Agreement") between Steve Lindsey, LinCo Enterprises LLC, a Colorado Limited Liability Company ("Annexor") and the City of Arvada, Colorado, a Colorado municipal corporation ("City"), shall be effective upon execution by all applicable parties and immediately upon approval by the City of Arvada as evidence by the approval signature where indicated below.

RECITALS AND REPRESENTATIONS:

WHEREAS, the Annexor represents that it is the principle owner of the following described property generally located at the northwest corner of West 82nd Avenue and Union Street, in the City of Arvada, County of Jefferson, State of Colorado, more fully described as follows:

[See attached Legal Description]

Known as Union Estates ("Property").

WHEREAS, the Annexor desires to annex the Property to the City, and to that end has filed a Petition for Annexation of the Property into the City, pursuant to the Colorado Municipal annexation Act, C.R.S. 31-12-101, et seq.; and

WHEREAS, the City wishes to control its growth in a planned and orderly fashion, maintaining the improvements and the quality of life and the City's ability to provide and enhance environmental amenities, services, and local opportunities for its citizens; and

WHEREAS, the Annexor is planning development of the Property as a single family detached subdivision, generally located at the northwest corner of West 82nd Avenue and Union Estates. The Annexor's development and construction plans include the installation of certain public infrastructure including, but not necessarily limited to, sanitary sewer facilities, water line facilities, storm drainage facilities, roadways and emergency access improvements, walks, and landscape improvements, more particularly shown on City Job No. DA2021-0023.

WHEREAS, the Annexor has submitted to the City a proposed Site Plan and construction plans for the Property, which include a final site plan, final landscape plan, final drainage plans, and other supporting documentation for the development thereof. The plat, construction plans, and other supporting documents, as approved by the City, are public records on file and available for review at the City of Arvada City Hall, 8101 Ralston Road, Arvada, Colorado. These approved plans and associated documents, are also incorporated into this Agreement for all purposes including illustration and interpretation of the terms and conditions of this Agreement, and may herein be

referred to collectively as the “Final Plans”.

WHEREAS, the parties hereto understand and agree that the intent of this Agreement is to establish obligations and responsibilities with respect to the development of the Property in accordance with the Final Plans, said obligations and responsibilities being covenants that run with the Property, encumbering such and governing the development thereof. The Annexor/Developer shall be affirmatively bound to satisfy all of the obligations and responsibilities set forth herein (including the construction of public improvements).

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements of the parties, the approval by the City of Arvada of the Final Plans for the Property, the dedication of certain land and/or easements to the City and other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged by the parties, the parties hereto agree as follows:

1. PLAN AND AGREEMENT APPROVALS: The Annexor, upon approval of the Final Plans for the Property, shall immediately submit three copies of the approved Site Plan to the Director of Community and Economic Development. No construction may occur on or associated with the Property and no building permits may be issued until construction documents for all required improvements are submitted and approved by the City Engineer. Upon approval, the Annexor shall provide the City Engineer the approved final construction plans for the construction of emergency access lanes, water lines, sanitary sewer services, storm drains and storm drainage structures and streets associated with development of the Property, as required by the City. Said Construction Plans shall meet the approval of the City and the proposed development shall be constructed according to the Final Plans. No approval of the public improvements as referenced in the Construction Plans conferred by this Agreement and approval shall be independently made by the City Engineer following the City Engineer's determination that the plans meet the applicable City engineering specifications, commonly accepted engineering practices, and all applicable codes, ordinances, and State, Federal and local laws.

2. CODE COMPLIANCE: The Annexor shall comply with all codes, ordinances, and rules and regulations of the City. Development of the Property shall also be in conformance with all aspects of the Final Plans and shall be completed prior to issuance of the first certificate of occupancy within the Property. This shall include, but not be limited to, street and parking lot paving and striping, landscaping, trash enclosures, rooftop and wall mounted equipment, building elevations, and all other requirements of the Final Plans and applicable City codes, ordinances, and rules and regulations.

3. PAYMENT OF FEES: The Annexor shall pay all fees and other charges in a timely manner as required by the City, including but not limited to building permits, inspection fees, tap fees, drainage fees, park and school dedication and development fees, and departmental review fees imposed by the City by ordinance, rule, resolution, motion, or by the terms and conditions of this Agreement. Unless otherwise agreed to by the City, the Annexor's payment of fees and charges specified by this Agreement shall be made in the form of certified funds, cashier's check, or cash delivered to the City of Arvada, Municipal Building, 8101 Ralston Road, Arvada, Colorado 80002. The City shall not accept personal or business checks or drafts not certified by a financial institution as payable.

4. FIRE DISTRICT APPROVALS: The Annexor shall address all of the comments noted in the referral responses, including any requirements for fire hydrants, emergency access lanes, and fire lane signage, and shall obtain approval from the Fire Protection District having jurisdiction prior to issuance of each building permit and certificate of occupancy (as applicable) for the Property.

5. CONTRACTOR LICENSING: Before proceeding with work contemplated herein, the Annexor shall ensure that all contractors and/or subcontractors it employs be licensed by the City before the contractor and/or subcontractor may commence work on any improvements associated with development of the Property. The Annexor shall be responsible for ascertaining the status of any contractor or subcontractor to be utilized in the development of the Property, with respect to any uncorrected deficiencies in that entity's previous, unrelated work within the City or its outstanding omissions related to such work including, but not limited to, failure to: (i) submit as-built construction plans, (ii) complete the process of placing public improvements under warranty (iii) submit tax certifications, (iv) submit test records.

6. DEVELOPMENT IMPROVEMENTS: The Annexor shall, at its own expense, design, furnish, construct, and install the public and private improvements in accordance with the plans and specifications approved by the City of Arvada, Colorado (City Job No. DA2021-0023). These improvements shall include, but not be limited to, construction of all public/private streets, alleys, driveways, parking areas, water lines and mains, sewer lines and mains, drainage facilities, and landscaping within and adjacent to the Property in accordance with the approved Final Plans for the Property and with the requirements of the LDC. The public improvements must be completed prior to issuance of the first building permit for the Property unless specified differently.

All public improvements constructed by the Annexor in public rights-of-way, easements, streets or alleys shall become the property of the City immediately upon acceptance of said improvements by the City and the Annexor shall warrant said improvements for 2 years from the date of acceptance by the City. The Annexor shall complete the process of placing completed public improvements under warranty promptly upon completion. These improvements must be completed prior to issuance of the final certificate of occupancy. Failure to place such improvements under warranty may, in the City's discretion, result in the withholding or denial of subsequent building permits or certificates of occupancy.

The City may request, and the Annexor shall provide at the Annexor's cost, documentary evidence satisfactory to the City that any public right-of-way, easement, or other real property dedicated, conveyed, acquired, devised, or granted to the City are free and clear of encumbrances which, in the sole opinion of the City, defeat, limit, or impede the City's ability to use the relevant property as intended. The Owner and Annexor acknowledge that no construction may occur and no building permits may be issued until construction documents for all required improvements are submitted and approved by the City Engineer.

7. FUGITIVE DUST AND EROSION CONTROL: The Annexor shall meet all requirements and obligations imposed by the State of Colorado, County of Jefferson, and the City concerning management of stormwater runoff and fugitive dust, and shall comply with all Federal, State, County, and City requirements governing the stormwater conveyances, detention ponds,

fugitive dust, and requirements associated with permits issued for erosion and sediment control on the Property. The Annexor shall provide a copy of all State and County permits acquired to Arvada's Stormwater Program prior to commencement of any earth disturbance work associated with the Property. Further, the Annexor shall fully comply with the applicable sections of the City's Site Development Permit Ordinance, Chapter 50, Sections 50-70 through and including 50-79 of the Arvada City Code, including the requirement to install and maintain best management practices to reduce soil erosion and control sediment generated by development of the Property. Compliance by the Annexor with such ordinance shall be a pre-condition of obtaining building permits or certificates of occupancy. The City may deny or revoke any permit issued to the Annexor in the event that the Annexor is non-compliant with City requirements. The Annexor shall also follow any new standards that the City may adopt for erosion and sediment control and fugitive dust due to changes in State and Federal requirements or drought conditions.

8. RIGHTS-OF-WAY: The Annexor shall comply with all applicable provisions of Chapter 78, Article V of the Arvada City Code, entitled "Rights-of-Way." This article contains requirements including, but not limited to, Annexor escrow for improvements in public rights-of-way and street surface restoration for public streets.

9. SUBDIVISION MONUMENTATION: In accordance with the applicable Colorado Revised Statutes as amended, and in accordance with the LDC, the Annexor shall establish all subdivision monumentation and have the monumentation approved by the City prior to issuance of the first certificate of occupancy within the Property.

10. STREET IMPROVEMENTS AND MAINTENANCE: The Annexor shall maintain, in a reasonable, suitable and proper condition for travel, ingress and egress, all streets and access ways included within the Final Plans for the Property until they are completed and accepted for maintenance by the City. The Annexor shall take all steps necessary to limit and prevent the accumulation of, and to remove mud, sediment, dirt, trash, and other debris that is tracked, blown, or otherwise carried onto public property or off-site onto private property during development. Such obligation shall continue until all development associated with the Property is complete and improvements accepted by the City for maintenance. If the Annexor fails to remedy any conditions caused or generated by the development as contemplated herein within 24 hours of oral or written notice by the City, the City may enter the property, streets and public ways to remedy such conditions. The Annexor shall pay the City for any and all costs incurred by the City in remedying such conditions. Payment of said costs shall be made prior to the City's issuance of additional building permits or certificates of occupancy for all or any part of the development, or immediately upon request from the City, whichever is sooner. The City may limit, deny or revoke building permits or certificates of occupancy until such time as costs incurred, pursuant to this Agreement, are paid in full. Nothing herein shall obligate the City to remedy such conditions or shall limit the City in its selection of the method or manner of remedy, including but not limited to contracting with an individual or company to remedy such conditions. The Annexor shall also replace any broken, damaged, or settled concrete that fronts any lot associated with this development as deemed necessary by the City, prior to the issuance of the final certificate of occupancy on the Property.

11. UNDERGROUNDING OVERHEAD UTILITIES: The Annexor shall be responsible for undergrounding existing overhead utilities in conformance with the LDC. Any required

improvements must be completed prior to the issuance of the first certificate of occupancy within the Property and shall be completed at no cost to the City.

12. PUBLIC UTILITY FEES: The Annexor shall pay all installation charges for lighting, electric and gas required by Public Service Company/Xcel Energy for development of the Property.

13. LIGHTING RESTRICTIONS: Cut-off type fixtures with flush-mounted, flat lenses that cast light downward, and not out toward adjacent properties, must be used. All exterior lighting specifications must comply with the LDC. All exterior lighting must be approved by the Director of Community and Economic Development prior to approval of the Site Plan. Should it be determined by the City, at a later date, that lighting on the Property is problematic to any adjacent residential uses, the Owner/Developer, or their successors and assigns, as applicable, shall promptly adjust the light fixtures to resolve the issue to the City's satisfaction.

14. STORMWATER APPURTENANCE CONSTRUCTION AND MAINTENANCE: The Annexor shall obtain approval from the City Engineer of the final drainage plan for this development prior to approval of the associated Construction Plans/Final Plans. The Annexor shall install stormwater conveyances, detention ponds, swales, infiltrations beds, underground best management practices, or any other stormwater feature as detailed on the approved construction drawings unless prior written approval is obtained by the City Engineer. The Annexor shall meet all requirements, obligations, and best engineering principles imposed by the State of Colorado, County of Jefferson, City, and Urban Drainage and Flood Control District governing the construction of stormwater conveyances, detention ponds, swales, infiltration beds, underground best management practices, or any other water quality feature.

Drainage easements are required for all detention areas and drainage channels, which shall be privately maintained by the Annexor, its successors or assigns. The Annexor shall include language to this effect in any covenants for the Property. Maintenance of stormwater appurtenances must be conducted on a routine basis and in response to the Annexor or its successors' or assigns' annual inspection and evaluation of the stormwater conveyances' condition. Should ownership of stormwater appurtenances or maintenance responsibilities change, the City of Arvada Stormwater Program must be notified in writing of all new contact information within 30 days of changes taking effect. The City will enforce stormwater installation and maintenance provisions throughout the construction of the Property and beyond as required by law. In no event shall the City be responsible for constructing or maintaining the drainage/detention facilities or maintaining the easements within the Property.

15. WATER RIGHTS: Chapter 102, Article II, of the Arvada City Code requires that all Property annexed into the City, must convey any tributary water rights appurtenant thereto to the City of Arvada. The Annexor of the Property has declared that no water rights are associated with the Property. Should it be determined otherwise, the Annexor shall be required to comply with the conveyance requirements of the Arvada City Code. In addition, the City, upon annexation, will not acquire, or require conveyance of, existing well water rights, but shall have a right of first refusal to have such rights conveyed to the City, pursuant to the Arvada Land Development Code, in the event the Annexor, or its successors or assigns, desires to convey such rights to any party other than a subsequent purchaser of the landowner's lot(s) upon which the well is situated.

16. INSTALLATION OF LANDSCAPING AND RECREATIONAL AMENITIES: The Annexor acknowledges that the City has adopted in the past, and may in the future, adopt water restrictions which impact the viability of installing and maintaining the landscaping as illustrated on the approved landscape plans for the Property. Those watering restrictions may prohibit or qualify the installation of trees, shrubs, new seed, and/or sod for irrigated turf areas. In the event of such prohibition, the Annexor shall deposit funds with the City for escrow in an amount equal to 110% of the estimated cost of improvements not installed due to the prohibition, including, but not limited to irrigated turf areas, trees, shrubs, mulch, edger, and weed barrier. Upon expiration of water restrictions, the Annexor shall complete installation of the remaining improvements in accordance with the Final Plans for the Property, within 90 days. During any restrictions, the City still encourages the installation of trees and shrubs, if they are drip irrigated or hand watered. However, the City may not have any water available for the irrigation of these landscape materials installed at that time. If the Annexor proceeds with the installation of any plantings at that time, it is done at the Annexor's sole risk.

Installation of irrigation systems and other hard surface areas (such as fencing, playground equipment, covered shelters, or other such amenities) shall be completed by the Annexor, at its sole expense, prior to the issuance of the first certificates of occupancy within the Property, unless the improvements have been delayed due to reasons beyond the Annexor's control, such as adverse weather conditions. The Annexor shall deposit funds with the City for escrow in an amount equal to 150% of the estimated cost of the remaining hard surface site elements (including irrigation systems, fencing and other elements as noted above) that are not installed prior to issuance of certificates of occupancy. During periods of time when no water restrictions are in effect, the Annexor shall deposit funds with the City for escrow in an amount equal to 150% for all improvements not completed prior to issuance of a certificate of occupancy. A landscape contractor, acceptable to the City, shall make a determination of the estimated cost of improvements. The City, at its sole discretion and upon the City's rejection of an estimate provided by the Annexor, may obtain an estimate of the costs of landscaping. Such estimate shall be binding upon the Annexor in determining the amount of funds to be escrowed for purposes of this paragraph.

The City shall release its interest in the escrowed funds only upon completion of all landscaping obligations by the Annexor and approval of such by the City. In the event that the Annexor defaults upon its obligations as specified in this paragraph, following the escrow of funds, the City may apply all funds toward the completion of the Annexor's landscaping obligations. For the purpose of applying such funds toward the completion of the Annexor's landscaping obligations, "completion" shall mean and include the cost of labor, materials, contract management, and administration. The City shall refund the escrowed funds not applied to completion of landscaping required by the final landscape plan upon application and verification of entitlement. The method and manner in which the City elects to undertake and complete the landscaping obligations of the defaulting Annexor shall be within the sole discretion of the City; provided, however, that nothing herein shall obligate the City to install or complete the landscaping improvements and nothing herein shall prevent, prohibit, or limit the remedies available to the City to enforce the Annexor's obligations under this paragraph.

17. INSTALLATION OF FENCING: The Annexor shall ensure that all fencing for the

Property conforms to the Final Plans and the requirements of the LDC. Fencing shall require separate permits and approvals from the City prior to construction/installation. The Annexor agrees to install all fencing as illustrated on the Final Plans for the Property. Installation of the fencing must be completed prior to the issuance of the first certificate of occupancy within the Property.

18. LANDSCAPING AND FENCING MAINTENANCE: The Annexor or its successors, or assigns, including any property owner's association, shall maintain in perpetuity (at its sole expense) all landscaping, fencing, and any other amenities (collectively referred to herein as "Landscaping") installed within or associated with the Property pursuant to the Final Plans, regardless of whether the landscaping, as actually installed, fails to specifically conform to the requirements of the Final Plans and regardless of whether the Annexor or the City installs the landscaping.

19. SCREENING OF MECHANICAL EQUIPMENT: The Annexor shall screen all roof mounted and wall mounted equipment from view pursuant to the LDC to the satisfaction of the Director of Community and Economic Development prior to issuance of each certificate of occupancy within the Property.

20. SIGNAGE: The Annexor shall ensure that all signage for the Property conforms to the Final Plans and the requirements of the LDC. No signage illustrated on the Final Plans is deemed approved by the City as part of the Final Plans approval. Signage shall require separate permits and approvals from the City prior to construction or installation.

21. AS-BUILT CONSTRUCTION PLANS: The Annexor shall file, or cause to be filed, with the City an original or reproducible copy of the as-built construction plans of said public improvements promptly upon the completion of the improvements. Failure to do so will delay commencement of the two-year warranty for said public improvements, in which case the Annexor agrees to hold harmless and indemnify the City for any and all actions, claims, damages, injuries, and liabilities resulting from, or in any way related to, such improvements or the failure to submit such as-built plans. The Annexor further understands and agrees that, as a result of its failure to promptly submit such as-built plans, the City may withhold or deny subsequent building permits or certificates of occupancy, either related to the Property or any subsequent development by the Annexor, until such failure is remedied. This section shall survive the expiration or earlier termination of this Agreement.

22. FORCE MAJEURE: Any delays in or failure of performance by any party of their respective obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, pandemics, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party, and which are agreed to by the parties as justifying delay.

23. WAIVER: A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

24. BINDING EFFECT: The parties hereto agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns thereof and shall constitute

covenants running with the Property. In the event that all or part of the Property is sold, transferred, or otherwise conveyed to additional or multiple parties, all owners and developers shall be jointly and severally responsible for the obligations of the Owner and Annexor as set forth in this Agreement.

25. SEVERABILITY/AMENDMENT: Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement. This Agreement may be amended only by an instrument in writing signed by all parties.

26. 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 City, the Owner, and the Developer, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on such Agreement.

27. GOVERNING LAW AND ENFORCEMENT: The laws of the State of Colorado shall govern this Agreement. The parties agree and acknowledge that this Agreement may be enforced at law or in equity. In addition to any other available remedies, it is understood and agreed that the City may withhold or revoke any permits or certificates, including but not limited to building permits and certificates of occupancy, for the Property or for any structure or lot within this development in the event of a breach of this Agreement by the Owner or Annexor.

28. ATTORNEYS' FEES: If the Owner and/or the Annexor breach(es) this Agreement, then they shall pay the City's reasonable costs and attorneys' fees incurred in the enforcement of the terms, conditions, and obligations of this Agreement.

29. PARAGRAPH CAPTIONS: The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

30. RECORDATION FEES: The City of Arvada shall record this Agreement and any approved subdivision plat for the Property (as applicable) with the Clerk and Recorder's office of the appropriate county per the provisions of the LDC. Prior to recordation, the Annexor shall also pay all costs associated with recordation of these items with the County Clerk and Recorder.

31. INCORPORATION OF EXHIBITS: Unless otherwise stated in this Agreement, exhibits referenced in this Agreement shall be incorporated into this Agreement for all purposes. Reference to "Job Numbers" or "Project Numbers" in this Agreement is a reference to Final Plans and documentation which is retained as a public record on file and available for public inspection and review upon request at the City of Arvada, Municipal Building, 8101 Ralston Road, Arvada, Colorado. Such Final Plans and documentation filed with the City, approved by the City and noted within this Agreement are hereby incorporated into this Agreement for all purposes.

32. REVIEW OF REFERENCED DOCUMENTS: The Owner and Annexor hereby understand and acknowledge that the public documents referenced in this Agreement, including but

not limited to the Arvada City Code, and LDC, Engineering Specifications, prior to the execution of this Agreement, and are presently, available for review and inspection at the Arvada Municipal Building, 8101 Ralston Road, Arvada, Colorado, from 8:00 a.m. through 5:00 p.m., Monday through Friday.

33. FAILURE OR DELAY OF THE PROJECT: The parties agree that the Annexor's and/or Owner's remedies in the event of an alleged or actual breach by the City are expressly limited to specific performance or injunctive relief, and the Annexor and/or Owner are expressly precluded from seeking monetary damages from the City, including but not limited to remedial, compensatory, punitive or consequential damages, including economic damages and lost profits. The Annexor and/or Owner shall not claim that if the City delays the development project (for example, failure to inspect completed infrastructure within ten days of notice) as grounds to assert that the City slowed the development down or interfered with it and caused it to fail, and therefore the City will not be liable for the Annexor's failed development and any and all the Annexor's and/or Owner's monetary losses associated with such failure. This section shall survive the expiration or earlier termination of this Agreement.

34. INDEMNIFICATION AND HOLD HARMLESS: The Owner and Annexor shall indemnify, hold harmless, release and discharge the City of Arvada and the City's officers, employees, agents, and contractors from all liability, claims, and demands, including reasonable attorneys' fees and court costs, which arise out of or are in any manner connected with or related to the approval of the Final Plans for the Property. This section shall survive the expiration or earlier termination of this Agreement.

35. NOTICES: Any notice or communication required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other party or parties. Such notice shall be deemed to have been given when deposited in the United States Mail or mail service such as Federal Express, United Parcel Service, etc. Such notice or communications shall be given to the parties at their addresses set forth below:

City:
City of Arvada
8101 Ralston Road
Arvada, CO 80001-8101

Owner/Developer:
Steve Lindsey Principal
(Address)

DATED THIS ____ DAY OF _____, 20__.

CITY OF ARVADA, a Colorado Municipal
Corporation

Marc Williams, Mayor

ATTEST:

APPROVED AS TO FORM:

For Rachel Morris, Attorney

City Clerk

OWNER/DEVELOPER
LinCo Enterprise LLC, Steve Lindsey Principal
A limited liability Company

By:  General Manager
(Owners Representative's Name) as (Position/title)

STATE OF Colorado)
COUNTY Jefferson) ss.

The foregoing was acknowledged before me this 25th day of July 2022 by
(Representative's Name) as (position/title) of (Owner's Company Name).


Notary

My Commission Expires:
11-30-2025



LEGAL DESCRIPTION

City of Arvada
Community and Economic Development Department
PUBLIC HEARING STAFF REPORT

UNION ESTATES
ANNEXATION AND REZONING
DA2021-0023

NATURE OF REQUEST

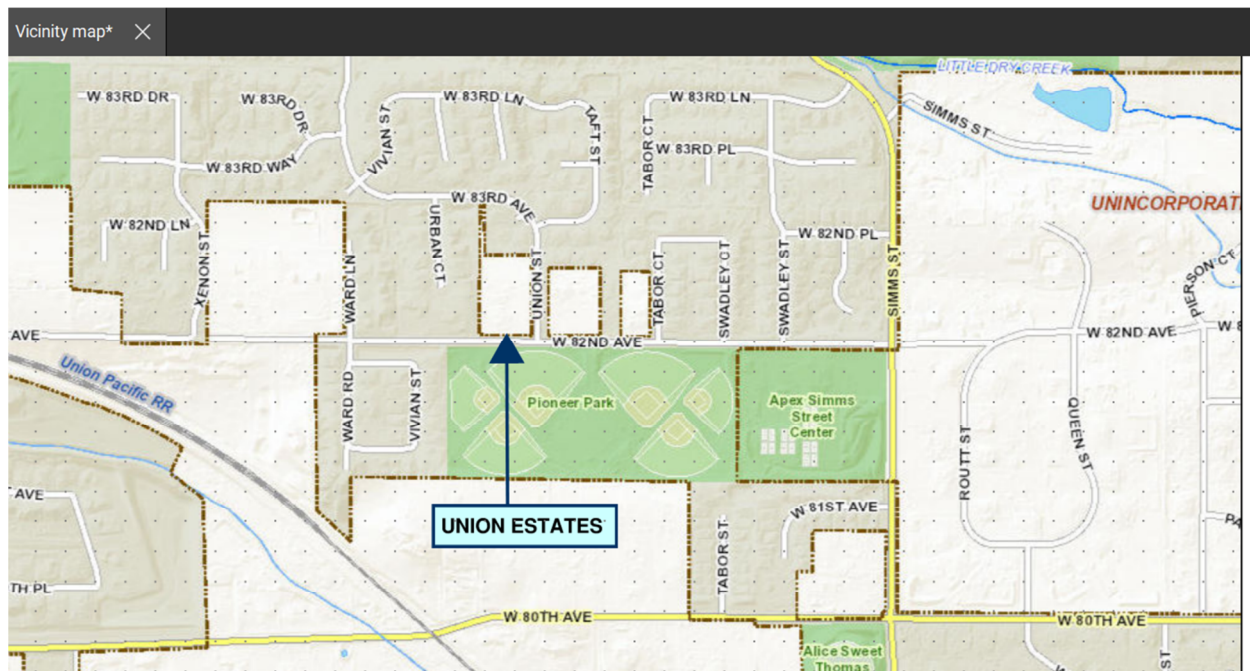
Steve Lindsey, Linco Enterprises, the applicant is seeking annexation of approximately 2.11 acres located at the northwest corner of West 82nd Avenue and Union Street. The applicant is also requesting rezoning approval from Jefferson County A-2 (Agriculture) to RN-7.5 (Residential 7.5) to allow a maximum of seven single-family residential lots. A site plan to develop seven custom single-family homes and a minor plat are also submitted and are under the administrative review process.

LOCATION AND HISTORY

The subject property is located at 12016 West 82nd Avenue and is currently a vacant parcel zoned A-2 (Agricultural-2) in Jefferson County. The Hills at Standley Lake subdivisions lies to the north, west and east side of the property. The City's Pioneer Park is directly to the south.

As part of the 2020 Land Development Code, the City rezoned and remapped the established areas of the various subdivisions for single-family detached homes zoned PUD-R (Planned Unit Development-Residential) to RN-7.5 (Residential Neighborhood). The intent of the RN zone district is to maintain the character of mature established neighborhoods to allow development and redevelopment that are consistent with the neighborhood's architectural character.

Consistent with the existing neighborhoods, the proposed zoning for the property is RN-7.5. The seven lot subdivision will be custom-homes to be built by the applicant who is a custom home builder.



NEIGHBORHOOD MEETING

Division 8-2-3-4 of the Land Development Code requires that at least one neighborhood meeting be held for projects that require public hearings before the Planning Commission and City Council.

The required neighborhood meeting for this project took place on November 12, 2020. The applicant, staff, and five neighbors were in attendance.

The applicant provided an overview of the proposed lots and that it meets the RN-7.5 development standards. The adjacent neighbors to the east were concerned that the lots sizes were smaller than their lots and that homes would be located closer to their homes. They also asked what type of homes would to be built.

The applicant responded that the minimum lot size and setbacks were consistent with the subdivisions. The development will be custom-homes and that he would work with the adjacent property owners to screen the backyards with landscape. No further concerns were raised.

The applicant prepared a summary of the meeting, which is attached.

PUBLIC NOTIFICATION

Division 8-2-4 of the Land Development Code requires public notification for all public hearings as follows:

Written Notice: At least 15 days prior to all public hearings, written notice must be mailed to all property owners within 500 feet of the subject property and to all homeowners associations and neighborhood associations with a known interest in the subject property. The applicant will provide an affidavit of mailing verifying this requirement has been met prior to the public hearing.

Posted Notice: At least 15 days prior to all public hearings, signs notifying the public of the hearing must be posted on the subject property. The applicant will provide a posting log verifying that this requirement has been met prior to the public hearing.

Published Notice: At least 15 days prior to all public hearings, notice of the hearing must be published in a newspaper of general circulation in the City. The required notice has been published.

SEVERED MINERAL RIGHTS

At least 30 days prior to the public hearing, written notice of the application must be mailed to any owner of mineral rights associated with the subject property. The applicant has provided the required Certification of Notice pursuant to Colorado Revised Statute 24-65.5-103.

DEVELOPMENT REVIEW TIMELINE

The development application was submitted on, March 1, 2021 and was processed under the public hearing development cases review track of 26 weeks. For a variety of reasons, the applicant and City did not meet the established review and submitted timeline.

ALIGNMENT WITH CITY COUNCIL STRATEGIC PLAN

The project is consistent with the City Council Strategic Plan principles for the Community and Economic Development work system. This development conforms to City Council Strategic Result (SR1) that 95% of development approvals conform to City's Comprehensive Plan on an annual basis.

ZONING AND LAND USE

The subject property is currently zoned RN-7.5 (Residential Neighborhood Sub-district- 7.5) and is approximately 2.11 acres in size.

Surrounding properties are zoned and utilized as follows:

Direction	Zoning	Actual Use
North	RN-7.5 (Residential 7.5)	Single family homes
South	OS (Open Space)	Pioneer Park
East	RN-12.5 (Residential 12.5)	Single family homes
West	RN-7.5 (Residential 7.5)	Single family homes



PROJECT ANALYSIS

Annexation

Eligibility for Annexation: The total perimeter contiguous to the City is 1715.08 linear feet which exceeds the 1/6 (16%) area requirement. The City surrounds the property to the west, north, south and a portion of the east. The annexation petition submitted by the applicant indicates that it has been signed by 100% of the landowner.

Compliance with the Comprehensive Plan

The property is designated Suburban Residential in the 2014 Comprehensive Plan with primary uses for single-family detached with a maximum density of six dwelling units per acre. The proposed development is for seven units on 2.11 acres.

Compliance with Other Applicable Plans

There are no other applicable plans associated with this property.

RN-7.5 Setbacks

The proposed minimum setbacks and dimensional standards for the development are as follows:

Building lot size minimum: 7,500 square feet
Minimum lot width: 75 feet
Minimum front and street side: 20 feet
Side: 7.5 feet
Rear setbacks: 10 feet
Maximum lot coverage: 40%

Building Height

The maximum building height is 28 feet. The custom homes will be designed to meet the maximum height.

Open Space

The RN zone district maximum building lot coverage of 40% defines the total open space for each lot.

Landscaping, Buffering and Fencing

The proposed landscape, buffer and fencing will be consistent with the adjacent subdivision.

Parks

Park land dedication and park development fees will be assessed for seven new homes and will be paid prior to the approval of the site plan.

Building Design

The building design for each lot will vary for each custom home that will need to meet the LDC building standards. The applicant has indicated it will be similar to the existing homes in terms of materials and quality of the existing homes adjacent to the property.

Circulation and Connectivity

Access to the site will be from Union Street into a cul-de-sac. West 82nd Avenue abuts the property to the site. West 82nd Avenue will be improved to collector street standards requiring additional right-of-way dedication, with curb, gutter and sidewalks.

Grading and Drainage

The 2.11 acre property generally slopes to the north and northeast. It also lies within the Little Dry Creek drainage basin and flows into Clear Creek. The runoff from the property will outfall into a 15-inch storm sewer in Union Street and drains to Little Dry Creek.

Parking and Loading

The required parking space for each lot is two off-street parking spaces. Each home will have a minimum of two car garages with driveways.

Utility Services

Dry utility providers (i.e. gas, electric, phone and cable services) will design and provide service to the area including telephone, cable television, and internet services. The service providers include Century Link, TDS, Public Service and Xcel Energy.

Police and Fire Protection

The Arvada Police Department (APD) will provide police service from the Whisper Creek Station at 14360 West 89th Drive. The Arvada Fire Protection District (AFPD) will serve the

development. A new fire station is constructed within Candelas development and will serve the site.

School District

Union Estates is within the Jefferson County R-1 School District (JeffCo). School land dedication fees-in-lieu will be assessed and paid by the applicant upon approval of the site plan.

LAND DEVELOPMENT CODE APPROVAL CRITERIA

It is the responsibility of the applicant to justify the requested land use application. The Planning Commission should make a recommendation to the City Council based on its findings regarding the approval criteria shown in the tables below and upon testimony heard during the public hearing as it applied to the criteria.

Staff performed an analysis of the proposal, based on the approval criteria listed in Chapter 8 of the Land Development Code, and presents the following findings:

Div. 8-3-3 Annexation and Disconnection Approval Criteria	Finding	Rationale
1. The annexation is in accord with the Comprehensive Plan and the best interests of the City would be served by annexation of such property.	Complies	The proposed annexation complies with the Municipal Annexation Act of 1965.
2. The property is capable of being integrated into the City and developed in compliance with all applicable provisions of this Code and the Arvada City Code.	Complies	The property is capable of being integrated into the City and developed in compliance with RN-7.5 zone district standards as well other City regulations.
3. At the time any development of the area proposed to be annexed is completed, there will be capacity to adequately serve residents of such area with all necessary utilities, facilities and public services.	Complies	All necessary utilities and facilities are available to serve and to connect to the public infrastructure when constructed.

Div. 8-3-4 Zoning and Rezoning Approval Criteria	Finding	Rationale
1. The rezoning is consistent with the Arvada Comprehensive Plan, or an adopted sub-area plan, corridor plan, or urban renewal plan, or reflects conditions that have changed since the adoption of the Comprehensive Plan.	Complies	The RN-7.5 zone district is consistent with the Low Density Residential land use category and other applicable policies in the Comprehensive Plan.
2. The intended land use is consistent with the stated intent of the proposed zoning district.	Complies	The single-family detached homes are consistent with the intent of the RN-7.5.
3. Facilities and services (including sewage and	Complies	All facilities and services are

waste disposal, water, gas, electricity, police and fire protection, and roads and transportation, as applicable) will, prior to development, be available to serve the subject property while maintaining adequate levels of service to existing development.		available to serve the site. The applicant will also be improving West 82 nd Avenue to meet the collector street standard to include dedication of right-of-way, curb, gutter and sidewalk.
4. The intended land use for which the rezoning is sought will not result in significant adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated.	Complies	The vacant lot will be developed for seven single-family detached homes. Other than during construction, there are no significant adverse impacts since the adjacent properties have been developed.
5. The rezoning is consistent with the character of existing or planned development on adjacent properties and in the surrounding area or neighborhood, or measures will be taken to substantially buffer or otherwise substantially mitigate any negative impacts.	Complies	The RN-7.5 is consistent with the existing neighborhoods area.

STAFF RECOMMENDATION

Based upon project analysis and review of the Land Development Code approval criteria, staff recommends approval of the project.

The Planning Commission finds that a recommendation to approve the DA2021-0023 is supported by the approval criteria.

The Planning Commission may recommend denial of the request if it cannot make affirmative findings of the approval criteria stated above.

November 25, 2020

Carol Ibanez
Senior Planner
City of Arvada

RE: Summary of Union Estates neighborhood meeting

On November 12th, 2020 we held a zoom neighborhood meeting to discuss the Union Estates development at the NW corner of 82nd Ave and Union St. We sent 28 neighbor invites, we had five join the meeting. Overall, the meeting was good. No one expressed any concern over the development and was received well from the neighbors.

We discussed the number of lots, lot size and type of home that will be constructed. We mentioned that there will be an HOA established to maintain all common area. We also discussed timelines of construction and answered to the best of our knowledge. A preliminary lot plan was available for their review.

Only one neighbor questioned a tree that is on our property but overhangs into their property, lot 2A The Hills at Stanley Lake. We have not determined yet if that tree will interfere with any of the infrastructure. We did express that any healthy tree on the site will be saved if found not to be impeding construction. If it is necessary to remove that tree in question, we will contact that owner prior.

As far as we know there are no other neighborhood concerns. I mentioned to all attendees they are welcome to contact me at any time if they do have questions in the future.

There were no sign-up sheets because of the Zoom format. The affidavit of mailing was sent to you earlier.

Steve Lindsey
President
Linco Enterprises

NAME OF ANNEXATION: Union Estates

APPROXIMATE LOCATION: 12161 w 82nd Ave, Arvada Co (NW corner 82nd and Union)

**PETITION FOR ANNEXATION OF UNINCORPORATED
TERRITORY IN THE COUNTY OF Jefferson,
STATE OF COLORADO, TO THE CITY OF ARVADA,
STATE OF COLORADO**

TO THE MAYOR AND THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

The undersigned in accordance with the Municipal Annexation Act of 1965, Chapter 31, Article 12, C.R.S. 1973, as amended, hereby petitions the City Council of the City of Arvada for annexation to the City of Arvada of the following described unincorporated territory located in the County of Jefferson, State of Colorado, to wit:

LEGAL DESCRIPTION

In support of the said Petition, your Petitioner alleges that:

1. It is desirable and necessary that the above-described territory be annexed to the City of Arvada.
2. No less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City of Arvada.
3. A community of interest exists between the territory proposed to be annexed and the City of Arvada.
4. The territory proposed to be annexed is urban or will be urbanized in the future.
5. The territory proposed to be annexed is integrated or is capable of being integrated with the City of Arvada.
6. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate:
 - a. is divided into separate parts or parcels without the written consent of the landowner, or landowners thereof.
 - b. comprising twenty acres or more which, together with the buildings and improvements situated thereon, has an assessed value in excess of two-hundred thousand dollars for an ad valorem tax purpose for the year preceding the annexation is included within the territory proposed to be annexed, without the written consent of the landowner or landowners thereof.
7. No annexation proceedings have been commenced by another municipality for the annexation of part or all of the area proposed herein to be annexed to Arvada.
8. Annexation of the territory proposed to be annexed will not result in detachment of area from any school district and the attachment of the same to another school district.
9. The Signer(s) of the Petition comprise(s) the landowner(s) of one hundred percent of the territory included in the area proposed to be annexed, exclusive of streets and alleys and any land owned by the annexing municipality.

Owner's Signature: _____

Address : 12650 W 54th DR ARVADA, 80002 UNIT A

Date of signing: 3/3/22

PROPERTY DESCRIPTION OF ANNEXATION PARCEL:

PARCEL A:

A TRACT OF LAND LOCATED IN THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH P.M., JEFFERSON COUNTY, COLORADO CONSISTING OF A PORTION OF TRACT 22, DENVER VIEW GARDENS, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 2 AT PAGE 59A TOGETHER WITH A PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 22; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 36.55 FEET TO A POINT 30 FEET NORTH OF THE PHYSICAL CENTER LINE OF WEST 82ND AVENUE (MAY 1995) AND THE TRUE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES, 13 MINUTES, 10 SECONDS EAST A DISTANCE OF 225.02 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST PARALLEL TO THE WEST LINE OF SAID TRACT 22, A DISTANCE OF 389.09 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 73.01 FEET OF LOT 21, RUSTIC ACRES; THENCE SOUTH 89 DEGREES, 43 MINUTES, 22 SECONDS WEST PARALLEL TO THE SOUTH LINE OF SAID LOT 21 A DISTANCE OF 225.00 FEET TO THE WEST LINE OF SAID LOT 21; THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 21 AND THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 384.94 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL B:

THAT PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 21; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID LOT 21, A DISTANCE OF 73.01 FEET; THENCE NORTH 89 DEGREES, 43 MINUTES, 22 SECONDS EAST PARALLEL TO THE SOUTH LINE OF SAID LOT 21, A DISTANCE OF 225.00 FEET; THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 73.01 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 21; THENCE SOUTH 89 DEGREES, 42 MINUTES, 23 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 225.00 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL C:

A TRACT OF LAND KNOWN AS THE EASTERLY 9.5 FEET OF BLOCK 21, DENVER VIEW GARDENS.

SAID TRACT BEING ALSO KNOWN AS A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 21, DENVER VIEW GARDENS; THENCE NORTH ALONG THE EAST LINE LINE OF SAID BLOCK 21, 630.55 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 21, 6 FEET; THENCE SOUTHWESTERLY A DISTANCE OF 630.55 FEET, MORE OR LESS, TO A POINT ON THE SOUTH LINE OF SAID BLOCK 21, WHICH IS 9.5 FEET WEST OF THE SOUTHEAST CORNER OF SAID BLOCK 21; THENCE EAST ALONG SAID SOUTH LINE 9.5 FEET TO THE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

ANNEXATION AREA CONTAINS: 91,995.1 SQUARE FEET OR 2.11 ACRES.

NOTES:

1.) THIS ANNEXATION MAP HAS BEEN PREPARED IN CONFORMANCE WITH CRS 31-12-104-(1).

2) FIRST AMERICAN TITLE INSURANCE COMPANY TITLE COMMITMENT FILE NO. 5509-373862 DATED FEBRUARY 9, 2022 AT 8:00 AM WAS USED FOR THE LEGAL DESCRIPTIONS AND RESEARCH OF EASEMENTS, RIGHTS-OF-WAY AND ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

3.) FIELD SURVEY CONDUCTED JUNE, 2020, EXISTING SURVEY MONUMENTS AS RECOVERED AND LAND SURVEY PLATS ON RECORD WITH JEFFERSON COUNTY WERE USED IN BOUNDARY CALCULATIONS.

4.) DISTANCES SHOWN HEREON ARE IN U.S. SURVEY FEET.

5.) A STRIP OF LAND LYING BETWEEN THE SUBJECT PROPERTY AND THE WESTERLY LINE OF LOTS 1A AND 2A OF THE HILLS OF STANLEY LAKE LOTS 1A AND 2A, A MINOR SUBDIVISION IS APPARENTLY REMNANT PORTIONS OF LOTS 18, 19, 20 AND 21 OF RUSTIC ACRES, BOOK 20, PAGE 36 THAT WERE NOT INCLUDED IN THE SUBSEQUENT PLATS OF THE HILLS AT STANLEY LAKE, RECEPTION NO. F0373561 OR THE HILLS OF STANLEY LAKE LOTS 1A AND 2A, A MINOR SUBDIVISION, RECEPTION NO. F0745360 AND IS NOT INCLUDED IN THIS ANNEXATION.

TABLE OF REMNANT PORTIONS OF LOTS 18-21, RUSTIC ACRES, BOOK 20, PAGE 36: DIMENSIONS ARE SHOWN APPROXIMATELY, FOR GENERAL INFORMATION PURPOSES ONLY AND BASED ON RECORDED PLAT DIMENSIONS. THESE PORTIONS OF LOTS ON THE ADJACENT PROPERTY WERE NOT INCLUDED IN THE SURVEY OR INCLUDED IN THIS ANNEXATION MAP.

A = THE WESTERLY PORTION OF LOT 21 RUSTIC ACRES, BOOK 36 (15.85' X 26.99').

B = THE WESTERLY PORTION OF LOT 20 RUSTIC ACRES, BOOK 36 (15.85' X 100').

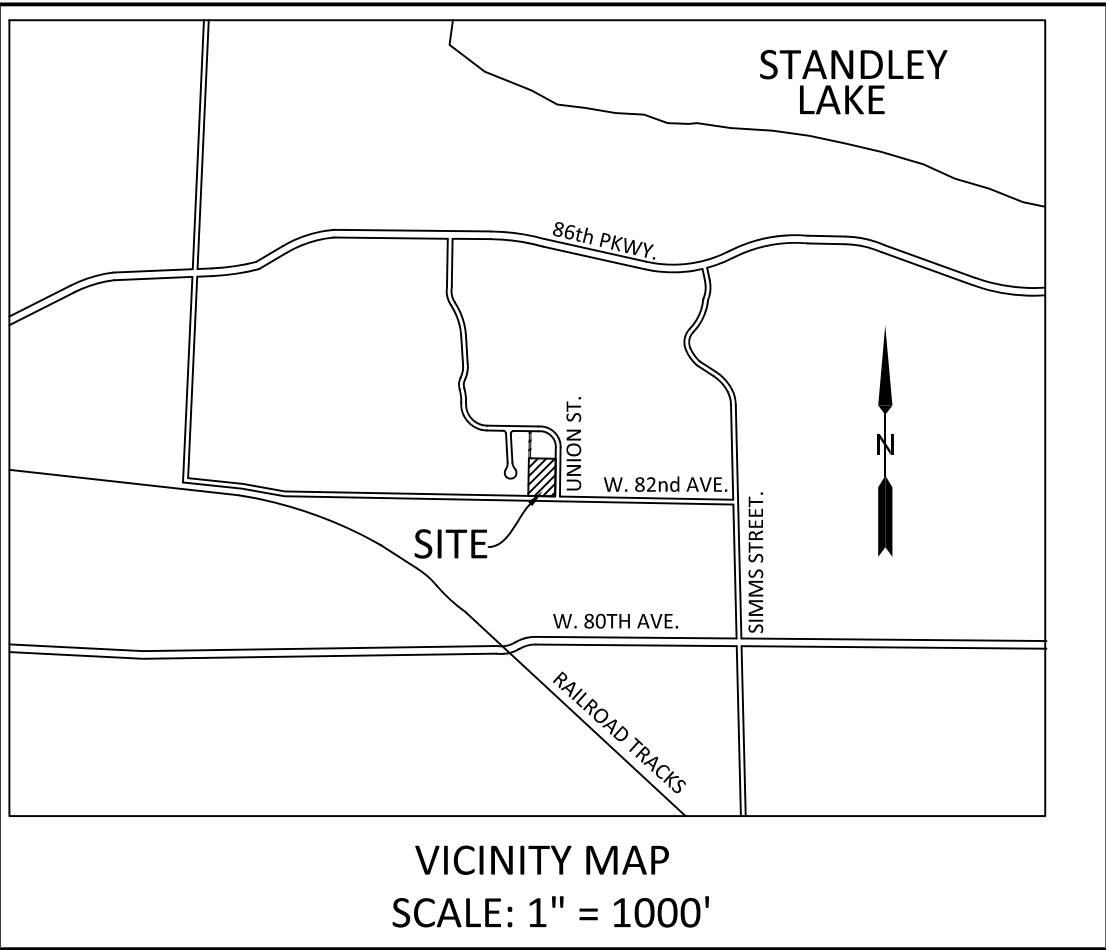
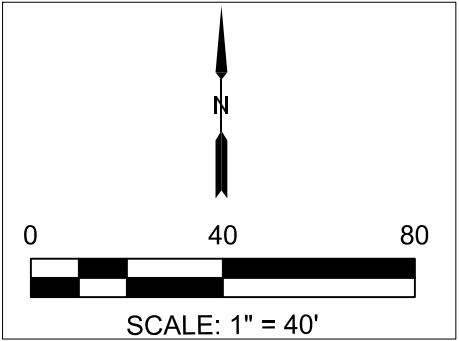
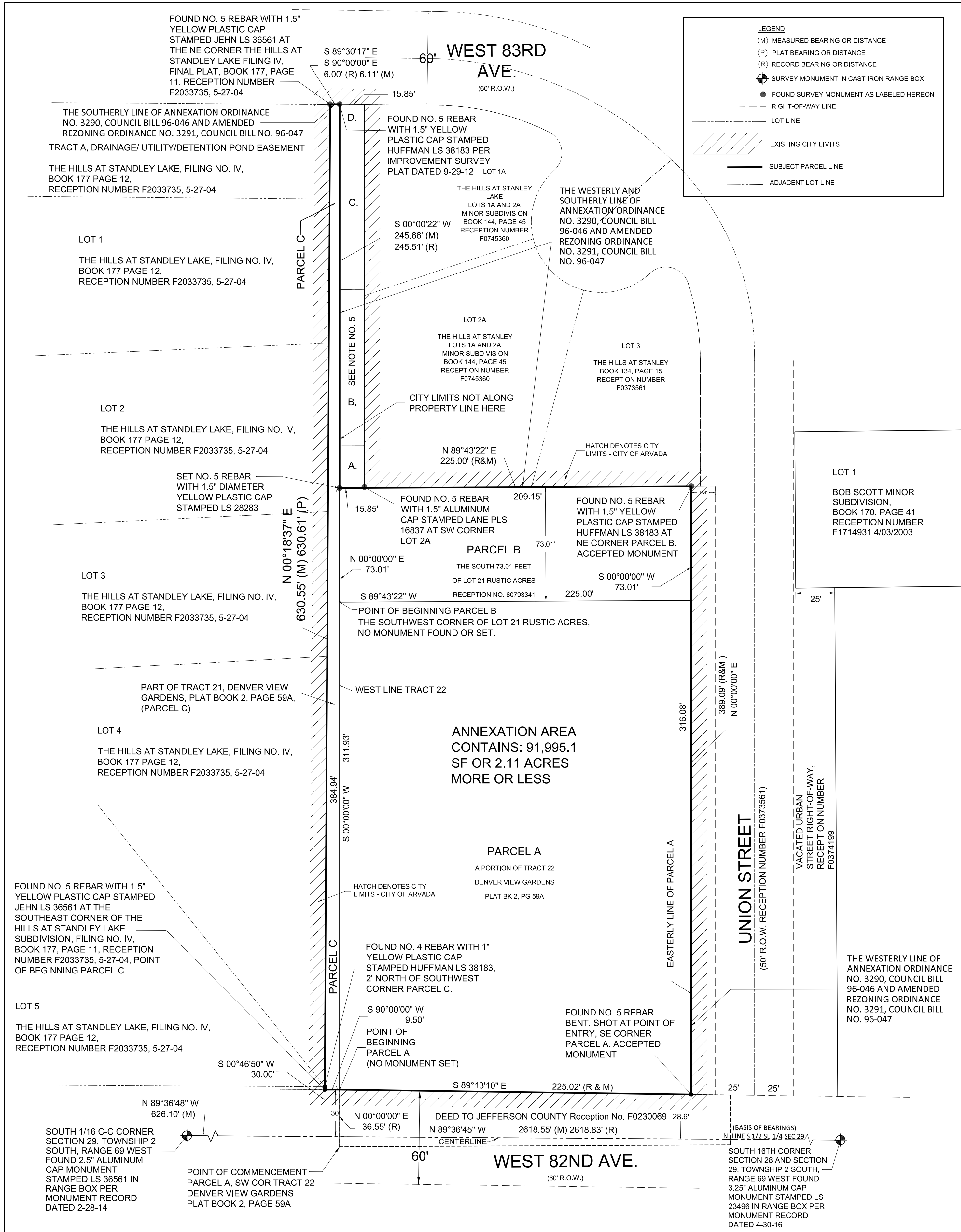
C = THE WESTERLY PORTION OF LOT 19 RUSTIC ACRES, BOOK 36 (15.85' X 100').

D = THE WESTERLY PORTION OF LOT 18 RUSTIC ACRES, BOOK 36 (15.85' X 18.44' +/-).

6.) BASIS OF BEARINGS: THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M. IS ASSUMED TO BEAR SOUTH 89°36'45" EAST BETWEEN A FOUND 2.5 INCH DIAMETER ALUMINUM CAP STAMPED LS 36561 IN RANGE BOX AT THE SOUTH 1/16TH, CENTER-CENTER CORNER OF SECTION 29 AND A FOUND 3.25 INCH DIAMETER ALUMINUM CAP MONUMENT STAMPED LS 23496 IN RANGE BOX AT THE SOUTH 1/16TH CORNER SECTIONS 28 AND 29 TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M.

UNION ESTATES ANNEXATION MAP

PARCELS OF LAND LOCATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO.



TOTAL ANNEXATION AREA: 91,995.1 SQUARE FEET OR 2.11 ACRES.

TOTAL BOUNDARY ANNEXATION: 1730.93 LINEAR FEET.

TOTAL BOUNDARY CONTIGUOUS WITH CITY LIMITS: 1469.42 LINEAR FEET.

CONTIGUITY STATEMENT:

TOTAL PERIMETER OF AREA CONSIDERED FOR ANNEXATION = 1730.93 LINEAR FEET.

ONE-SIXTH OF TOTAL PERIMETER OF AREA = 288.49 LINEAR FEET.

PERIMETER OF THE AREA CONTIGUOUS WITH EXISTING CITY LIMITS = 1715.08 LINEAR FEET.

THE TOTAL CONTIGUOUS PERIMETER IS 99%, WHICH EXCEEDS THE 1/6 AREA REQUIRED.

SURVEYOR'S CERTIFICATION:

THE ABOVE DESCRIBED LAND IS CONTIGUOUS TO THE CITY OF ARVADA AND MEETS THE REQUIREMENTS SET FORTH IN COLORADO REVISED STATUTES 1973, 31-12-104-(1) THAT ONE-SIXTH OR MORE OF THE PERIMETER TO BE ANNEXED IS CONTIGUOUS WITH THE ANNEXING MUNICIPALITY.

ROBERT A. RICKARD, CO PLS NO. 28283
FOR AND ON BEHALF OF
ROCK CREEK SURVEYING, LLC

APPROVAL CERTIFICATE:

APPROVED FOR FILING BY THE CITY OF ARVADA THIS ____ DAY OF ____, 20__.

MAYOR: _____ ATTEST: _____
CITY CLERK

ORDINANCE NUMBER (S) _____

CLERK AND RECORDER:

RECEPTION NUMBER _____

ACCEPTED FOR FILING IN THE OFFICE OF THE CLERK AND RECORDER OF JEFFERSON COUNTY, AT GOLDEN COLORADO ON THIS ____ DAY OF ____, 20__ AT ____ O'CLOCK.

BY: _____ DEPUTY CLERK
JEFFERSON COUNTY CLERK AND RECORDER

PREPARED BY:
ROCK CREEK SURVEYING, LLC
3021 GARDENIA WAY
SUPERIOR, COLORADO 80027
(303) 521-7376

06/07/2022

SHEET 1 OF 1

UNION ESTATES ZONING MAP

PARCELS OF LAND LOCATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER
OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF JEFFERSON, STATE OF COLORADO.

PROPERTY DESCRIPTION:

PARCEL A:

A TRACT OF LAND LOCATED IN THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH P.M., JEFFERSON COUNTY, COLORADO CONSISTING OF A PORTION OF TRACT 22, DENVER VIEW GARDENS, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 2 AT PAGE 59A TOGETHER WITH A PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 22 THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 36.55 FEET TO A POINT 30 FEET NORTH OF THE PHYSICAL CENTER LINE OF WEST 82ND AVENUE (MAY 1995) AND THE TRUE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES, 13 MINUTES, 10 SECONDS EAST A DISTANCE OF 225.02 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST PARALLEL TO THE WEST LINE OF SAID TRACT 22, A DISTANCE OF 389.09 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 73.01 FEET OF LOT 21, RUSTIC ACRES; THENCE SOUTH 89 DEGREES, 43 MINUTES, 22 SECONDS WEST PARALLEL TO THE SOUTH LINE OF SAID LOT 21 A DISTANCE OF 225.00 FEET TO THE WEST LINE OF SAID LOT 21; THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 21 AND THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 384.94 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL B:

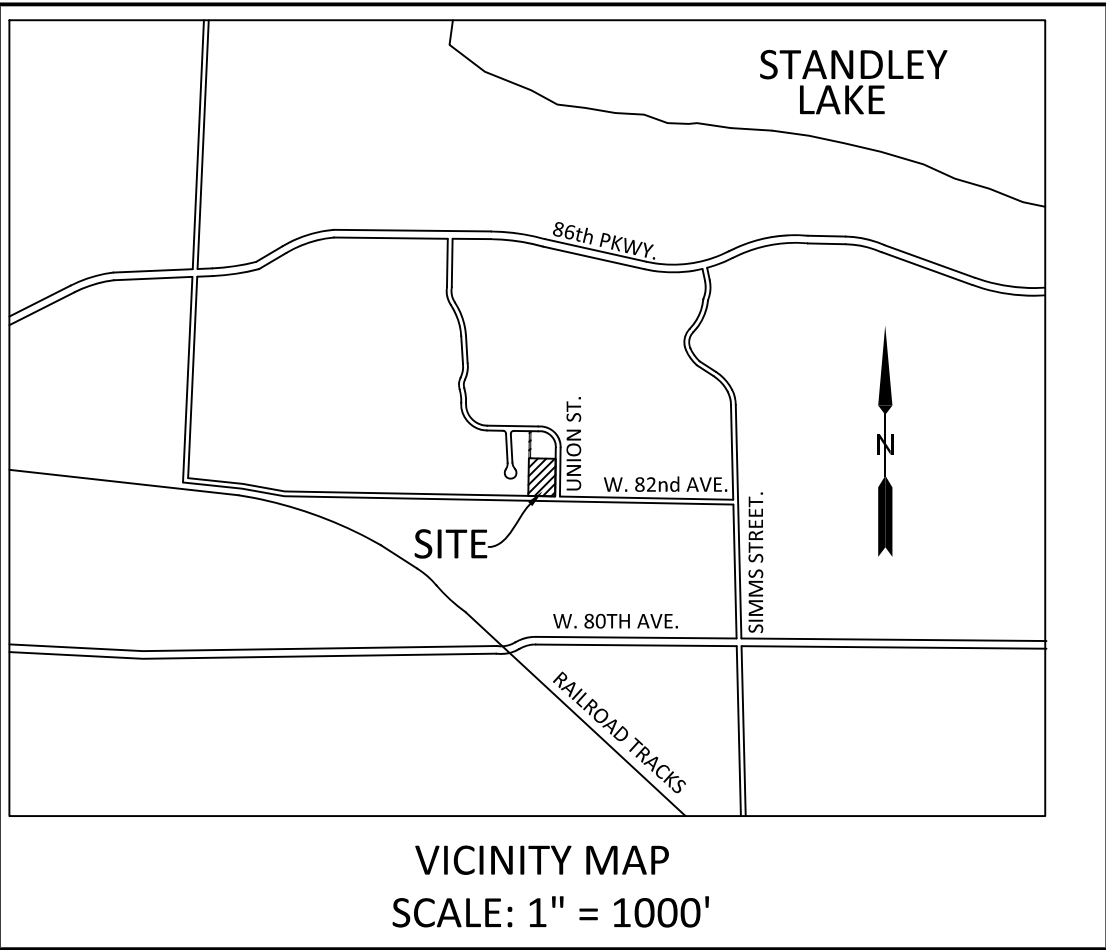
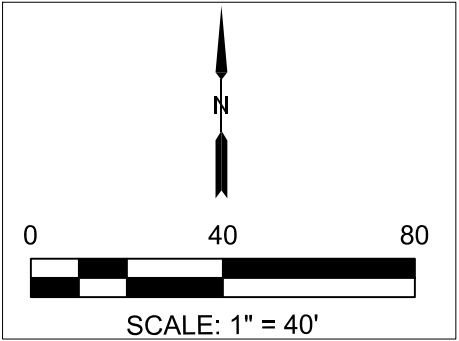
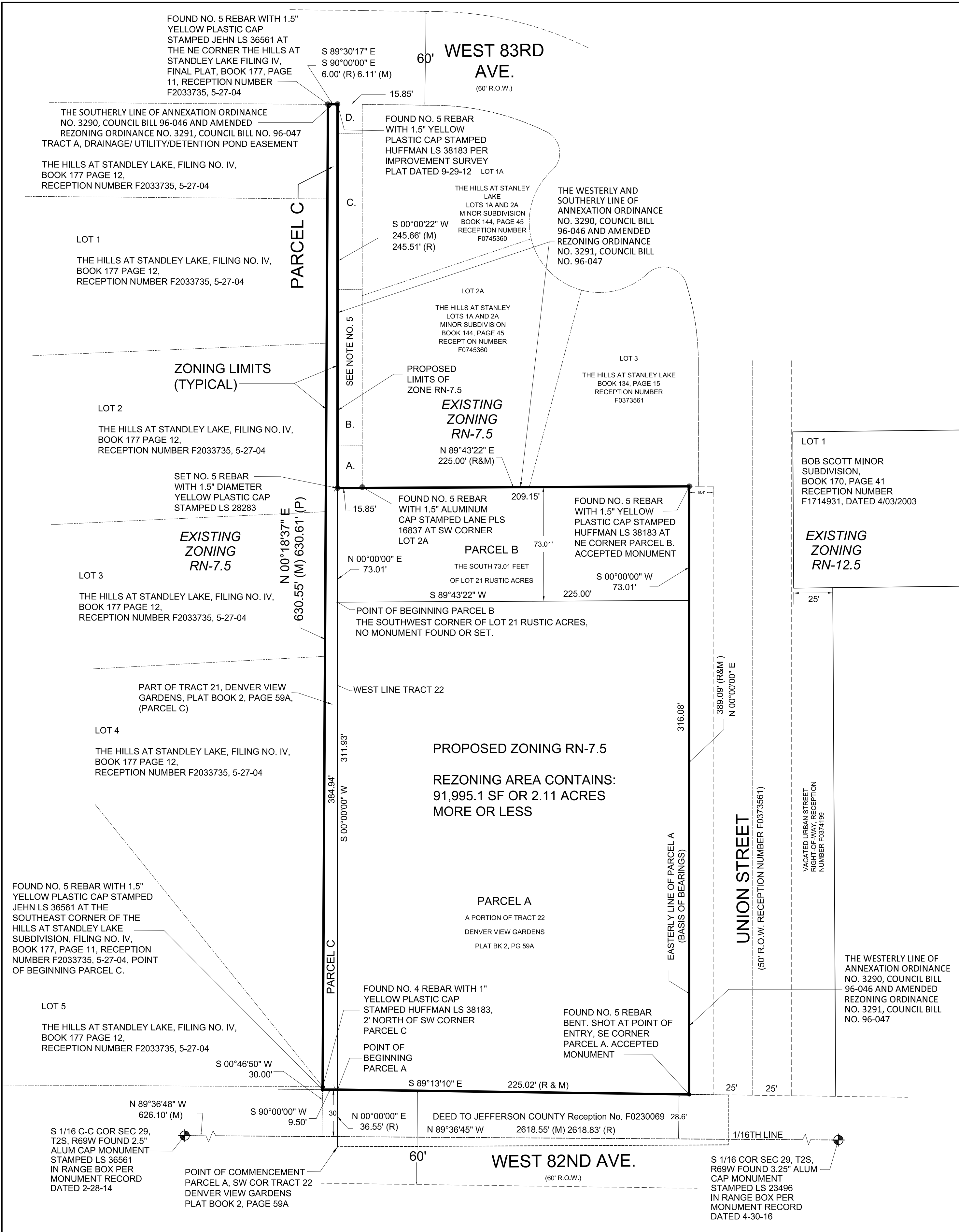
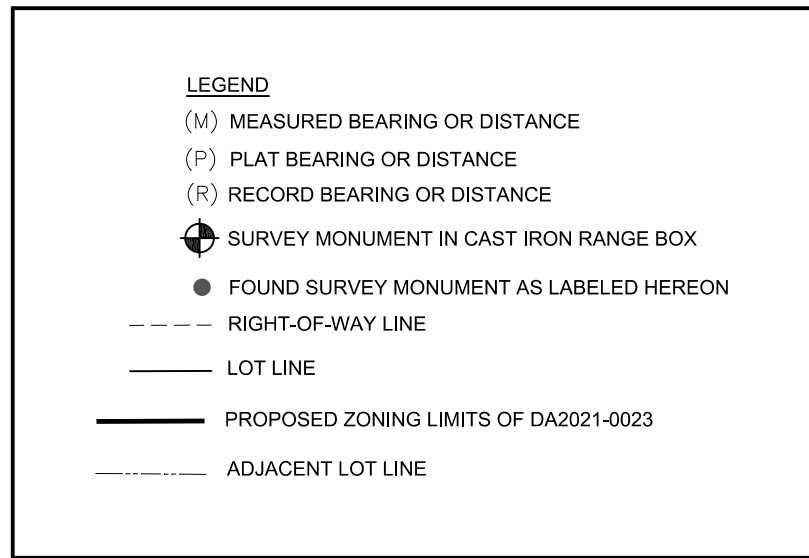
THAT PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 21; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID LOT 21, A DISTANCE OF 73.01 FEET, THENCE NORTH 89 DEGREES 43 MINUTES 22 SECONDS EAST PARALLEL TO THE SOUTH LINE OF SAID LOT 21, A DISTANCE OF 225.00 FEET, THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 73.01 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 21; THENCE SOUTH 89 DEGREES, 42 MINUTES, 23 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 225.00 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL C:

A TRACT OF LAND KNOWN AS THE EASTERLY 9.5 FEET OF BLOCK 21, DENVER VIEW GARDENS.

SAID TRACT BEING ALSO KNOWN AS A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M. DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 21, DENVER VIEW GARDENS; THENCE NORTH ALONG THE EAST LINE LINE OF SAID BLOCK 21, 630.55 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 21, 6 FEET; THENCE SOUTHWESTERLY A DISTANCE OF 630.55 FEET, MORE OF LESS, TO A POINT ON THE SOUTH LINE OF SAID BLOCK 21, WHICH IS 9.5 FEET WEST OF THE SOUTHEAST CORNER OF SAID BLOCK 21; THENCE EAST ALONG SAID SOUTH LINE 9.5 FEET TO THE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

ZONING AREA CONTAINS: 91,995.1 SQUARE FEET OR 2.11 ACRES.



NOTES:

1.) THIS ZONING MAP HAS BEEN PREPARED AS PART OF CITY OF ARVADA DEVELOPMENT APPLICATION NO. DA2021-0023.

2.) FIRST AMERICAN TITLE INSURANCE COMPANY TITLE COMMITMENT FILE NO. 5509-3738262 DATED FEBRUARY 9, 2022 AT 8:00 AM WAS USED FOR THE LEGAL DESCRIPTIONS AND RESEARCH OF EASEMENTS, RIGHTS-OF-WAY AND ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

3.) FIELD SURVEY CONDUCTED JUNE, 2020.

4.) BASIS OF BEARINGS: THE EAST LINE OF PARCEL B IS ASSUMED TO BEAR NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST BETWEEN A FOUND NO. 5 REBAR AT THE SOUTHEAST CORNER OF SAID PARCEL B AND A FOUND NO. 5 REBAR WITH 1.5 INCH YELLOW PLASTIC CAP STAMPED LS 38183 AT THE NORTHEAST CORNER OF SAID PARCEL B.

5.) A STRIP OF LAND LYING BETWEEN THE SUBJECT PROPERTY AND THE WESTERLY LINE OF LOTS 1A AND 2A OF THE HILLS OF STANDLEY LAKE LOTS 1A AND 2A, A MINOR SUBDIVISION IS APPARENTLY REMNANT PORTIONS OF LOTS 18, 19, 20 AND 21 OF RUSTIC ACRES, BOOK 20, PAGE 36 THAT WERE NOT INCLUDED IN THE SUBSEQUENT PLATS OF THE HILLS AT STANDLEY LAKE, RECEPTION NO. F0373561 OR THE HILLS OF STANDLEY LAKE LOTS 1A AND 2A, A MINOR SUBDIVISION, RECEPTION NO. F0745360 AND IS NOT INCLUDED IN THIS REZONING.

TABLE OF REMNANT PORTIONS OF LOTS 18-21, RUSTIC ACRES, BOOK 20, PAGE 36: DIMENSIONS ARE SHOWN APPROXIMATELY, FOR GENERAL INFORMATION PURPOSES ONLY AND BASED ON RECORDED PLAT DIMENSIONS. THESE PORTIONS OF LOTS ON THE ADJACENT PROPERTY WERE NOT INCLUDED IN THE SURVEY OR INCLUDED IN THIS ZONING MAP.

A = THE WESTERLY PORTION OF LOT 21 RUSTIC ACRES, BOOK 36 (15.85' X 26.99').

B = THE WESTERLY PORTION OF LOT 20 RUSTIC ACRES, BOOK 36 (15.85' X 100').

C = THE WESTERLY PORTION OF LOT 19 RUSTIC ACRES, BOOK 36 (15.85' X 100').

D = THE WESTERLY PORTION OF LOT 18 RUSTIC ACRES, BOOK 36 (15.85' X 18.44' +/-).

PREPARED BY:
ROCK CREEK SURVEYING, LLC
3021 GARDENIA WAY
SUPERIOR, COLORADO 80027
(303) 521-7376

06/07/2022

SHEET 1 OF 1

SITE DATA TABLE

ZONING CLASSIFICATION: RN-7.5

ALL DEVELOPMENT STANDARDS OF THE RN-7.5 SHALL APPLY

MINIMUM LOT SIZE: 7,500SF
6,681SF
LOT 2

MINIMUM BUILDING SETBACKS:

1. SINGLE FAMILY STRUCTURES
FRONT: 20' (SIDE-LOAD GARAGE)
FRONT: 20' (DETACHED GARAGE)
SIDE: 7.50' FROM LOT LINE
LOT 2 AND EAST SIDE OF LOT 3
6.00' FROM LOT LINE
REAR: 10' FROM LOT LINE

NUMBER OF LOTS: 7

THERE WILL BE 3 CAR GARAGES AND 2 PARKING SPACES IN THE DRIVEWAYS LEAVING A TOTAL OF 5 PARKING SPACES PER UNIT.

TOTAL PROJECT AREA: 89,663SF

ROW DEDICATION: 2,345SF

LEGAL DESCRIPTION AND DEDICATION:

BEING LOTS 1-7 AND TRACTS A AND B, UNION ESTATES - MINOR PLAT LOCATED IN A PORTION OF THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M. IS ASSUMED TO BEAR SOUTH 89°30'43" EAST BETWEEN A FOUND 2.5 INCH DIAMETER ALUMINUM CAP STAMPED LS 36561 IN RANGE BOX AT THE SOUTH 1/16TH, CENTER-CENTER CORNER OF SECTION 29 AND A FOUND 3.25 INCH DIAMETER ALUMINUM CAP MONUMENT STAMPED LS 23496 IN RANGE BOX AT THE SOUTH 1/16TH* CORNER SECTIONS 28 AND 29. COMMENCING AT A FOUND 2.5 INCH DIAMETER ALUMINUM CAP MONUMENT STAMPED LS 36561 IN RANGE BOX AT THE SOUTH 1/16TH*, CENTER-CENTER CORNER OF SECTION 28, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M.;

THENCE SOUTH 89°36'45" EAST ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 29 A DISTANCE OF 626.29 FEET;

THENCE NORTH 00°25'15" EAST A DISTANCE OF 30.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF WEST 82ND AVENUE AT THE SOUTHEAST CORNER OF THE HILLS AT STANDLEY LAKE SUBDIVISION RECORDED MAY 27, 2004 AS RECEPTION NO. F2033735, THE POINT OF BEGINNING; THENCE NORTH 00°18'37" EAST ALONG THE EASTERLY LINE OF SAID HILLS AT STANDLEY LAKE SUBDIVISION A DISTANCE OF 630.55 FEET TO A FOUND NO. 5 REBAR WITH 1.5 INCH DIAMETER YELLOW PLASTIC CAP STAMPED LS 36561 AT THE NORTHEAST CORNER OF SAID HILLS AT STANDLEY LAKE SUBDIVISION AT THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST 83RD AVENUE;

THENCE SOUTH 89°30'17" EAST ALONG THE SOUTHERLY LINE OF SAID RIGHT-OF-WAY LINE A DISTANCE OF 6.11 FEET TO A FOUND NO. 5 REBAR WITH 1.5 INCH DIAMETER YELLOW PLASTIC CAP STAMPED HUFFMAN LS 38183.

THENCE SOUTH 00°00'22" WEST A DISTANCE OF 245.66 FEET;

THENCE NORTH 89°42'22" EAST A DISTANCE OF 15.85 FEET TO A FOUND NO. 5 REBAR WITH 1.5 INCH DIAMETER ALUMINUM CAP STAMPED LS 1887 AT THE SOUTHWEST CORNER OF LOT 2A OF THE HILLS AT STANDLEY LAKE LOTS 1A AND 2A MINOR SUBDIVISION, RECORDED NOVEMBER 30, 1998 AS RECEPTION NO. F0745360;

THENCE NORTH 89°42'22" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 2A AND ALONG THE SOUTHERLY LINE OF LOT 3 OF THE HILLS OF STANDLEY LAKE SUBDIVISION RECORDED FEBRUARY 20, 1992 AS RECEPTION NO. F0373561 A DISTANCE OF 209.15 FEET TO A FOUND NO. 5 REBAR WITH 1.5" DIAMETER YELLOW PLASTIC CAP STAMPED 36183 AT THE WESTERLY RIGHT-OF-WAY LINE OF UNION STREET, PER RECEPTION NO. F0373561;

THENCE SOUTH 00°00'00" WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 389.09 FEET TO A FOUND NO. 5 REBAR AT THE NORTHERLY RIGHT-OF-WAY LINE OF WEST 82ND AVENUE PER RIGHT-OF-WAY DEED RECORDED AS RECEPTION NO. F0230009;

THENCE NORTH 89°13'10" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 225.02 FEET;

THENCE SOUTH 90°00'00" WEST, CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 9.50 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS: 91,995.1 SQUARE FEET OR 2.11 ACRES MORE OR LESS.

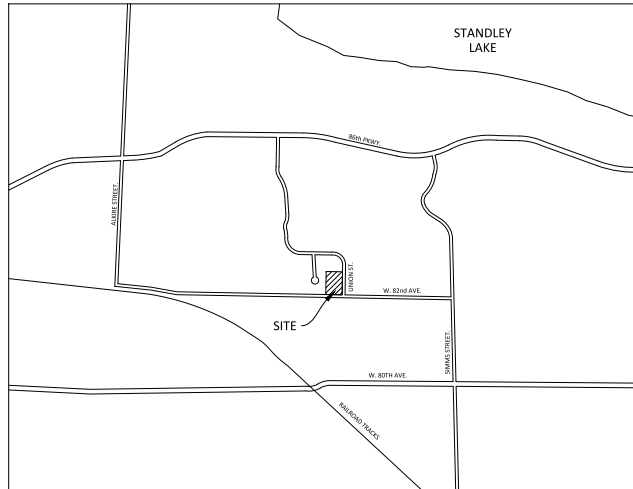
HAVE LAID OUT, PLATTED, AND SUBDIVIDED THE ABOVE DESCRIBED LAND, UNDER THE NAME AND STYLE OF UNION ESTATES, AND HEREBY DEDICATE TO THE CITY OF ARVADA IN FEE SIMPLE, EXCEPT THOSE OF PRIOR RECORD, THE STREET AND PUBLIC WAY AS SHOWN ON THE PLAT, AND GRANTS TO THE CITY OF ARVADA SUCH EASEMENTS AS ARE CREATED HEREBY AND DEPICTED OR, BY NOTE, REFERENCED HEREON, ALONG WITH THE RIGHT TO INSTALL, MAINTAIN, AND OPERATE MAINS, TRANSMISSION LINES, SERVICE LINES, AND APPURTENANCES, EITHER DIRECTLY OR THROUGH THE VARIOUS APPLICABLE SERVICE PROVIDERS AS MAY BE NECESSARY TO ACCOMPLISH THE INTENDED PURPOSES OF SUCH EASEMENT; UNLESS MORE NARROWLY DEFINED BY NOTE HEREON, UTILITY SHALL MEAN SEWER, WATER, DRAINAGE, ELECTRICITY, GAS, TELEPHONE, CABLE AND OTHER TELECOMMUNICATION FACILITIES.

GENERAL NOTES:

- ANY PROPOSED FENCES, WALLS, SIGNS AND ACCESSORY STRUCTURES SHOWN ON THIS PLAN ARE ILLUSTRATIVE ONLY AND SUBJECT TO SEPARATE REVIEWS AND PERMITS.
- FIRE APPARATUS ACCESS ROADS SHALL BE PROVIDED WITH AN APPROVED ALL-WEATHER SURFACE (CONCRETE OR ASPHALT) AND SHALL BE CAPABLE OF SUPPORTING AN IMPOSED LOAD OF 85,000 POUNDS.
- THE APPROVED FIRE APPARATUS ACCESS ROADS SHALL BE PROVIDED DURING CONSTRUCTION UNLESS OTHERWISE APPROVED BY THE APPO. THE FIRE APPARATUS ACCESS ROADS SHALL CONSIST OF THE FIRST LIFT OF ASPHALT OR CONCRETE AND SHALL BE PROVIDED PRIOR TO COMMENCING VERTICAL CONSTRUCTION. ALTERNATIVE TEMPORARY FIRE APPARATUS ACCESS ROAD MATERIALS AND/OR DESIGNS SHALL BE APPROVED AND PERMITTED BY THE APPO. THE PRIVATE ROADS THROUGH THE SITE SHALL BE DEDICATED ON THE FINAL PLAT AS "FIRE APPARATUS ACCESS ROADS" OR OTHER SIMILAR LANGUAGE AS REQUIRED BY THE CITY OF ARVADA.
- A 3'-0" CLEAR SPACE SHALL BE MAINTAINED AROUND ALL FIRE HYDRANTS AND NOT OBSTRUCTED.
- FIRE HYDRANTS SHALL BE INSTALLED AND OPERATIONAL TO PROVIDE THE MINIMUM REQUIRED FIRE FLOW PRIOR TO COMMENCING VERTICAL CONSTRUCTION.
- DURING CONSTRUCTION AND UPON COMPLETION THERE SHALL BE BUILDING SIGNAGE. PROVIDED, A MINIMUM OF 4'-4" INCHES HIGH WITH A 0.3" STROKE AND VISIBLE FROM THE STREET OR ROAD FRONTING THAT BUILDING.
- ARCHITECTURAL ELEVATIONS OF THE HOMES TO BE BUILT ARE NOT INCLUDED IN THIS SITE PLAN SINCE THE HOMES TO BE BUILT ARE CUSTOM HOMES AND WILL BE DESIGNED BY INDIVIDUAL LOT OWNERS.

UNION ESTATES SITE PLAN

LOTS 1-7 AND TRACTS A AND B, UNION ESTATES - MINOR PLAT LOCATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.



VICINITY MAP

NOT TO SCALE

BASIS OF BEARINGS:

THE BASIS OF BEARINGS ASSUMES THE NORTH LINE OF THE NORTHEAST ONE-QUARTER OF SECTION 4 BEARS S89°55'50"W BETWEEN THE FOUND MONUMENTS SHOWN AND DESCRIBED HEREON.

PROJECT BENCHMARK:

CITY OF ARVADA BENCHMARK #913
2" BRASS CAP CENTERED IN BACK OF CURB AT THE SOUTHWEST CORNER OF 72ND AVENUE AND KIPLING ST.
CITY OF ARVADA DATUM = 5539.60
SITE DATUM = 5539.95

SITE DATUM IS 0.35 FEET HIGHER THAN THE CITY OF ARVADA DATUM, THEREFORE, ALL ELEVATIONS SHOWN ON THESE PLANS SHOULD HAVE 0.35 FEET SUBTRACTED TO REFERENCE THE NEWER CITY OF ARVADA DATUM.

SITE DATUM WAS ESTABLISHED MAY 10, 2004 BASED ON OLDER PUBLISHED ELEVATIONS FOR BENCHMARK #328 AND VERIFIED DEC. 13, 2009 BY FIELD METHODS USING BM #328 AND BM #164.

ENGINEER:
ALLIANCE CONSULTING
16415 WEST 85TH LANE UNIT B
ARVADA, COLORADO 80007
ATTN: DAVID E. MOORE, PE
PHONE: (720) 625-1571
EMAIL: slindsey@acq.com

SURVEYOR:
ROCK CREEK SURVEYING, LLC
3021 GARDENIA WAY
SUPERIOR, COLORADO 80027
ATTN: ROBERT A. RICHARD, PLS
PHONE: (303) 521-7376

OWNER/DEVELOPER:
LINCO ENTERPRISES, LLC
12650 W. 54TH DRIVE, UNIT A
ARVADA, CO 80002
ATTN: STEVE LINDSEY
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EMAIL: slindsey@acq.com

PUBLIC WORKS:
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8101 RALSTON ROAD
ARVADA, COLORADO 80002
ATTN: JANE SAWAYA
PHONE: (720) 765-6629
EMAIL: jsawaya@arvada.org

CITY PLANNER:
CITY OF ARVADA
8101 RALSTON ROAD
ARVADA, COLORADO 80002
ATTN: CAROL IBANEZ
PHONE: (720) 898-7657
EMAIL: karyen@arvada.org

ENGINEERING AND TRAFFIC:
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8101 RALSTON ROAD
ARVADA, COLORADO 80002
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PHONE: (720) 898-7747
EMAIL: sgreenburg@arvada.org

LAND DIVISION:
CITY OF ARVADA
8101 RALSTON ROAD
ARVADA, COLORADO 80002
ATTN: KARI AYERS
PHONE: (720) 898-7657
EMAIL: karyen@arvada.org

FIRE PROTECTION DISTRICT:
CITY OF ARVADA
8101 RALSTON ROAD
ARVADA, COLORADO 80002
ATTN: KEVIN KIRBY
PHONE: (303) 228-3610
EMAIL: kevin.kirby@arvadafire.com

APPROVED:

CITY ENGINEER DATE JOB NUMBER

REVIEW IS FOR GENERAL COMPLIANCE WITH THE CITY OF ARVADA "ENGINEERING CODE OF STANDARDS AND SPECIFICATIONS FOR THE DESIGN AND CONSTRUCTION OF PUBLIC IMPROVEMENTS", LATEST EDITION. SOLE RESPONSIBILITY FOR COMPLETENESS AND/OR ACCURACY OF THESE DOCUMENTS SHALL REMAIN WITH THE REGISTERED PROFESSIONAL ENGINEER SEALING THESE PLANS. THE CITY DOES NOT ACCEPT LIABILITY FOR FACILITIES DESIGNED BY OTHERS.

ALLIANCE CONSULTING ASSUMES NO RESPONSIBILITY FOR UTILITY LOCATIONS. THE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN PLOTTED FROM THE BEST AVAILABLE INFORMATION. IT IS, HOWEVER, THE CONTRACTOR'S RESPONSIBILITY TO FIELD VERIFY THE LOCATION OF ALL UTILITIES PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION.

CONTRACTOR TO
VERIFY EXISTING
UTILITIES PRIOR
TO CONSTRUCTION

SHEET LIST TABLE	
Sheet Number	Sheet Title
P1	COVER SHEET
P2	SITE PLAN
L1.0	FINAL LANDSCAPE PLAN
L1.1	TREE SURVEY
L2.0	LANDSCAPE DETAILS & NOTES

LEGEND

	EXISTING	PROPOSED
RIGHT-OF-WAY LOT LINE	---	---
SANITARY SEWER	---	---
STORM SEWER	---	---
WATER LINE	---	---
CONTOUR LINE	---	---
CURB & GUTTER	---	---
EDGE OF ASPHALT	---	---
CHAINLINK FENCE	---	---
SANITARY SEWER MH	---	---
STORM SEWER MH	---	---
INLET	---	---
WATER VALVE	---	---
FIRE HYDRANT	---	---
ELECTRICAL TRANSFORMER	---	---
NOTED SIGNS	---	---

RESPONSIBILITY STATEMENT:

THE CITY OF ARVADA IS NOT RESPONSIBLE FOR THE ACCURACY AND ADEQUACY OF THE DESIGN OR DIMENSIONS AND ELEVATIONS ON THE PLANS. THE CITY OF ARVADA REPORT IS FOR GENERAL COMPLIANCE WITH THE CITY OF ARVADA "ENGINEERING CODE OF STANDARDS AND SPECIFICATIONS FOR THE DESIGN AND CONSTRUCTION OF PUBLIC IMPROVEMENTS". THE CITY OF ARVADA, THROUGH THE ACCEPTANCE OF THE CONSTRUCTION PLAN OR DRAINAGE REPORT, ASSUMES NO RESPONSIBILITY FOR THE COMPLETENESS AND/OR ACCURACY OF THE CONSTRUCTION PLAN OR DRAINAGE REPORT. THE CITY DOES NOT ACCEPT LIABILITY FOR FACILITIES DESIGNED BY OTHERS.

SCALE: REPRODUCTION
DATE: 5/26/2023
DRAWN BY: J. SAWAYA
CHECKED BY: D. MOORE
APPROVED BY: D. MOORE
DATE: 5/26/2023
REVISIONS
NO. DESCRIPTION
DATE
BY

REVISIONS
NO. DESCRIPTION
DATE
BY

ALLIANCE CONSULTING
Engineers & Surveyors
16415 WEST 85TH LANE UNIT B
ARVADA, COLORADO 80007
TEL: (720) 625-1571
WWW.ALLIANCECONSULTING.COM

UNION ESTATES
COVER SHEET
DESIGNED BY: J. SAWAYA
CHECKED BY: D. MOORE
APPROVED BY: D. MOORE
DATE: 5/26/2023

DATE: 5/26/2023
SHEET: P1 of 5
SCALE: AS NOTED

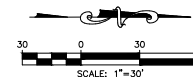
LOTS 3, 4 AND 5 WILL REQUIRE FIRE SPRINKLER SYSTEMS. FIRE DEPARTMENT ACCESS CANNOT BE PROVIDED TO WITHIN 150 FEET OF ALL EXTERIOR WALLS.

UNION ESTATES SITE PLAN

LOTS 1-7 AND TRACTS A AND B, UNION ESTATES - MINOR PLAT LOCATED IN THE NORTH HALF OF THE
SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M.,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.

CONTRACTOR TO
VERIFY EXISTING
UTILITIES PRIOR
TO CONSTRUCTION

PLAN VIEW
SCALE: 1" = 30'

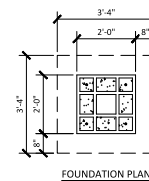
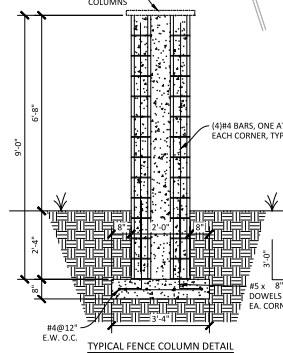
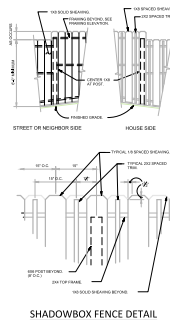
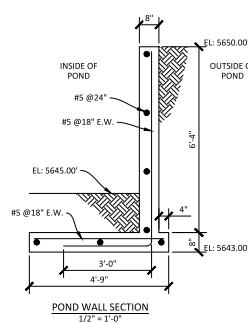


CITY OF ARVADA BENCHMARK #913
2" BRASS CAP CENTERED IN BACK OF CURB AT THE SOUTHWEST CORNER OF 72ND
AVENUE AND KIPLING ST.
CITY OF ARVADA DATUM = 5539.60
SITE DATUM = 5539.95

●	SET NO. 5 REBAR WITH ORANGE PLASTIC CAP, PLS 28283
○	FOUND REBAR AS NOTED
⊕	FOUND RANGE BOX AS NOTED
----	SECTION LINE
=====	PARCEL BOUNDARY LINE
----	PROPOSED LOT LINE
- - - - -	PROPOSED EASEMENT LINE
----	EXISTING PROPERTY LINE
- - - - -	EXISTING CENTERLINE
●	SET NO. 5 REBAR, 18 INCH LENGTH, WITH 1.5-INCH DIAMETER YELLOW PLASTIC CAP STAMPED LS 28283.
◁	SET NO. 3 REBAR, 30 INCH LENGTH, WITH 2.5-INCH DIAMETER ALUMINUM CAP STAMPED LS 28283 IN RANGE BOX.
----	TUCKER DITCH CENTERLINE
■	FENCE COLUMN
----	LIMITS OF CONSTRUCTION / DISTURBANCE

CURVE TABLE					
CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	23.56	15.00	90°00'00"	N45°00'00"W	21.21'
C2	13.09	15.00	49°59'41"	S65°00'09"W	12.68'
C3	52.00	55.00	54°10'33"	N67°05'35"E	50.09'
C4	36.38	55.00	37°53'57"	S66°52'10"E	35.72'
C5	30.00	55.00	31°15'00"	S37°17'42"E	29.63'
C6	32.00	55.00	33°20'24"	S00°00'00"E	31.55'
C7	19.96	55.00	20°49'04"	S27°04'40"E	19.87'
C8	26.18	55.00	27°16'22"	S72°10'57"W	25.93'
C9	52.00	55.00	54°10'33"	N67°05'35"E	50.09'
C10	13.09	15.00	49°59'41"	S65°00'09"E	12.68'
C11	23.56	15.00	90°00'00"	N45°00'00"E	21.21'
C12	31.45	25.00	90°24'06"	N47°47'57"E	35.48'
C13	24.66	25.00	55°25'30"	S62°25'30"E	21.35'
C14	228.00	25.00	290°18'01"	S00°00'00"E	51.43'
C15	24.66	25.00	55°25'30"	S62°25'30"E	21.35'
C16	39.09	25.00	89°34'39"	N11°42'14"W	35.32'

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N90°00'00"W	9.87
L2	N90°00'00"W	9.87
L3	N90°00'00"W	15.00
L4	N90°00'00"W	15.64



ALLIANCE CONSULTING ASSUMES NO RESPONSIBILITY FOR UTILITY LOCATIONS. THE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN PLOTTED FROM THE BEST AVAILABLE INFORMATION. IT IS, HOWEVER, THE CONTRACTOR'S RESPONSIBILITY TO FIELD VERIFY THE LOCATION OF ALL UTILITIES PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION.

SCALE VERIFICATION
 BAR IS ONE INCH
 ON ORIGINAL DRAWING
 IF NOT SHOWN ON SHEET
 ADJUST SCALES ACCORDINGLY

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Call utility notification center of Colorado
 2-business days in advance before you dig.
 Dig! Safely! 1-800-922-1987
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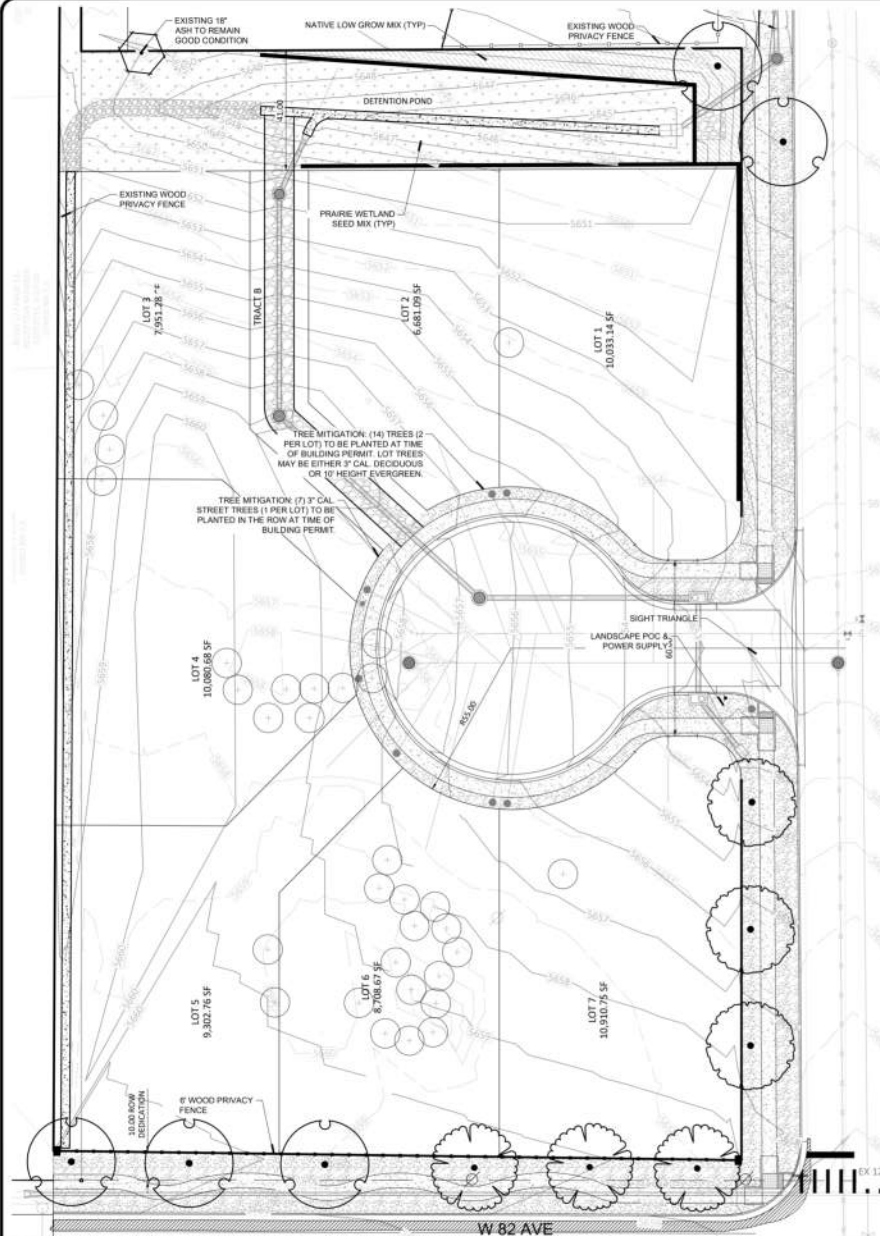
**Alliance Consulting
Engineers & Surveyors**

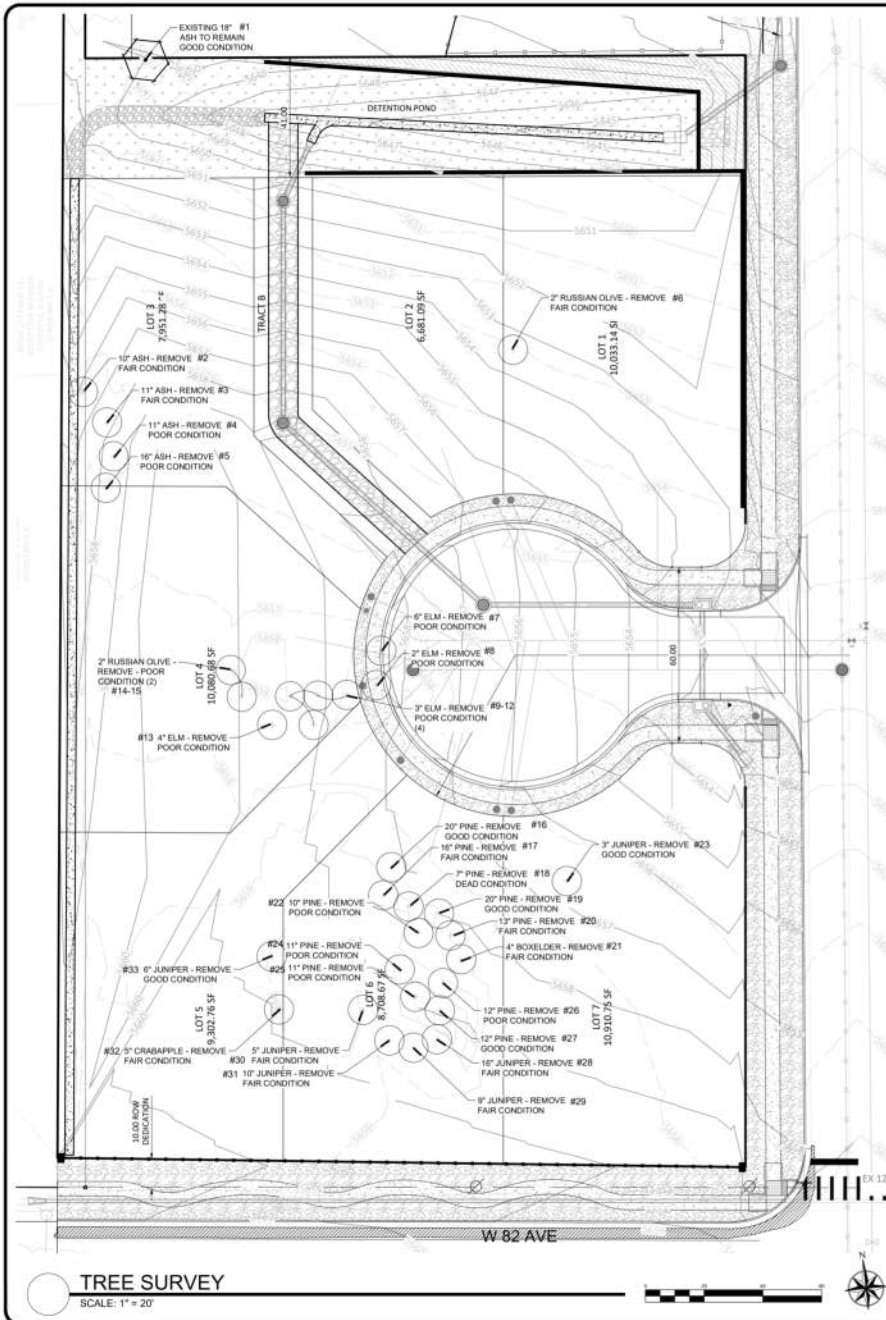
16415 W. BETH LAKE, SUITE B • AURORA, CO. 80007 • PH: (720) 625-1571

"PLANNING • ENGINEERING • CONSTRUCTION MANAGEMENT"
"PROJECT MANAGEMENT • SURVEYING"

UNION ESTATES
SITE PLAN

DESIGNED BY: DEM	DRAWING NAME: SITE PLAN
DRAWN BY: PSD	APPROVED BY:
JOB NUMBER: 20018	
DATE: 5/26/2022	
SCALE: 1" = 30'	
SHEET NO: P2 of 5	





PLANT SCHEDULE						QTY FOR REFERENCE ONLY (NOT A CONTRACT ITEM PLAN)	
TREES	CODE	QTY	BOTANICAL / COMMON NAME	CONST	GAL		
	CS	3	CATALPA SPECIOSA / CATALPA		8.8 B	2' GAL	
	CD	3	CELASTRUS OCCIDENTALIS / COMMON HUCKLEBERRY		8.8 B	2' GAL	
	QM	6	QUERCUS MUhlenBERGII / CHINQUAPIN OAK		8.8 B	2' GAL	
	EX-RM	32	REMOVE AS INDICATED / EXISTING TREES TO BE REMOVED		EX		
	EX-RET	1	TO REMAIN / PROTECT DURING CONSTRUCTION - EXISTING TREE TO REMAIN		EX		
MULCHES	CODE	QTY	BOTANICAL / COMMON NAME	CONST	FIELD		
	RM	5,786 SF	ROCK MULCH - RIVER ROCK 1" / 2" PER OWNER APPROVAL PLACE TO A UNIFORM DEPTH OF 2"			MULCH	
SOIL/SEED	CODE	QTY	BOTANICAL / COMMON NAME	CONST	FIELD		
	LOBS	1,488 SF	LOW GROWN NATIVE SEED MIX / PRAIRIE BUTTER SEED CO. 5,000,000 SF / TEMPORARILY IRRIGATED LOW GROW MIX			SEED	
	LOS	6,534 SF	PRAIRIE WETLAND SEED MIX / ARIZONA VALLEY SEED SOLUTIONS / TURBIDITY			SEED	

Tree Mitigation: A minimum of (3) 3" caliper deciduous trees, or 10' tall evergreen trees, will be installed on each lot or adjacent ROW at time of construction.

Tree Mitigation: 80 caliper inches to be mitigated. 20 inches are mitigated with street trees leaving 60 caliper inches remaining (9 inches per individual lot). Caliper inches must be mitigated at time of building permit or a fee-in-lieu of \$300 per inch will be charged

UNION ESTATES - ARVADA, CO

TREE INVENTORY CHART

TREE #	SPECIES	DIAMETER INCHES	CONDITION	MITIGATION VALUE	COMMENTS
1	Fraxinus	18	Good		To remain - protect during construction
2	Fraxinus	10	Fair		To be removed
3	Fraxinus	11	Fair		To be removed
4	Fraxinus	11	Poor		To be removed
5	Fraxinus	16	Poor		To be removed
6	Eleagnus	3	Fair		To be removed
7	Ulmus	6	Poor		To be removed
8	Ulmus	2	Poor		To be removed
9	Ulmus	3	Poor		To be removed
10	Ulmus	3	Poor		To be removed
11	Ulmus	3	Poor		To be removed
12	Ulmus	3	Poor		To be removed
13	Ulmus	4	Poor		To be removed
14	Eleagnus	3	Poor		To be removed
15	Eleagnus	2	Poor		To be removed
16	Pinus	20	Good		To be removed
17	Pinus	16	Fair		To be removed
18	Pinus	7	Dead		To be removed
19	Pinus	20	Good		To be removed
20	Pinus	13	Fair		To be removed
21	Acer	4	Fair		To be removed
22	Pinus	10	Poor		To be removed
23	Juniperus	3	Good		To be removed
24	Pinus	11	Poor		To be removed
25	Pinus	11	Poor		To be removed
26	Pinus	12	Poor		To be removed
27	Pinus	12	Good		To be removed
28	Juniperus	10	Fair		To be removed
29	Juniperus	9	Fair		To be removed
30	Juniperus	10	Fair		To be removed
31	Juniperus	6	Fair		To be removed
32	Melia	5	Fair		To be removed
33	Juniperus	6	Good		To be removed

GENERAL NOTES

(Note: All references to "Contractor" are specific to "Landscape Contractor" unless noted as "General or other type of Contractor")

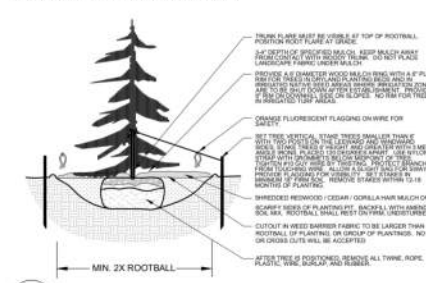
- CONTRACTOR IS RESPONSIBLE FOR VERIFYING QUANTITIES OF MATERIALS NEEDED TO COMPLETE THIS PLAN IN THE FIELD. NOTIFY LANDSCAPE ARCHITECT OF ANY DISCREPANCIES BETWEEN THE DRAWINGS AND CONDITIONS IN THE FIELD. SUBSTITUTIONS OF PLANT MATERIAL ARE NOT ALLOWED WITHOUT APPROVAL FROM LANDSCAPE ARCHITECT GIVEN PRIOR TO INSTALLATION. GRAPHIC CITY'S PREVAL OVER WRITTEN CITY'S. PRIOR TO COMMENCEMENT OF WORK THE LANDSCAPE CONTRACTOR SHALL CONTACT OWNERS REPRESENTATIVE FOR SPECIFIC INSTRUCTIONS RELEVANT TO THE SEQUENCING AND SCOPE OF WORK.
- CONTRACTOR IS RESPONSIBLE FOR INSTALLING ALL LANDSCAPE SHOWN ON THIS PLAN. ANY DEFICIENCIES OR DEVIATIONS FROM THIS PLAN ARE TO BE APPROVED BY OWNER'S REPRESENTATIVE OR LANDSCAPE ARCHITECT. ANY CHANGES FROM THE APPROVED PLANS MAY REQUIRE APPROVAL FROM THE CITY OR COUNTY PLANNING DEPARTMENTS. LANDSCAPE CONTRACTOR TO PROVIDE ALL LABOR AND MATERIALS NECESSARY TO FURNISH SCOPE OF WORK AS SHOWN PER PLAN.
- EXISTING TOPSOIL IS TO BE STOCKPILED AND USED TO ESTABLISH FINAL GRADES WITHIN LANDSCAPE AREAS. ALL STOCKPILED SOIL MUST BE CLEARED OF WEEDS, ROCKS AND DEBRIS BEFORE REUSE. ALL BERMED PLANTING BEDS TO BE CREATED WITH IMPORTED TOPSOIL.
- GENERAL CONTRACTOR TO RE-SPEAD STOCKPILED SOIL AND ESTABLISH ROUGH GRADE CONDITIONS TO THE FOLLOWING SPECIFICATIONS:
 - 1" BELOW CURB FOR ALL SLOTTED AREAS.
 - 2" BELOW CURB FOR ALL SLOTTED AREAS.
 - 4" BELOW CURB FOR ALL PLANTING, ROCK AND MULCH BEDS.
- CONTRACTOR TO TILL PARKING LOT ISLANDS TO A DEPTH OF 30".
- AMEND ALL PLANTING BEDS WITH CLASS 1 COMPOST. APPLY AT RATE OF 3 CYCDS. PER 1000 SQUARE FEET TO ALL PLANTING BEDS AND MANICURED LAWN AREAS. 2 CYCDS. PER 1000 SQUARE FEET FOR SEEDED AREAS. TILL MIXING THOROUGHLY INTO THE UPPER 8" OF SOIL.
- FINE GRADE TO BE ESTABLISHED BY LANDSCAPE CONTRACTOR. FINE GRADE SHALL BE FREE OF ROCKS AND DEBRIS. FINE GRADE IN SEED AREAS SHALL BE FREE FROM ROCKS AND DEBRIS 3" AND GREATER. FINE GRADE IN SEEDED AREAS SHALL BE FREE FROM ROCKS AND DEBRIS 3" AND GREATER. CONTRACTOR TO REPORT ANY POOR DRAINAGE CONDITIONS PRIOR TO CONSTRUCTION.
- CONTRACTOR IS TO PROVIDE VERIFICATION THAT ALL SOD AND SEED IS OF THE SPECIES SHOWN ON THIS PLAN. NO SUBSTITUTIONS WILL BE ALLOWED. SOD TO BE Laid WITH TIGHT STAGGERED EDGES AND BE ROLLED AFTER INSTALLATION. SEEDED AREAS CANNOT BE SUBSTITUTED WITH SOD.
- MULCH: ALL PLANTING BEDS THAT CALL FOR WOOD MULCH TO RECEIVE 4" ORGANIC SHREDED BARK MULCH. SHREDED MULCH IS TO BE OF FIBROUS MATERIAL, NOT CHIPS OR CHUNKS. NO FABRIC IS TO BE PLACED UNDER WOOD/ORGANIC MULCH. ALL MULCH BEDS ARE TO BE SPRAYED WITH WATER AFTER INSTALLATION TO HELP MULCH TO MAT DOWN.

- ALL AREAS THAT CALL FOR COBBLE/ROCK MULCH TO RECEIVE MIN. 3" DEPTH. UNLESS NOTED OTHERWISE, USE QUICK RELEASE ORGANIC PRE-EMERGENT HERBICIDE FOR ALL MULCHED AND PERENNIAL/PLANTING BEDS (AND FOR COBBLE/AGGREGATE AREAS WITH SLOPES EXCEEDING 3:1 GRADE).

TREES IN COBBLE/ROCK MULCH SOD AND SEEDED AREAS TO RECEIVE 4" DIAMETER OF WOOD MULCH RING. 3" DEEP. SHRUBS AND GROUNDCOVERS IN COBBLE/ROCK MULCH SOD AND SEEDED AREAS TO RECEIVE A WOOD MULCH RING AT 2X DIAMETER OF ROOT BALL. 3" DEPTH. NO FABRIC UNDERLAYMENT IN WOOD MULCH RINGS.

NOTES

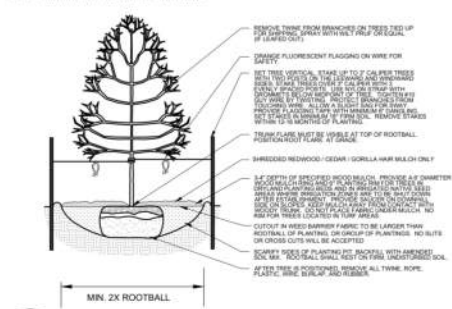
- DO NOT REMOVE OR CUT LEADER.
- PRUNE ONLY DEAD OR BROKEN BRANCHES IMMEDIATELY PRIOR TO PLANTING.
- DO NOT REMOVE ANY DOUBLE LEADERS, UNLESS OTHERWISE DIRECTED BY OWNERS REPRESENTATIVE.
- KEEP PLANTS MOIST AND SHADED UNTIL PLANTING.
- AMENDED BACKFILL SHALL BE AS STATED ON THIS SHEET.
- MARK THE NORTH SIDE OF TREE IN THE NURSERY, AND ROTATE TREE TO FACE NORTH AT THE SITE WHENEVER POSSIBLE.
- PRUNE AND SPRUCE TREES TO BE SPRAYED FOR IPS BARK BEETLE PRIOR TO PLANTING. COORDINATE WITH CITY FORESTRY.
- FOR CURRENT INSECT AND DISEASE RECOMMENDATIONS PRIOR TO PLANTING.
- ALL TREES TO BE DEEP WATERED AT TIME OF PLANTING.



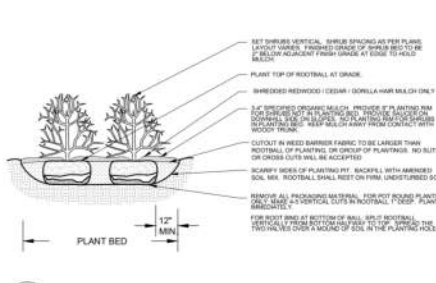
1
L2.0
EVERGREEN TREE PLANTING DETAIL
NOT TO SCALE
SECTION

NOTES

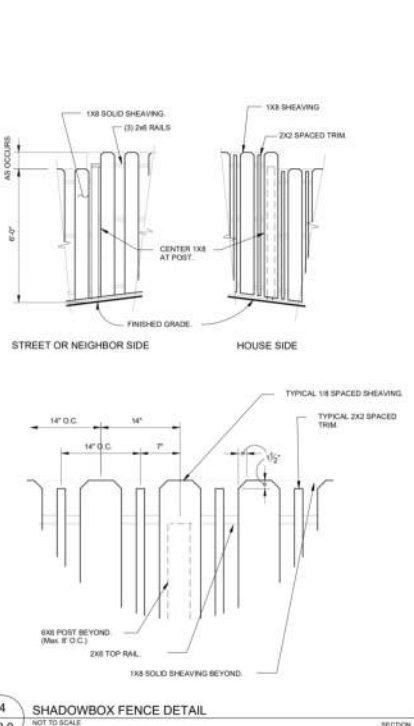
- MARK THE NORTH SIDE OF TREE IN THE NURSERY, AND ROTATE TREE TO FACE NORTH AT THE SITE WHENEVER POSSIBLE.
- AT TIME OF PLANTING, DO NOT REMOVE OR CUT LEADER AND PRUNE ONLY DEAD OR BROKEN BRANCHES. CROSS OVER BRANCHES, AND HEAVY OR NARROW CROTCHES. SOME INTERIOR TWIGS AND LATERAL BRANCHES MAY BE PRUNED, HOWEVER, DO NOT REMOVE THE TERMINAL BUDS OF BRANCHES THAT EXTEND TO THE EDGE OF THE CROWN.
- STRUCTURAL PRUNING SHOULD NOT BEGIN UNTIL AFTER ESTABLISHMENT PERIOD, USUALLY TWO GROWING SEASONS.
- KEEP PLANTS MOIST AND SHADED UNTIL PLANTING.
- DO NOT FERTILIZE FOR AT LEAST ONE GROWING SEASON.
- AMENDED BACKFILL SHALL BE AS STATED ON THIS SHEET.
- WRAP TRUNK ON EXPOSED SITES AND SPECIES WITH BARK. USE ELECTRICAL OR DUCT TAPE, NOT TWINE.
- COORDINATE WITH CITY FORESTRY FOR CURRENT INSECT AND DISEASE RECOMMENDATIONS PRIOR TO PLANTING.
- DEEP WATER ALL PLANTS AT TIME OF PLANTING.



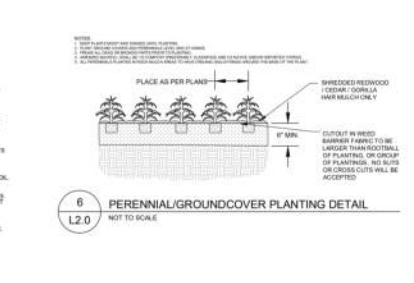
2
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DECIDUOUS TREE PLANTING DETAIL
NOT TO SCALE
SECTION



3
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SHRUB PLANTING DETAIL
NOT TO SCALE
SECTION



4
L2.0
SHADOWBOX FENCE DETAIL
NOT TO SCALE
SECTION



5
L2.0
PERENNIAL/GROUNDCOVER PLANTING DETAIL
NOT TO SCALE
SECTION

IRRIGATION NOTES

ALL TURF AREAS TO BE IRRIGATED WITH AN AUTOMATIC POP-UP SPRINKLER SYSTEM. ALL SHRUBS BEDS TO BE IRRIGATED WITH AUTOMATIC DRIP IRRIGATION SYSTEM. THE IRRIGATION SYSTEM IS TO BE ADJUSTED TO MEET THE NEEDS OF INDIVIDUAL PLANT MATERIAL.

IRRIGATION SYSTEM TO BE ADJUSTED AS NEEDED FOR PLANT ESTABLISHMENT FOR A PERIOD OF AT LEAST ONE (1) YEAR.

ADJUSTMENTS TO BE MADE AFTER ESTABLISHMENT BASED ON SPECIFIC PLANT REQUIREMENTS. SEE SUGGESTED RUN TIMES PROVIDED WITHIN THESE PLANS.

DESIGN OF IRRIGATION SYSTEMS TO MEET OR EXCEED LOCAL REQUIREMENTS AND INDUSTRY STANDARDS. CONSTRUCTION DOCUMENTS SUITABLE FOR DEVELOPMENT COORDINATION TO BE PROVIDED.

IRRIGATION SYSTEM TO BE DESIGNED USING APPROPRIATE COMPONENTS FOR PLANT MATERIAL AND WILL INCLUDE A SMART ET CONTROLLER AND RAIN SENSOR.

ALL NATIVE SEED AREAS TO BE PERMANENTLY IRRIGATED.

LEGAL DESCRIPTION AND DEDICATION:

THE UNDERSIGNED, BEING THE OWNERS OF A PORTION OF THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS:
BASIS OF BEARINGS: THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M. IS ASSUMED TO BEAR SOUTH 89°36'45" EAST BETWEEN A FOUND 2.5 INCH DIAMETER ALUMINUM CAP STAMPED LS 36561 IN RANGE BOX AT THE SOUTH 1/16TH, CENTER-CENTER CORNER OF SECTION 29 AND A FOUND 3.25 INCH DIAMETER ALUMINUM CAP MONUMENT STAMPED LS 23496 IN RANGE BOX AT THE SOUTH 1/16TH CORNER SECTIONS 28 AND 29.
COMMENCING AT A FOUND 2.5 INCH DIAMETER ALUMINUM CAP MONUMENT STAMPED LS 36561 IN RANGE BOX AT THE SOUTH 1/16TH, CENTER-CENTER CORNER OF SECTION 28, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M.;
THENCE SOUTH 89°36'45" EAST ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 29 A DISTANCE OF 626.29 FEET;
THENCE NORTH 00°23'15" EAST A DISTANCE OF 30.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF WEST 82ND AVENUE AT THE SOUTHEAST CORNER OF THE HILLS AT STANDLEY LAKE SUBDIVISION RECORDED MAY 27, 2004 AS RECEPTION NO. F2033735, THE POINT OF BEGINNING; THENCE NORTH 00°18'37" EAST ALONG THE EASTERLY LINE OF SAID HILLS AT STANDLEY LAKE SUBDIVISION A DISTANCE OF 630.55 FEET TO A FOUND NO. 5 REBAR WITH 1.5 INCH DIAMETER YELLOW PLASTIC CAP STAMPED LS 36561 AT THE NORTHEAST CORNER OF SAID HILLS AT STANDLEY LAKE SUBDIVISION AT THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST 83RD AVENUE;
THENCE SOUTH 89°30'17" EAST ALONG THE SOUTHERLY LINE OF SAID RIGHT-OF-WAY LINE A DISTANCE OF 6.11 FEET TO A FOUND NO. 5 REBAR WITH 1.5 INCH DIAMETER YELLOW PLASTIC CAP STAMPED HUFFMAN LS 38183.
THENCE SOUTH 00°00'22" WEST A DISTANCE OF 245.66 FEET;
THENCE NORTH 89°43'22" EAST A DISTANCE OF 15.85 FEET TO A FOUND NO. 5 REBAR WITH 1.5 INCH DIAMETER ALUMINUM CAP STAMPED LS 16837 AT THE SOUTHWEST CORNER OF LOT 2A OF THE HILLS AT STANDLEY LAKE LOTS 1A AND 2A MINOR SUBDIVISION, RECORDED NOVEMBER 30, 1998 AS RECEPTION NO. F0745360;
THENCE NORTH 89°43'22" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 2A AND ALONG THE SOUTHERLY LINE OF LOT 3 OF THE HILLS OF STANDLEY LAKE SUBDIVISION RECORDED FEBURARY 20, 1992 AS RECEPTION NO. F0373561 A DISTANCE OF 209.15 FEET TO A FOUND NO. 5 REBAR WITH 1.5" DIAMETER YELLOW PLASTIC CAP STAMPED 36183 AT THE WESTERLY RIGHT-OF-WAY LINE OF UNION STREET, PER RECEPTION NO. F0373561;
THENCE SOUTH 00°00'00" WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 389.09 FEET TO A FOUND NO. 5 REBAR AT THE NORTHERLY RIGHT-OF-WAY LINE OF WEST 82ND AVENUE PER RIGHT-OF-WAY DEED RECORDED AS RECEPTION NO. F0230069;
THENCE NORTH 89°13'10" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 225.02 FEET;
THENCE SOUTH 90°00'00" WEST, CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 9.50 FEET TO THE POINT OF BEGINNING.
PARCEL CONTAINS: 91,995.1 SQUARE FEET OR 2.11 ACRES MORE OR LESS.

HAVE LAID OUT, PLATTED, AND SUBDIVIDED THE ABOVE DESCRIBED LAND, UNDER THE NAME AND STYLE OF UNION ESTATES, AND HEREBY DEDICATE TO THE CITY OF ARVADA IN FEE SIMPLE, EXCEPT THOSE OF PRIOR RECORD, THE STREET AND PUBLIC WAY AS SHOWN ON THE PLAT, AND GRANTS TO THE CITY OF ARVADA SUCH EASEMENTS AS ARE CREATED HEREBY AND DEPICTED OR, BY NOTE, REFERENCED HEREON, ALONG WITH THE RIGHT TO INSTALL, MAINTAIN, AND OPERATE MAINS, TRANSMISSION LINES, SERVICE LINES, AND APPURTENANCES, EITHER DIRECTLY OR THROUGH THE VARIOUS APPLICABLE SERVICE PROVIDERS AS MAY BE NECESSARY TO ACCOMPLISH THE INTENDED PURPOSES OF SUCH EASEMENT. UNLESS MORE NARROWLY DEFINED BY NOTE HEREON, UTILITY SHALL MEAN SEWER, WATER, DRAINAGE, ELECTRICITY, GAS, TELEPHONE, CABLE AND OTHER TELECOMMUNICATION FACILITIES.

OWNER:

BY _____
LINCO ENTERPRISES LLC

AS _____
MANAGER, LINCO ENTERPRISES,LLC

NOTARY:

STATE OF COLORADO
JSS
COUNTY OF JEFFERSON

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ____ DAY OF _____,

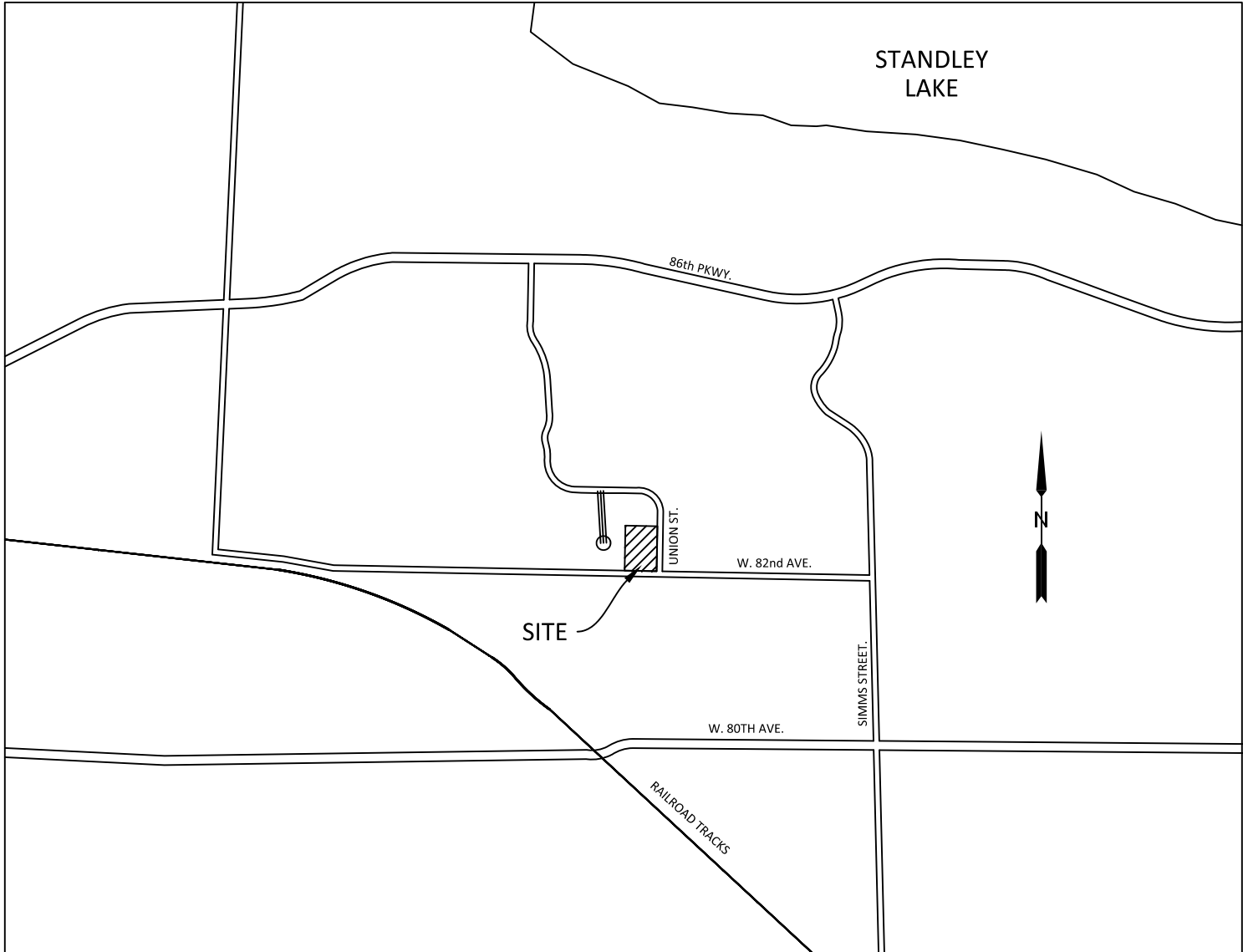
20____, BY _____ AS _____ OF _____.

WITNESS MY HAND AND SEAL _____

MY COMMISSION EXPIRES: _____

UNION ESTATES - MINOR PLAT

A PARCEL OF LAND LOCATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.
SHEET 1 OF 2
MINOR PLAT



VICINITY MAP
N.T.S.

NOTES:

- FIRST AMERICAN TITLE INSURANCE COMPANY TITLE COMMITMENT FILE NO. 5509-3738262 DATED FEBRUARY 9, 2022 AT 8:00 AM WAS USED FOR THE LEGAL DESCRIPTIONS AND RESEARCH OF EASEMENTS, RIGHTS-OF-WAY AND ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.
- DIMENSIONS SHOWN HEREON ARE IN U.S. SURVEY FEET.
- FIELD SURVEY CONDUCTED IN JUNE 2020. EXISTING SURVEY MONUMENTS AS RECOVERED AND LAND SURVEY PLATS ON RECORD WITH JEFFERSON COUNTY WERE USED IN BOUNDARY CALCULATIONS.
- A STRIP OF LAND LYING BETWEEN THE SUBJECT PROPERTY AND THE WESTERLY LINE OF LOTS 1A AND 2A OF THE HILLS OF STANLEY LAKE LOTS 1A AND 2A, A MINOR SUBDIVISION IS APPARENTLY REMNANT PORTIONS OF LOTS 18, 19, 20 AND 21 OF RUSTIC ACRES, BOOK 20, PAGE 36 THAT WERE NOT INCLUDED IN THE SUBSEQUENT PLATS OF THE HILLS AT STANLEY LAKE, RECEPTION NO. F0373561 OR THE HILLS OF STANDLEY LAKE LOTS 1A AND 2A, A MINOR SUBDIVISION, RECEPTION NO. F0745360 AND IS NOT INCLUDED IN THIS MINOR PLAT.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND SURVEY BOUNDARY MONUMENT OR ACCESSORY COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUE 18-4-508, C.R.S.
- NOTICE: ACCORDING TO COLORADO LAW YOU UST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.
- THE STORM WATER DETENTION AREA SHOWN HEREON (WITHIN AN EASEMENT GRANTED TO THE CITY OF ARVADA FOR SUCH PURPOSE) SHALL BE CONSTRUCTED AND MAINTAINED BY THE OWNER AND SUBSEQUENT OWNERS, HEIRS, SUCCESSORS AND ASSIGNS. IN THE EVENT THAT SAID CONSTRUCTION AND MAINTENANCE IS NOT PERFORMED BY SAID OWNER, THE CITY OF ARVADA SHALL (WITHOUT WAIVING ANY OTHER RIGHTS AVAILABLE TO IT) HAVE THE RIGHT TO PERFORM THE NECESSARY WORK, THE COST OF WHICH SAID OWNER, HEIRS, SUCCESSORS, AND ASSIGNS AGREES TO PAY UPON BILLING.
- NO BUILDING OR STRUCTURE SHALL BE CONSTRUCTED WITHIN THE STORMWATER DETENTION EASEMENT AND NO CHANGES OR ALTERATIONS AFFECTING THE HYDRAULIC CHARACTERISTICS OF THE DETENTION AREA WILL BE MADE WITHOUT THE APPROVAL OF THE CITY OF ARVADA.
- UTILITY EASEMENTS ARE HEREBY GRANTED AS EIGHT (8) FEET WIDE ALONG ALONG ALL REAR LOT LINES, FIVE (5) FEET WIDE ALONG THE SIDE OF LOTS, EIGHT (8) FEET WIDE ALONG BOTH SIDES OF ALL STREETS. A SEVEN AND ONE HALF (7.50) FOOT WIDE DRAINAGE AND UTILITY EASEMENT IS HEREBY GRANTED ALONG THE WEST LOT LINE OF LOTS 3-5 AS SHOWN. UTILITY MEANS SEWER, WATER, ELECTRICITY, TELEPHONE, CABLE AND OTHER TELECOMMUNICATIONS FACILITIES. THOSE EASEMENTS ALONG BOTH SIDES OF STREETS ARE RESERVED EXCLUSIVELY FOR THE USE OF GAS MAINS. OTHER UTILITIES SHALL HAVE THE RIGHT TO CROSS AT APPROXIMATELY RIGHT ANGLES BUT IN NO EVENT SHALL ANY PERMANENT STRUCTURE BE ALLOWED IN THE AREA RESERVED FOR GAS MAINS; PROVIDED HOWEVER, CONCRETE DRIVES, SIDEWALKS, AND UTILITIES ARE PERMISSIBLE AS LONG AS THEY CROSS AT SUBSTANTIALLY RIGHT ANGLES. ALL SIDE AND REAR LOT LINE EASEMENTS ARE FOR UTILITY AND DRAINAGE PURPOSES. NO RETAINING WALLS, FENCE, SHRUBS, TREES OR OTHER OBSTRUCTIONS MAY BE PLACED WITHIN THE EASEMENTS THAT WILL OBSTRUCT THE FLOW OF DRAINAGE IN SAID EASEMENTS. NO TREES, SHRUBS OR OTHER PLANTS MAY BE PLANTED, NOR SHALL ANY BUILDING, FENCE, STRUCTURE OR IMPROVEMENTS BE CONSTRUCTED OR INSTALLED WITHIN OR OVER ANY EASEMENT OR RIGHT-OF-WAY SO AS TO PREVENT OR UNREASONABLY INTERFERE WITH ANY PURPOSE FOR WHICH THE EASEMENT OR RIGHT-OF-WAY BE GRANTED.
- ALL LOT CORNER MONUMENTS SHALL BE SET PER COLORADO STATE STATUTE 38-51-105.
- ALL SIDE AND REAR EASEMENTS ARE FOR UTILITY AND DRAINAGE PURPOSE. (U.D.E. TYPICAL)
- ALL FRONT EASEMENTS ARE FOR UTILITY PURPOSES. (U.E. TYPICAL). FRONT EASEMENTS ALONG BOTH SIDES OF THE STREET ARE RESERVED FOR UTILITIES.
- THIS PARCEL OF LAND DOES NOT FALL WITHIN THE 100 YEAR FLOOD PLAIN AS SHOWN IN THE FEMA FIRM MAP, PANEL NO. 08059C018SF, DATED 02/05/2014.
- PERMANENT SWALES ALONG WEST PROPERTY LINE OF LOTS 3, 4 AND 5 SHALL BE MAINTAINED BY THE PROPERTY OWNERS FOR DRAINAGE PURPOSES.

TITLE CERTIFICATION:

I, _____, AN AUTHORIZED REPRESENTATIVE OF FIRST AMERICAN TITLE INSURANCE COMPANY, DULY FORMED AND EXISTING PURSUANT TO THE STATUTES OF COLORADO FOR THE PURPOSE OF INSURING TITLES TO REAL PROPERTY IN COLORADO, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE TITLE OF ALL LANDS HEREIN ABOVE INDICATED AND SHOWN UPON THE WITHIN PLAT AS PUBLIC WAYS AND EASEMENTS AND THAT THE TITLE TO SUCH LANDS IS THAT OF THE DEDICATORS, FREE AND CLEAR OD ALL LIENS AND ENCUMBRANCES.

DATED THIS ____ DAY OF _____, 20__

FIRST AMERICAN TITLE INSURANCE COMPANY

BY:TITLE:

SURVEYOR'S CERTIFICATION:

I, ROBERT A. RICKARD, A DULY LICENSED PROFESSIONAL LAND SURVEYOR, REGISTERED IN THE STATE OF COLORADO DO HEREBY CERTIFY THAT THERE ARE NO ROADS, PIPELINES, IRRIGATION DITCHES, OR OTHER EASEMENTS IN EVIDENCE OR KNOWN BY ME TO EXIST ON OR ACROSS THE HEREIN BEFORE DESCRIBED PROPERTY EXCEPT AS SHOWN ON THIS PLAT. I FURTHER CERTIFY THAT I HAVE PERFORMED THE SURVEY SHOWN HEREON, OR SUCH SURVEY WAS PREPARED UNDER MY DIRECT RESPONSIBILITY AND SUPERVISION, THAT THIS PLAT ACCURATELY REPRESENTS SAID SURVEY, AND THAT ALL MONUMENTS EXIST AS SHOWN HEREIN.

ROBERT A. RICKARD, PLS NO. 28283DATE
FOR AND ON BEHALF OF
ROCK CREEK SURVEYING, LLC

APPROVAL CERTIFICATE:

APPROVED FOR FILING BY THE COMMUNITY AND ECONOMIC DEVELOPMENT OF THE CITY OF ARVADA, COLORADO THIS ____ DAY OF _____, 20__.

COMMUNITY AND ECONOMIC DEVELOPMENT CITY CLERK

CLERK AND RECORDER'S CERTIFICATE:

RECEPTION NUMBER _____

ACCEPTED FOR FILING IN THE OFFICE OF THE CLERK AND RECORDER OF JEFFERSON COUNTY, AT GOLDEN, COLORADO ON THIS ____ DAY OF _____, 20__, AT ____ O'CLOCK _M..

JEFFERSON COUNTY CLERK AND RECORDERBY: DEPUTY CLERK

TRACT	AREA	USE	OWNERSHIP
TRACT A	11,159 S.F.	DRAINAGE, DETENTION	HOA
TRACT B	2818 S.F.	POND ACCESS & U.D.E.	HOA
TRACT C	2346 S.F.	82ND AVE. ROW	COA

FINAL PLAT – UNION ESTATES
PART OF THE N 1/2 OF THE SE 1/4 OF SEC. 29, T2 S, R69W OF THE 6TH P.M.,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.

REVISIONS

ROCK CREEK SURVEYING, LLC.

3021 GARDENIA WAY
SUPERIOR, CO 80027
303-521-7376

DRAWN: PSD

REVISIONS:

SCALE: 1"=30'

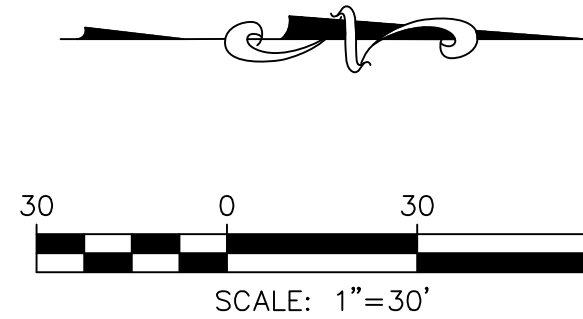
FIELD DATE: 06-09-2020

DATE: JUNE-7-2022

UNION ESTATES - MINOR PLAT

A PARCEL OF LAND LOCATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER
OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M.,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.
SHEET 2 OF 2
MINOR PLAT

PLAN VIEW
SCALE: 1" = 30'

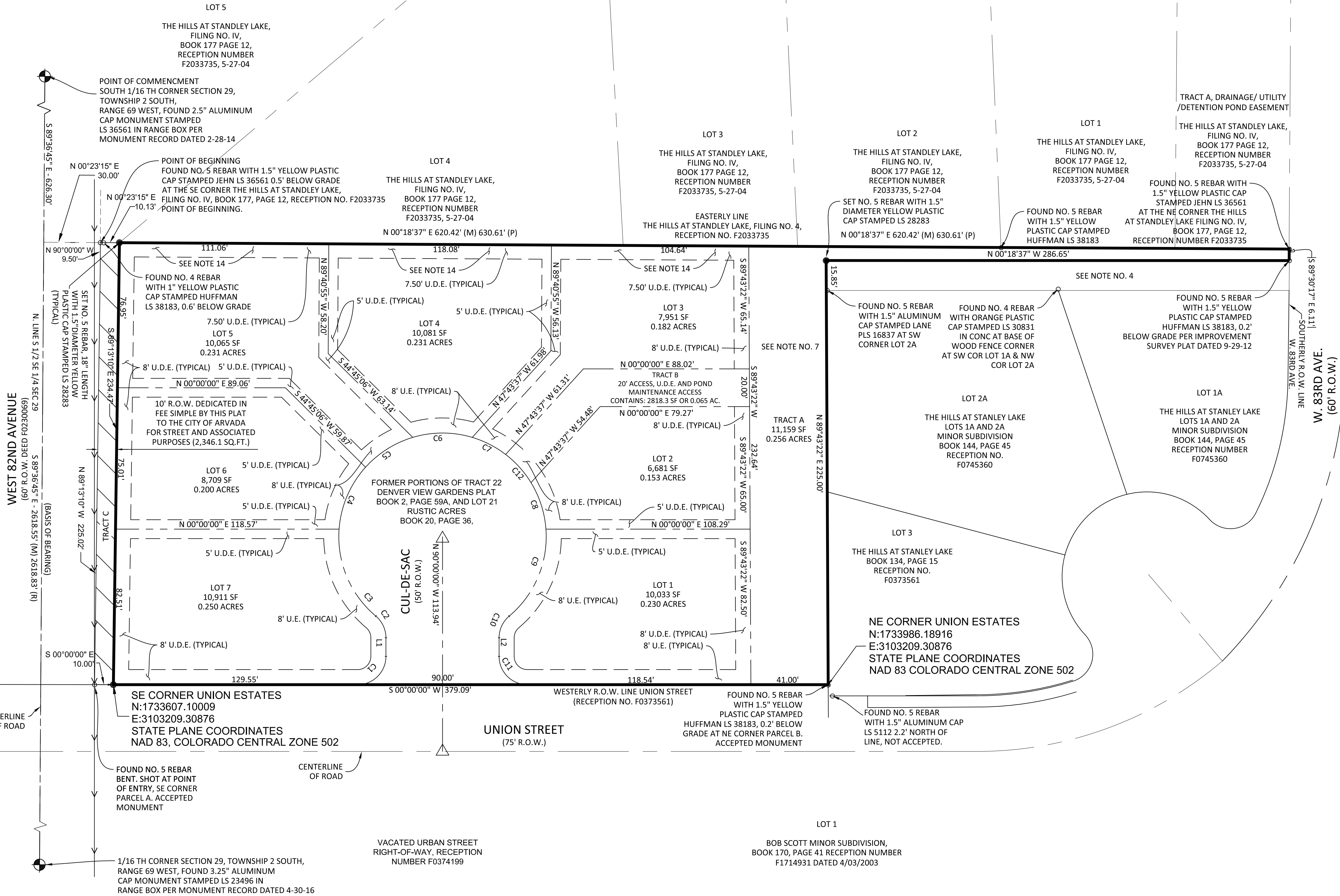


LEGEND

- SET NO. 5 REBAR WITH ORANGE PLASTIC CAP, PLS 28283
- FOUND REBAR AS NOTED
- FOUND RANGE BOX AS NOTED
- SECTION LINE
- PARCEL BOUNDARY LINE
- PROPOSED LOT LINE
- PROPOSED EASEMENT LINE
- EXISTING PROPERTY LINE
- EXISTING CENTERLINE
- SET NO. 5 REBAR, 18 INCH LENGTH, WITH 1.5-INCH DIAMETER YELLOW PLASTIC CAP STAMPED LS 28283.
- SET NO. 6 REBAR, 30 INCH LENGTH, WITH 2.5-INCH DIAMETER ALUMINUM CAP STAMPED LS 28283 AS A RANGE POINT IN RANGE BOX.
- TUCKER DITCH CENTERLINE

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N90°00'00"W	9.87'
L2	N90°00'00"W	9.87'

CURVE TABLE					
CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	23.56'	15.00'	90°00'00"	N45°00'00"W	21.21'
C2	13.09'	15.00'	49°59'41"	S65°00'09"W	12.68'
C3	52.00'	55.00'	54°10'33"	N67°05'35"E	50.09'
C4	36.38'	55.00'	37°53'57"	S66°52'10"E	35.72'
C5	30.00'	55.00'	31°15'00"	S32°17'42"E	29.63'
C6	32.00'	55.00'	33°20'24"	S00°00'00"E	31.55'
C7	19.98'	55.00'	20°49'04"	S27°04'44"W	19.87'
C8	26.18'	55.00'	27°16'22"	S72°10'57"W	25.93'
C9	52.00'	55.00'	54°10'33"	N67°05'35"W	50.09'
C10	13.09'	15.00'	49°59'41"	S65°00'09"E	12.68'
C11	23.56'	15.00'	90°00'00"	N45°00'00"E	21.21'
C12	20.22'	55.00'	21°03'30"	N48°01'01"E	20.10'



FINAL PLAT – UNION ESTATES
PART OF THE N 1/2 OF THE SE 1/4 OF SEC. 29, T2 S, R69W OF THE 6TH P.M.,
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO.

REVISIONS

ROCK CREEK SURVEYING, LLC.

3021 GARDENIA WAY
SUPERIOR, CO 80027
303-521-7376

DRAWN: PSD

FIELD DATE: 06-09-2020

SCALE: 1"=30'

DATE: JUNE-7-2022



Synopsis of the July 19, 2022 Planning Commission Meeting

Union Estates Annexation and Rezoning

Mr. Griffith opened the public hearing.

Ms. Ibanez stated a correction to the staff report, page 3 under the Zoning and Land Use to be changed from “The subject property is currently zoned RN 7.5 (Residential Neighborhood Sub-district 7.5)” but should be “The subject property is currently zoned Jefferson County A-2 (Agricultural 2)” And on page 5 under Circulation and Connectivity to be changed from “to the site” to “to the south side.”

Mr. Griffith entered into the record the Staff report, posting log and affidavit, mailing affidavit.

Ms. Ibanez introduced the project.

Applicant Steve Lindsey 12650 W 54th Drive Arvada 80002, explained that they are looking to build a cul-de-sac with seven custom homes which allows people to come in and design their own home. This property previously had one house on the property that had become run down. This new project will improve both West 82nd Avenue and Union Street. A detention area is proposed on the north end of the property.

Mr. Griffith opened the hearing for comments from the public.

PUBLIC COMMENT

IN FAVOR

Greg Lockridge 8226 Urban Court. would like the Ash trees saved and would like to have correspondence with the builder about how close the house on Lot 4 will be built adjacent to his house.

IN OPPOSITION

Joe Gruber 8246 Urban Court 80005 is concerned about the size of the house being built. Would like the Russian olives trees to be removed and is concerned regarding drainage flowing into his property.

Phil Teague 8286 Urban Court is concerned about the drainage on the property and what will happen to the strip of land between Urban Court and the proposed Union Estates.

APPLICANT REBUTTAL

Mr. Lindsey stated that the trees will be staying as of now and if that was to change, they could have a conversation. Regarding the placement of the house, they do custom homes and want them to have good placement. They have addressed the drainage. They will get with their contractor regarding the weeds and have that addressed. The small strip of land will be covered by the Homeowner’s Association (HOA).

Mr. Griffith closed public comment.

QUESTIONS FROM THE COMMISSION

Mr. Hannan questioned the trees on the property, if there are invasive species on the property, will they be removed.

Ms. Ibanez stated that the staff Landscape architect would answer that. She can follow up with him.

Mr. Hannan questioned the small strip of land and what would happen to it.

Ms. Ibanez stated that staff had left it up to the applicant to determine if they would have the HOA handle it or do something else with the property.

Project Engineer David Moore 16415 W 85th Ln Unit B Arvada CO stated that the strip will be maintained by the HOA.

Mr. Magee questioned the lot size.

Ms. Ibanez stated that there will be a separate Site Plan/Minor Modification plans submitted and reviewed administratively.

Mr. Magee questioned how the sprinklers will be checked in the few lots that are requiring them?

Ms. Ibanez stated that the review will be looked at during the building permit application review process. Arvada Fire also reviews the building permit documents for approval.

Mr. Magee questioned the strip to the east.

Mr. Moore stated that there is a piece of land that no one owns and they will discuss what happens with the property. Parking would be allowed on Union Street.

Mr. Magee questioned how they will let homeowners know that the houses will have sprinklers.

Mr. Lindsey stated that if they have to go that route it will be like telling them they will have a fireplace, it's just part of their standard features.

Mr. Knapp asked the rear setback on Lots 3, 4 & 5?

Ms. Wolfschlag stated it is a 10 feet setback.

Mr. Knapp asked what the setback is to the house to the west of this project?

Mr. Smetana stated that it looks like there is about a 40 feet setback.

Mr. Knapp asked about the drainage.

Mr. Lindsey stated there will be concrete drainage that runs the whole west side of the property on a separate tract.

Mr. Knapp questioned what was being thought of for the screening on the west side of the property?

Mr. Lindsey stated that they had not gotten that far but that it's tough to sell houses with 10 feet backyards, so their intent is not to do that. They are just following the Comprehensive Plan of the City.

Mr. Knapp asked if the applicant would consider something with a lower density.

Mr. Lindsey stated that if the City didn't require the applicant to improve Union Street and West 82nd Avenue, yes they would. He added that it is costly to do these improvements on an in-fill development. The public improvements include curb and gutter, landscaping, sidewalks. It becomes very expensive and to get rid of one lot, it is not economically feasible.

Mr. Knapp questioned the size of the cul-de-sac.

Ms. Wolfschlag stated that there is a standard size that this project has met which allows for it to be maintained by snow plows, maintenance and fire and emergency access.

Mr. Knapp questioned the small piece of land, what would happen with it.

Mr. Lindsey stated that it will be taken care of; much better than it has in the past. Also, he is not opposed to giving that property to the adjacent landowners as long as it doesn't delay the process. Until they do that, the HOA will take care of that space.

Mr. Griffith asked how long the applicant has owned the property in question?

Mr. Lindsey stated it has been a few years.

Mr. Griffith asked if they have built in Arvada before?

Mr. Lindsey stated yes they have, currently at W 62nd Avenue and Carr Street. They just built their corporate office in Arvada.

Mr. Griffith questioned who the HOA will be using for their trash.

Mr. Lindsey was not sure.

Ms. Grogg stated that all new HOA's are required to use the new trash program.

Mr. Smetana stated that the suggestion from the staff is that any Russian olives or Ash trees be removed from the property.

MOTION:

It was moved by Mr. Magee, that DA2021-0023 Union Estates, generally located at 12016 West 82nd Avenue, be recommended to City Council for approval of the annexation. This motion is based on the findings of fact and approval criteria on Page 6 of the staff report.

DISCUSSION OF MOTION

Mr. Magee thanked the applicant for their presentation and that they held back on how many homes they placed on the plot. He will be supporting this motion.

Mr. Gay is pleased with the project, he will be voting in favor of it.

Mr. Knapp is concerned about the vegetation and the density. He will be voting in approval of this project.

Mr. Griffith stated his concern about the vegetation, and asked that mature trees be considered.

Those voting Yes: Griffith, Hannan, Knapp, Aljinovich, Magee, Gay, Figliolino

Those voting No:

Those absent: None

The motion carried 7-0

MOTION:

It was moved by Mr. Magee, that the zoning of certain land in the City of Arvada, DA2021-0023 Union Estates, for a 2.11 acre parcel of land from Jefferson County A-2 (Agricultural 2) to City of Arvada RN-7.5 (Residential Neighborhood 7.5) and Amending the Official Zoning Maps of the City of Arvada, Colorado, approximately located at 12016 West 82nd Avenue, be recommended to City Council for approval.

This motion is based on the findings of fact and approval criteria on Pages 6-7 of the Staff Report.

DISCUSSION OF MOTION

None

Those voting Yes: Griffith, Hannan, Knapp, Ajinovich, Magee, Gay, Figliolino

Those voting No:

Those absent: None

The motion carried 7-0



CED Boards and Commission <cedboardsandcommission@arvada.org>

Comment re: DA2021-0023 union estates Nov 7th public hearing

Larry Wolfe [REDACTED] >
To: cedboardsandcommission@arvada.org

Thu, Oct 27, 2022 at 1:28 PM

Greetings,

I am the homeowner at [12138 West 83rd Avenue](#) adjacent to this property. My comment / question is in regards to the large tree (Ash?) located between our properties. I would like confirmation that the tree ownership is acknowledged as part of the development as the center of the tree lies outside my property lines. It is my understanding from past discussions that the plans are to keep the tree and turn ownership over to the new HOA being established. This is also my preference rather than cutting the tree down. Confirmation of this would be appreciated. Lastly, if the tree is to be kept, trimming of dead branches would be appreciated as I am often left with cleanup after wind storms.

Larry Wolfe

UNION ESTATES

ANNEXATION AND REZONING

Union Estates

project team representatives

APPLICANT and BUILDER

Linco Enterprises (principles: Steve Lindsey, Colby Lindsey)

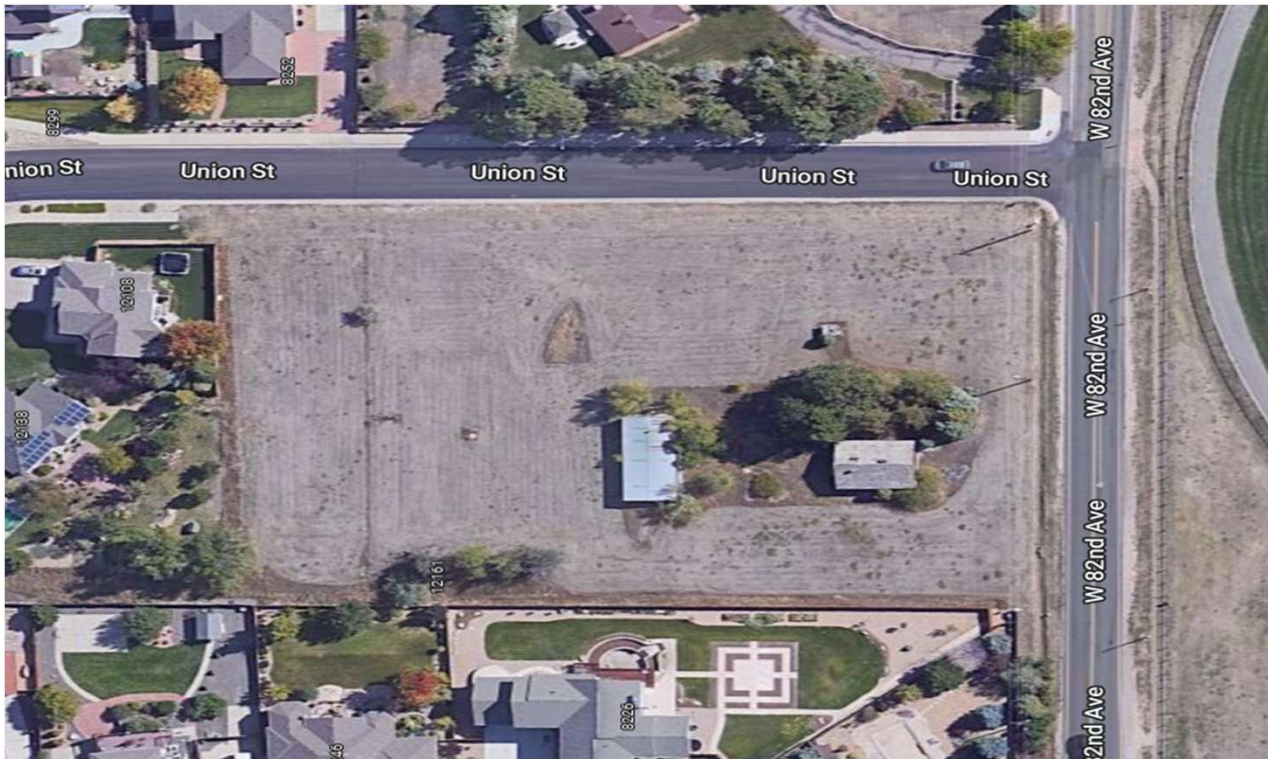
Linco specializes in Custom Homebuilding and remodeling. Steve has been involved in several housing developments and custom builds in Arvada over the last 30 years

ENGINEERING

Alliance Consulting, David Moore

Union Estates

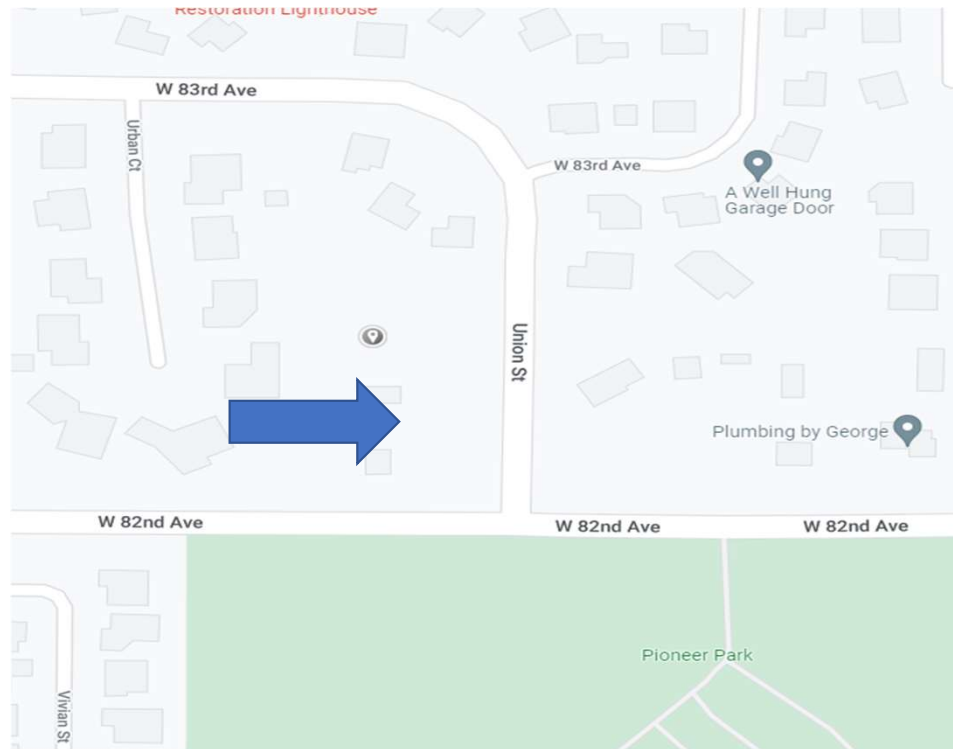
Existing Conditions
infill site-vacant land 2.11 acres

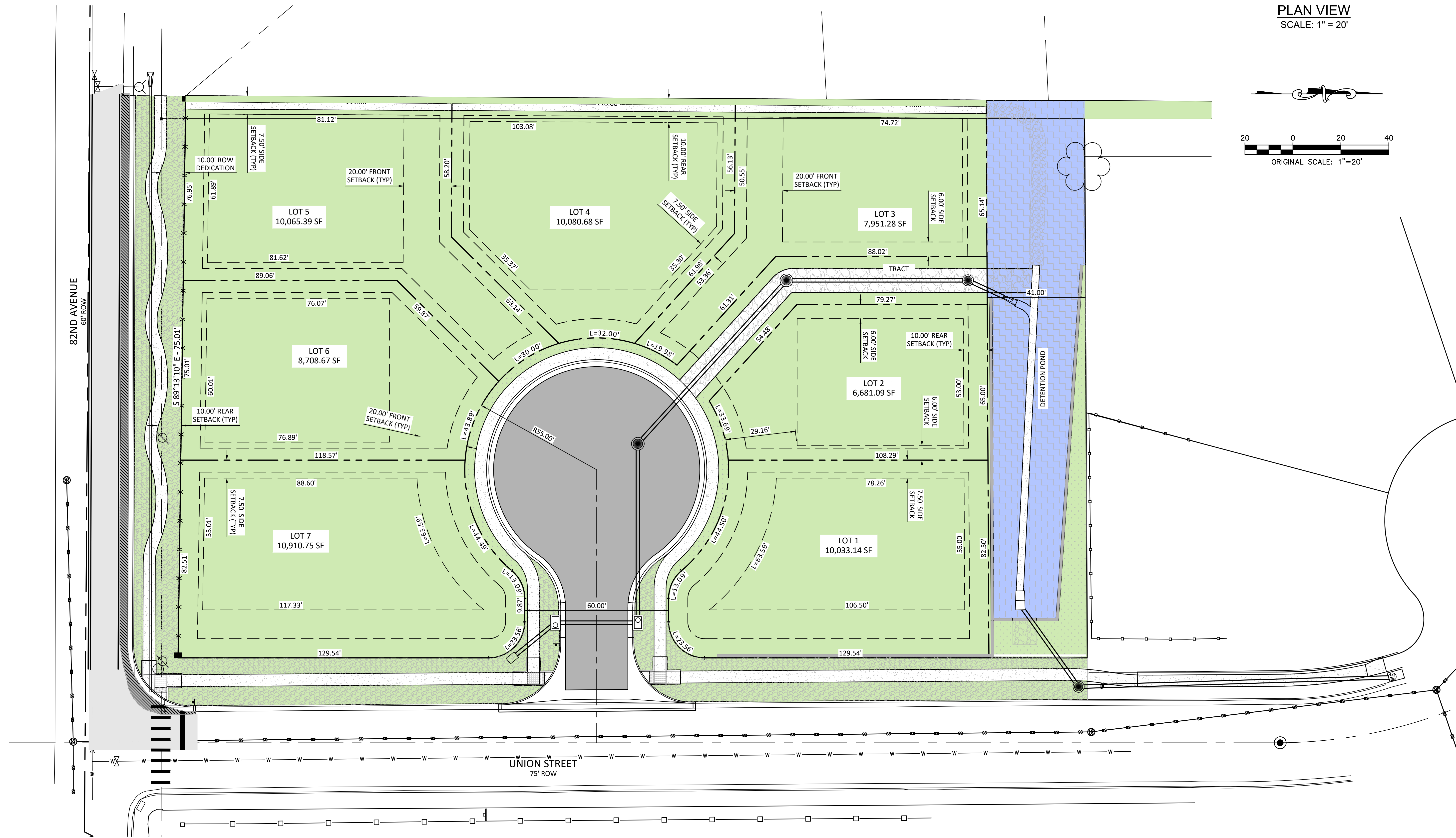


Union Estates

vicinity map

Northwest corner of 82nd and Union St

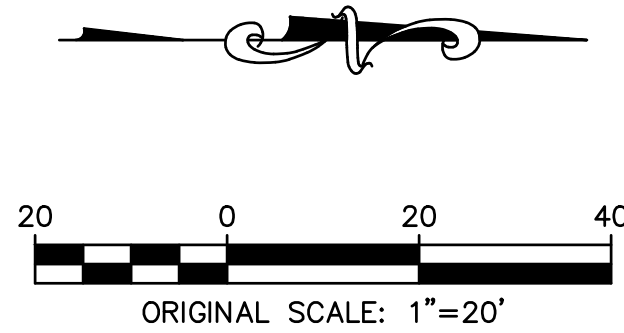




LEGEND

-  LANDSCAPED AREAS AND LOTS
 PROPOSED STREET PAVEMENT
 SIDEWALK AND CONCRETE PAVEMENT
 DETENTION AREA
 WALLS

PLAN VIEW
SCALE: 1" = 20'

[illegible]

Union Estates

zoning and site summary

- Site area: 2.11 acre
- Use: 7 custom home development
- Dwellings per acre: 3.4
- Zoning recommendation RN 7.5, single family
- Minimum lot size 7,500sf
- Average lot size: 9,095sf
- Setbacks: front 20ft, sides 7.5 ft, rear 10ft

Union Estates

architecture



Union Estates

conclusion

1. Compatible with the adjacent and allowed land uses
2. All necessary facilities and services are available to serve property
3. Adequate access to the site via public right-of-way
4. Compliant with comprehensive plan

Thank You



REPORT TO CITY COUNCIL PUBLIC HEARING

AGENDA ITEM
10.C.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: CB22-076, An Ordinance Rezoning Certain Land Within the City of Arvada, Union Estates Property, from Jefferson County A-2 (Agricultural 2) to City of Arvada RN-7.5 (Residential Neighborhood 7.5) and Amending the Official Zoning Maps of the City of Arvada, Colorado, Generally Located at 12016 W 82nd Avenue (Ordinance No. 4824)

Report in Brief

Steve Lindsey, Linco Enterprises, the applicant is seeking annexation of approximately 2.11 acres located at the northwest corner of West 82nd Avenue and Union Street. The applicant is also requesting rezoning approval from Jefferson County A-2 (Agriculture 2) to RN-7.5 (Residential Neighborhood 7.5) to allow a maximum of seven single-family residential lots. A Site Plan to develop seven custom single-family homes and a Minor Subdivision are also submitted and are under the administrative review process. The staff report and other attachments are linked to the annexation item on this agenda.

The Arvada team recommends that the City Council approve CB22-076, An Ordinance Rezoning Certain Land Within the City of Arvada, Union Estates Property, from Jefferson County A-2 (Agricultural 2) to City of Arvada RN-7.5 (Residential Neighborhood 7.5) and Amending the Official Zoning Maps of the City of Arvada, Colorado, approximately located at 12016 W 82nd Avenue on final reading, numbered 4824 and ordered published by title only.

Financial Impact

There is no financial impact associated with the rezoning.

Background

The subject property is located at 12016 West 82nd Avenue and is currently a vacant parcel zoned A-2 (Agricultural-2) in Jefferson County. The Hills at Standley Lake subdivisions lies to the north, west and east side of the property. The City's Pioneer Park is directly to the south. The property is designated Suburban Residential in the 2014 Comprehensive Plan. Consistent with the existing neighborhoods, the proposed zoning for the property is RN-7.5. The seven lot subdivision will be custom-homes to be built by the applicant who is a custom home builder.

As part of the 2020 Land Development Code, the City rezoned and remapped the established areas of the various subdivisions of the Hills and Standley Lake for single-family detached homes zoned PUD-R (Planned Unit Development-Residential) to RN-7.5. The intent of the RN zone district is to maintain the character of mature established neighborhoods to allow development and redevelopment that are consistent with the neighborhood's architectural character.

Discussion

The following information summarizes the analysis of the Zoning and Rezoning approval criteria by the Community and Economic Development team.

Div. 8-3-4 Zoning and Rezoning Approval Criteria	Finding	Rationale
--	---------	-----------

1. The rezoning is consistent with the Arvada Comprehensive Plan, or an adopted sub-area plan, corridor plan, or urban renewal plan, or reflects conditions that have changed since the adoption of the Comprehensive Plan.	Complies	The RN-7.5 zone district is consistent with the Suburban Residential land use category and other applicable policies in the Comprehensive Plan.
2. The intended land use is consistent with the stated intent of the proposed zoning district.	Complies	The single-family detached homes are consistent with the intent of the RN-7.5.
3. Facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection, and roads and transportation, as applicable) will, prior to development, be available to serve the subject property while maintaining adequate levels of service to existing development.	Complies	All facilities and services are available to serve the site. The applicant will also be improving West 82nd Avenue to meet the collector street standard to include dedication of right-of-way, curb, gutter and sidewalk.
4. The intended land use for which the rezoning is sought will not result in significant adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated.	Complies	The vacant lot will be developed for seven single-family detached homes. Other than during construction, there are no significant adverse impacts since the adjacent properties have been developed.
5. The rezoning is consistent with the character of existing or planned development on adjacent properties and in the surrounding area or neighborhood, or measures will be taken to substantially buffer or otherwise substantially mitigate any negative impacts.	Complies	The RN-7.5 is consistent with the existing neighborhood area.

Public Contact

The applicant provided an overview of the proposed lots and discussed the proposed RN-7.5 development standards during a neighborhood meeting held on November 12, 2020. The adjacent neighbors to the east were concerned that the lots sizes were smaller than their lots and that homes would be located closer to their homes. They also asked what type of homes would be built.

The applicant responded that the minimum lot size and setbacks were consistent with the adjacent subdivisions. The proposed development will be custom-homes and he would work with the adjacent property owners to screen the backyards with landscape. No further concerns were raised.

Written notice was sent 15 days prior to the meeting, a published notice was posted in the newspaper 15 days prior to the meeting, and a public hearing sign was posted 15 days prior to the meeting.

Commission Recommendation

The Planning Commission voted 7 to 0 to recommend approval of this project to the City Council during their meeting on July 19, 2022.

Strategic Alignment

The recommended action aligns with the following Principle within the Community and Economic Development Priority Area of the City Council Strategic Plan:

SUBJECT: CB22-076, An Ordinance Rezoning Certain Land Within the City of Arvada, Union Estates Property, from Jefferson County A-2 (Agricultural 2) to City of Arvada RN-7.5 (Residential Neighborhood 7.5) and Amending the Official Zoning Maps of the City of Arvada, Colorado, Generally Located at 12016 W 82nd Avenue (Ordinance No. 4824)

PAGE: 3
ITEM: 10.C.

Uses the Comprehensive Plan to guide planning, land use code decisions, development management, and informational and resource services that are delivered to businesses, the development community, decision-making bodies, and neighborhood partners to achieve a well-planned, aligned, sustainable, attractive, and livable community for current and future generations.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends that the City Council approve CB22-076, An Ordinance Rezoning Certain Land Within the City of Arvada, Union Estates Property, from Jefferson County A-2 (Agricultural 2) to City of Arvada RN-7.5 (Residential Neighborhood 7.5) and Amending the Official Zoning Maps of the City of Arvada, Colorado, generally located at 12016 West 82nd Avenue on final reading, numbered 4824 and ordered published by title only.

Suggested Motion:

I move that CB22-076, An Ordinance Rezoning Certain Land Within the City of Arvada, Union Estates, from Jefferson County A-2 (Agricultural 2) to City of Arvada RN-7.5 (Residential Neighborhood-7.5) and Amending the Official Zoning Maps of the City of Arvada, Colorado, Generally Located at 12016 West 82nd Avenue be, (approved on final reading, numbered 4824 and ordered published by title only) (rejected).

This motion is based on the findings of fact adopted by the Planning Commission (if approved).

This motion is based on the following findings of fact for denial: (Recite approval criteria you believe the evidence fails to satisfy and your reasons).

Prepared by:

Heidi Van Gieson, Administrative Specialist

Reviewed by:

Approved by:

Carol Ibanez, Senior Planner	10/10/2022
Josie Suk, Development Systems and Administrative Manager	10/12/2022
Robert Smetana, Manager of City Planning and Development	10/12/2022
Ryan Stachelski, Director of Community and Economic Development	10/13/2022
Gail Walker, Legal Specialist-Contracts	10/13/2022
Emily Grogg, Senior Assistant City Attorney	10/13/2022
Rachel Morris, City Attorney	10/17/2022
Linda Haley, Deputy City Manager	10/17/2022

SUBJECT: CB22-076, An Ordinance Rezoning Certain Land Within the City of Arvada, Union Estates Property, from Jefferson County A-2 (Agricultural 2) to City of Arvada RN-7.5 (Residential Neighborhood 7.5) and Amending the Official Zoning Maps of the City of Arvada, Colorado, Generally Located at 12016 W 82nd Avenue (Ordinance No. 4824)

PAGE: 4
ITEM: 10.C.

Don Wick, Deputy City Manager

10/17/2022

Lorie Gillis, City Manager

10/21/2022

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 22-076
ORDINANCE NO. 4824

AN ORDINANCE REZONING CERTAIN LAND WITHIN THE CITY OF ARVADA,
UNION ESTATES PROPERTY, FROM JEFFERSON COUNTY A-2 (AGRICULTURAL
2) TO CITY OF ARVADA RN-7.5 (RESIDENTIAL NEIGHBORHOOD 7.5) AND
AMENDING THE OFFICIAL ZONING MAPS OF THE CITY OF ARVADA,
COLORADO, GENERALLY LOCATED AT 12016 WEST 82ND AVENUE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA,
COLORADO:

Section 1. The following described property is hereby rezoned from Jefferson County A-2 (Agricultural 2) to City of Arvada RN-7.5 (Residential Neighborhood 7.5).

THE CURRENTLY VACANT PARCEL OF LAND LOCATED AT WEST 82ND AVENUE
AND UNION STREET MORE PARTICULARLY DESCRIBED ON THE ATTACHED
EXHIBIT A.

Section 2. The Official Zoning Maps of the City of Arvada are hereby amended in
accordance herewith.

Section 3. This ordinance shall be effective fifteen days after publication following final
passage.

INTRODUCED, READ, AND ORDERED PUBLISHED this 17th day of October, 2022.

PASSED, ADOPTED, AND APPROVED this 7th day of November, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: _____

Publication Dates: October 20, 2022
 November 10, 2022

EXHIBIT A

AN ORDINANCE REZONING CERTAIN LAND WITHIN THE CITY OF ARVADA,
UNION ESTATES PROPERTY, FROM JEFFERSON COUNTY A-2 (AGRICULTURAL
2) TO CITY OF ARVADA RN-7.5 (RESIDENTIAL NEIGHBORHOOD 7.5) AND
AMENDING THE OFFICIAL ZONING MAPS OF THE CITY OF ARVADA,
COLORADO, GENERALLY LOCATED AT 12016 WEST 82nd AVENUE

EXHIBIT A

PARCEL A:

A TRACT OF LAND LOCATED IN THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH P.M., JEFFERSON COUNTY, COLORADO CONSISTING OF A PORTION OF TRACT 22, DENVER VIEW GARDENS, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 2 AT PAGE 59A TOGETHER WITH A PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 22 THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 36.55 FEET TO A POINT 30 FEET NORTH OF THE PHYSICAL CENTER LINE OF WEST 82ND AVENUE (MAY 1995) AND THE TRUE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES, 13 MINUTES, 10 SECONDS EAST A DISTANCE OF 225.02 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST PARALLEL TO THE WEST LINE OF SAID TRACT 22, A DISTANCE OF 389.09 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 73.01 FEET OF LOT 21, RUSTIC ACRES; THENCE SOUTH 89 DEGREES, 43 MINUTES, 22 SECONDS WEST PARALLEL TO THE SOUTH LINE OF SAID LOT 21 A DISTANCE OF 225.00 FEET TO THE WEST LINE OF SAID LOT 21; THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 21 AND THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 384.94 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON , STATE OF COLORADO.

PARCEL B:

THAT PORTION OF LOT 21, RUSTIC ACRES, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 21; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID LOT 21, A DISTANCE OF 73.01 FEET, THENCE NORTH 89 DEGREES 43 MINUTES 22 SECONDS EAST PARALLEL TO THE SOUTH LINE OF SAID LOT 21, A DISTANCE OF 225.00 FEET, THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 73.01 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 21; THENCE SOUTH 89 DEGREES, 42 MINUTES, 23 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 225.00 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL C:

A TRACT OF LAND KNOWN AS THE EASTERLY 9.5 FEET OF BLOCK 21, DENVER VIEW GARDENS.

SAID TRACT BEING ALSO KNOWN AS A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M. DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 21, DENVER VIEW GARDENS; THENCE NORTH ALONG THE EAST LINE OF SAID BLOCK 21, 630.55 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 21, 6 FEET; THENCE SOUTHWESTERLY A DISTANCE OF 630.55 FEET, MORE OF LESS, TO A POINT ON THE SOUTH LINE OF SAID BLOCK 21, WHICH IS 9.5 FEET WEST OF THE SOUTHEAST CORNER OF

SAID BLOCK 21; THENCE EAST ALONG SAID SOUTH LINE 9.5 FEET TO THE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

ZONING AREA CONTAINS: 91,995.1 SQUARE FEET OR 2.11 ACRES.

PARCELS OF LAND LOCATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER
OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL A:

A TRACT OF LAND LOCATED IN THE NORTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH P.M., JEFFERSON COUNTY, COLORADO CONSISTING OF A PORTION OF TRACT 22, DENVER VIEW GARDENS, A SUBDIVISION RECORDED IN THE PLAT BOOK 20 AT PAGE 36 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 22 THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 384.94 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES, 13 MINUTES, 00 SECONDS EAST A DISTANCE OF 225.02 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST PARALLEL TO THE WEST LINE OF SAID TRACT 22, A DISTANCE OF 389.09 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 73.01 FEET OF LOT 21, RUSTIC ACRES; THENCE SOUTH 89 DEGREES, 43 MINUTES, 00 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 21, A DISTANCE OF 225.02 FEET TO THE TRUE POINT OF BEGINNING; SAID LOT 21, RUSTIC ACRES, BEING 00 DEGREES, 00 MINUTES, 00 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 21 AND THE WEST LINE OF SAID TRACT 22 A DISTANCE OF 384.94 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL B:

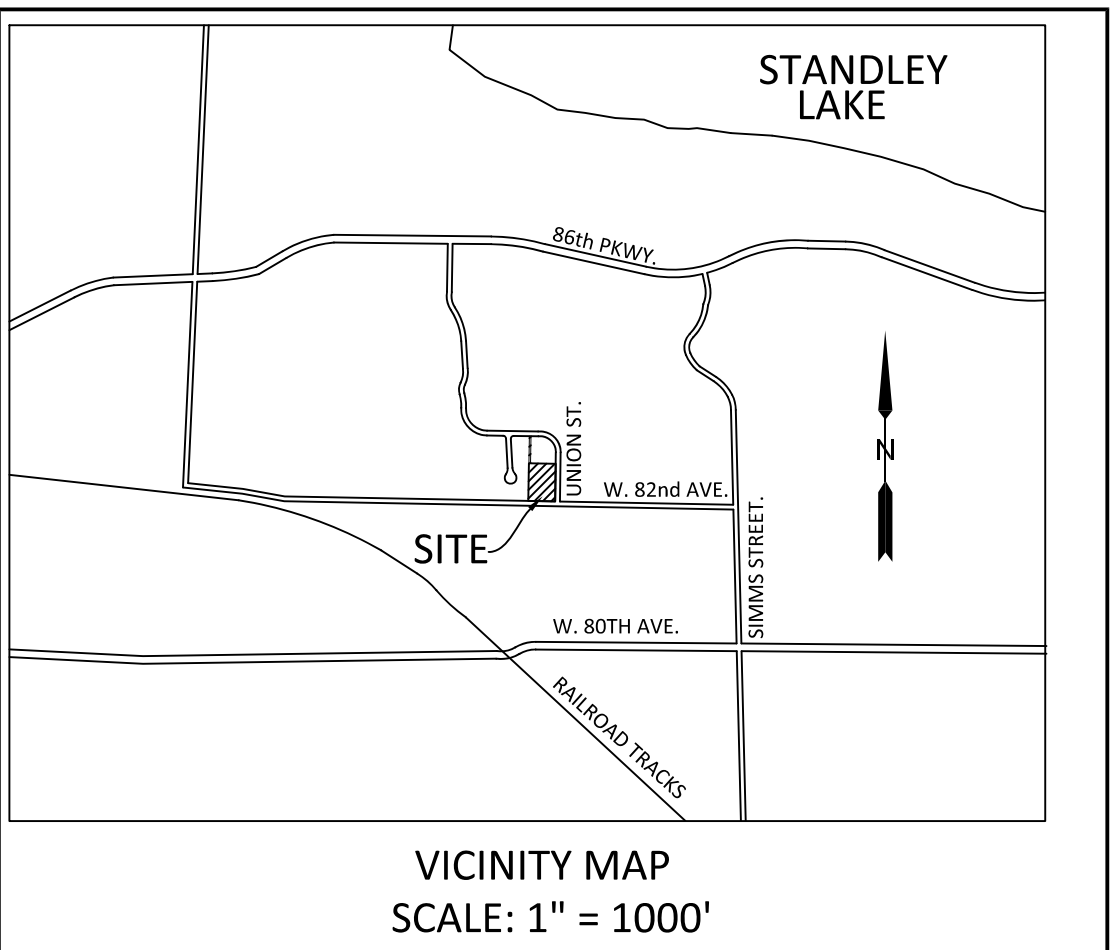
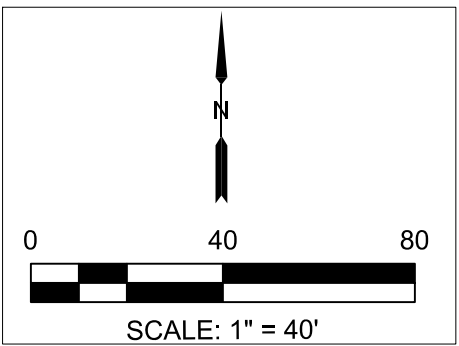
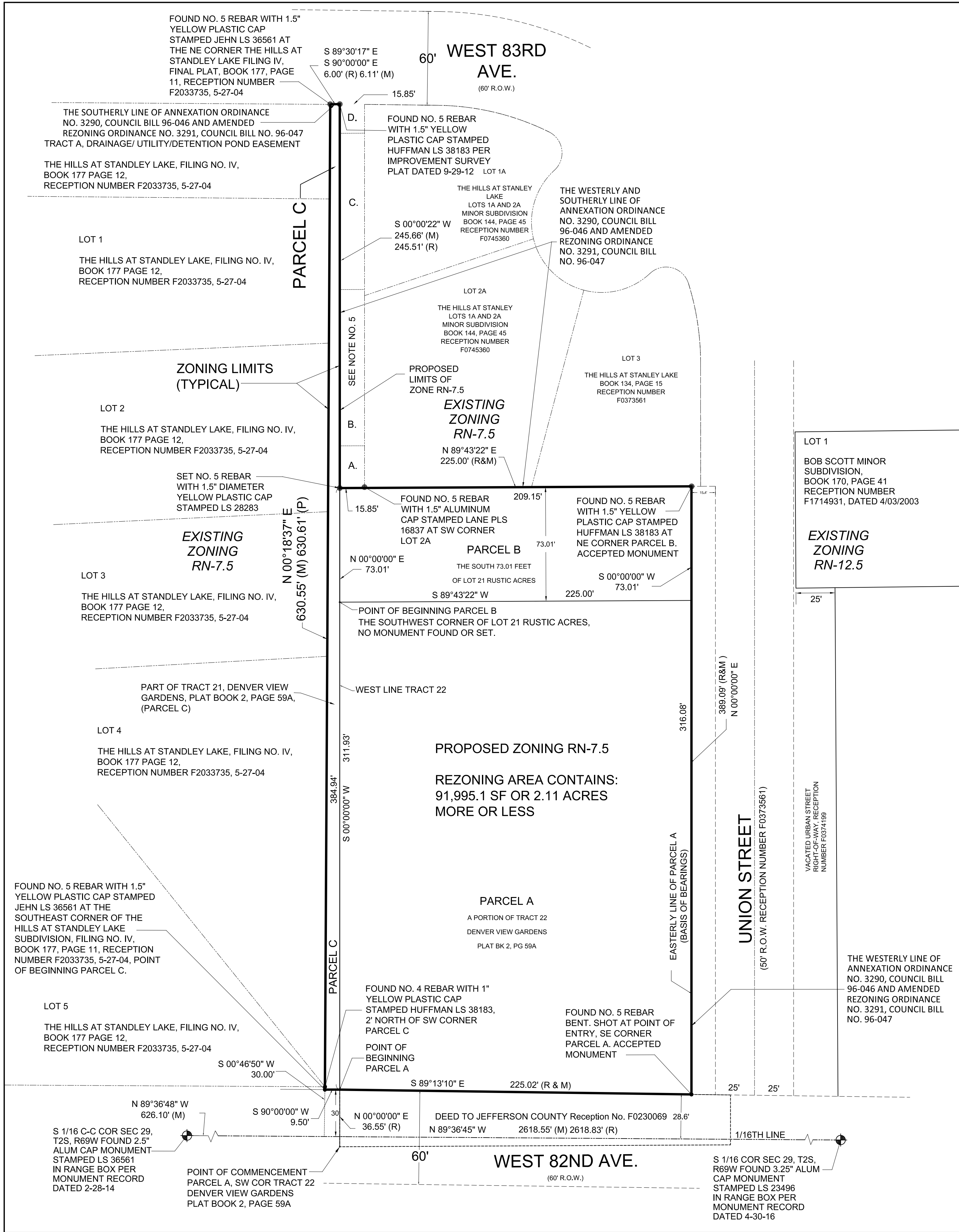
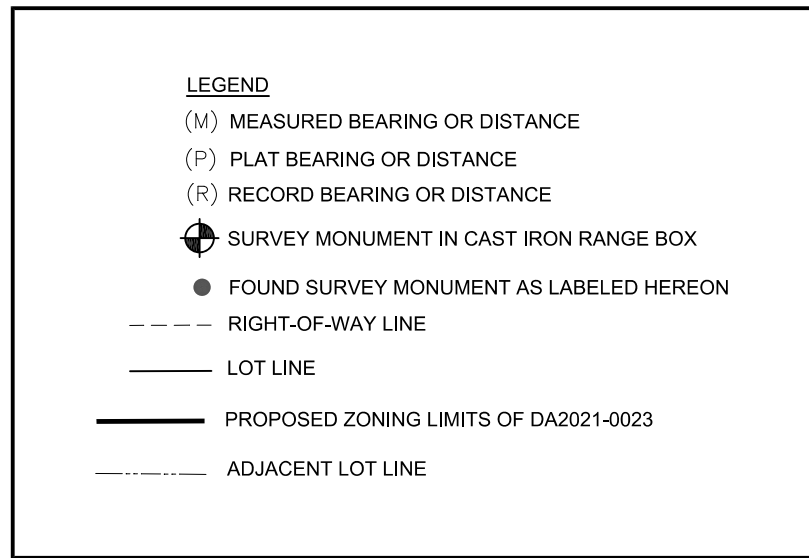
THAT PORTION OF LOT 21, RUSTIC AREAS, A SUBDIVISION RECORDED IN THE OFFICIAL RECORDS OF JEFFERSON COUNTY IN PLAT BOOK 20 AT PAGE 36, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 21; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID LOT 21, A DISTANCE OF 73.01 FEET, THENCE NORTH 89 DEGREES, 43 MINUTES 22 SECONDS EAST PARALLEL TO THE SOUTHWEST LINE OF SAID LOT 21, A DISTANCE OF 225.00 FEET, 00 DEGREES, 00 MINUTES, 00 SECONDS WEST A DISTANCE OF 73.01 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 21; THENCE SOUTH 89 DEGREES, 42 MINUTES, 23 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 225.00 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

PARCEL C

A TRACT OF LAND KNOWN AS THE EASTERLY 9.5 FEET OF BLOCK 21, DENVER VIEW GARDENS.

SAY TRACT BEING ALSO KNOWN AS A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M. DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 21, DENVER VIEW GARDENS; THENCE NORTH ALONG THE EAST LINE OF LAND SAID BLOCK 21, 630.55 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID BLOCK 21, 6 FEET; THENCE SOUTHWESTERLY A DISTANCE OF 630.55 FEET, MORE OR LESS, TO A POINT ON THE SOUTH LINE OF SAID BLOCK 21, WHICH IS 9.5 FEET WEST OF THE SOUTHEAST CORNER OF SAID BLOCK 21; THENCE EAST ALONG SAID SOUTH LINE 9.5 FEET TO THE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

ZONING AREA CONTAINS: 91,995.1 SQUARE FEET OR 2.11 ACRES



NOTES:

1.) THIS ZONING MAP HAS BEEN PREPARED AS PART OF CITY OF ARVADA DEVELOPMENT APPLICATION NO. DA2021-0023.

2) FIRST AMERICAN TITLE INSURANCE COMPANY TITLE COMMITMENT FILE NO. 5509-3738262 DATED FEBRUARY 9, 2022 AT 8:00 AM WAS USED FOR THE LEGAL DESCRIPTIONS AND RESEARCH OF EASEMENTS, RIGHTS-OF-WAY AND ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY.

3.) FIELD SURVEY CONDUCTED JUNE, 2020.

4.) BASIS OF BEARINGS: THE EAST LINE OF PARCEL B IS ASSUMED TO BEAR NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST BETWEEN A FOUND NO. 5 REBAR AT THE SOUTHEAST CORNER OF SAID PARCEL B AND A FOUND NO. 5 REBAR WITH 1.5 INCH YELLOW PLASTIC CAP STAMPED LS 38183 AT THE NORTHEAST CORNER OF SAID PARCEL B.

5.) A STRIP OF LAND LYING BETWEEN THE SUBJECT PROPERTY AND THE WESTERLY LINE OF LOTS 1A AND 2A OF THE HILLS AT STANLEY LAKE LOTS 1A AND 2A, A MINOR SUBDIVISION IS APPARENTLY REMNANT PORTIONS OF LOTS 18, 19, 20 AND 21 OF RUSTIC ACRES, BOOK 20, PAGE 36 THAT WERE NOT INCLUDED IN THE SUBSEQUENT PLATS OF THE HILLS AT STANLEY LAKE, RECEPTION NO. F0373561 OR THE HILLS AT STANLEY LAKE LOTS 1A AND 2A, A MINOR SUBDIVISION, RECEPTION NO. F0745360 AND IS NOT INCLUDED IN THIS REZONING.

TABLE OF REMNANT PORTIONS OF LOTS 18-21, RUSTIC ACRES, BOOK 20, PAGE 36:
DIMENSIONS ARE SHOWN APPROXIMATELY, FOR GENERAL INFORMATION PURPOSES
ONLY AND BASED ON RECORDED PLAT DIMENSIONS. THESE PORTIONS OF LOTS ON
THE ADJACENT PROPERTY WERE NOT INCLUDED IN THE SURVEY OR INCLUDED IN THIS
ZONING MAP.

A = THE WESTERLY PORTION OF LOT 21 RUSTIC ACRES, BOOK 36 (15.85' X 26.99').
B = THE WESTERLY PORTION OF LOT 20 RUSTIC ACRES, BOOK 36 (15.85' X 100')..
C = THE WESTERLY PORTION OF LOT 19 RUSTIC ACRES, BOOK 36 (15.85' X 100').
D = THE WESTERLY PORTION OF LOT 18 RUSTIC ACRES, BOOK 36 (15.85' X 18.44' +/-).

PREPARED BY:
ROCK CREEK SURVEYING, LLC
3021 GARDENIA WAY
SUPERIOR, COLORADO 80027
(303) 521-7376

06/07/2022

SHEET 1 OF 1



REPORT TO CITY COUNCIL PUBLIC HEARING

AGENDA ITEM
10.D.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: PUD Development Plan for Tower View Townhomes Phase II PDP, generally located at 7801 W 51st Ave

Report in Brief

Mark DeBenedictis, on behalf of Tower View Development LLC, is requesting approval of PUD Development Plan (PDP) to construct nine townhome units in three buildings on approximately 0.45 acres. This is the second phase of the existing Tower View Townhomes development directly to the west of the subject property. The proposed three-story townhomes will be architecturally similar to the adjacent townhomes and the site layout will follow the pattern established with phase I, with vehicular access provided through the existing driveway on phase I.

The Arvada Team recommends approval of PUD Development Plan for Tower View Townhomes Phase II PDP, generally located at 7801 W 51st Ave.

Financial Impact

There is no financial impact from this project.

Background

The subject property is located at the northwest corner of West 51st Avenue and Yarrow Street. The property is currently addressed 7801 West 51st Avenue. The property was annexed into the City in 1971 with the larger I-70 annexation. Upon annexation, the property was zoned R-M (Residential Multifamily). The current zoning is PUD (Planned Unit Development). The property is currently vacant. The two detached single family homes that were on the property were demolished in 2017. The first phase of Tower View Townhomes was approved in November, 2016, and the last unit was completed in February, 2021.

Discussion

It is the responsibility of the applicant to justify the requested land use application. The Planning Commission should make a recommendation to the City Council based on its findings regarding the approval criteria shown in the table(s) below and upon testimony heard during the public hearing as it applied to the criteria.

Staff performed an analysis of the proposal, based on the approval criteria listed in Chapter 8 of the Land Development Code, and presents the following findings:

Div. 8-3-10 PUD Development Plan Approval Criteria	Finding	Rationale
1. The plan is consistent with the Comprehensive Plan or reflects conditions	Complies	As described in the staff report, the proposed development is consistent

that have changed since the adoption of the Comprehensive Plan		with the High Density Residential Future Land Use map designation
2. The plan is consistent with and implements and previously approved Outline Development Plan in effect for the subject property, per Section 8-3-10-7, PUDs Approved Prior to Effective Date.	Complies	This property does not fall within the boundary of an existing Outline Development Plan.
3. The plan represents a development that will address a unique situation, confer a substantial benefit to the City, or incorporate creative site design such that it achieves the purposes set out in Section 8-3-10-1, Purpose of Planned Development Zone, and represents an improvement in quality over what could have been accomplished through application of the otherwise applicable zoning district or development standards.	Complies	The plan addresses a unique situation in that it carries out the development pattern of a previously approved Planned Unit Development that could not be constructed through an existing zone district.
4. The plan generally complies with the intent of the use, development, and design standards set forth in the LDC.	Complies	The proposed townhomes are in compliance with the land use standards of the LDC. The townhomes generally comply with the development standards for the Townhome Palette, with some minor deviations in building separation standards, and the design of the townhomes generally complies with the applicable standards in the LDC.
5. To the extent reasonably feasible, the plan provides for integration and connection with adjoining development through street connections, sidewalks, trails, and similar features; unless due to the nature of the uses that are allowable in the plan such connections are not desirable.	Complies	As described in detail above, the proposed development integrates with phase I in terms of both pedestrian and vehicular connectivity.
6. Sufficient public safety, transportation, and utility facilities and services will, prior to development, be available to serve the subject property, while maintaining sufficient levels of service to existing development.	Complies	There is sufficient public safety, transportation, and utility facilities to serve the project and sufficient levels of service will be maintained to serve existing development in the area.
7. The proposed uses (or group of uses) are appropriately located and designed, both within the boundaries of the plan and in relation to adjacent uses, such that the foreseeable, material adverse impacts that may be created by the scale, design, and operating characteristics (e.g., hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts) of the uses are avoided or mitigated.	Complies	The proposed residential land use is appropriately located at the edge of a residential district. While the site is adjacent to a large residential retail land use, Yarrow Street will serve as a buffer by providing separation from the retail land use.
8. If the application for plan approval is accompanied by an application for rezoning to the PUD zoning district, the rezoning application is concurrently approved.	Complies	This is not applicable; therefore, the proposed development complies given that there is not a request for a rezoning.

Public Contact

The required neighborhood meeting for this project took place on February 27, 2020. No members of the public attended the meeting.

Division 8-2-4 of the Land Development Code requires public notification for all public hearings as follows:

Written Notice: At least 15 days prior to all public hearings, written notice must be mailed to all property owners within 500 feet of the subject property and to all homeowners associations and neighborhood associations with a known interest in the subject property. The applicant will provide an affidavit of mailing verifying this requirement has been met prior to the public hearing.

Posted Notice: At least 15 days prior to all public hearings, signs notifying the public of the hearing must be posted on the subject property. The applicant will provide a posting log verifying that this requirement has been met prior to the public hearing.

Published Notice: At least 15 days prior to all public hearings, notice of the hearing must be published in a newspaper of general circulation in the City. The required notice has been published.

Commission Recommendation

The Planning Commission voted 7 to 0 in favor of approval of this project on September 20, 2022 during a public hearing.

Strategic Alignment

This project aligns with the Community and Economic Development Strategic Goal

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada Team recommends approval of PUD Development Plan for Tower View Townhomes Phase II PDP, generally located at 7801 W 51st Ave.

Suggested Motion:

I move that the PUD Development Plan for Tower View Townhomes Phase II PDP, generally located at 7801 W 51st Ave. be (approved) (rejected).

This motion is based on the findings of fact adopted by the Planning Commission.

This motion is based on the following findings of fact for denial:(Recite approval criteria you believe the evidence fails to satisfy and your reasons)

Prepared by:
Heidi Van Gieson, Administrative Specialist

Reviewed by:

Approved by:

Jacob Nitchals, Senior Planner	10/19/2022
Josie Suk, Development Systems and Administrative Manager	10/19/2022
Robert Smetana, Manager of City Planning and Development	10/19/2022
Ryan Stachelski, Director of Community and Economic Development	10/19/2022
Gail Walker, Legal Specialist-Contracts	10/20/2022
Emily Grogg, Senior Assistant City Attorney	10/21/2022
Rachel Morris, City Attorney	10/24/2022
Linda Haley, Deputy City Manager	10/25/2022
Lorie Gillis, City Manager	10/25/2022

Enclosure, exhibits & attachments required to support the report

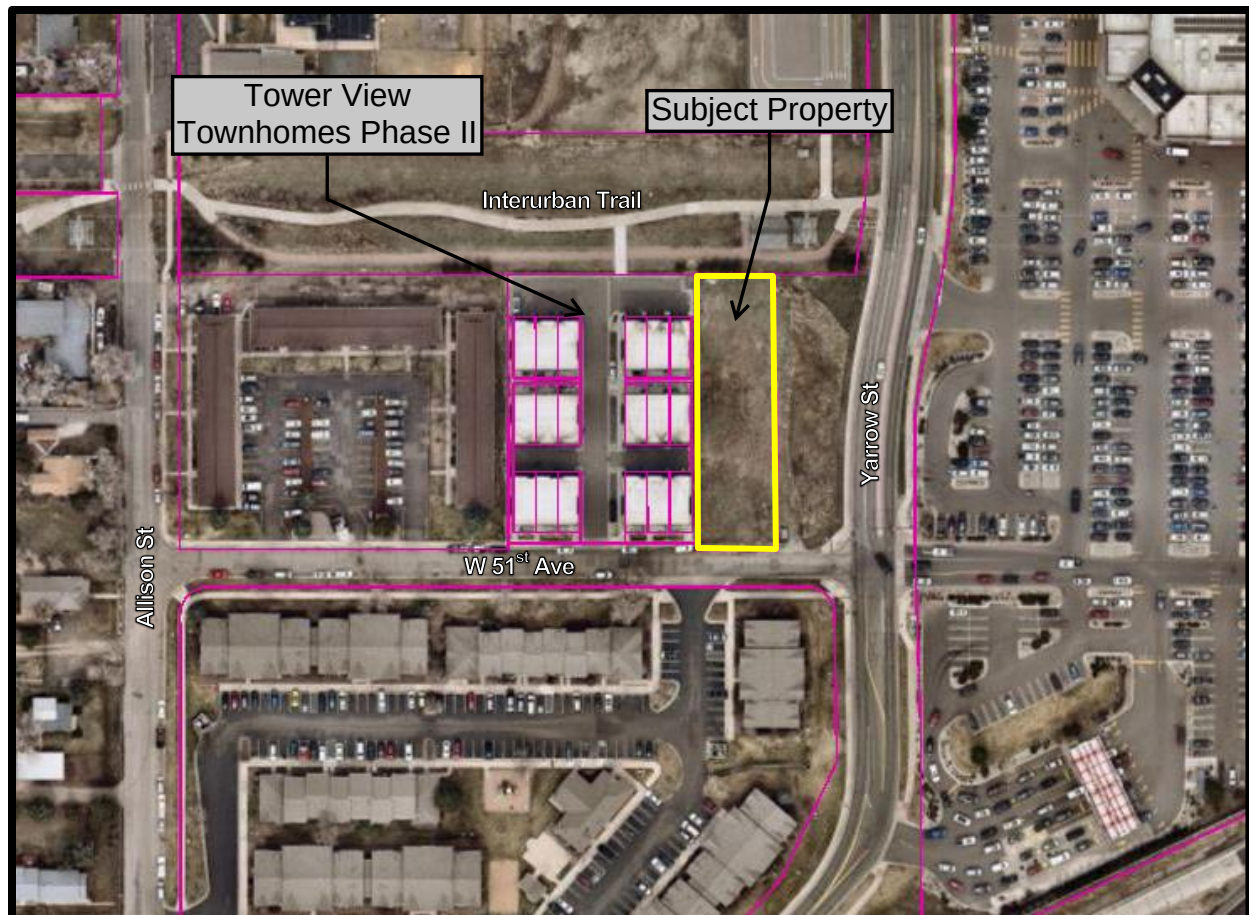
City of Arvada
Community and Economic Development Department
PUBLIC HEARING STAFF REPORT

Tower View Townhomes Phase II
PUD Development Plan
DA2020-0039

NATURE OF REQUEST

Mark DeBenedictis, on behalf of Tower View Development LLC, is requesting approval of PUD Development Plan (PDP) to construct nine townhome units in three buildings on approximately 0.45 acres. This is the second phase of the existing Tower View Townhomes development directly to the west of the subject property. The proposed three-story townhomes will be architecturally similar to the adjacent townhomes and the site layout will follow the pattern established with phase I, with vehicular access provided through the existing driveways.

AERIAL IMAGE



LOCATION AND HISTORY

The subject property is located at the northwest corner of West 51st Avenue and Yarrow Street. The property is currently addressed 7801 West 51st Avenue. The property was annexed into the City in 1971 with the larger I-70 annexation. Upon annexation, the property was zoned R-M (Residential Multifamily). The current zoning is PUD (Planned Unit Development). The property is currently vacant. The two detached single family homes that were on the property were demolished in 2017. The first phase of Tower View Townhomes was approved in November, 2016, and the last unit was completed in February, 2021.

NEIGHBORHOOD MEETING

Division 8-2-2 of the Land Development Code (LDC) requires that at least one neighborhood meeting be held for projects that require public hearings before the Planning Commission and City Council.

The required neighborhood meeting for this project took place on February 27, 2020. No members of the public attended the meeting.

PUBLIC NOTIFICATION

Division 8-2-4 of the Land Development Code requires public notification for all public hearings as follows:

Written Notice: At least 15 days prior to all public hearings, written notice must be mailed to all property owners within 500 feet of the subject property and to all homeowners associations and neighborhood associations with a known interest in the subject property. The applicant will provide an affidavit of mailing verifying this requirement has been met prior to the public hearing.

Posted Notice: At least 15 days prior to all public hearings, signs notifying the public of the hearing must be posted on the subject property. The applicant will provide a posting log verifying that this requirement has been met prior to the public hearing.

Published Notice: At least 15 days prior to all public hearings, notice of the hearing must be published in a newspaper of general circulation in the City. The required notice has been published.

SEVERED MINERAL RIGHTS

At least 30 days prior to the public hearing, written notice of the application must be mailed to any owner of mineral rights associated with the subject property. The applicant has provided the required Certification of Notice pursuant to Colorado Revised Statute 24-65.5-103.

ALIGNMENT WITH CITY COUNCIL STRATEGIC PLAN

This project aligns with the Community and Economic Development Strategic Goal.

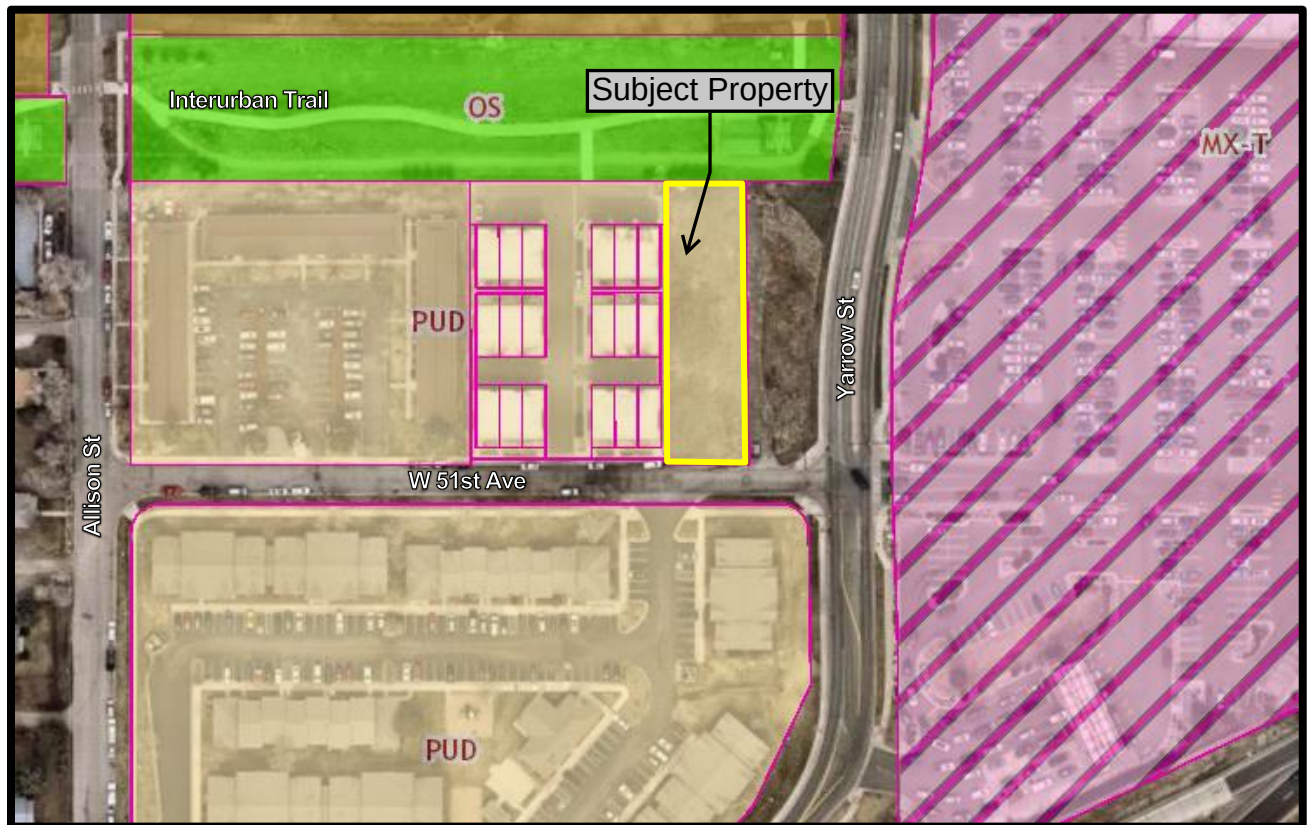
ZONING AND LAND USE

The subject property is currently zoned PUD and is approximately 0.45 acres in size.

Surrounding properties are zoned and utilized as follows:

Direction	Zoning	Actual Use
North	Open Space (OS)	Electrical Transmission Lines & Interurban Trail
South (across W 51 st Ave.)	PUD	Multifamily (Allison Point Apartments)
East (across Yarrow St.)	MX-T (Mixed – Use Transit)	Retail (Costco)
West	PUD	Single-Family Attached (Tower View Townhomes phase I)

ZONING MAP



PROJECT ANALYSIS

Compliance with the Comprehensive Plan

The Comprehensive Plan Future Land Use map designates the property as High Density Residential. Primary Uses include: multifamily residential apartments and condominiums, and similar higher-density residential land uses. The High Density Residential future land use classification allows up to 24 dwelling units per acre. The proposed density of 20 dwelling units per acre is consistent with the Comprehensive Plan Future Land Use map.

Setbacks

The building is setback approximately 18 feet off the front property line, with a front entryway patio that extends approximately 7.5 feet into the front setback. This is consistent with the front setback of the townhomes that were built in the first phase. The west side setback is 15 feet, the east side setback is five feet and the rear setback is 37 feet.

Building Height

The building height is 34.5 feet in height which is consistent with the buildings in phase I which were approved at 35 feet.

Landscaping, Buffering and Fencing

Approximately 29 percent of the property is reserved for landscaping; this exceeds phase I which included approximately 22 percent landscaping. Given the adjacent land uses, a bufferyard is not required. The applicant is not proposing any fencing with the PUD. Any future fencing will need to comply with the fencing standards in place at the time of permit.

Parks

The project will connect to the Interurban Trail directly north of the property through the existing walkway that was constructed with phase I

Building Design

The townhomes will incorporate a contemporary design, integrating a brick veneer on the ground floor of the front façade and stucco and hardyboard panels on the upper floors. A wainscoting course of brick veneer is carried around the sides of the townhomes, with stucco and hardyboard panels above the brick. The rear façade is comprised of stucco and hardyboard panels. The building form is the same as the buildings in phase I; however, there were changes to the building façade materials. Phase II eliminates the use of lap siding in favor of stucco and uses brick veneer on the front and side elevations rather than stone veneer. Phase II also incorporates more windows on the side elevations which will add to the visual interest from Yarrow St. Each unit will have elevated patios on the second and third floors along with ground level entryway patios.

Circulation and Connectivity

Vehicular access will be from the existing shared driveway off W 51st Ave. that serves phase I. The two driveways serving the eastern buildings of phase I will be extended to the east to provide access to the garages in phase II. The developer will be responsible for constructing all W 51st Ave. improvements adjacent to their development and extend the curb, gutter, and sidewalk off-site to the existing curb, gutter, and sidewalk at the intersection of W 51st Ave. and Yarrow Street.

Pedestrian access for the southern building is directly to the W 51st Ave. sidewalk that the developer will build with. A five-foot wide walkway located along the western edge of the property provides a direct pedestrian connection between the northern two buildings and the W 51st Ave. sidewalk.

Drainage and Grading

The majority of the stormwater runoff will be conveyed to an underground detention system that connects to the existing underground detention system in phase I. The remaining drainage will be conveyed to the stormwater inlets in W 51st Ave., one of which the developer will install with the development. The site is relatively flat and will only require minimal grading to convey stormwater to the detention system or W 51st Ave.

Parking

Townhomes are required to provide 2.2 spaces per unit, resulting in 20 total required off-street parking spaces. Each unit has a two-car garage and there are 4 guest parking spaces, resulting in 22 off-street parking spaces.

Utility Services

Sanitary sewer service will be provided by the Clear Creek Water and Sanitation District and there is sufficient capacity to serve the development. Water will be provided by the City and there is sufficient capacity to serve the development.

Police and Fire Protection

Police and fire protection will be provided by Arvada Police and Arvada Fire Protection District.

School District

Fees-in-lieu of park land dedication will be required if the project moves forward.

LAND DEVELOPMENT CODE APPROVAL CRITERIA

It is the responsibility of the applicant to justify the requested land use application. The Planning Commission should make a recommendation to the City Council based on its findings regarding the approval criteria shown in the table(s) below and upon testimony heard during the public hearing as it applied to the criteria.

Staff performed an analysis of the proposal, based on the approval criteria listed in Chapter 8 of the Land Development Code, and presents the following findings:

Div. 8-3-10 PUD Development Plan Approval Criteria	Finding	Rationale
1. The plan is consistent with the Comprehensive Plan or reflects conditions that have changed since the adoption of the Comprehensive Plan	Complies	As described in the staff report, the proposed development is consistent with the High Density Residential Future Land Use map designation
2. The plan is consistent with and implements and previously approved Outline Development Plan in effect for the subject property, per Section 8-3-10-7, PUDs Approved Prior to Effective Date.	Complies	This property does not fall within the boundary of an existing Outline Development Plan.

3. The plan represents a development that will address a unique situation, confer a substantial benefit to the City, or incorporate creative site design such that it achieves the purposes set out in Section 8-3-10-1, Purpose of Planned Development Zone, and represents an improvement in quality over what could have been accomplished through application of the otherwise applicable zoning district or development standards.	Complies	The plan addresses a unique situation in that it carries out the development pattern of a previously approved Planned Unit Development that could not be constructed through an existing zone district.
4. The plan generally complies with the intent of the use, development, and design standards set forth in the LDC.	Complies	The proposed townhomes are in compliance with the land use standards of the LDC. The townhomes generally comply with the development standards for the Townhome Palette, with some minor deviations in building separation standards, and the design of the townhomes generally complies with the applicable standards in the LDC.
5. To the extent reasonably feasible, the plan provides for integration and connection with adjoining development through street connections, sidewalks, trails, and similar features; unless due to the nature of the uses that are allowable in the plan such connections are not desirable.	Complies	As described in detail above, the proposed development integrates with phase I in terms of both pedestrian and vehicular connectivity.
6. Sufficient public safety, transportation, and utility facilities and services will, prior to development, be available to serve the subject property, while maintaining sufficient levels of service to existing development.	Complies	There is sufficient public safety, transportation, and utility facilities to serve the project and sufficient levels of service will be maintained to serve existing development in the area.
7. The proposed uses (or group of uses) are appropriately located and designed, both within the boundaries of the plan and in relation to adjacent uses, such that the foreseeable, material adverse impacts that may be created by the scale, design, and operating characteristics (e.g., hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts) of the uses are avoided or mitigated.	Complies	The proposed residential land use is appropriately located at the edge of a residential district. While the site is adjacent to a large residential retail land use, Yarrow Street will serve as a buffer by providing separation from the retail land use.
8. If the application for plan approval is accompanied by an application for rezoning to the PUD zoning district, the rezoning application is concurrently approved.	Complies	This is not applicable; therefore, the proposed development complies given that there is not a request for a rezoning.

STAFF RECOMMENDATION

Based upon project analysis and review of the Land Development Code approval criteria, staff recommends approval of the project.

If the Planning Commission finds that a recommendation to approve the PUD Development Plan is supported by the approval criteria, then staff recommends that the following condition be made part of the approval:

1. The PUD Final Development Plan shall comply with the staff's minor comments from the fourth review of the PDP.

The Planning Commission may recommend denial of the request(s) if it cannot make affirmative findings of the approval criteria stated above.

**TOWER VIEW TOWNHOMES II, SITUATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH
P.M., CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO**

ACTION CIVIL ENGINEERING			
9777 PYRAMID CT., SUITE 150			
ENGLEWOOD, CO 80112 720.826.3965			
ttenning@actioncivileng.com			
JOB NO.	1801		
SCALE	---		
DATE	6/19/2022		
SHEETS	09	SHEET	01

TOWER VIEW TOWNHOMES II PUD DEVELOPMENT PLAN			
		COVER SHEET	

#	DATE	REVISION DESCRIPTION
1	04/16/20	SUBMITTED TO ARVADA
2	02/25/22	SUBMITTED TO ARVADA
3	06/19/22	SUBMITTED TO ARVADA

DRN	TWD
CHK	
DSG	TWD

TOWER VIEW TOWNHOMES II - PUD DEVELOPMENT PLAN

TOWER VIEW TOWNHOMES II, SITUATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

CENTER SECTION 14, T3S, R69W.
FOUND 3-1/4" ALUM. CAP (PLS
22561) IN RANGE BOX SEE
RECORDS ON FILE (RECORDED
OCTOBER 22, 2014).

LEGEND:

	RANGE LINE
	RIGHT-OF-WAY
	LOT / TRACT LINE
	CENTERLINE
	EXISTING CONTOUR
	EXISTING FENCE LINE
	EXISTING CATV LINE
	EXISTING COMMUNICATION LINE
	EXISTING ELECTRIC LINE
	EXISTING GAS LINE
	EXISTING SANITARY LINE W/ MH
	EXISTING STORM LINE W/ MH
	EXISTING WATER LINE
	EXISTING STREET LIGHT
	EXISTING STORM INLETS
	EXISTING FIRE HYDRANT
	EXISTING WATER VALVE
	GRADE SLOPE
	EXISTING CONCRETE
	PROPOSED ASPHALT
	PROPOSED CONCRETE
	PROPOSED LANDSCAPE
	PROPOSED CONTOUR
	PROPOSED SANITARY SEWER W/ MH
	PROPOSED WATER LINE
	PROPOSED STORM SEWER W/ MH
	PROPOSED EASEMENT LINE
	PROPOSED ACCESSIBLE ROUTE
	PROPOSED FENCE
	PROPOSED TYPE 'R' INLET
	PROPOSED STREET LIGHT
	PROPOSED STREET SIGN
	CURB FLOWLINE AT WALL
	TOP OF WALL
	BOTTOM OF WALL
	UTILITY EASEMENT
	EASEMENT
	EXISTING
	FINISHED GRADE
	FLOWLINE
	RIGHT-OF-WAY
	MILL AND OVERLAY
	AIR CONDITIONING CONDENSER
	ELECTRIC METER/SWITCH GEAR
	GAS METER

NOTES:

- APPROVED FIRE LANE AND EMERGENCY ACCESS SHALL BE PROVIDED DURING VERTICAL CONSTRUCTION. UNLESS OTHERWISE APPROVED, THE EVA SHALL CONSIST OF THE FIRST LIFT OF ASPHALT OR CONCRETE AND BE PROVIDED PRIOR TO COMMENCING VERTICAL CONSTRUCTION.
- (*) EASEMENTS AND RIGHT-OF-WAY TO BE DEDICATED BY TOWER VIEW TOWNHOMES II FINAL SUBDIVISION PLAT UNLESS OTHERWISE NOTED.
- BUILDINGS 2 AND 3 WILL BE SPRINKLERED

REC. No. _____

REVISION DESCRIPTION

DATE

1 04/16/20

2 02/25/22

3 06/19/22

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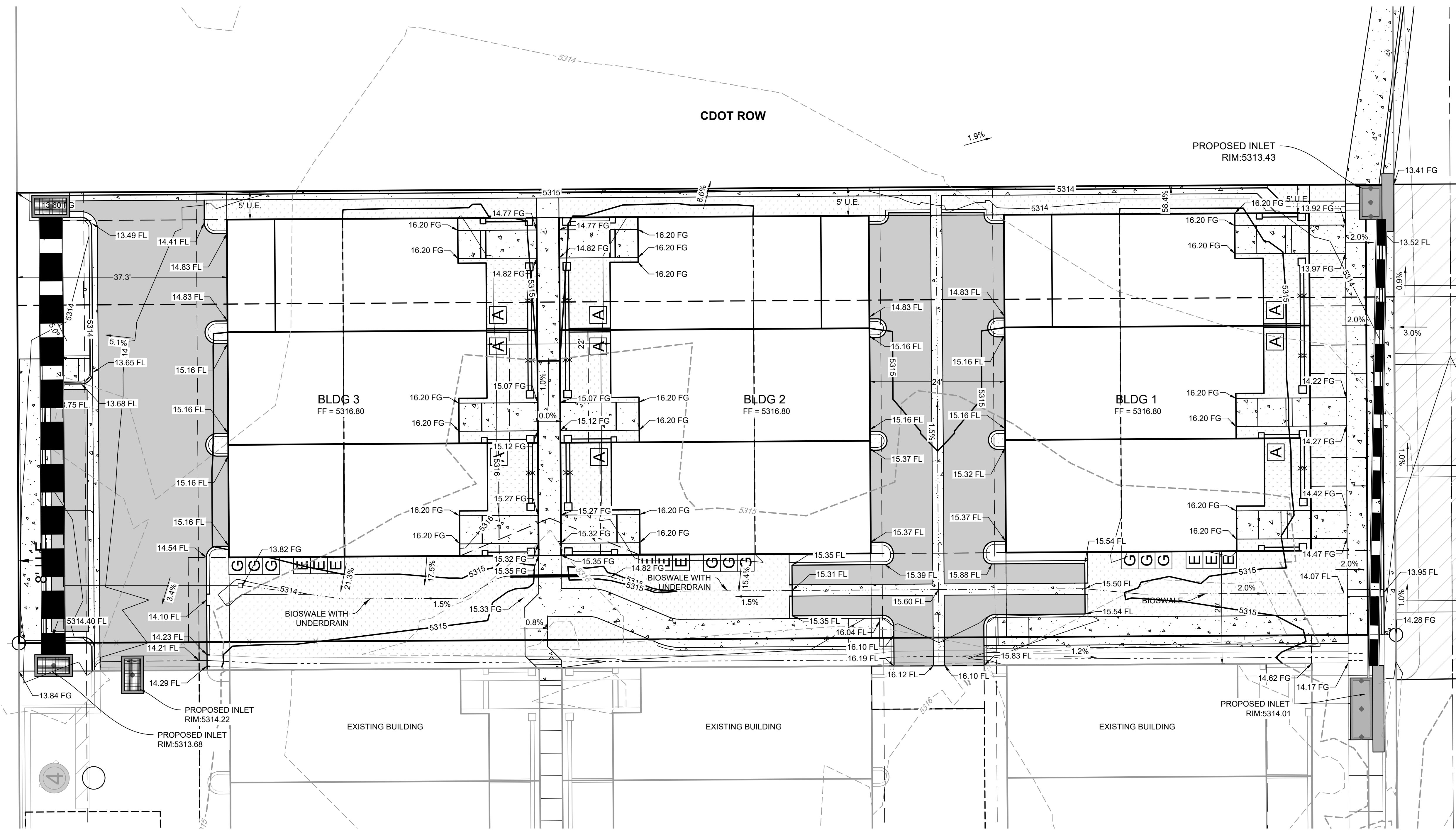
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TOWER VIEW TOWNHOMES II - PUD DEVELOPMENT PLAN

TOWER VIEW TOWNHOMES II, SITUATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

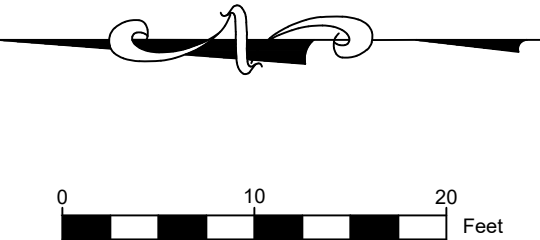


LEGEND:

---	RANGE LINE
---	RIGHT-OF-WAY
---	LOT / TRACT LINE
---	CENTERLINE
---	EXISTING CONTOUR
X X	EXISTING FENCE LINE
CTV	EXISTING CATV LINE
COM COM	EXISTING COMMUNICATION LINE
E E	EXISTING ELECTRIC LINE
G G	EXISTING GAS LINE
S S	EXISTING SANITARY LINE W/ MH
W W	EXISTING STORM LINE W/ MH
W W	EXISTING WATER LINE
☀	EXISTING STREET LIGHT
☀	EXISTING STORM INLETS
☀	EXISTING FIRE HYDRANT
☀	EXISTING WATER VALVE
2.1%	GRADE SLOPE
---	EXISTING CONCRETE
---	PROPOSED ASPHALT
---	PROPOSED CONCRETE
---	PROPOSED LANDSCAPE
---	PROPOSED CONTOUR
S S	PROPOSED SANITARY SEWER W/ MH
W W	PROPOSED WATER LINE
---	PROPOSED STORM SEWER W/ MH
---	PROPOSED EASEMENT LINE
---	PROPOSED ACCESSIBLE ROUTE
---	PROPOSED FENCE
☀	PROPOSED TYPE 'R' INLET
☀	PROPOSED STREET LIGHT
☀	PROPOSED STREET SIGN
---	CURB FLOWLINE AT WALL
---	TOP OF WALL
---	BOTTOM OF WALL
---	UTILITY EASEMENT
---	EASEMENT
---	EXISTING
---	FINISHED GRADE
---	FLOWLINE
---	RIGHT-OF-WAY
---	MILL AND OVERLAY
A	AIR CONDITIONING CONDENSER
E	ELECTRIC METER/SWITCH GEAR
G	GAS METER

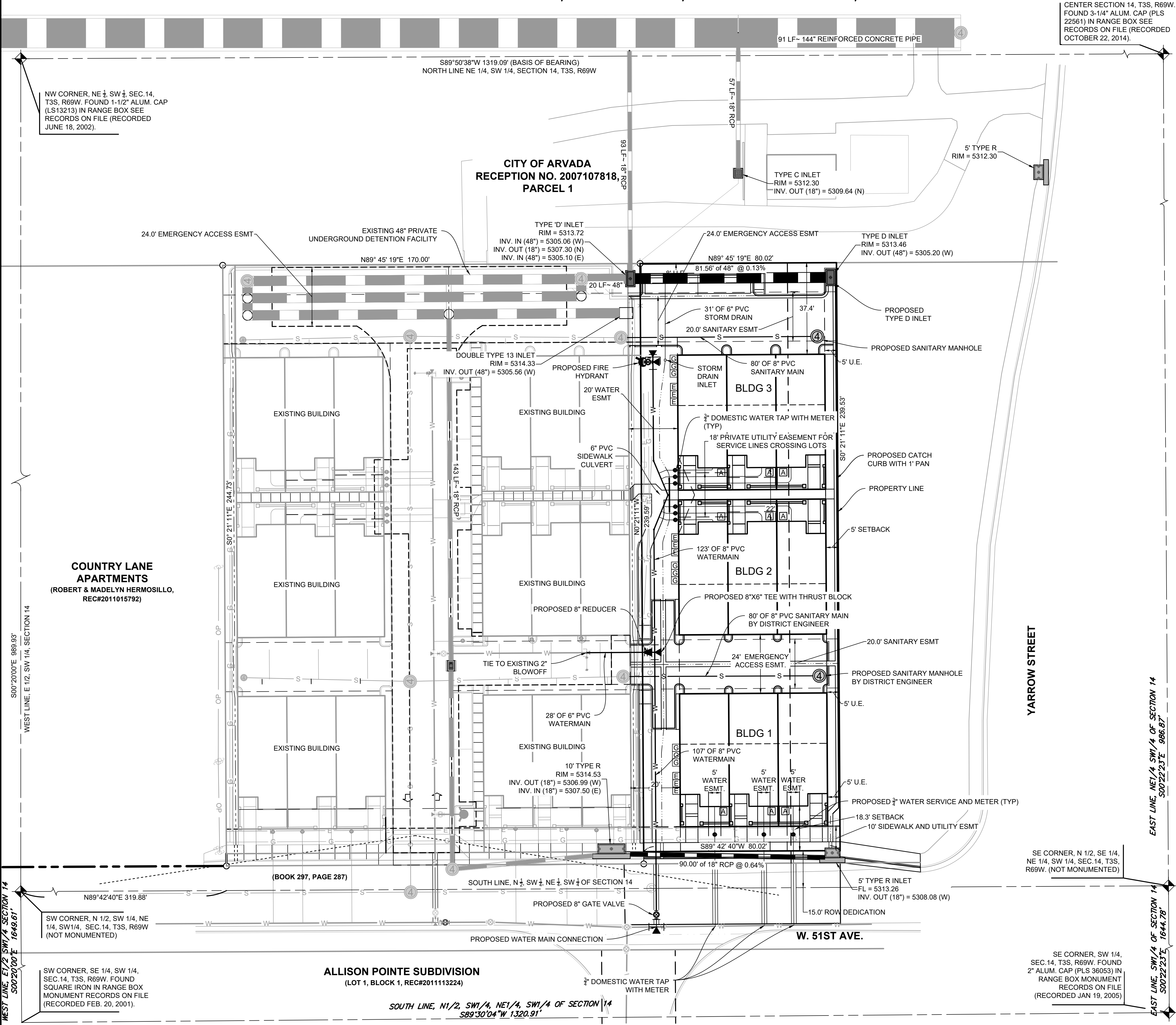
- NOTES:**
1. MAX 4:1 SLOPES IN AREAS TO BE MOWED OR MAINTAINED
 2. MAINTAINED
 3. ALL RAMPS ARE TO MEET ADA STANDARDS

REVISION DESCRIPTION			TOWER VIEW TOWNHOMES II PUD DEVELOPMENT PLAN		
DATE	REVISION	DESCRIPTION	GRADING PLAN		
04/16/20	1	SUBMITTED TO ARVADA	TOWER VIEW TOWNHOMES II PUD DEVELOPMENT PLAN		
02/25/22	2	SUBMITTED TO ARVADA			
06/19/22	3	SUBMITTED TO ARVADA			
DRN			TWD		
CHK			TWD		
DSG			TWD		
JOB NO. 1801			ACTION CIVIL ENGINEERING		
SCALE			9777 PYRAMID CT, SUITE 150		
DATE 6/19/2022			ENGLEWOOD, CO 80112 720.826.3965		
SHEETS 09			tdenning@actioncivileng.com		
SHEET 03					



TOWER VIEW TOWNHOMES II - PUD DEVELOPMENT PLAN

TOWER VIEW TOWNHOMES II, SITUATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO



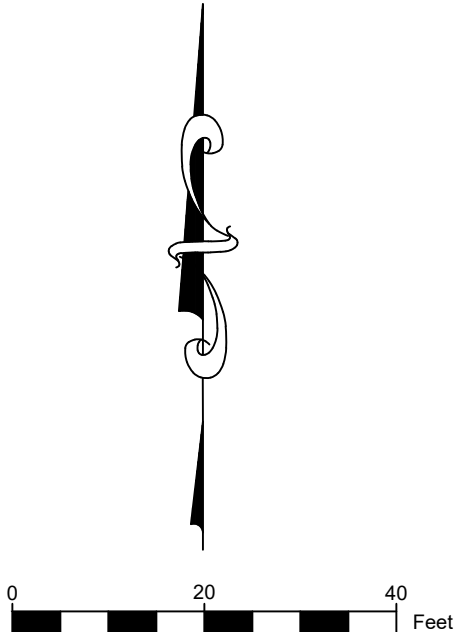
LEGEND:

---	RANGE LINE
- - - -	RIGHT-OF-WAY
---	LOT / TRACT LINE
---	CENTERLINE
---	EXISTING CONTOUR
X --- X	EXISTING FENCE LINE
CTV	EXISTING CATV LINE
COM --- COM	EXISTING COMMUNICATION LINE
E --- E	EXISTING ELECTRIC LINE
G --- G	EXISTING GAS LINE
S --- S	EXISTING SANITARY LINE W/ MH
W --- W	EXISTING STORM LINE W/ MH
2.1%	EXISTING STREET LIGHT
2.1%	EXISTING STORM INLETS
2.1%	EXISTING FIRE HYDRANT
2.1%	EXISTING WATER VALVE
2.1%	GRADE SLOPE
2.1%	EXISTING CONCRETE
2.1%	PROPOSED ASPHALT
2.1%	PROPOSED CONCRETE
2.1%	PROPOSED LANDSCAPE
2.1%	PROPOSED CONTOUR
S --- S	PROPOSED SANITARY SEWER W/ MH
W --- W	PROPOSED WATER LINE
W --- W	PROPOSED STORM SEWER W/ MH
W --- W	PROPOSED EASEMENT LINE
W --- W	PROPOSED ACCESSIBLE ROUTE
W --- W	PROPOSED FENCE
W --- W	PROPOSED TYPE 'R' INLET
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W --- W	PROPOSED STREET SIGN
W --- W	CURB FLOWLINE AT WALL
W --- W	TOP OF WALL
W --- W	BOTTOM OF WALL
W --- W	UTILITY EASEMENT
W --- W	EASEMENT
W --- W	EXISTING
W --- W	FINISHED GRADE
W --- W	FLOWLINE
W --- W	RIGHT-OF-WAY
W --- W	MILL AND OVERLAY
W --- W	AIR CONDITIONING CONDENSER
W --- W	ELECTRIC METER/SWITCH GEAR
W --- W	GAS METER

NOTE:
1. THE MINIMUM REQUIRED FIRE-FLOW IS 1,500 GALLONS-PER-MINUTE
2. BUILDINGS 2 AND 3 WILL BE SPRINKLERED



Know what's below.
Call before you dig.



REVISION DESCRIPTION			
DATE	1	04/16/20	SUBMITTED TO ARVADA
#	2	09/21/20	SUBMITTED TO MARTIN MARTIN
	3	06/19/22	SUBMITTED TO ARVADA
TOWER VIEW TOWNHOMES II PUD DEVELOPMENT PLAN			
UTILITY PLAN			
JOB NO. 1801			
SCALE ---			
DATE 6/19/2022			
SHEETS 09 SHEET 04			

TOWER VIEW TOWNHOMES II, SITUATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

S89°50'38"W 1319.09' (BASIS OF BEARING)
NORTH LINE NE 1/4, SW 1/4, SECTION 14, T3S, R69W

CENTER SECTION 14, T3S, R69W.
FOUND 3-1/4" ALUM. CAP (PLS
22561) IN RANGE BOX SEE
RECORDS ON FILE (RECORDED
OCTOBER 22, 2014).



Know what's **below**.
Call before you dig.

**CITY OF ARVADA
RECEPTION NO. 2007107818,
PARCEL 1**

EXISTING GRAVEL PATH

DOT ROW

NOTE:

1. THE MINIMUM REQUIRED FIRE-FLOW IS 1,500 GALLONS-PER-MINUTE
2. BUILDINGS 2 AND 3 WILL BE SPRINKLERED

YARROW STREET

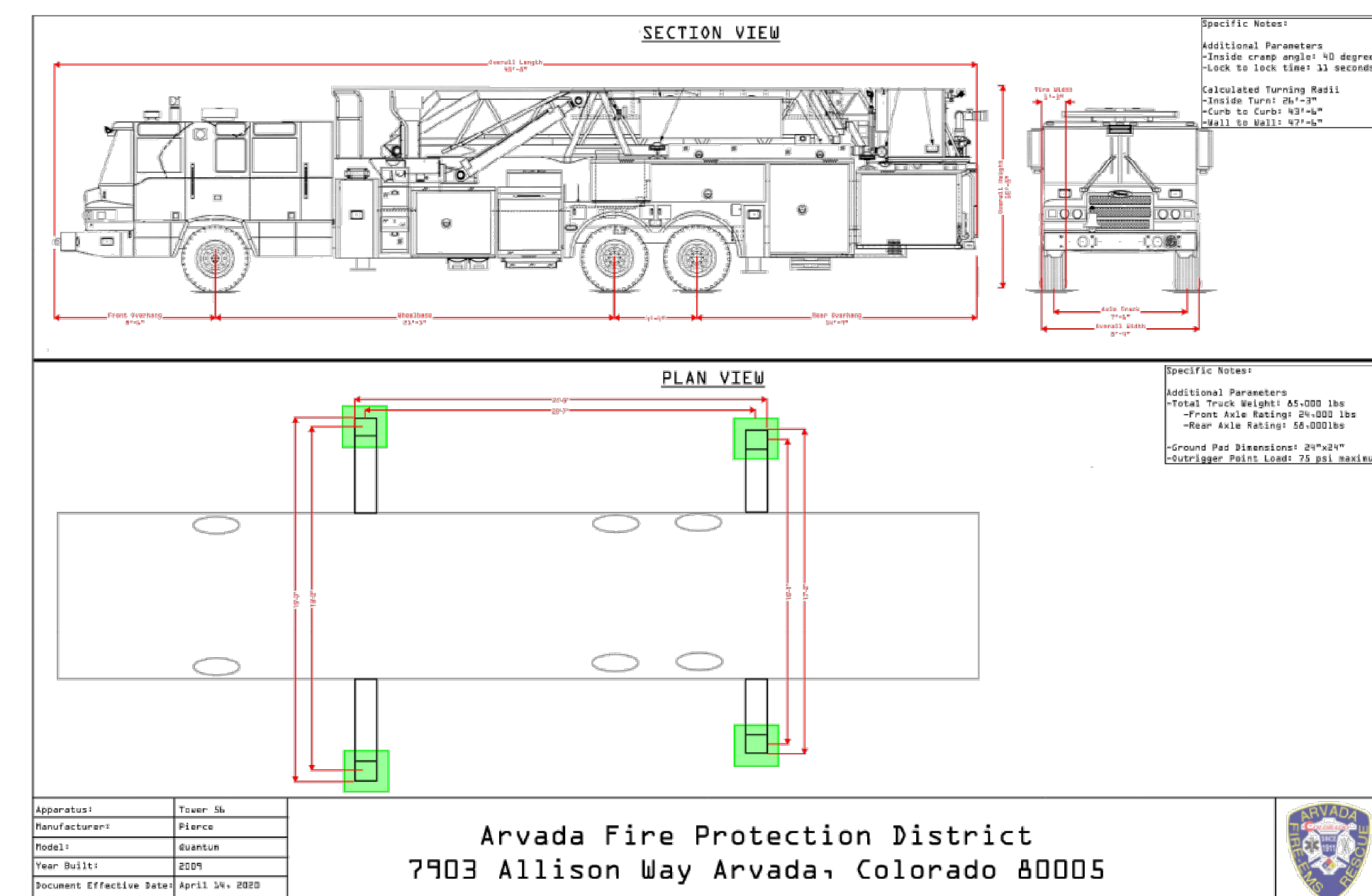
SE CORNER, N 1/2, SE 1/4,
NE 1/4, SW 1/4, SEC.14, T3S,
R69W. (NOT MONUMENTED)

SE CORNER, SW 1/4,
SEC.14, T3S, R69W. FOUND
2" ALUM. CAP (PLS 36053) IN
RANGE BOX MONUMENT
RECORDS ON FILE
(RECORDED JAN 19, 2005)

EAST LINE, NE1/4 SW1/4 OF SECTION 14
S00°22'23"E 986.87'

EAST LINE, SW1/4 OF SECTION 14
S00°22'23"E 1644.78'

Tower 56 Dimensions and Specifications:



10

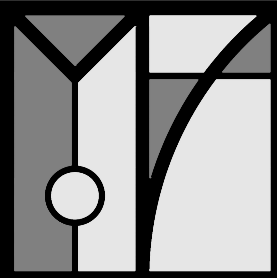
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TOWER VIEW TOWNHOMES II - PUD FINAL DEVELOPMENT PLAN

LOCATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M.
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

revision		
no.	date	by
	4-17-2020	
	11-18-2020	
	1-12-2022	

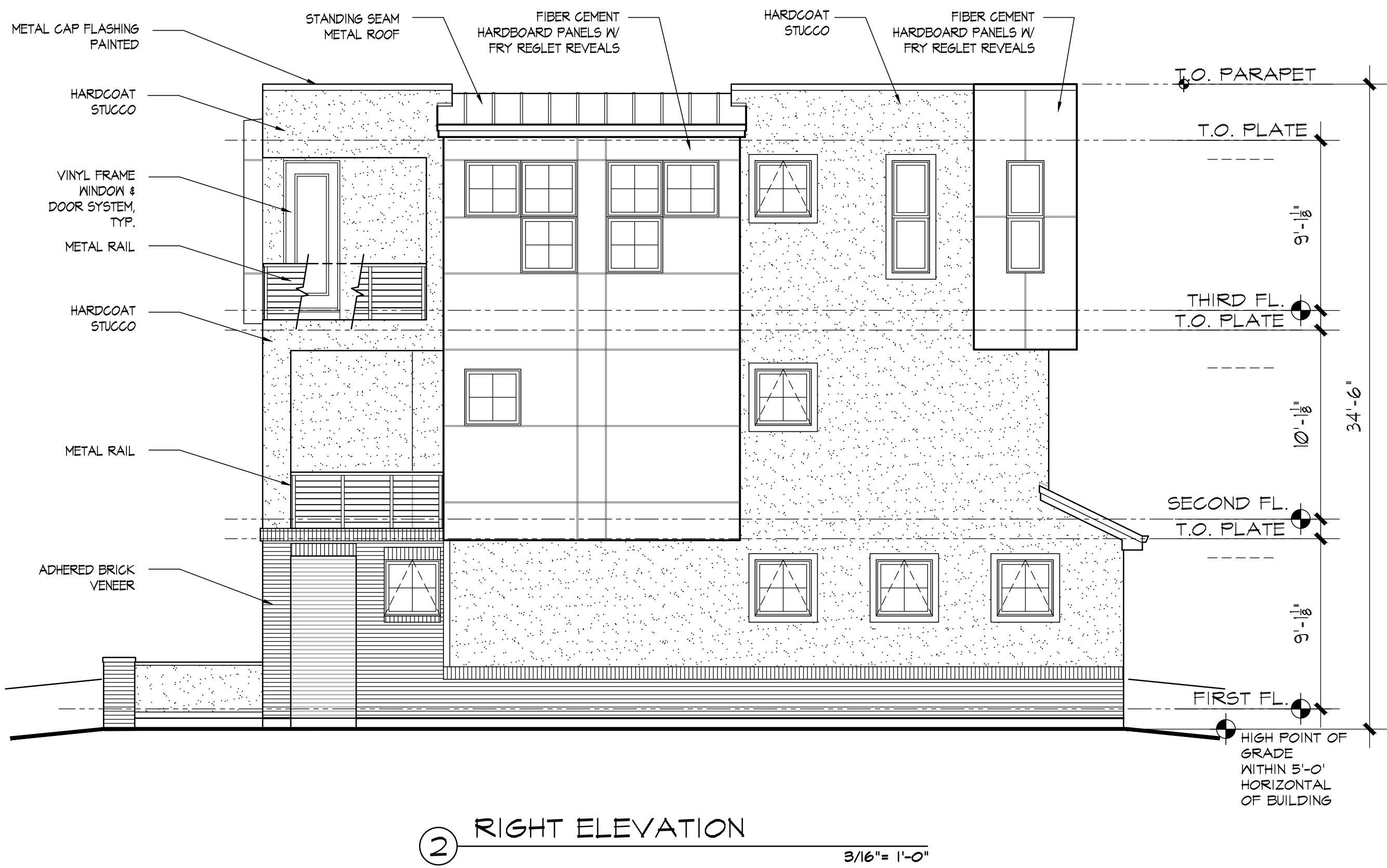
M-A ARCHITECTS



ARCHITECTURE & PLANNING

THE LITTLETON
OFFICE BUILDING

2329 WEST MAIN
STREET SUITE 301
LITTLETON, CO 80120
TEL 303 730 7300
FAX 303 730 8300



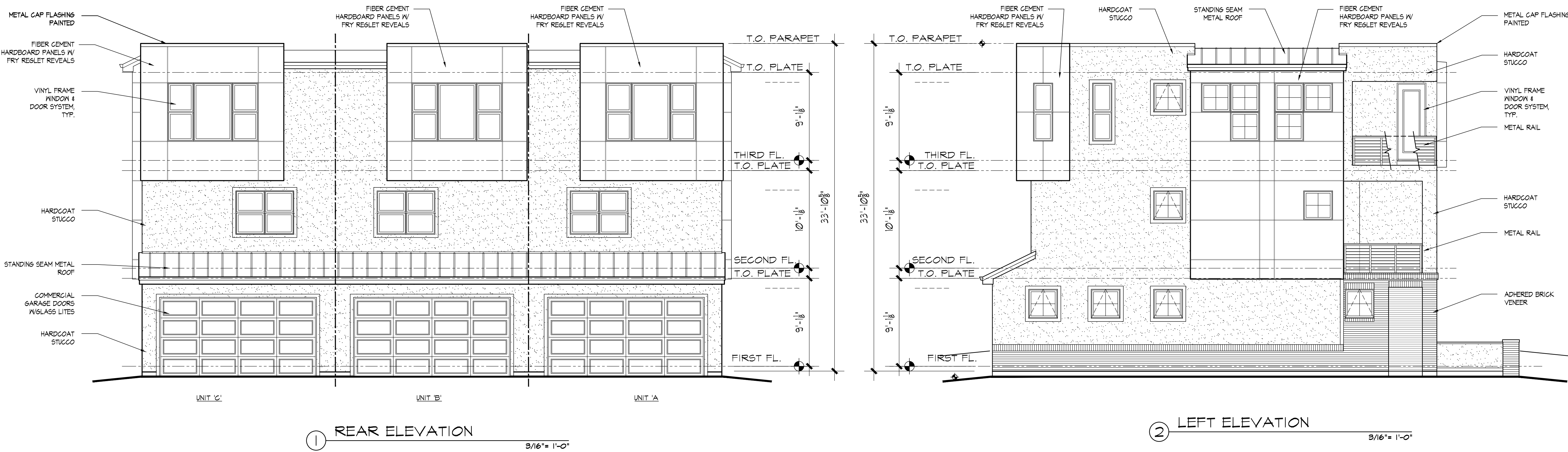
- NOTES:
- ALL ROOFTOP AND WALL VENTS AND FLUES ON A PITCHED ROOF OR EXTENDING ABOVE THE TOP OF THE NEAREST PARAPET SHALL BE PAINTED WITH ONE OF THE PREDOMINANT COLORS USED IN THE PRIMARY STRUCTURE.
 - WALL MOUNTED UTILITY EQUIPMINT AND METERS SHALL BE SCREENED FROM VIEW FROM A PUBLIC STREET AND SHALL BE PAINTED A COLOR TO BLEND WITH THE BUILDING FACADE.

Tower View Townhomes II
Arvada, Colorado

sheet title	FRONT & RIGHT ELEVATIONS
date	12-18-2019
drawn	BE / MEL
checked	
sheet	A1

TOWER VIEW TOWNHOMES II - PUD FINAL DEVELOPMENT PLAN

LOCATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M.
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO



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revision		
no.	date	by
	4-17-2020	
	11-18-2020	
	1-12-2022	

M-A ARCHITECTS

ARCHITECTURE & PLANNING

THE LITTLETON OFFICE BUILDING

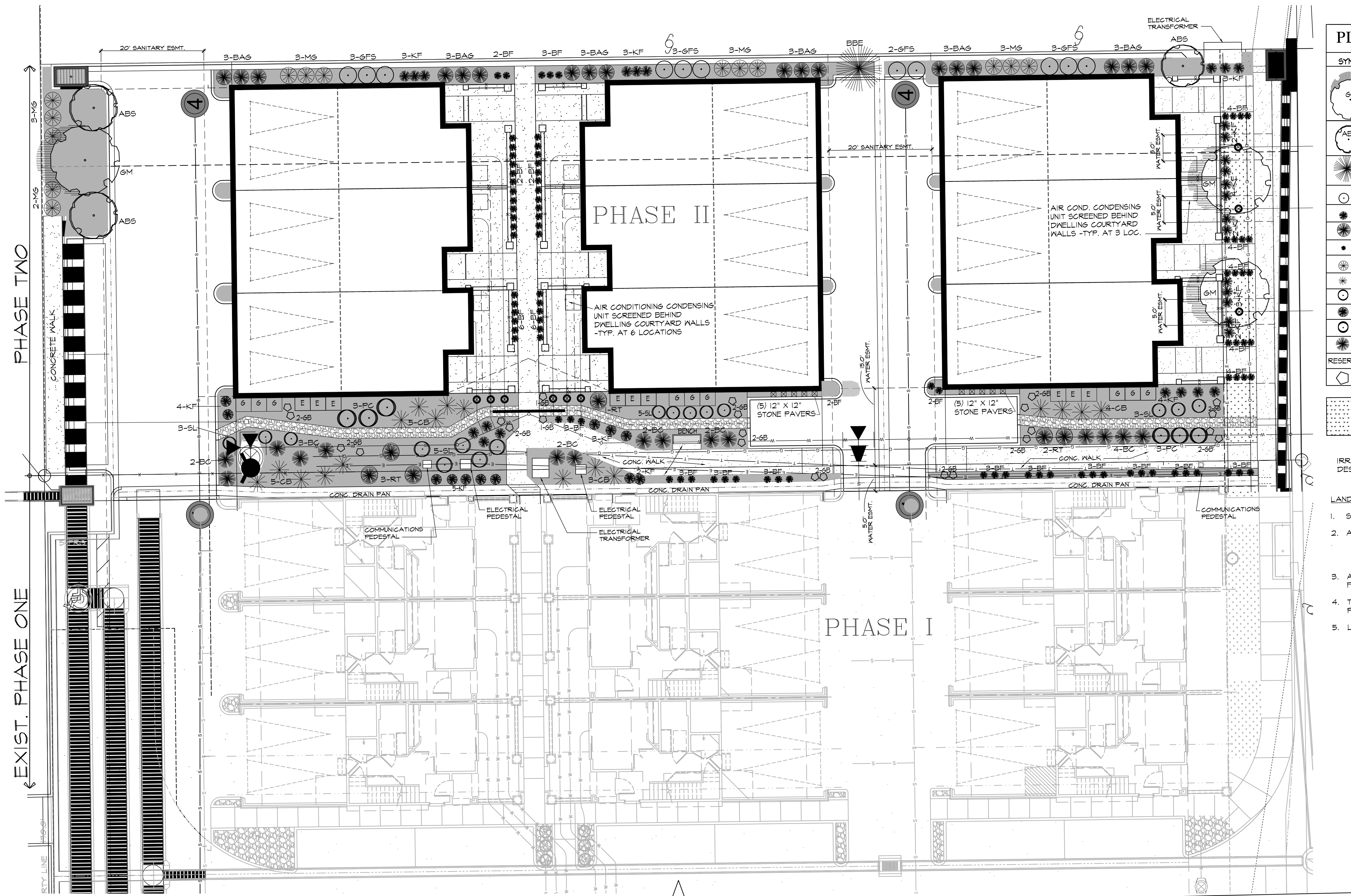
2329 WEST MAIN STREET SUITE 301
LITTLETON, CO 80120
TEL 303 730 7300
FAX 303 730 8300

Tower View Townhomes II
Arvada, Colorado

sheet title	REAR & LEFT ELEVATIONS
date	12-18-2019
drawn	BE / MEL
checked	
sheet	A2

TOWER VIEW TOWNHOMES II - PUD FINAL DEVELOPMENT PLAN

LOCATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M.
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO



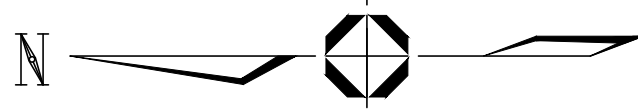
PLANT LIST

SYMBOL	QTY.	COMMON NAME	BOTANICAL NAME	SIZE
	3	GINNALA MAPLE (AMUR)	ACER GINNALA	2" CAL.
	3	AUTUMN BRILLIANCE SERVICEBERRY WITH ROOT BARRIER -SEE NOTE #2 THIS SHT.	AMELANCHIER X 'AUTUMN BRILLIANCE'	2" CAL.
	1	BABY BLUE EYES SPRUCE	PICEA PUNGENS	6 FT.
	11	GOLD FLAME SPIREA	SPIRAEA BUMALDA	2 GAL.
	46	KARL FORESTER FEATHER REED GRASS	CALAMAGROSTIS	2 GAL.
	10	BLUE AVENA GRASS	HELIOTRICHON SEMPERVIRENS	2 GAL.
	91	BLUE FESCUE	FESTUCA GLAUGA	2 GAL.
	14	MAIDEN GRASS	MISCANTHUS SINENSIS	2 GAL.
	17	COLUMAR BUCKTHORN	RHAMNUS FRANGULA COLUMNARIS	#5
	15	SPIREA LIMEMOUND	SPIRAEA JAPONICA	#5
	6	RED TWIG DOGWOOD	CORNUS SERICEA	#5
	6	PURPLE LEAF SAND CHERRY	PRUNUS x GISTENA	#5
	15	BLUE CHIP JUNIPER	JUNIPERUS HORIZONTALIS	#5
	24	GRANITE BOULDER		18"-24"

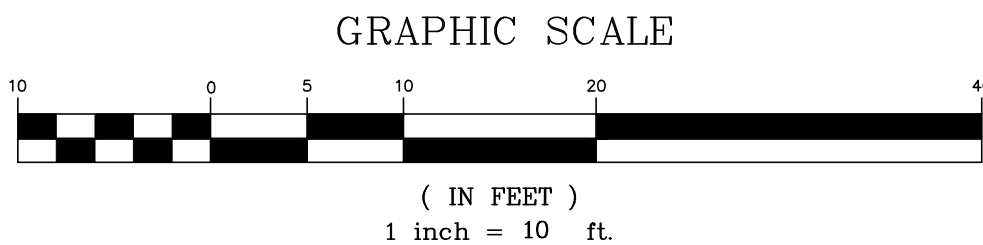
	IRRIGATED SOD		1 1/2" RIVER ROCK COBBLE MULCH (W/O NEED BARRIER) - MATCH EXISTING PHASE I
	2" TO 4" RIVER ROCK COBBLE MULCH (W/O NEED BARRIER) - MATCH EXISTING PHASE I		AT BIO SWALE

LANDSCAPE NOTES:

- SEE SHEET L-2 FOR ADDITIONAL LANDSCAPE NOTES AND DETAILS.
- AT AUTUMN BRILLIANCE SERVICEBERRY AND GINNELLA MAPLE TREES, INSTALL 18" TALL, 80 MIL ROOT BARRIER BY "SIDEWALK SHIELD" (SURROUND APPLICATION). FOLLOW ALL MANUFACTURERS SPECIFICATIONS, INSTRUCTIONS AND RECOMMENDATIONS.
- A 3'-0" (FOOT) CLEAR SPACE SHALL BE MAINTAINED AROUND ALL FIRE HYDRANTS AND NOT OBSTRUCTED.
- TREES WITHIN THIS DEVELOPMENT, WHEN FULLY MATURE, SHALL PROVIDE AN UNOBSTRUCTED VERTICAL CLEARANCE OF 13'-6".
- LANDSCAPE CONSULTANT:
- EXPRESSIONS LANDSCAPING
- MIKE BAGDON (303) 913-6448



LANDSCAPE PLAN



revision		
no.	date	by
1	4-17-2020	
2	11-18-2020	
3	1-12-2022	
4	6-17-2022	

M-A ARCHITECTS

ARCHITECTURE & PLANNING
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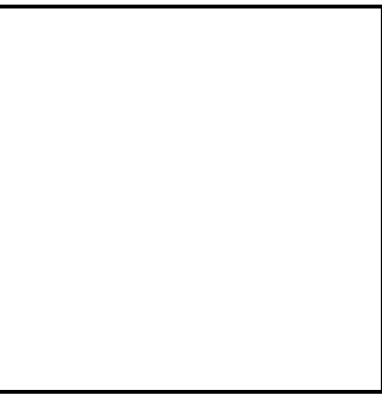
Tower View Townhomes II
Arvada, Colorado

sheet title	LANDSCAPE PLAN
date	12-18-2019
drawn	BE / MEL
checked	
sheet	L-1

TOWER VIEW TOWNHOMES II - PUD FINAL DEVELOPMENT PLAN

LOCATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M.
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

revision		
no.	date	by
	4-17-2020	
	11-18-2020	
	1-12-2022	
	6-17-2022	



M-A ARCHITECTS

ARCHITECTURE & PLANNING

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2329 WEST MAIN
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LITTLETON, CO 80120
TEL 303 730 7300
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Tower View Townhomes II

Arvada, Colorado

sheet title

LANDSCAPE NOTES

4 DETAILS

date

12-18-2019

drawn

BE / MEL

checked

sheet

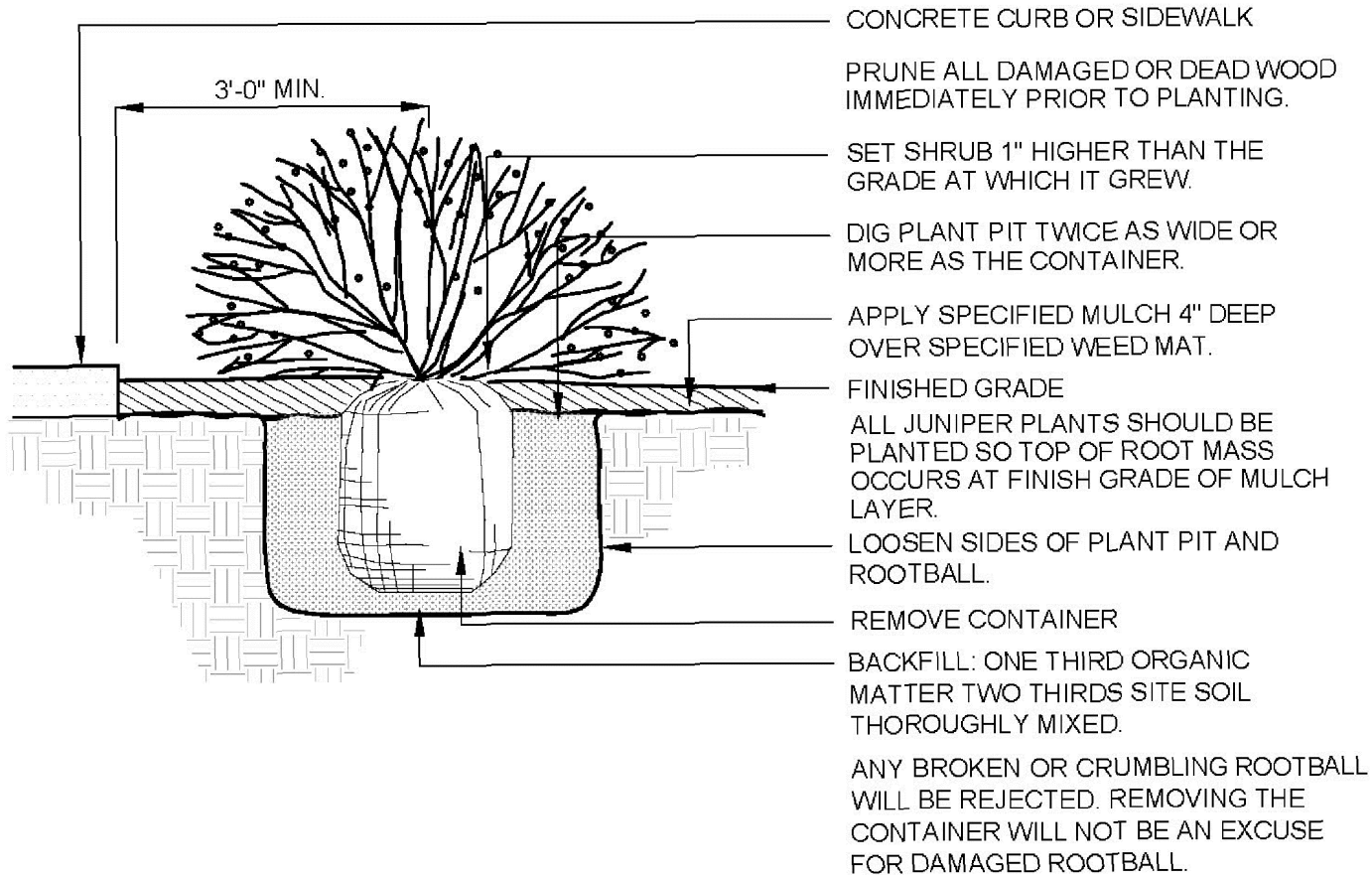
L-2

LANDSCAPE NOTES

- COORDINATION
THIS LANDSCAPE ARCHITECTURAL SITE PLAN IS TO BE USED IN CONJUNCTION WITH THE CIVIL, ARCHITECTURAL, MECHANICAL, ELECTRICAL, STRUCTURAL AND IRRIGATION PLANS AND SPECIFICATIONS TO FORM COMPLETE INFORMATION REGARDING THIS SITE.
- COMPLIANCE
CONSTRUCTION SHALL CONFORM TO ALL APPLICABLE STATE AND LOCAL CODES.
- GUARANTEE
ALL MATERIALS AND WORKMANSHIP SHALL BE GUARANTEED FOR ONE YEAR, FROM DATE OF FINAL ACCEPTANCE, AT NO ADDITIONAL COST TO THE OWNER.
- COMPLETION AND MAINTENANCE
A. FINAL ACCEPTANCE: WITHIN TEN DAYS OF CONTRACTOR'S NOTICE THAT THE ENTIRE PROJECT IS COMPLETE, THE L.A. SHALL REVIEW INSTALLATION. IF FINAL ACCEPTANCE IS NOT GIVEN, THE L.A. SHALL PREPARE A PUNCH LIST OF PENDING ITEMS. THE PUNCH LIST ITEMS SHALL BE COMPLETED BY THE CONTRACTOR WITHIN TEN CALENDAR DAYS FROM DATE ISSUED. SUBSEQUENT REVIEW AND APPROVAL SHALL SIGNIFY ACCEPTANCE.
B. MAINTENANCE: ALL LANDSCAPING SHALL BE MAINTAINED FROM INSTALLATION TO FINAL ACCEPTANCE. MAINTENANCE SHALL INCLUDE WATERING, FERTILIZING, WEEDING, MOWING, TRIMMING, ROLLING, REGRADING, REPLANTING, DISEASE AND INSECT PROTECTION.
- SITE CONDITIONS
LANDSCAPE CONTRACTOR SHALL EXAMINE THE SITE CONDITIONS UNDER WHICH THE WORK IS TO BE PERFORMED AND NOTIFY THE GENERAL CONTRACTOR IN WRITING OF UNSATISFACTORY CONDITIONS. DO NOT PROCEED UNTIL CONDITIONS ARE CORRECTED. LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR FINISHED GRADES AND POSITIVE DRAINAGE IN LANDSCAPE AREAS.
- DAMAGE AND CLEANING
A. CONTRACTOR SHALL REPAIR OR REPLACE ALL ITEMS DAMAGED DUE TO THIS WORK AT NO ADDITIONAL COST TO THE OWNER.
B. CONTRACTOR SHALL CLEAN ALL AREAS DUE TO THIS WORK AND PROPERLY REMOVE ALL UNUSED MATERIALS FROM SITE.
- RIGHT OF REJECTION
OWNER/LANDSCAPE ARCHITECT RESERVES THE RIGHT TO REJECT ANY MATERIALS AT ANY TIME. ALL PLANT MATERIALS SHALL MEET THE MINIMUM CURRENT "AMERICAN STANDARDS FOR NURSERY STOCK" BY THE AMERICAN ASSOCIATION OF NURSERYMEN. CONTRACTOR SHALL PROVIDE SAMPLES, SPECS., AND OR TAGS FOR ALL MATERIALS.
- SOIL PREPARATION
SOD AND SHRUB BED AREAS SHALL RECEIVE SIX INCHES OF APPROVED TOPSOIL. AMEND SOIL WITH FOUR CUBIC YARDS PER THOUSAND SQUARE FEET OF ORGANIC COMPOST. COMPOST TO HAVE A CN RATIO BETWEEN 15:1 AND 30:1, LESS THAN 6 mmhos/cm SALT CONTENT, A pH BETWEEN 6.5 AND 8.5, AND OVER 30% ORGANIC MATTER. APPLY 5 LBS. OF 20-10-5 GRANULAR FERTILIZER PER THOUSAND SQ. FEET. ROTOTILL AMENDMENTS AND TOPSOIL TO A DEPTH OF SIX INCHES. VERIFY SOIL PREP SPECIFICATIONS WITH WATER PROVIDER STANDARDS. PROVIDE EVIDENCE OF APPLICATION AS REQUIRED.
- PLANTING
TREES AND SHRUBS SHALL BE PLANTED PER DETAILS. STAKE AND GUY TREES PER DETAILS. TREE AND SHRUB BED LOCATIONS SHALL BE APPROVED PRIOR TO PLANTING. BACKFILL WITH 1/3 SOIL AMENDMENT AND 2/3 SITE SOIL, THOROUGHLY MIXED. FERTILIZE AS RECOMMENDED WITH AGRIFORM TABLETS.
- EDGER
INSTALL 4" ROLL-TOP RYERSON STEEL EDGING (14 GAUGE WITH GREEN FINISH) OR EQUAL. INSTALL WITH STAKES AND SPLICERS PER MANUFACTURER'S RECOMMENDATIONS. INSTALL BETWEEN ALL SOD OR SEEDED AREAS AND MULCHED AREAS.
- MULCH
BARK MULCH SHALL BE WESTERN RED CEDAR PLACED 4" DEEP. STONE MULCH SHALL BE 1 1/2" ROUNDED RIVER ROCK PLACED OVER DEWITT PRO 5 FILTER FABRIC, 3" DEEP. SUBMIT SAMPLES.
- SODDING
SOD SHALL BE "RTF" FESCUE BY GREEN VALLEY TURF (GVT) (303-798-6764), OR MATCH EXISTING. SOIL PREP., INSTALL AND WATER ACCORDING TO GVT GUIDELINES.
- MAINTENANCE
THE PROPERTY OWNER OF RECORD, THE OWNER'S AGENT OR TENANT SHALL KEEP ALL LANDSCAPING IN A WELL MAINTAINED AND HEALTHY GROWING CONDITION.

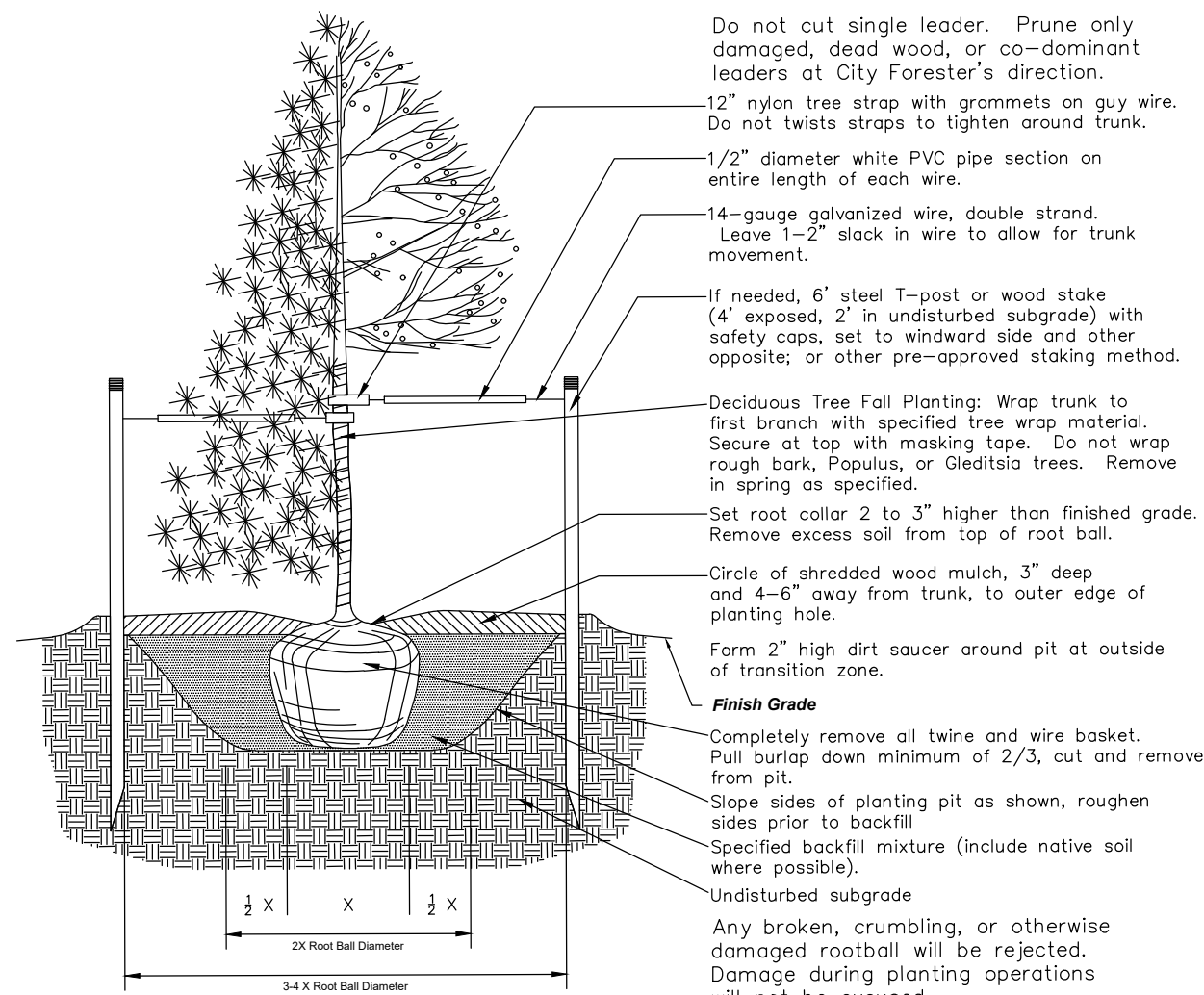
IRRIGATION NOTES:

- THE LANDSCAPE PLAN SHALL LABEL OR NOTE THE TYPE OF IRRIGATION TO BE APPLIED TO EACH PLANT HYDROZONE TO ENSURE THAT PLANTS RECEIVE ONLY THE NEEDED WATER. IN ADDITION, THE PLAN SHALL INCLUDE:
- A RAIN SENSOR WITH AUTOMATIC SHUT-OFF OF THE SYSTEM DURING PERIODS OF HIGH MOISTURE
 - A DRIP, SUB-SURFACE, BUBBLER OR LOW VOLUME IRRIGATION SYSTEM FOR ALL PLANTING STRIPS LESS THAN EIGHT FEET WIDE, AND ALL PLANTING BEDS INVOLVING TREES, SHRUBS, PERENNIALS, AND GROUND COVER.
 - AN IRRIGATION CLOCK THAT ALLOWS PROGRAMMING TO MEET THE DIFFERENTIAL NEEDS OF THE SPECIFIED PLANTING PLAN.



SHRUB PLANTING DETAIL

SCALE: NONE



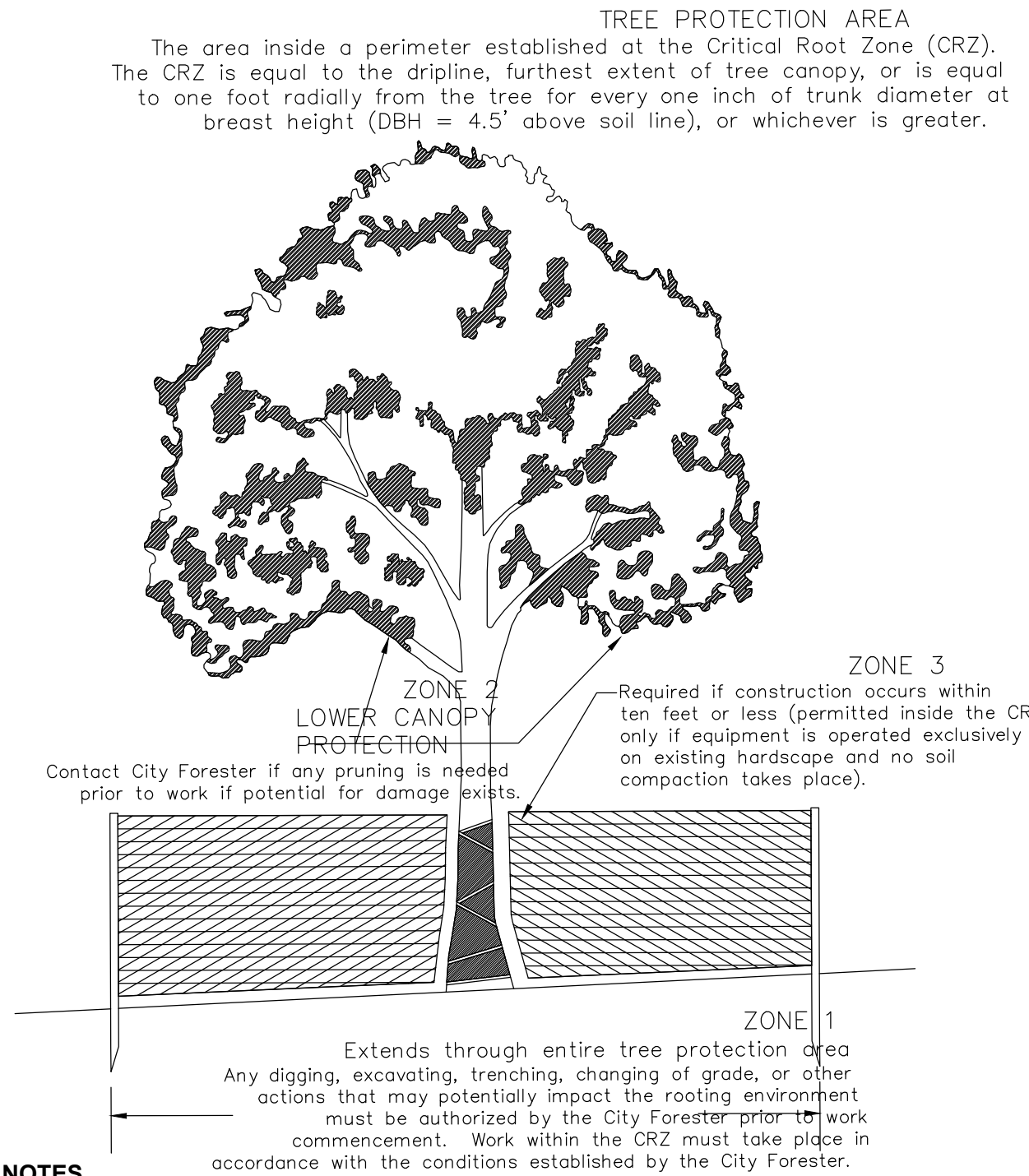
Trees planted in the Public Right of Way (PRW) are subject to the following restrictions:

- A permit is required to plant in the PRW; permits are free from the City Forester's office.
- Only trees from City Forester's approved street tree list or trees approved by the City Forester's office shall be planted in the PRW.
- For a list of prohibited or suspended PRW trees, see City Forestry website or call the Forestry office.
- If overhead utility wires exist in the PRW, only ornamental or trees maturing at 20 (twenty) feet maximum shall be planted.
- Trees shall be centered in tree lawns and/or planting areas.
- Trees shall not be planted in tree lawns less than five feet wide.
- Where sidewalks are not present, trees shall be located as designated by City Forester.
- Planting in corner triangle formed by the first 30 (thirty) feet along the PRW line in each direction from 1 is not permitted.
- Planting within 10 (ten) feet of alleys, driveways, or fire hydrants is not permitted.
- Planting within 20 (twenty) feet of stop signs or street lights is not permitted.
- Planting within five feet of water meters or pits is not permitted.
- Large shade trees shall be spaced 35 (thirty-five) feet o.c. and ornamental trees 25 (twenty-five) feet o.c. designated by Forestry.
- Trees shall be pruned to maintain a clearance of 13'-6\"/>

Prior to digging, the Utility Notification Center of Colorado shall be contacted at 811 to locate underground ut

TREE PLANTING DETAIL

SCALE: NONE



NOTES

- When working near a protected tree, City Tree Retention and Protection Specification be followed.
- Damage to protected trees is subject to penalty per City Ordinance.
- Fencing shall be a minimum of 48 (forty-eight) inches in height.
- Fencing material shall be specified by City Forester. Typically, chain link fencing is
- "Tree Protection Area" signs shall be attached to fencing every 50 (fifty) feet.
- The Tree Protection Area shall not be modified or removed prior to consent of the
- Materials, debris, equipment, and site amenities shall not be stored within the Tree
- Entrance to the Tree Protection Area is not permitted without consent of the City i

TREE PROTECTION DETAIL

SCALE: NONE



SUMMARY MINUTES OF PLANNING COMMISSION ACTION HELD
SEPTEMBER 20, 2022

Planning Commission meeting minutes are not an exact transcript and represent key points and the basis of discussion.

1. **CALLED MEETING TO ORDER– By Michael P. Griffith at 6:15 P.M.**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL OF MEMBERS**

Those present: Michael P. Griffith, Andrew Gay, Tim Knapp, Brandon Figliolino, Tom Aljinovich, Doug Magee, Steve Hannan

THOSE ABSENT

None

ALSO PRESENT: Ryan Stachelski, Director of Community and Economic Development; Josie Suk; Emily Grogg, Sr. Ass't. City Attorney; Dixielee Rodriguez, Administrative Specialist, Jacob Nitchals, Sr. Planner, Civil Engineer, Heidi Van Gieson, Administrative Specialist/Recording Secretary.

4. **APPROVAL OF MINUTES**

August 2, 2022 minutes stand approved with amendment to remove Mr. Knapp's statement from page 4.

5. **GENERAL BUSINESS**

None

6. **REPORTS**

None

7. **PUBLIC COMMENT**

There was no one wishing to speak. Public Comment was closed.

8. PUBLIC HEARINGS

DA2020-0039 Tower View Townhomes II PUD Development Plan, generally located at 7801 West 51st Avenue

The public hearing was opened.

Mr. Griffith entered into the record the staff report for DA2020-0039 dated September 20, 2022, along with the affidavit of mailing and posting log as well as the Public Comment that came in.

Mr. Nitchals introduced the project to the Planning Commission.

Mr. Mark Debenedictis 6020 South Greenwood Plaza Blvd Greenwood Village, CO 80111 Mr. Debenedictis stated that they started the project in 2016 with Phase I that consisted of 6 buildings with a total of 18 units, Phase II will have 3 buildings with a total of 9 units. The architecture will be identical to Phase I with some slight variations to the facades. There will also be landscaping that will finish out the project.

Mr. Griffith opened the hearing for comments from the public.

PUBLIC COMMENT

IN FAVOR

Alice Huang of 7851 W 51st Ave Unit C stated that her and her partner are very excited about the new townhomes going in. She is curious about the street parking and access road next to them as well as the timeline for the project. She also wants to know if there will be EV Chargers.

IN OPPOSITION

Andrew Carter of 11731 W 75th Arvada, CO, owner of 7831 W 51st Ave Unit C. Concerned about construction access to the site through Phase I. Would like to know if access will be on the southeast corner of 51st and Yarrow rather than going through the complex itself. Also, will there be repairs made to the asphalt and roads if construction traffic is brought through the complex. Mr. Carter also stated that he is the President, Secretary and Treasurer of the HOA, which separated from the Phase II area and he states that they would not want to grant access for the construction traffic to go through and if they did they would like to charge a usage fee.

APPLICANT REBUTTAL

Mr. Debenedictis stated that in reference to Mr Carter's concerns, they would take into consideration and be cautious of the construction traffic. They will be providing a method for that access with tracking pads to help prevent damage to the drive aisle.

Troy Denning- Project Engineer 9777 Pyramid Court Suite 150 Englewood CO stated that they shouldn't have to drive through Phase 1 to complete Phase 2.

Mr. Debenedictis states that in regards to the asphalt, they are prepared to repair and damage and that they will be doing an overlay of the entire frontage of the properties at the end of the project.

Mr. DeBenedictis stated that in response to Alice's comments, they are ready to move forward immediately once approved. He stated that they are expecting about 9-12 months for the entire build and sale.

Mr. Griffith closed public comment.

QUESTIONS FROM THE COMMISSION

Mr. Hannan asked if the streets for access are they city or private streets

Mr. Nitchals stated that they are private streets.

Mr. Hannan asked if the parcel was landlocked to the West and North?

Mr. Nitchals stated yes.

Mr. Hannan asked if the builder was planning on integrating these units in with the current HOA?

Mr. DeBenedictis stated that yes, they had anticipated that it would be part of the Phase I HOA as an annexation and there would be a total of 27 units.

Mr. Hannan asked if they (Mr. DeBenedictis) had a conversation with the HOA about being Grandfathered into Phase I?

Mr. DeBenedictis stated that it had been discussed and was in the HOA meeting minutes.

Mr. Figliolino asked if the CDOT right of way will still be maintained by CDOT?

Mr. Nitchals stated that he can't confirm that CDOT will maintain it or not, but It will continue to be maintained by a government entity. The Builder will only be responsible for the curb, gutter and sidewalk in front of the development.

Mr. Figliolino asked if the units will be the same size as Phase 1? It looks like they may be slightly smaller.

Mr. DeBenedictis stated that the units in Phase I are approximately 1,795 sq. ft., the plans that they have for Phase II replicate that and they will be about 1,800 sq. ft.

Mr. Aljinovich asked if there was an answer to Mr. Carter about the usage fees?

Mr. DeBenedictis stated they will work with them to come up with a solution.

Mr Aljinovich also asked if emergency response vehicles will have access denied during construction?

Mr. DeBenedictis stated that they have spoken to the Arvada Fire Department and they don't believe there will be any issues.

Mr. Aljinovich asked if the staff was okay with that.

Mr. Nitchals stated that the Fire Department is a part of the review process from the beginning. Also that the two back buildings will be sprinkled, because fire was not satisfied with the access to the new ones.

Mr. Aljinovich asked if the landscaping will be similar between the two areas?

Mr. Debenedictis stated that it will all replicate the current landscaping.

Mr. Magee asked staff about the neighborhood meeting being held in February of 2020. He didn't see any guidance in the Land Development Code as to how to handle that.

Mr. Nitchals stated that there isn't a specific timeline, they look at it case by case basis.

Mr. Magee asked about the detention facility that is located under Phase 1, will that be able to handle Phase 2 as well?

Mr. Denning stated it will not, they will be enlarging the original detention pond, tying into the existing system.

Mr. Magee stated that two of the four guest parking spaces are cut in. Are the other two located to the North of the building?

Mr. Denning stated that they are on top of the detention area.

Mr. Magee asked if there will be enough room for the residents to get in and out of their garages with the guest parking and landscaping?

Mr. Denning stated that, yes there will be enough room.

Mr. Knapp asked the applicant if there will be construction traffic through Phase 1?

Mr. Debenedictis stated that they do not anticipate much construction traffic through Phase 1.

Mr. Knapp stated, so there will be some?

Mr Denning Stated that the vehicle tracking pad will be on 51st.

Mr Denning also stated that they will need to tie into the water/sewer line which is located in Phase 1.

Mr Knapp asked what the construction hours/ days will be?

Mr. Debenetictis stated they will go with whatever the city requires.

Mr. Knapp asked if there were city rules for hours

Mr Nitchals stated that there were rules but was unsure of the allowed times.

Mr Knapp asked about the phasing off the project.

Mr. DeBenedictis states that they will be putting in all of the Infrastructure and Civil Engineering in all at the same time as well as all three foundations all at once.

Mr. Knapp is concerned about the fact that we have a private property built and we have a builder starting the second phase and wanting to roll it into an existing HOA, which is another issue on its own. He's concerned about any damage that is done to Phase I, is there anything that we (the City) have in the works that can protect them? Will they (the City) step in legally?

Ms. Grogg stated, no they will not. They are going by what the code states.

Mr. Knapp asked if there is anything that we can do as far as approvals for Phase II if damage is done to Phase I?

Ms. Grogg stated that everything has to be done by the Land Development Code, which the city approves. Anything that was approved by the city through the FDP process will need to be completed or there could be code enforcement involvement, there is a warranty period for anything involved with the public infrastructure.

Mr. Nitchals stated that Warranty has not been involved with Phase I yet as they are letting the builder complete Phase II and then they will mill and overlay the entire street from Phase I to Phase II.

Mr. Gay asked why it was both a Preliminary Development Plan and Planned Unit Development Plan?

Mr. Nitchals stated that it is a Planned Unit Development and that terminology was changed in the Land Development Code; it has been a bit of a learning curve for everyone to get on board.

Mr. Griffith asked if we know how many people are still living there, or are they all new residents since we had the neighborhood meeting.

Mr. Nitchals stated that all of the buildings were not finished at the time of the meeting. There were some residents but he does not know how many.

Mr. Griffith asked about if the EV Chargers are something that could be included?

Mr. DeBenedictis stated that they are looking at that as an option as a possibility.

Mr. Griffith said the limit of disturbance for this project seems to be the issue. Have you looked at putting a fence up?

Mr. DeBenedictis stated that they have had a construction fence up since 2016. It is currently down for maintenance but will be put up again.

Mr. Aljinovich asked if Mr. Carter could be at the construction meetings?

Mr. DeBenedictis stated that he will be invited to the meetings and will have contacts to all involved with the project.

MOTION:

It was moved by Mr. Magee that Tower View Townhomes Phase II PUD Development Plan, generally located at 7801 West 51st Avenue be recommended to City Council for (approval subject to the condition stated in the Staff Report, Page 7.

This motion is based on the findings of fact and approval criteria on Page(s) 5 & 6 of the Staff Report.

DISCUSSION OF MOTION

Mr Hannan stated that the builder should address the issues before going to city council.

Mr Griffith asked to be sure that it is safe for the families and children and to be sure that the construction fence is secure.

Those voting Yes: Griffith, Hannan, Knapp, Ajinovich, Magee, Gay, Figliolino

Those voting No:

Those absent: None

The motion carried:7-0

8. **OTHER ITEMS**

Mr. Stachelski asked if Mr. Magee and Mr. Knapp will be in town on November 22nd? Both Mr. Magee and Mr. Knapp stated that they will be. Mr. Stachelski stated we will be checking with applicants to see if there will be any projects ready.

Ms. Suk stated that we have no meetings scheduled for October 4, 18 and November 8.

It was moved by Mr. Magee that the meetings for October 4th, October 18th and November 8th be canceled.

Those voting Yes: Griffith, Hannan, Knapp, Ajinovich, Magee, Gay, Figliolino

Those voting No:

Those absent: None

The motion carried:7-0

9. **ADJOURNED** at 7:07 P.M.

Michael P. Griffith, Chair

Tim Knapp, Secretary

Heidi Van Gieson, Recording Secretary

Public comment received after packet was released



CED Boards and Commission <cedboardsandcommission@arvada.org>

Case Number: DA2020-0039 | Public Hearing Comments | Sept 20

2 messages

Brittney Carter [REDACTED] >
To: cedboardsandcommission@arvada.org

Sun, Sep 18, 2022 at 4:09 PM

Case Name: TOWer View Townhome II
Case Number: DA2020-0039

To whom this concerns;

I'm a homeowner at Tower View Developments. Myself and other townhome owners are very concerned about the request of this development plan.

1. Our community is private property. The developer has no legal right to utilize our property for this project. We (the home owners) are concerned that the construction vehicles will leave dirt and debris all over the property and potentially damage the driveway area.
2. **We do not want** to allow access for this construction to take place with the usage of our property.
3. Our HOA has financially prepared to put up an entrance gate that will prohibit this developer from gaining access.
4. We want the developer to pay a monthly usage fee that will be deposited in the Tower Developments HOA fund if there is no other solution.
5. What hours and days of the week is the construction allowed to take place?

Thanks,
Brittney Carter
7831 W 51st Ave Unit C
Arvada CO 80002

CED Boards and Commission <cedboardsandcommission@arvada.org>
To: Jacob Nitchals <jnitchals@arvada.org>

Mon, Sep 19, 2022 at 12:24 PM

[Quoted text hidden]

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Community and Economic Development

Desk: 720-898-7435

E-Mail: cedboardsandcommission@arvada.org



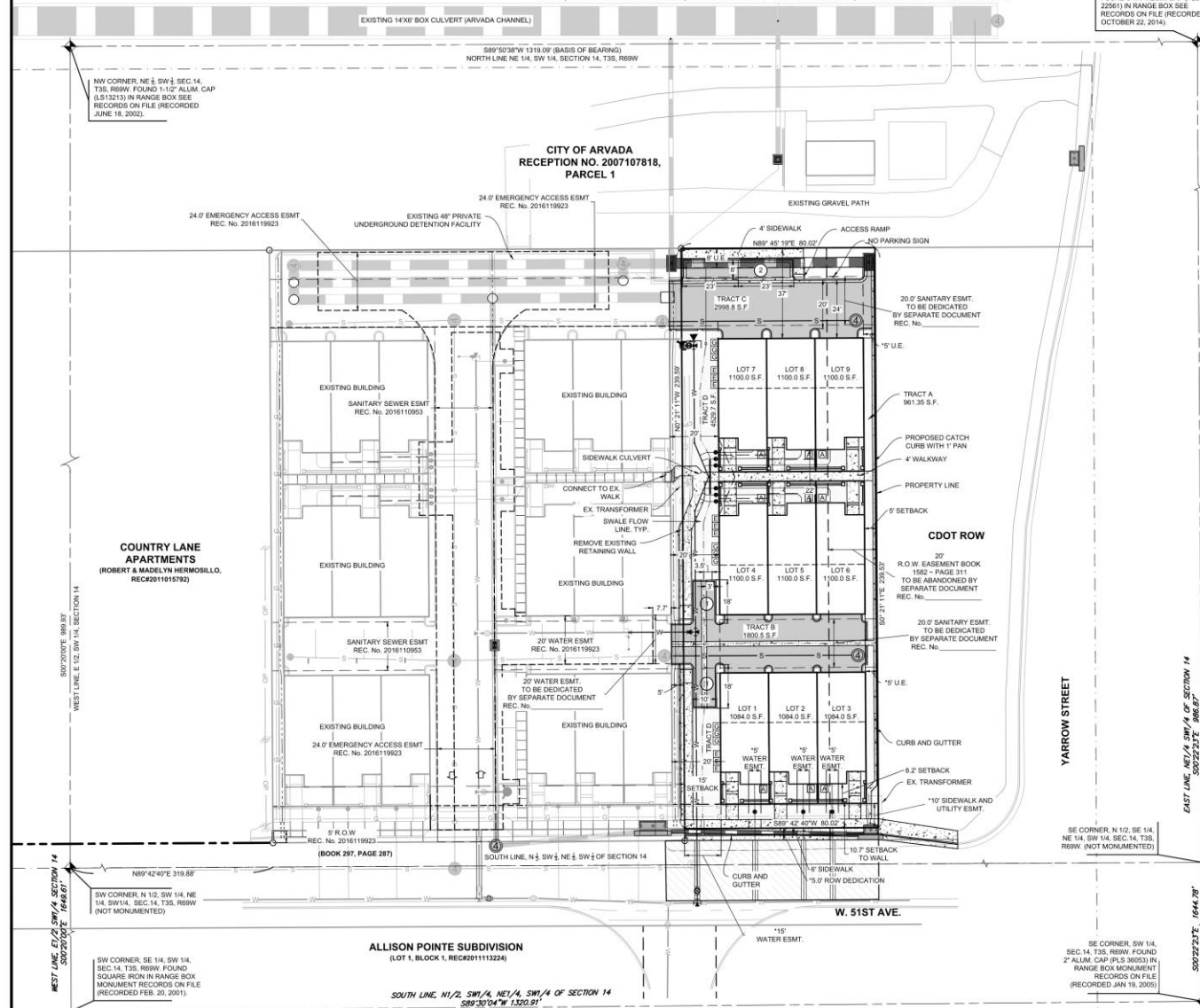
Planning Commission TOWER VIEW TOWNHOMES II

Action Civil Engineering

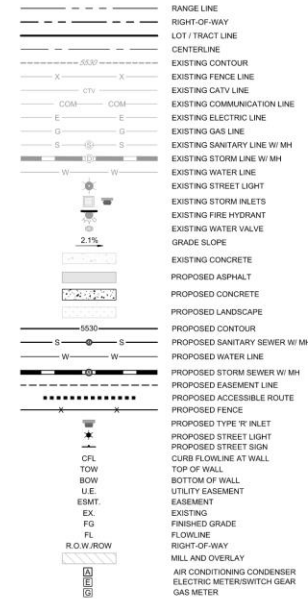
Site Plan

TOWER VIEW TOWNHOMES II - PUD DEVELOPMENT PLAN

TOWER VIEW TOWNHOMES II, SITUATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH PM, CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

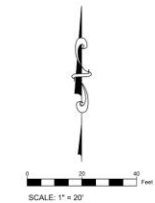


LEGEND:



NOTES:

- APPROVED FIRE LANE AND EMERGENCY ACCESS SHALL BE PROVIDED DURING VERTICAL CONSTRUCTION, UNLESS OTHERWISE APPROVED. THE EVA SHALL CONSIST OF THE FIRST LIFT OF ASPHALT OR CONCRETE AND BE PROVIDED PRIOR TO COMMENCING VERTICAL CONSTRUCTION.
- (*) EASEMENTS AND RIGHT-OF-WAY TO BE DEDICATED BY TOWER VIEW TOWNHOMES II FINAL SUBDIVISION PLAT UNLESS OTHERWISE NOTED.
- BUILDINGS 2 AND 3 WILL BE SPRINKLERED

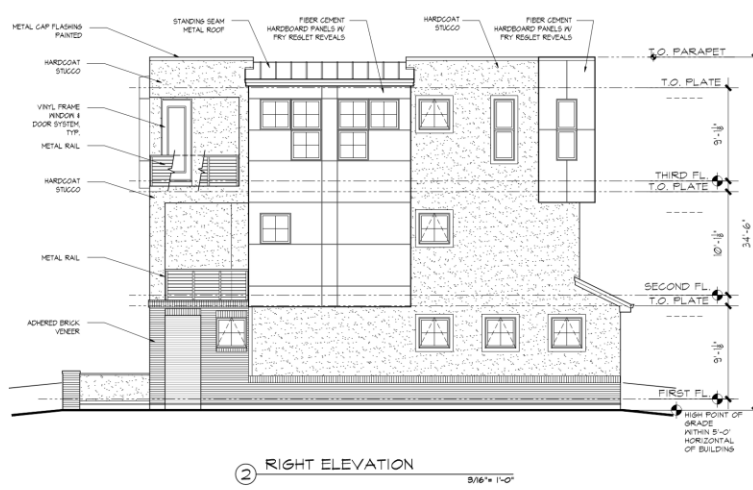


DATE	REVISION DESCRIPTION
1 04/10/20	SUBMITTED TO ARVADA
2 02/20/22	SUBMITTED TO ARVADA
3 06/19/22	SUBMITTED TO ARVADA
DRN	TWO
CHK	
DSG	TWO
TOWER VIEW TOWNHOMES II PUD DEVELOPMENT PLAN	
SITE PLAN	
ACTION CIVIL ENGINEERING 9777 PYRAMID CT, SUITE 150 ENGLEWOOD, CO 80112-720-820-3865 boom@actioncivileng.com	
CAD NO.	1801
SCALE	---
DATE	6/19/2022
SHEETS	09
SHEET	02

Front & Right Elevations

TOWER VIEW TOWNHOMES II - PUD FINAL DEVELOPMENT PLAN

LOCATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M.
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO



NOTES

- ALL ROOFTOP AND WALL VENTS AND FLUES ON A PITCHED ROOF OR EXTENDING ABOVE THE TOP OF THE NEAREST PARAPET SHALL BE PAINTED WITH ONE OF THE PREDOMINANT COLORS USED IN THE PRIMARY STRUCTURE.
- WALL MOUNTED UTILITY EQUIPMENT AND METERS SHALL BE SCREENED FROM VIEW FROM A PUBLIC STREET AND SHALL BE PAINTED A COLOR TO BLEND WITH THE BUILDING FACADE.

revision		
no.	date	by
4	11-17-2020	
11	11-18-2020	
1	12-20-2022	



R-A ARCHITECTS



ARCHITECTURE & PLANNING

THE LITTLETON
OFFICE BUILDING

2329 WEST MAIN
STREET, SUITE 301
LITTLETON, CO 80120
TEL 303 730 7300
FAX 303 730 8300

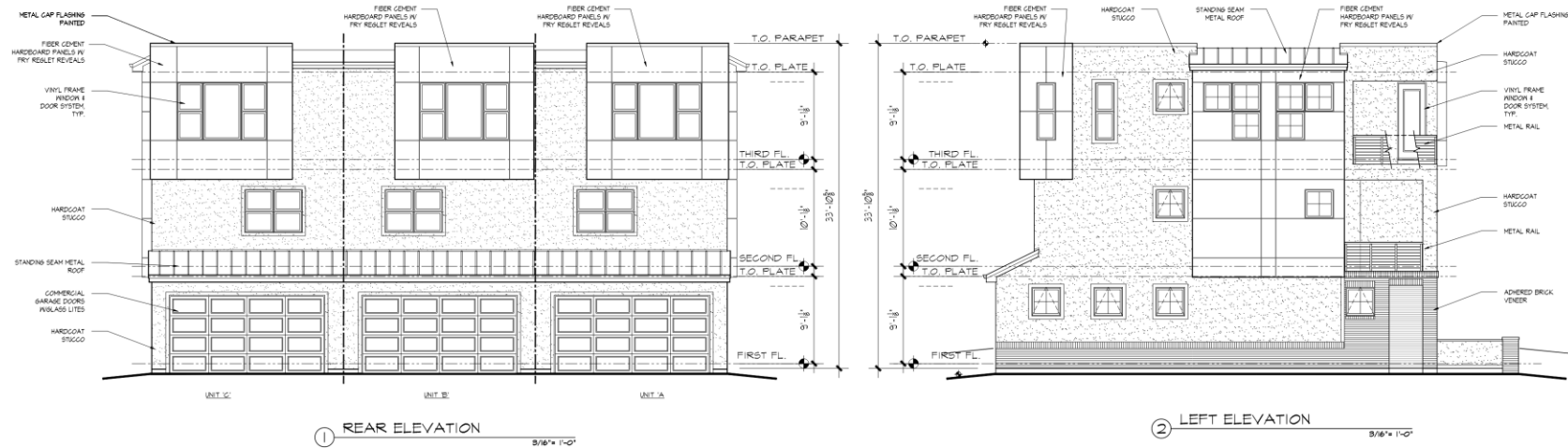
Tower View Townhomes II
Arvada, Colorado

sheet 110
FRONT & RIGHT ELEVATIONS
date
12-18-2014
drawn
BE / MEL
checked
sheet
A1

Rear & Left Elevations

TOWER VIEW TOWNHOMES II - PUD FINAL DEVELOPMENT PLAN

LOCATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M.
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO



NOTES:

- ALL ROOFTOP AND WALL VENTS AND FLUES ON A PITCHED ROOF OR EXTENDING ABOVE THE TOP OF THE NEAREST PARAPET SHALL BE PAINTED WITH ONE OF THE PREDOMINANT COLORS USED IN THE PRIMARY STRUCTURE.
- WALL MOUNTED UTILITY EQUIPMENT AND METERS SHALL BE SCREENED FROM VIEW FROM A PUBLIC STREET AND SHALL BE PAINTED A COLOR TO BLEND WITH THE BUILDING FACADE.

REVISION		
NO.	DATE	BY
1	4-17-2020	
2	11-18-2020	
3	1-12-2022	

H-A ARCHITECTS



ARCHITECTURE & PLANNING

THE LITTLETHORN
WETLE BUILDINGS

3339 WEST MAIN
STREET SUITE 301
LITTLETHORN, CO 80120
TEL 303 730 7300
FAX 303 730 8300

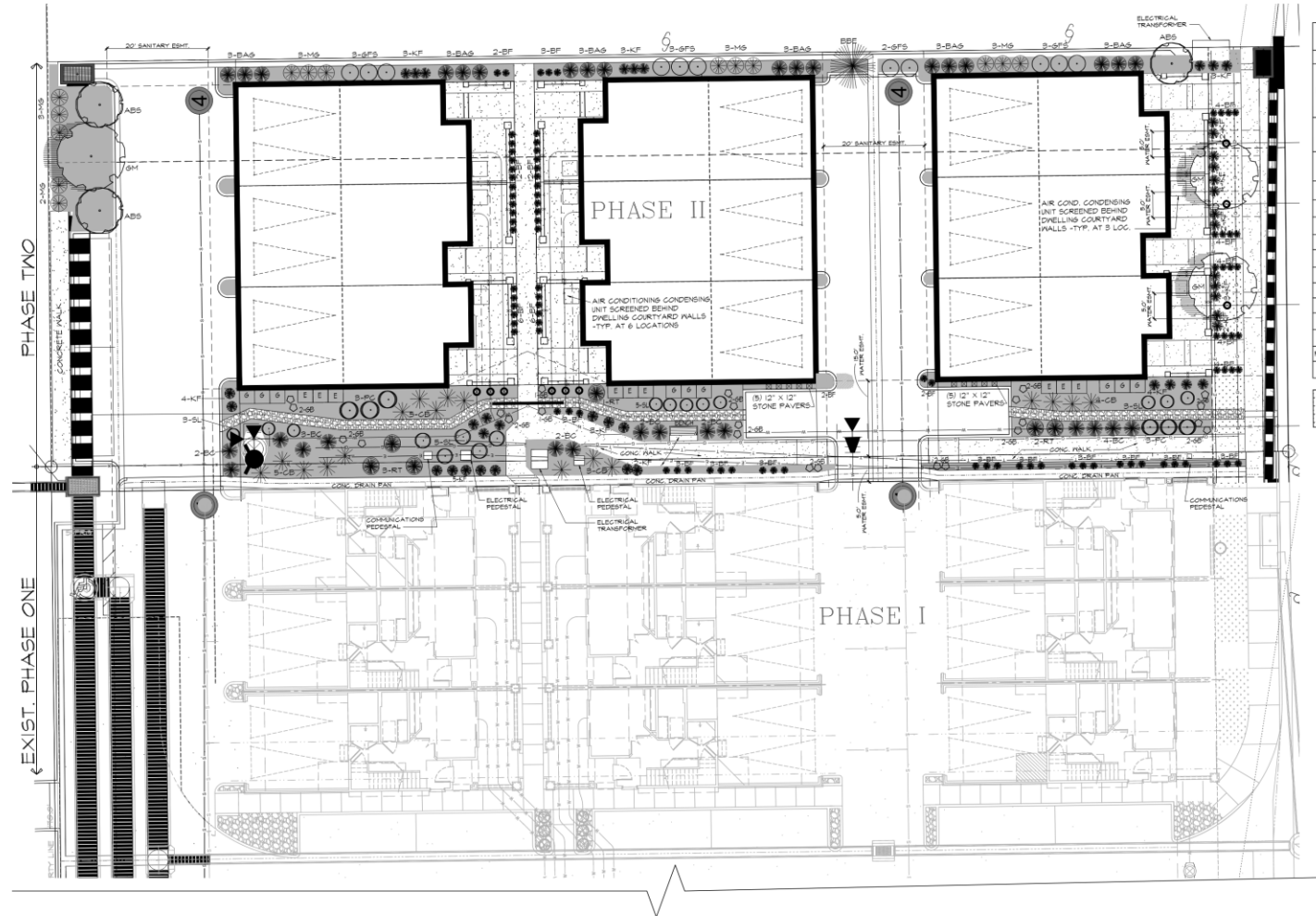
Tower View Townhomes II
Arvada, Colorado

SHEET TITLE	
REAR & LEFT ELEVATIONS	
DATE	
12-18-2018	
DRAWN	
BIE / MEL	
CHECKED	
SHEET	
A2	

Landscape Plan

TOWER VIEW TOWNHOMES II - PUD FINAL DEVELOPMENT PLAN

LOCATED IN THE SOUTH-WEST QUARTER OF SECTION 14, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M.
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO



PLANT LIST

SYMBOL	QTY	COMMON NAME	BOTANICAL NAME	SIZE
GH	3	GINNALS MAPLE (AMUR)	ACER GINNALA	2" CAL.
AB	3	ADONIS BRILLIANT SERVICEBERRY WITH ROOT BARRIER - SEE NOTE #2 THIS SHEET	AMELANCHIER X AUTUMN BRILLIANCE	2" CAL.
BB	1	BABY BLUE EYES SPRUCE	PICEA PUNGENS	6 FT.
SFS	11	GOLD PLANE SPIREA	SPIRAEA BIMALDA	2 GAL.
KF	48	KARL FORESTER FEATHER REED GRASS	CALAMAGROSTIS BELCYTODENS	2 GAL.
BAS	18	BLUE AVENA GRASS	SEDONIA	2 GAL.
BF	41	BLUE FESCUE	FESTUCA BLAUGA	2 GAL.
MS	14	MAIDENGRASS	HISCANTUS SINENSIS	2 GAL.
CB	17	COLUMBIAN BUCKTHORN	RHYNCHUS FRANGULA	#5
SL	15	SPIREA LIMEHOUND	SPIRAEA JAPONICA	#5
RT	6	RED TWIG DOGWOOD	CORNUS SERICEA	#5
PC	6	PURPLE LEAF SAND CHERRY	PRUNUS GISTENA	#5
BC	15	BLUE CHIP JUNIPER	JUNIPERUS HORIZONTALIS	#5
RESERVED				
GB	24	GRANITE BOLDER		18" x 24"

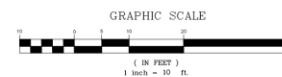
IRRIGATED SOD	1/2" RIVER ROCK COBBLES MASONRY (WOULD NEED BARRIER) - MATCH EXISTING PHASE I
IRRIGATION TO BE DESIGN-BUILD	2" TO 4" RIVER ROCK COBBLES MASONRY (WOULD NEED BARRIER) - MATCH EXISTING PHASE I

LANDSCAPE NOTES:

- SEE SHEET L-2 FOR ADDITIONAL LANDSCAPE NOTES AND DETAILS.
- AT AUTUMN BRILLIANCE SERVICEBERRY AND GINNALS MAPLE TREES, INSTALL 18" TALL, 80 MIL ROOT BARRIER BY "SIDEWALK SHIELD" (SURROUND APPLICATION). FOLLOW ALL MANUFACTURERS SPECIFICATIONS, INSTRUCTIONS AND RECOMMENDATIONS.
- A 3'-0" (FOOT) CLEAR SPACE SHALL BE MAINTAINED AROUND ALL FIRE HYDRANTS AND NOT OBSTRUCTED.
- TREES WITHIN THIS DEVELOPMENT, WHEN FULLY MATURE, SHALL PROVIDE AN UNOBSTRUCTED VERTICAL CLEARANCE OF 13'-6".
- LANDSCAPE CONSULTANT:
- EXPRESSING LANDSCAPING
- MIKE BASCON (303) 413-6440



LANDSCAPE PLAN



REVISION		
NO.	DATE	BY
1	4-17-2020	
2	11-18-2020	
3	1-12-2022	
4	6-17-2022	

R-A ARCHITECTS

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THE LITTLETHORP
OFFICE BUILDING
2329 WEST MAIN
STREET SUITE 180
LITTLETON, CO 80120
TEL 303 739 7300
FAX 303 739 8300

Tower View Townhomes II
Arvada, Colorado

sheet title	
LANDSCAPE PLAN	
date	
2-18-2018	
drawn	
BE / MEL	
checked	
sheet	
L-1	



REPORT TO CITY COUNCIL PUBLIC HEARING

**AGENDA ITEM
10.E.**

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: Public Hearing on the 2023 Annual Action Plan for 2023 Community Development Block Grant Funding and 2023 Human Services Grant Funding

Report in Brief

A Public Hearing on the 2023 Annual Action Plan is necessary prior to a vote by City Council on a resolution approving submittal of those items to HUD. Notification of the Public Hearing was published on September 22, 2022 as part of the Notice to the Public regarding the availability of the draft 2023 Annual Action Plan for public review and examination. The public review and examination period was for 30 days from September 22, 2022 through October 21, 2022. This item is for information purposes in order to announce the Public Hearing and no action is necessary. It will only be necessary to open the public hearing, take any testimony, and close the hearing.

An action item to consider a Resolution approving the 2023 Annual Action Plan for submission to HUD follows as a separate action.

Financial Impact

The 2023 Action Plan Allocates \$450,000 in 2023 CDBG Funding.

Funding source: 09-804050.

A subsequent resolution is scheduled to approve the 2023 Annual Action Plan which will allocate an estimated \$450,000 in CDBG Funding.

Background

As stated herein, notification of the Public Hearing was published on September 22, 2022, as part of the Notice to the Public regarding the availability of the draft 2023 Annual Action Plan for public review and examination.

Discussion

This item is for informational purposes in order to announce the Public Hearing and no action is necessary. It will only be necessary to open the public hearing, take any testimony, and close the hearing. Public Contact Notification of the Public Hearing was published on September 22, 2022 as part of the Notice to the Public regarding the availability of the draft 2023 Annual Action Plan for public review and examination. The public review and examination period was for 30 days from September 22, 2022 through October 21, 2022.

Public Contact

This item is for informational purposes only in order to announce the Public Hearing and no action is necessary. It will only be necessary to open the public hearing, take any testimony, and close the hearing. In addition, the agenda for the Council meeting was posted.

Commission Recommendation

N/A

Strategic Alignment

Conducting the Public Hearing on the 2023 Annual Action Plan for 2023 Community Development Block Grant Funding and 2023 Human Services Grant Funding will support community and human services programs. Therefore, this action aligns with the following Principle within the Vibrant Community and Neighborhood Priority Area of the City Council Strategic Plan:

Improve access to quality housing that is affordable for a broad range of income levels and provides resources, housing, and neighborhood assistance services for Arvada residents, neighborhoods, property owners, and stakeholders.

Alternative Courses of Action

N/A

Recommendation for Action

This item is for information purposes only for the Public Hearing and no action is necessary. It will only be necessary to open the public hearing, take any testimony, and close the hearing.

Suggested Motion:

It will only be necessary to open the public hearing, take any testimony, and close the hearing.

Prepared by:

Nicholas Ashmore, Community Development Block Grant Coordinator

Reviewed by:

Approved by:

Enessa Janes, Director of Vibrant Community and Neighborhoods	10/10/2022
Ryan Stachelski, Director of Community and Economic Development	10/12/2022
Bryan Archer, Director of Finance	10/17/2022
Gail Walker, Legal Specialist-Contracts	10/17/2022
Emily Grogg, Senior Assistant City Attorney	10/17/2022
Don Wick, Deputy City Manager	10/18/2022
Rachel Morris, City Attorney	10/18/2022
Lorie Gillis, City Manager	10/24/2022

Enclosure, exhibits & attachments required to support the report

**NOTICE OF PUBLIC HEARING
AND
AVAILABILITY OF PROPOSED 2023 ANNUAL ACTION PLAN
FOR PUBLIC REVIEW AND COMMENT**

The US Department of Housing and Urban Development requires local jurisdictions receiving certain grant funds to prepare a Consolidated Strategy and Plan Submission for Housing and Community Development Programs (Consolidated Plan).

The City of Arvada prepared a Consolidated Plan for the period of 2020 through 2024. An Annual Action Plan must be submitted for each year during that term and the City is providing for and encouraging citizen participation in the preparation of the 2023 Annual Action Plan.

The proposed 2023 Annual Action Plan outlines the proposed use of an estimated \$450,000 in 2023 Community Development Block Grant Funds for housing rehabilitation, public facilities, and public services.

The City invites all citizens, public agencies, and other interested parties to review the proposed 2023 Annual Action Plan and use of funds, review past program performance and provide comments. The public comment period on the proposed 2023 Annual Action Plan is from September 22, 2022 through October 21, 2022. Comments can be mailed to the address below.

A copy of the proposed draft 2023 Annual Action Plan is available for public review at the:

Housing and Homelessness Programs Division
Annex Building
8001 Ralston Road
Arvada, Colorado 80002

Between the hours of 8:00 A.M. to 4:00 P.M., weekdays.

A Public Hearing will be held for comment on the proposed 2023 Annual Action Plan

THE PUBLIC HEARING WILL BE HELD:

At 6:15 P.M., November 7, 2022, in Council Chambers, Arvada Municipal Building,
8101 Ralston Road, Arvada, Colorado.

FOR FURTHER INFORMATION:

Please contact Nicholas Ashmore at 720-898-7497, between 8:00 A.M. to 5:00 P.M., weekdays.

Published: September 22, 2022



REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
10.E.1.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: R22-100, A Resolution Approving the Submission of the 2023 Annual Action Plan for the 2023 Community Development Block Grant ("CDBG") Funding

Report in Brief

This agenda item includes consideration of a resolution that details the allocations for City CDBG funding in the year 2023 and approves the Annual Action Plan submission containing the year 2023 CDBG funding allocations.

The Arvada team recommends City Council approve R22-100, A Resolution Approving the Submission of the 2023 Annual Action Plan for 2023 Community Development Block Grant ("CDBG") Funding.

Financial Impact

The City currently estimates a 2023 CDBG entitlement of \$450,000.

Background

The City currently estimates the 2023 CDBG entitlement to be \$450,000. The allocation between services or projects for the \$450,000 is summarized below.

The total funding allocation for human services is recommended at \$75,000. These allocations match the recommendations of the Human Services Advisory Committee regarding the public services listed at \$75,000 to be funded by the 2023 CDBG allocation. The Council should note that \$75,000 exceeds the HUD mandated 15% public service funding cap, which is \$67,500 (.15 X \$450,000). It is anticipated that the program income in 2022, in addition to a likely increase in the eventual 2023 entitlement amount, will be sufficient to increase the amount on which the 15% cap is calculated to be high enough to be able to fund public services at \$75,000.

General CDBG Program Administration is recommended at \$94,000.

\$281,000 in 2023 CDBG is allocated to projects and administrative costs for the Single-Family Home Repairs Program. Our team is projecting that the utilization of revolving loan funds, additional loan repayments to be received through the remainder of 2022, and the carry forward of prior year CDBG funds plus the \$281,000, will be sufficient to cover the expenditures anticipated in 2023 for the Single-Family Home Repairs Program. At this time, we are estimating loan repayments totaling \$50,000 in 2023 for a total of \$331,000 allocated to the Single-Family Home Repairs Program (\$281,000 + \$50,000 = \$331,000).

The 2023 Annual Action Plan containing the 2023 CDBG funding allocations will be submitted to the U.S. Department of Housing and Urban Development for review and approval. The final funding amount to be received from HUD for the 2023 CDBG is estimated at \$450,000; however, this amount will change once final HUD funding appropriations are determined.

The Resolution authorizes the City Manager to make alterations to the 2023 Annual Action Plan submission in response to subsequent HUD review and requests for changes or additions, funding determinations and transfers, or citizen comments. A summary of any written comments on the 2023 Annual Action Plan will be attached to the Plan Submission to HUD.

Discussion

The recommended action facilitates the allocation of resources that will support community and human services programs.

Public Contact

N/A

Commission Recommendation

N/A

Strategic Alignment

The recommended action facilitates the allocation of resources that will support community and human services programs. Therefore, this action aligns with the Vibrant Community and Neighborhoods Priority Area of the City Council Strategic Plan, specifically the following Principle:

Improves access to quality housing that is affordable to a broad range of income levels and provides resources, housing, and neighborhood assistance services for Arvada residents, neighborhoods, property owners, and stakeholders.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends City Council approve R22-100, A Resolution Approving the Submission of the 2023 Annual Action Plan for 2023 Community Development Block Grant ("CDBG") Funding.

Suggested Motion:

I move that R22-100, A Resolution Approving the Submission of the 2023 Annual Action Plan for 2023 Community Development Block Grant ("CDBG") Funding, be (approved) (rejected).

Prepared by:

Nicholas Ashmore, Community Development Block Grant Coordinator

Reviewed by:

Approved by:

Enessa Janes, Director of Vibrant Community and Neighborhoods	10/10/2022
Ryan Stachelski, Director of Community and Economic Development	10/19/2022
Bryan Archer, Director of Finance	10/20/2022
Gail Walker, Legal Specialist-Contracts	10/20/2022
Emily Grogg, Senior Assistant City Attorney	10/21/2022
Rachel Morris, City Attorney	10/25/2022

SUBJECT: R22-100, A Resolution Approving the Submission of the 2023 Annual Action Plan for the 2023 Community Development Block Grant ("CDBG") Funding

PAGE: 3
ITEM: 10.E.1.

Don Wick, Deputy City Manager

10/26/2022

Lorie Gillis, City Manager

10/26/2022

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R22-100

A RESOLUTION APPROVING THE SUBMISSION OF THE 2023 ANNUAL ACTION
PLAN FOR THE 2023 COMMUNITY DEVELOPMENT BLOCK GRANT (“CDBG”)
FUNDING

WHEREAS, the City of Arvada is eligible to receive approximately \$450,000.00 in CDBG Funding for the year 2023; and

WHEREAS, the U.S. Department of Housing and Urban Development requires all entitlement communities receiving CDBG funds to prepare and submit a Consolidated Plan every five years to establish a unified, strategic vision for economic development, housing, and community development actions. The Consolidated Plan encompasses the analysis of local community needs and coordinates appropriate responses to those needs and priorities; and

WHEREAS, the Consolidated Plan is carried out through Annual Action Plans which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals in the Consolidated Plan. The City must submit an Annual Action Plan to HUD no later than November 15 of each year during the five year period; and

WHEREAS, the City Council of the City of Arvada held a public hearing on September 19, 2022, publicized in advance, at which any Arvada citizen was welcomed and encouraged to present ideas and viewpoints concerning community needs and proposals for the 2023 Annual Action Plan for 2023 CDBG Funding; and the 2023 Annual Action Plan was available for public review and comment from September 22, 2022 through October 21, 2022. A second public hearing was held on November 7, 2022, to provide the public a second opportunity to provide comment.

WHEREAS, the City Council and City Administration carefully reviewed all citizen comments and staff suggestions regarding the 2023 Annual Action Plan for 2023 CDBG Funding.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO, AS FOLLOWS:

Section 1. That the City Council of the City of Arvada, Colorado approves the submission of the 2023 Annual Action Plan for CDBG funding; and

Section 2. That the City Council of the City of Arvada, Colorado approves submission of the 2023 Annual Action Plan for the CDBG program to allocate additional CDBG funds for the City of Arvada, Colorado in the following amounts for year 2023 CDBG funding:

- \$70,500 for human services grant program
- \$94,000 for general CDBG program administration
- \$305,500 for Single-Family Home Rehabilitations

Section 3. That the City Council of the City of Arvada, Colorado directs that the 2023 Annual Action Plan submission for the CDBG Program for the City of Arvada, Colorado for 2023 CDBG funding be submitted to the HUD; and

Section 4. That the City Council of the City of Arvada, Colorado designates the City Manager, or city staff she may designate, to approve alterations, deletions, and/or additions to the 2023 Annual Action Plan Submission for the CDBG Program for the City of Arvada, Colorado and the 2023 Annual Action Plan for 2023 CDBG funding that may be necessitated in response to minimal HUD funding alterations, HUD requirements, subsequent HUD review, or citizen comments.

APPROVED AND ADOPTED this 7th day of November, 2023.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____

Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

The Community Development Block Grant (CDBG) is a flexible Federal funding source that the City of Arvada utilizes to address a wide range of unique community development needs. The City prioritizes activities that benefit low- and moderate-income persons. Activities may also be carried out which aid in the prevention or elimination of slums or blight, or certified activities that meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and where other financial resources are not available to meet such needs. CDBG funds may not be used for activities that do not meet these broad national objectives. The CDBG program ensures that decent, affordable housing is created and preserved, that services to the most vulnerable in the community are implemented, public facilities are sustained, and that economic development opportunities are supported. In accordance with the U.S. Department of Housing and Urban Development's (HUD) entitlement community requirements, City of Arvada prepared a five-year Consolidated Plan in order to implement Federal programs within the community for the period of January 1, 2020, to December 31, 2025. Each year the City of Arvada creates an Annual Action Plan to address the high-priority housing, public service, public facility, and economic development needs of the City, as outlined in City of Arvada's Consolidated Plan and Comprehensive Plan. The FY23 Annual Action Plan's program year runs from January 1, 2023, through December 31, 2023.

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

The objectives and outcomes in the Plan are the same as those identified in the Consolidated Strategy and Plan Submission for Housing and Community Development Programs City of Arvada, Colorado 2020-2024.

3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

The programs and activities from 2022 were evaluated for past performance from the CAPER and that evaluation shows that the City has made good progress with good performance relative to the Consolidated Strategy and Plan Submission for Housing and Community Development Programs City of Arvada, Colorado 2020-2024.

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

See Citizen Participation tables attached.

5. Summary of public comments

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

Human services entities provided input during the public hearing held before the City Council on November 7, 2022.

6. Summary of comments or views not accepted and the reasons for not accepting them

No comments received.

7. Summary

PR-05 Lead & Responsible Agencies – 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

Describe the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
CDBG Administrator	ARVADA	Housing Preservation and Resources

Table 1 – Responsible Agencies

Narrative (optional)

Consolidated Plan Public Contact Information

City of Arvada

8101 Ralston Rd

Arvada, CO 80002

Nicholas Ashmore

720-898-7497

AP-10 Consultation – 91.100, 91.200(b), 91.215(l)

1. Introduction

The Arvada Citizen Participation Plan provides for and encourages citizen participation including involvement of low income residents where housing and community development funds may be spent as outlined in the Plan elements that follow. The City will take actions that are appropriate and reasonable for the participation of all residents including minorities and non-English speaking persons as well as persons with mobility, visual, or hearing impairments to participate in the development process of the Consolidated Strategy and Plan Submission for Housing and Community Development Programs.

Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l))

Prior to the process of preparing its five year Consolidated Plan, the City consulted with appropriate public agencies including internal City Departments by mailing a letter to such agencies notifying them of the Consolidated Plan process for the City and requesting their input.

Maintenance of a mailing list of persons, agencies, or groups that have requested they be notified of when proposals for funding or review of the Consolidated Plan including the Action Plan: One Year Use of Funds will Occur. That list will be updated and utilized to mail notices prior to hearing dates as they occur.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

Maintenance of a mailing list of persons, agencies, or groups that have requested they be notified of when proposals for funding or review of the Consolidated Plan including the Action Plan: One Year Use of funds will occur. That list will be updated and utilized to mail notices prior to hearing dates as they occur. Prior to the process of preparing its five year Consolidated Plan, the City consulted with appropriate social service agencies the housing needs of children, minorities, the elderly, the disabled, the homeless, and other special populations within the community by mailing a letter to such agencies notifying them of the Consolidated Plan process for the City and requesting their participation.

The following information and assistance was directly requested from 48 separate social service, housing and special needs agencies or nonprofit groups or agencies serving the disadvantaged in the community and region:

The City of Arvada would like to invite your participation in the preparation of the City 2023 Annual Action Plan. We would like to request written input on what your agency or group perceives to be specific housing and community development needs within the City of Arvada. We would like to especially request information on the needs of Children, Minority Groups, the Elderly, the Disabled (including persons with HIV/AIDS and their families), the Homeless, and other members of the community with special needs.

We would also like to request any specific data you may have relative to size, income, ethnicity and characteristics of these special needs populations along with the source of data. In addition the City would like to request your input on strategies or approaches you would recommend to help address Arvada's housing and community development needs.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

Varied activities and funding applications by MDHI entities are reviewed for compliance with the City Consolidated Plan.

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction's consultations with housing, social service agencies and other entities

Table 2 – Agencies, groups, organizations who participated

1	Agency/Group/Organization	City of Arvada Human Services Advisory Committee
	Agency/Group/Organization Type	Services - Housing Services-Children Services-Elderly Persons Services-Persons with HIV/AIDS Services-Victims of Domestic Violence Services-homeless Services-Health Services-Education Services-Employment Service-Fair Housing Services - Victims Other government - Local
	What section of the Plan was addressed by Consultation?	Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Non-Homeless Special Needs
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	City of Arvada Human Services Advisory Committee considers all applications for CDBG human services requests from the private nonprofit sector for potential use of CDBG and City human services funding support. The Committee makes recommendations to the City Council regarding those requests.
2	Agency/Group/Organization	Jefferson County Public Health
	Agency/Group/Organization Type	Health Agency Agency - Emergency Management
	What section of the Plan was addressed by Consultation?	Homeless Needs - Chronically homeless COVID related needs

	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The City of Arvada Resiliency Coordinator meets regularly with Jeffco Public Health to discuss emergency and public health related needs. During peak times of COVID, the City would coordinate with Jeffco Public Health for resources for individuals experiencing homelessness.
3	Agency/Group/Organization	Comcast
	Agency/Group/Organization Type	Services - Narrowing the Digital Divide
	What section of the Plan was addressed by Consultation?	Housing Need Assessment
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The City of Arvada is currently partnering with Comcast to install broadband fiber to extensive areas throughout the City. The purpose of the partnership is to increase connectivity for various entities including Jeffco Public Schools. There are several schools in Arvada that serve a majority of students that fall into the low/moderate income category including Arvada K-8, Lawrence Elementary and Foster Elementary. Students at these schools will now benefit from state of the art broadband services. Additionally, the City is in discussion with Comcast as well as other broadband internet providers to discuss diversity, equity and inclusion issues related to internet connectivity and how those gaps can be filled. Rick Assmus, City of Arvada Community Connectivity Manager and President of the National Association of Telecommunications Officers and Advisors (NATOA), is leading the discussions with Comcast and other businesses on how the City can be part of the filling the gap. These discussions are in the preliminary stages and the next steps for the City's involvement is forthcoming.

Identify any Agency Types not consulted and provide rationale for not consulting

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	MDHI	Varied activities and funding applications by MDHI entities are reviewed for compliance with the City Consolidated Plan
City of Arvada Comprehensive Plan	City of Arvada	The City Comprehensive Plan is closely coordinated with, depends upon, and overlaps a large portion of the Consolidated Plan
Language Assistance Plan	City of Arvada	The LAP provides for specific action items the City will Housing Preservation and Resources Division will undertake as part of its program operations

Table 3 – Other local / regional / federal planning efforts

Narrative (optional)

AP-12 Participation – 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

The US Department of Housing and Urban Development requires local jurisdictions receiving certain grant funds to prepare a Consolidated Strategy and Plan Submission for Housing and Community Development Programs (Consolidated Plan). The City of Arvada prepared a Consolidated Plan for the period of 2020 through 2024. An Annual Action Plan must be submitted for each year during that term and the City is providing for and encouraging citizen participation in the preparation of the 2023 Annual Action Plan. The proposed 2023 Annual Action Plan outlines the proposed use of an estimated \$450,000 in 2023 Community Development Block Grant Funds for housing rehabilitation and public services. The City invites all citizens, public agencies, and other interested parties to review the proposed 2023 Annual Action Plan and use of funds, review past program performance and provide comments. The public comment period on the proposed 2023 Annual Action Plan is from September 22, 2022 through October 21, 2022. Comments can be mailed to the address below. A copy of the proposed draft 2023 Annual Action Plan is available for public review and comment at the: Housing Preservation and Resources Division, Annex Building, 8001 Ralston Road ,Arvada, Colorado 80002, Between the hours of 8:30 A.M. to 4:30 P.M., weekdays.

A Public Hearing will be held to allow public comment on the proposed 2023 Annual Action Plan and on related requests for funds from the Human Services Funding Pool THE PUBLIC HEARING WILL BE HELD At 6:30 P.M., November 7, 2022 in Council Chambers, Arvada Municipal Building, 8101 Ralston Road, Arvada, Colorado. A City Human Services Advisory Committee reviewed the 17 funding applications and made recommendations for funding to the City Council on November 7, 2022.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	30 Day comment period on Third Substantial Amendment to 2020 Annual Action Plan	Minorities Persons with disabilities Non-targeted/broad community		No comments received	None	
2	Public Hearing	Minorities Persons with disabilities Non-targeted/broad community		No comments received	None	

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
3	Internet Outreach	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community	17 applications for funding assistance were submitted by the September 5, 2022 deadline	funding applications	None	https://arvada.org/residents/city-neighborhoods/cdgb-funds-at-work-in-arvada
4	Advisory Committee	Minorities Persons with disabilities Non-targeted/broad community	17 applications for funding assistance were submitted by the September 5, 2022 deadline	funding applications	None	https://arvada.org/residents/city-neighborhoods/cdgb-funds-at-work-in-arvada

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
5	30 Day comment period on Annual Action Plan	Minorities Persons with disabilities Non-targeted/broad community		No comments received		
6	Public Hearing	Non-targeted/broad community Residents of Public and Assisted Housing Developers, Neighborhood groups, social service providers, housing professionals		No comments received		

Table 4 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 3				Expected Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	450,000	50,000	0	500,000	1,463,129	CDBG annual allocation. Program income is loan repayments estimated for the EHRP program.

Table 1 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

CDBG will be critical to allow for and encourage leveraging of other private and city funds for housing and community development activities. The city will utilize cash from non-federal sources, the value of waived taxes and fees and the value of any donated land to support goals and activities.

If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

N/A

DiscussionIf appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

Discussion

Annual Goals and Objectives

AP-20 Annual Goals and Objectives

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator

Table 2 – Goals Summary

Goal Descriptions

1	Goal Name	Maintain and improve housing and neighborhoods
	Goal Description	Single-Family Home Repair program \$331,000
2	Goal Name	Facilitate development of human resources
	Goal Description	Human services program \$75,000

Projects

AP-35 Projects – 91.220(d)

Introduction

The City of Arvada intends to use an estimated \$500,00 in 2023 CDBG for Program Administration, Single-Family Home Repairs Program, and Human Services Funding pool for public services.

Projects

#	Project Name
1	Program Administration and Planning
2	Single-Family Home Repairs Program
3	Human Services Funding Pool

Table 3 - Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The Single-Family Home Repairs program has been a longstanding City program that provides critical home repairs to low/moderate income homeowners in Arvada. It has proven to be a needed and worthy use of CDBG funds. The City of Arvada Human Services program provides financial support to various non-profit agencies that provide critical services to Arvada residents.

AP-38 Project Summary

Project Summary Information

1	Project Name	Program Administration and Planning
	Target Area	Arvada City Limits
	Goals Supported	CDBG Program Administration and Planning
	Needs Addressed	CDBG Program Administration and Oversight
	Funding	CDBG: \$94,000
	Description	Administration and Planning for CDBG Program
	Target Date	12/31/2023
	Estimate the number and type of families that will benefit from the proposed activities	N/A
	Location Description	Arvada City Limits
	Planned Activities	Funding will be used to cover administrative costs for CDBG activities.
2	Project Name	Single-Family Home Repairs Program
	Target Area	Arvada City Limits
	Goals Supported	Maintain and improve housing and neighborhoods
	Needs Addressed	Maintain and improve housing stock
	Funding	CDBG: \$331,000
	Description	Single-Family Home Repairs Program
	Target Date	12/31/2023
	Estimate the number and type of families that will benefit from the proposed activities	The estimated number of families served through the Single-Family Home Repairs Program is 15. These households will consist of low to moderate income households that will primarily be seniors.
	Location Description	The activities performed under this project will be located in single family home residences within the city limits of Arvada.
	Planned Activities	The City of Arvada will complete home repairs to low to moderate income single family homeowners.
3	Project Name	Human Services Funding Pool
	Target Area	Arvada City Limits
	Goals Supported	Facilitate development of human resources
	Needs Addressed	Development of human resources

Funding	CDBG: \$75,000
Description	Public services funded with CDBG
Target Date	12/31/2023
Estimate the number and type of families that will benefit from the proposed activities	It is estimated that 1,000 low to moderate income households will be assisted by this activity.
Location Description	The activities carried out under this project will be carried out through non-profit agencies that offer services to residents of Arvada.
Planned Activities	The activities carried out under this project will be public services offered by non-profit agencies that offer services to residents of Arvada.

AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

All funded activities will benefit persons living within the city limits of the City of Arvada. The highest percentage of individuals reported as White alone and the second highest reported as Hispanic or Latino. In the 2020 Census, 17,651 or 14.3% of persons reported having Hispanic or Latino origin.

Geographic Distribution

Target Area	Percentage of Funds
Arvada City Limits	100

Table 4 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

The City of Arvada is dedicated to the preservation of low/moderate income neighborhoods in Arvada.

Discussion

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

The City intends to use CDBG to fund a subrecipient to provide a Single-Family Home Repairs Program. Assistance will also be leveraged through the use of CDBG for collaboration with non profit and other service providers to assist special needs and low/moderate income households with public services as appropriate. In addition to using CDBG, The City will use non-federal funds for gap financing to support affordable housing development and preservation. The city is also utilizing local financial resources for the Safe And Accessible Arvada Program and the Help For Homes Program in partnership with Brothers Redevelopment.

One Year Goals for the Number of Households to be Supported	
Homeless	0
Non-Homeless	0
Special-Needs	0
Total	0

Table 6 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	0
The Production of New Units	0
Rehab of Existing Units	15
Acquisition of Existing Units	0
Total	15

Table 7 - One Year Goals for Affordable Housing by Support Type

Discussion

The primary program for the provision of affordable housing is the single family rehab program. Single-Family Home Repairs Program.

AP-60 Public Housing – 91.220(h)

Introduction

No public housing within the community

Actions planned during the next year to address the needs to public housing

No public housing within the community

Actions to encourage public housing residents to become more involved in management and participate in homeownership

No public housing within the community

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

NA

Discussion

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

This section discusses the 2023 program year activities that will benefit people who are homeless and populations with special needs.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

In January 2020, the City of Arvada Hired a homeless navigator to conduct homeless outreach and connect people with much needed services. The homeless navigator completes a VI-SPDAT to access the needs and vulnerability of people experiencing homelessness. Data entry in the Homeless Management Information System assists the Navigator with tracking the history of services for each person. By assessing their individual needs, the Navigator has created a By Name list that allows her to prioritize her services to the people who are the most vulnerable in the community. The chronically homeless population is the priority in the City of Arvada at this time and will continue to be throughout 2023.

Addressing the emergency shelter and transitional housing needs of homeless persons

The City of Arvada supports the emergency shelter efforts coordinated by the Severe Weather Shelter Network (SWSN). In years past, the SWSN provides emergency shelter during cold weather nights by offering shelter in local churches. The SWSN will resume the congregate sheltering model in 2023. Individuals with COVID-19 exposure are sheltered in motels during cold weather. The City of Arvada has provided financial assistance to assist with these efforts and will continue to do so throughout 2023. Colorado Homeless Families provides transitional housing to families experiencing homelessness. In addition to providing housing, Colorado Homeless Families provides case management services to assist families with achieving self-sufficiency. Since 1987, the Arvada Housing Authority has supported the work of Colorado Homeless Families by providing housing choice vouchers to eligible families.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

In January 2020, the City of Arvada hired a homeless navigator to conduct homeless outreach and connect people with much needed services. The homeless navigator completes a VI-SPDAT to access the needs and vulnerability of the person experiencing homelessness. Data entry in the Homeless Management Information System assists the Navigator with tracking the history of services for each person. By assessing their individual needs, the Navigator has created a By Name list that allows her to prioritize her services to the people who are the most vulnerable in the community. The chronically homeless population is the priority in the City of Arvada at this time and will continue to be throughout 2023. The Homeless navigator has partnered with the Arvada Housing Authority to connect people who are chronically homeless with permanent housing. In 2022, the Navigator was able to house 39 people from internal and external referrals to permanent housing.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

Through the efforts of the City of Arvada Human Services Advisory Committee, the City of Arvada provides financial support to various non-profit agencies that provide homeless prevention services and other services such as medical, employment and education. The support of these programs will continue in 2023. The Arvada Housing Authority provides permanent housing to extremely low income households throughout the community.

Discussion

AP-75 Barriers to affordable housing – 91.220(j)

Introduction:

The City of Arvada completed a Housing Assessment in 2020 and is working to identify strategies to incentivize affordable housing in Arvada. In 2022, the Arvada City Council approved the creation of an Affordable Housing Advisory Committee composed of Arvada residents that will be tasked with making recommendations to the city council related to affordable housing strategies. The Committee will be seated in May 2023 and will begin its first task of creating an Affordable Housing Strategic Plan for the City. To support this effort, the City applied for and was awarded \$100,000 from the Colorado Department of Local Affairs Planning Grant Program to hire a consultant to lead the strategic planning work.

The City of Arvada updated its Land Development Code.

The City of Arvada City Council Strategic Plan includes strategic goals related to housing. The Strategic Plan was amended in 2022 to include the strategic milestone of developing a homeless navigation center that will serve as a one-stop shop for offering supportive services to households experiencing homelessness or housing instability. The navigation center will also provide overnight sheltering to homeless individuals and permanent supportive housing to people in need of long term housing as well as supportive services. The City is in the process of purchasing a site to be for the future navigation center.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

The City updated its Land Development Code in 2020 to allow for density bonuses and streamlined application processes to encourage developers to build affordable housing in the area.

Discussion:

The City of Arvada Strategic Plan 2020-2025 addresses concerns related to barriers to affordable housing. One strategic result is to implement a tool kit of housing mix and style plans to improve access to quality housing affordable for a broad range of income levels. This includes a strategic milestone of creating a regional strategy to address homelessness and completing an affordable housing assessment including incentive options.

AP-85 Other Actions – 91.220(k)

Introduction:

This section describes a variety of other efforts that the City of Arvada will continue during the program year to address housing and community development needs.

Actions planned to address obstacles to meeting underserved needs

During 2023, CDBG will be the primary program through which underserved needs are addressed, affordable housing is created and families and persons living in poverty are served.

Actions planned to foster and maintain affordable housing

The City is involved in regional housing planning efforts and work to expand awareness and understanding of housing needs among residents and community leaders.

Actions planned to reduce lead-based paint hazards

The Single-Family Home Repairs housing rehabilitation program includes a section designed to address the issue of lead based paint as stated below regarding its compliance with applicable law and regulations:

(b) Lead Hazard and Lead Based Paint Regulations:

The Residential Lead Based Paint Hazard Reduction Act of 1992, or Title X Sections 1012 and 1013 of the Housing and Community Development Act of 1992, related regulations of the Environmental Protection Agency, the Occupational Health and Safety Administration, and Regulation No. 19 of the Colorado Air Quality Control Commission

The actions above are intended to insure the Single-Family Home Repairs Program addresses issues regarding testing for and addressing lead based paint during housing rehabilitation.

The Single-Family Home Repairs Program provides for Notice of Lead Based Paint Inspection and Risk Assessment as part of its process. In addition the costs of lead based paint mitigation are included as eligible costs for the program as stated below.

4.1 Eligible Costs

Eligible costs include expenses to meet the following items. All determinations of eligible costs by the City are final.

(a) Single-Family Home Repairs Minimum Design and Property Rehabilitation Standards (PRS) (Part II), lead hazard and abatement measures, related air quality and energy conservation measures, and measures, related air quality and energy conservation measures, and measures to establish a readily maintainable condition.

Actions planned to reduce the number of poverty-level families

Homelessness is on the rise in Arvada and throughout Colorado. Recent data shows that families experiencing homelessness are increasing in number faster than any other group. In our community, homelessness is increasingly affecting families with children, the underemployed, veterans and the chronically homeless.

The City of Arvada strives to be a community where residents, regardless of age, mobility or income, are comfortable and safe in their homes. To have a greater impact, the City of Arvada is seeking a qualified subrecipient to operate a single-family home rehabilitation program to benefit Arvada residents using CDBG funds to accomplish activities. This program will still offer home repair services for low and moderate-income, elderly, and disabled households for Arvada residents.

Economic Growth- Over the next 5 years it is anticipated the local economy will continue to improve. As rents increase and vacancies remain low, the rental housing market will be tight and less accessible to low and moderate households looking to achieve affordable housing. In the same manner, prices may increase for single family owner occupied housing opportunities making it more difficult for low and moderate income households to achieve homeownership. The dynamic of this barrier to affordable housing cannot be altered by the City but the City will need more extensive funding from the Federal and State levels to structure opportunities to provide additional housing affordable to low and moderate income households.

The City has created a homeless navigation program to address the needs of the people experiencing homelessness in the community. A homeless navigator has been hired to connect people to housing opportunities and to network with other Jefferson County municipalities and Jefferson County for a regional strategy to address homelessness.

Actions planned to develop institutional structure

The City of Arvada completed a Housing Assessment in 2020 and is working to identify strategies to incentivize affordable housing in Arvada. In 2022, the Arvada City Council approved the creation of an Affordable Housing Advisory Committee composed of Arvada residents that will be tasked with making recommendations to the city council related to affordable housing strategies. The Committee will be seated in May 2023 and will begin its first task of creating an Affordable Housing Strategic Plan for the City. To support this effort, the City applied for and was awarded \$100,000 from the Colorado Department of Local Affairs Planning Grant Program to hire a consultant to lead the strategic planning work.

Actions planned to enhance coordination between public and private housing and social service agencies

The City would work with private non profit groups relative to supportive housing to educate such non profits on the role and policy of the City relative to the use of funds for low and moderate income housing. It is anticipated the Arvada Housing Authority will continue to provide partial funding to Beyond Home if Federal financial assistance is made available to aid their operations which would also encourage the acquisition of other resources.

The City will continue to work with non profit private entities such as Habitat for Humanity, Family Tree, Inc., Beyond Home, and others to cooperate on their private proposals to provide supportive or affordable housing as applicable through transitional housing. Any targeted Housing Choice Voucher Program rental assistance coordinated with such proposals will use applicable local preferences. A primary geographic target for such proposals will be for adequate dispersion of such facilities or housing in the community to avoid concentration in the southeast portion of the City. The responsible agencies would be non profit private entities working in concert with local lenders, City of Arvada, and other applicable state jurisdictions or entities. The time required to produce housing will be reliant upon proposals made by non profit private sector groups. The City will try to remove barriers to quality affordable housing by emphasizing that such housing under this goal should be dispersed and not concentrated.

In 2023, the City will provide CDBG funds to a sub-recipient to operate a single-family home rehabilitation program for Arvada residents. In past years, some low-moderate income homeowners have withdrawn from the rehabilitation program because they could not take on bank loans the City has used in the past. To assist low-moderate income homeowners overcome financial barriers to maintaining quality-housing stock, 2023 CDBG funds can cover all eligible costs for rehabilitation projects.

The forthcoming housing strategy will identify other areas for enhanced coordination as well.

Discussion:

Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(l)(1,2,4)

Introduction:

Community Development Block Grant Program (CDBG)

Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	50,000
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	50,000

Other CDBG Requirements

1. The amount of urgent need activities	0
---	---

2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	100.00%
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REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM
10.E.2.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: R22-101, A Resolution Authorizing the Expenditure of City of Arvada Human Services Funding Pool Funds for 2023 to Agencies Providing Emergency Help, Program Assistance, and other Assistance to Arvada Citizens

Report in Brief

The Arvada Human Services Advisory Committee has submitted a recommendation to the Arvada City Council for the expenditure of \$260,000 in budgeted funds (\$185,000 from the City funds and \$75,000 from the Community Development Block Grant) for a variety of programs determined to provide human services to populations in need by qualified non-profit organizations. These human services may be direct services, information and referrals, or the coordination of other services which assist low and moderate income households. The funding will be distributed through the awarding of grants, which are executed by the City Manager and a representative of each of the organizations designated to receive funds.

The Arvada team recommends City Council approve R22-101, A Resolution Authorizing the Expenditure of City of Arvada Human Services Funding Pool Funds for 2023 to Agencies Providing Emergency Help, Program Assistance, and other Assistance to Arvada Citizens.

Financial Impact

This year there were 17 agencies requesting a total of \$304,204. The total amount being made available for distribution is \$260,000: \$185,000 from City funds and \$75,000 from CDBG funds.

Background

An outreach campaign was initiated in August to inform the public and interested agencies about the availability and application process for City funding support for qualified programs or services for low and moderate income households. As in previous years, the Human Services Advisory Committee received the grant requests in September. Board members had approximately three weeks to review the applications individually based on the criteria established for the process. Their individual rankings were submitted electronically to the City team and were combined into a single document. The criteria used in ranking comprises a point system that looks at identified need, budget reasonableness, benefit to Arvada and its citizens, leveraging of other funds, agency experience, duplication of services, collaboration with other agencies, measurable outcomes, alignment with city strategic priorities and program sustainability. The Committee met on September 29, 2022 to review the rankings and related information and came to a consensus on the applicants to recommend funding and the amounts. Every applicant recommended for funding had to be a qualified non-profit entity and propose a program or service that primarily benefited low and moderate income households.

Discussion

Of the 17 applicants, 16 were recommended by the Human Services Advisory Committee for funding. The resolution would authorize the expenditure of Human Services funding as follows for those 16 applicants:

- ☐ \$40,000 to Community Table for emergency food assistance programs
- ☐ \$28,000 to Jeffco Action Center Inc. dba The Action Center for rental assistance/homelessness prevention & family stabilization services

- ☐ \$25,000 to Community Table for client financial assistance program
- ☐ \$20,000 to Ralston House for child advocacy services
- ☐ \$20,000 to Carin' Clinic for Arvada health project for children
- ☐ \$20,000 to Hope House Colorado for GED and college and career program
- ☐ \$20,000 to Beyond Home to provide services to homeless families
- ☐ \$17,000 to Project Angel Heart for home-delivered meals for critically ill, food-insecure Arvadans
- ☐ \$15,000 to Family Tree for homelessness programs
- ☐ \$15,000 to Jefferson Center for Mental Health for mental health and substance abuse services for indigent Arvada residents
- ☐ \$12,000 to Volunteers of America for meals on wheels
- ☐ \$8,000 to CASA of Jefferson and Gilpin Counties for Jeffco's Youth Alliance program
- ☐ \$8,000 to A Precious Child, Inc. for precious essentials and babies 4 babies
- ☐ \$8,000 to CASA of Jefferson and Gilpin Counties for Jeffco's Youth Alliance program
- ☐ \$5,000 to Hands of the Carpenter for Good Neighbor Garage (GNG) program
- ☐ \$5,000 to Audio Information Network of Colorado for bringing print to life in Arvada

Of the 17 applicants, one was not recommended for funding: Angel Eyes

Public Contact

The agencies which applied for funds will be notified of their approved funding amounts regarding the funding recommendations approved by City Council.

Commission Recommendation

The Committee met as a group on September 29, 2022 to discuss their individual evaluations and make funding recommendations. Members of the Human Services Advisory Committee will present their recommendations to City Council at the meeting.

Strategic Alignment

The recommended action facilitates the allocation of resources that will support community and human services programs. Therefore, this action aligns with the Vibrant Community and Neighborhoods Priority Area of the City Council Strategic Plan, specifically the following Principle:

Improves access to quality housing that is affordable to a broad range of income levels and provides resources, housing, and neighborhood assistance services for Arvada residents, neighborhoods, property owners, and stakeholders.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends City Council approve R22-101, A Resolution Authorizing the Expenditure of City of Arvada Human Services Funding Pool Funds for 2023 to Agencies Providing Emergency Help, Program Assistance, and other Assistance to Arvada Citizens.

Suggested Motion:

SUBJECT: R22-101, A Resolution Authorizing the Expenditure of City of Arvada Human Services Funding Pool Funds for 2023 to Agencies Providing Emergency Help, Program Assistance, and other Assistance to Arvada Citizens

PAGE: 3
ITEM: 10.E.2.

I move that R22-101, A Resolution Authorizing the Expenditure of City of Arvada Human Services Funding Pool Funds for 2023 to Agencies Providing Emergency Help, Program Assistance, and other Assistance to Arvada Citizens, be (approved) (rejected).

Prepared by:

Nicholas Ashmore, Community Development Block Grant Coordinator

Reviewed by:

Approved by:

Enessa Janes, Director of Vibrant Community and Neighborhoods	10/10/2022
Ryan Stachelski, Director of Community and Economic Development	10/19/2022
Carrie Espinosa, Manager of Housing Preservation and Resources	10/19/2022
Bryan Archer, Director of Finance	10/20/2022
Gail Walker, Legal Specialist-Contracts	10/20/2022
Emily Grogg, Senior Assistant City Attorney	10/21/2022
Rachel Morris, City Attorney	10/25/2022
Don Wick, Deputy City Manager	10/26/2022
Lorie Gillis, City Manager	10/26/2022

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R22-101

A RESOLUTION AUTHORIZING THE EXPENDITURE OF CITY OF ARVADA HUMAN SERVICES FUNDING POOL FUNDS FOR 2023 TO AGENCIES PROVIDING EMERGENCY HELP, PROGRAM ASSISTANCE, AND OTHER ASSISTANCE TO ARVADA CITIZENS

WHEREAS, Arvada Human Services Advisory Committee has submitted a recommendation to the Arvada City Council for the expenditure of \$260,000 in budgeted funds (\$185,000 from the City funds and \$75,000 from the Community Development Block Grant) for a variety of programs determined to provide human services to populations in need by qualified non-profit organizations; and

WHEREAS, the City Council reviewed the recommendations of the Arvada Human Services Advisory Committee for the allocation of the funding pool monies and approves the recommendations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO, AS FOLLOWS:

Section 1. The City Council for the City of Arvada hereby authorizes the expenditure of Human Services Funding Pool monies as follows:

- \$40,000 to Community Table for its emergency food assistance program;
- \$15,000 to Family Tree for its homelessness programs;
- \$20,000 to Ralston House for child advocacy services;
- \$25,000 to Community Table for its client financial assistance program;
- \$20,000 to Carin' Clinic, Arvada for its health project for children;
- \$12,000 to Volunteers of America for meals on wheels;
- \$5,000 to Hands of the Carpenter for its Good Neighbor Garage (GNG) program;
- \$28,000 to JeffCo Action Center Inc. d/b/a The Action Center for rental assistance, homelessness prevention, and family stabilization services;
- \$17,000 to Project Angel Heart for home-delivered meals for critically ill and food-insecure Arvadans;
- \$15,000 to Jefferson Center for Mental Health for mental health and substance abuse services for indigent Arvada residents;
- \$8,000 to CASA of Jefferson and Gilpin Counties for JeffCo's Youth Alliance program;
- \$20,000 to Hope House Colorado for its GED and college and career program;
- \$8,000 to A Precious Child, Inc. for precious essentials and child and family support and advocacy;

- \$5,000 to Audio Information Network of Colorado for bringing print to life in Arvada;
- \$20,000 to Beyond Home to provide services to homeless families; and
- \$2,000 to Outdoor Lab Foundation tuition assistance program

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 7th day of November, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____



REPORT TO CITY COUNCIL PUBLIC HEARING

AGENDA ITEM
10.F.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: CB22-077, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022 (Ordinance No. 4825)

Report in Brief

The Infrastructure Work System has been updating financial strategies to support Utilities infrastructure and, specifically, Strategic Result 3 (SR3), the Water, Sewer, and Stormwater Master Plans and their implementation. The financial strategies include plans to issue a bond for water infrastructure.

The Water Master Plan identified projects required to add capacity for planned development and to reinvest in existing infrastructure.

The team is requesting that the City Council authorize the issuance of revenue bonds to fund these projects.

The Arvada team recommends that the City Council approve CB22-077, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022.

Financial Impact

If approved by the City Council, the bond issue will increase the Water Enterprise Revenue debt by approximately \$50 million with annual payments of approximately \$2.6 million for 30 years and a total maximum repayment cost of approximately \$80 million. The source of the payments (principal and interest on the bonds) is revenue from water customers along with system development charges.

Background

The City's Infrastructure team continues to prepare for investments in operations and infrastructure as part of our ongoing commitment to continue to provide reliable water, sewer, and stormwater drainage services to our community. Over the past two years, the team has provided information and updates to the Council regarding this, including annual budgets and workshops related to the water, sewer, and stormwater master planning efforts. This work supports the 2020-2025 City Council Strategic Plan that calls for updated master plans for water, sewer and stormwater, as well as an implementation plan and budget recommendations.

During the July 25 workshops, the City team presented financial strategies that would support reinvestment and planned development. We received direction from the Council to continue on the path to implement a plan to adjust rates, bimonthly service fees, and system development charges (formerly referred to as tap fees). The adjustments will provide additional resources to support implementation of the master plans called for in Strategic Result 3, including issuing bonds for water and sewer infrastructure.

The Water Enterprise fund currently has no debt. Issuing debt at this time will provide funds immediately for projects and allow the city to pay over 30 years. Using bond funds to pay for large infrastructure that has a long life (20 to 50+ years) ensures intergenerational equity for our customers. This means that because most bonds have a 20-30 year term, all customers

who benefit from the completed projects, whether they live in the city now or will move here in the near future, will pay for them.

Revenue for bond payments will come from a combination of rates, fees, and system development charges. Rates and fees will pay for the portion of the bond that is related to reinvestment, and system development charges will pay for the portion of the bond that is related to capacity. This ensures the growth pays for itself in Arvada.

Discussion

Strategic Result 3 (SR3) directs the City team to complete Water, Sewer, and Stormwater Master Plans and their implementation. In order to implement the master plan findings, the City team developed financial strategies that include adjustments to rates, bimonthly service fees, system development charges, and issuance of bonds. This funding is critical to support the projects identified in the Master Plans so that our customers will continue to have reliable water service and that the City's infrastructure has the capacity to support planned development.

The 10-year capital plan for water includes major reinvestment in existing water treatment infrastructure, design and construction of a new water treatment plant, major reinvestment in distribution lines, and the completion of the Gross Reservoir Expansion. To fund the initial phase of this work for the years 2023-2025, the City team is recommending a \$50 million bond issue in 2022. Using bonds is a best management practice for funding major infrastructure and will support Strategic Result 3.

The Water Enterprise fund currently has no debt. In order to support bond payments, adjustments to rates, fees, and system development charges will be required to raise additional revenue. These adjustments are proposed under separate ordinances to revise City Code. Rates and fees will pay for the portion of costs associated with reinvestment, and system development charges will pay the portion related to added capacity for planned development. This approach ensures that growth pays for itself, and at the same time existing customers pay for reinvestment in aging infrastructure.

Approving this ordinance will support the Utilities financial strategies discussed at the July 25 workshop. The strategies support implementation of the Water Master Plan as directed by Strategic Result 3. This action will also support reliable, safe drinking water for the community for decades to come.

Public Contact

Posting of the City Council agenda

Commission Recommendation

N/A

Strategic Alignment

The recommendation to issue revenue bonds aligns with the following Strategic Result within the Infrastructure Priority Area of the City Council Strategic Plan:

By 12/2023 update water, sewer, stormwater master plans and develop an implementation plan to address all findings.

In addition, issuing revenue bonds aligns with the following Principle stated within the Infrastructure Priority Area:

Provides the community with a safe, reliable, high-quality water supply, drainage system, and wastewater disposal services for full city build-out, as defined by the Comprehensive Plan. This includes maintaining utility rates at the lowest practical levels with accurate billing that supports replacement of aging infrastructure in order to maintain robust utility systems.

Alternative Courses of Action

Approve CB22-077, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022.

Recommendation for Action

The Arvada team recommends that the City Council approve CB22-077, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022.

Suggested Motion:

I move that CB22-077, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022, be (approved on final reading, numbered 4825 and ordered published in full) (rejected).

Prepared by:
Bryan Archer, Director of Finance

Reviewed by:

Approved by:

Jenna Belec, Executive Assistant	10/18/2022
Bryan Archer, Director of Finance	10/18/2022
Gail Walker, Legal Specialist-Contracts	10/19/2022
Rachel Morris, City Attorney	10/24/2022
Linda Haley, Deputy City Manager	10/24/2022
Lorie Gillis, City Manager	10/25/2022

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 22-077
ORDINANCE NO. 4825

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF ARVADA,
COLORADO, WATER ENTERPRISE REVENUE BONDS, SERIES 2022

WHEREAS, the City of Arvada (the “City”) is a municipal corporation and political subdivision of the State of Colorado (the “State”) duly organized and existing under the City’s home rule charter (the “Charter”) adopted pursuant to Article XX of the Constitution of the State; and

WHEREAS, the members of the City Council of the City (the “Council”) have been duly elected or appointed and qualified; and

WHEREAS, the City now owns and operates a municipal water system (the “Water System”); and

WHEREAS, the Council has determined and hereby determines that the Water System constitutes an enterprise pursuant to Article X, Section 20 of the Colorado Constitution (“TABOR”) and Title 37, Article 45.1, C.R.S. (the “Enterprise Act”); and

WHEREAS, the City is authorized by Section 11.5 of the Charter to issue bonds for the purpose of purchasing, constructing, condemning, otherwise acquiring, extending, or improving a water system provided that the bonds shall be made payable solely out of the net revenues derived from the operations of such system; and

WHEREAS, the Council proposes to extend, better, otherwise improve and equip the Water System (as more fully described herein, the “Project”); and

WHEREAS, the City is authorized by Section 11.5 of the Charter, and the Enterprise Act, to issue revenue bonds authorized by action of the Council; and

WHEREAS, the City intends to issue its “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022” (the “Bonds”) to defray in part the costs of the Project; and

WHEREAS, the City is authorized by TABOR, the Enterprise Act and Section 11.5 of the Charter to issue the Bonds without an election; and

WHEREAS, the City has not previously pledged nor hypothecated the revenues derived or to be derived from the operation of the Water System, or any part thereof, to the payment of any outstanding bonds or other financial obligations or for any other purpose; and

WHEREAS, the City intends to conduct a public sale of the Bonds where the Bonds will be sold to the highest and best bidders for cash and to the best advantage of the City for the purpose of defraying in whole or in part the costs of the Project in accordance with Section 11.8 of the Charter; and

WHEREAS, pursuant to Section 11-57-205, C.R.S., the City desires to delegate to the City Manager or the Director of Finance the independent power to accept a binding bid for the Bonds and to make final determinations relating to the Bonds, subject to the parameters contained in Section 213 of this Ordinance; and

WHEREAS, there are on file with the City Clerk the forms of the following documents: (i) the Notice of Sale; (ii) the Paying Agent Agreement; (iii) the Preliminary Official Statement; and (iv) the Continuing Disclosure Certificate; and

WHEREAS, it is necessary to provide for the form of the Bonds, Bond details, the payment of the Bonds, and other provisions relating to the authorization, issuance, and sale of the Bonds.

BE IT ORDAINED BY THE CITY OF ARVADA, COLORADO:

DEFINITIONS, INTERPRETATION,
RATIFICATION AND EFFECTIVE DATE

Section I01. Meanings and Construction.

A. Definitions. The terms in this Section for all purposes of this Ordinance and of any ordinance amendatory hereof or supplemental hereto, or relating hereto, and of any other ordinance or any other document pertaining hereto, except where the context by clear implication otherwise requires, shall have the meanings herein specified:

“acquire” or “acquisition” means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the Federal Government, the State, any body corporate and politic therein, or any other Person, the endowment, bequest, devise, transfer, assignment, option to purchase, other contract, or other acquisition, or any combination thereof, of any properties pertaining to the Water System, or an interest therein, or any other properties herein designated.

“Bond Counsel” means an attorney or a firm of attorneys, designated by the City of nationally recognized standing in matters pertaining to the tax status of interest on bonds issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“Bond Fund” means the special fund designated as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022, Bond Fund” created pursuant to Section 505 hereof.

“Bond Requirements” means the principal of, any prior redemption premiums due in connection with, and the interest on the Bonds, any Parity Bonds, or other securities payable from the Net Pledged Revenues and heretofore or hereafter issued, if any, or such part of such securities as may be designated.

“Bonds” means City’s Water Enterprise Revenue Bonds, Series 2022, issued pursuant to this Ordinance.

“book-entry form” or “book-entry system” means, with respect to the Bonds, a form or system, as applicable, under which physical Bond certificates in fully registered form are registered only in the name of The Depository Trust Company or its nominee as Owner, with the physical Bond certificates “immobilized” in the custody of The Depository Trust Company. The book-entry system maintained by and the responsibility of The Depository Trust Company and not maintained by or the responsibility of the City or the Paying Agent is the record that

identifies, and records the transfer of the interests of, the owners of book-entry interests in the Bonds.

“Business Day” means a day of the year, other than a Saturday or Sunday, other than a day on which commercial banks located in the city in which the principal corporate trust office of the Paying Agent is located are required or authorized to remain closed and other than a day on which the New York Stock Exchange is closed.

“Capital Improvements” means the acquisition of land, water or water rights, easements, facilities, and equipment (other than ordinary repairs and replacements), and those property improvements or any combination of property improvements which will constitute enlargements, extensions or betterments to the Water System and will be incorporated into the Water System.

“City” means the City of Arvada, Adams and Jefferson Counties, Colorado, a municipal corporation and political subdivision of the State.

“City Clerk” means the City Clerk of the City, or his or her successor in functions, if any.

“City Manager” means the City Manager of the City, or his or her successor in functions, if any.

“Charter” means the home rule charter of the City, including all amendments thereto prior to the date hereof.

“Closing Date” means the date of delivery of and payment for the Bonds.

“Combined Maximum Annual Principal and Interest Requirements” means the largest sum of the principal of and interest on the Bonds, any Outstanding Parity Bonds and any additional Parity Bonds proposed to be issued, excluding any securities the principal of which is payable within less than one year from the date on which issued, to be paid during any one Fiscal Year for the period beginning with the Fiscal Year in which such computation is made and ending with the Fiscal Year in which any Bond or other such security last becomes due at maturity or on a Redemption Date, whichever time is later (but excluding any reserve requirement to secure such payments unless otherwise expressly provided), subject in all respects to the following, as applicable:

(1) The word “principal,” as used in this definition, means the principal which must be paid to security Owners, whether on stated maturity dates or on mandatory Redemption Dates, or otherwise.

(2) Any computation made under this definition shall be adjusted for all purposes in the same manner as is provided in Section 703 hereof.

“Commercial Bank” means a state or national bank or trust company which is a member of the Federal Deposit Insurance Corporation (or any successors thereto) and of the Federal Reserve System, which has a capital and surplus of \$10,000,000 or more, and which is located within the United States of America.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate for the Bonds executed by the City.

“Costs of the Project” means all costs, as designated by the City, of the Project, or any interest therein, which cost, at the option of the City (except as may be otherwise limited by law) may include all, any one or other portion of the incidental costs pertaining to the Project, including, without limitation:

(i) All preliminary expenses or other costs advanced by the City or advanced by the Federal Government, the State or by any other Person from any source, with the approval of the Council, or any combination thereof, or otherwise;

(ii) The costs of making surveys and tests, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;

(iii) The costs of contingencies;

(iv) The costs of premiums on any builders’ risk insurance and performance bonds during the construction, installation and other acquisition of the Project, or a reasonably allocated share thereof;

(v) The costs of appraising, printing, estimates, advice, inspection, other services of engineers, architects, accountants, financial consultants, attorneys at law, clerical help and other agents and employees;

(vi) The costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the Project and the issuance of the Bonds;

(vii) All costs and expenses of issuing the Bonds including, without limitation, fees of the Paying Agent, Bond Counsel, counsel to the Purchaser, counsel to the City, financial advisor, rating agencies and printers to the extent not defrayed as an Operation and Maintenance Expense;

(viii) The costs of the filing or recording of instruments and the cost of any title insurance premiums;

(ix) The costs of funding any construction loans and other temporary loans pertaining to the Project and of the incidental expenses incurred in connection with such loans;

(x) The costs of demolishing, removing, or relocating any buildings, structures, or other facilities on land acquired for the Project, and of acquiring lands to which such buildings, structures or other facilities may be moved or relocated;

(xi) The costs of machinery and equipment;

(xii) The costs of any properties, rights, easements or other interests in properties, or any licenses, privileges, agreements and franchises;

(xiii) The payment of the premium for the Insurance Policy issued by the Insurer and Reserve Fund Insurance Policy issued by the Surety Provider;

(xiv) The costs of labor, material and obligations incurred to contractors, builders and materialmen in connection with the acquisition and construction of the Project;

(xv) The costs of amending any ordinance or other instrument pertaining to the Bonds or otherwise to the Water System; and

(xvi) All other expenses pertaining to the Project.

“Council” means the City Council of the City.

“C.R.S.” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“Director of Finance” means the Director of Finance of the City, or his or her successor in functions, if any.

“Enterprise Act” means Title 37, Article 45.1, C.R.S., as amended.

“Events of Default” means the events stated in Section 903 hereof.

“Federal Government” means the United States of America and any agency, instrumentality or corporation thereof.

“Federal Securities” means bills, certificates of indebtedness, notes, or bonds which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America.

“Fitch” means Fitch, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns.

“Fiscal Year” means the calendar year or any other 12-month period hereafter selected by the City as its fiscal year.

“Gross Pledged Revenues” means all income from rates, fees, tolls and charges and tap fees, or any combination thereof, but not special assessments, for the services furnished by, or the direct or indirect connection with, or the use of, or any commodity from the Water System, including without limiting the generality of the foregoing, minimum charges, charges for the availability of service, disconnection fees, reconnection fees and reasonable penalties for any delinquencies, and all income or other realized gain, if any, from any investment of Gross Pledged Revenues and of the proceeds of securities payable from Net Pledged Revenues (except income or other gain from any investment of moneys held in an escrow fund or account for the defeasance of securities payable from the Net Pledged Revenues or any other similar fund) to the extent not required to be rebated to the federal government; provided however, that there shall be excluded from Gross Pledged Revenue: ad valorem property taxes; any moneys borrowed and used for providing Capital Improvements; any money and securities, and investment income therefrom, in any refunding fund, escrow account, or similar account, pledged to the payment of any bonds or other obligations; and any moneys received as grants or appropriations from the United States, the State of Colorado or other sources, the use of which is limited or restricted by the grantor or donor to the provision of Capital Improvements or for other purposes resulting in the general unavailability thereof, except to the extent any such moneys shall be received as payments for the use of the Water System, services rendered thereby, the availability of any such service, or the disposal of any commodities therefrom. Gross Pledged Revenues shall also include amounts on deposit in a rate stabilization fund. Gross Pledged Revenues excludes any refund of rates, tolls and charges due to others.

“improve” or “improvement” means the extension, reconstruction, alteration, betterment or other improvement by the construction, purchase or other acquisition of facilities, including, without limitation, appurtenant machinery, apparatus, fixtures, structures and buildings.

“Independent Accountant” means any certified public accountant, or any firm of certified public accountants, duly licensed to practice and practicing as such under the laws of the State:

- (i) Who is, in fact, independent and not under the control of the City;
- (ii) Who does not have any substantial interest, direct or indirect, with the

City, and

(iii) Who is not connected with the City as an officer or employee thereof, but who may be regularly retained to make annual or similar audits of any books or records of the City.

“Independent Engineer” means an individual, firm or corporation engaged in the engineering profession of recognized good standing and having specific experience in respect of business and properties of a character similar to those of the Water System, which individual, firm or corporation has no substantial interest, direct or indirect, in the City and in the case of an individual, is not a member of the Council, or an officer or employee of the City, and in the case of a firm or corporation, does not have a partner, director, officer or employee who is a member of the Council or an officer or employee of the City.

“Insurance Agreement” means an agreement entered into between the City and any Insurer pursuant to Section 213 of this Ordinance.

“Insurance Policy” means the municipal bond new issue insurance policy, if any, issued by the Insurer that guarantees payment of principal of and interest on the Bonds when due.

“Insurer” means the issuer of the Insurance Policy, if any, as set forth in the Sale Certificate.

“Investment Securities” means any securities or other obligations permitted as investments of moneys of the City under the laws of the State.

“Letter of Representations” means the Blanket Issuer Letter of Representations from the City to The Depository Trust Company in connection with the issuance of the Bonds in a book-entry system, as supplemented and amended from time to time.

“Mayor” means the Mayor of the City or his or her successor in functions, if any.

“Moody’s” means Moody’s Investor Services, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns.

“Net Pledged Revenues” means the Gross Pledged Revenues remaining after the payment of the Operation and Maintenance Expenses of the Water System.

“Official Statement” means the Official Statement delivered in connection with the original issuance and sale of the Bonds.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the Water System

as may be determined by the City, including, except as limited by contract or otherwise limited by law, without limiting the generality of the foregoing:

(a) Engineering, auditing, legal and other overhead expenses directly related and reasonably allocable to the administration, operation and maintenance of the Water System;

(b) Insurance, surety bond and interest rate cap agreement premiums appertaining to the Water System;

(c) The reasonable charges of any paying agent, registrar, transfer agent, depository or escrow bank appertaining to any securities payable from the Net Pledged Revenues;

(d) Annual payments to pension, retirement, health and hospitalization funds appertaining to the Water System;

(e) Any taxes, assessments, franchise fees or other charges or payments in lieu of the foregoing;

(f) Ordinary and current rentals or equipment or other property;

(g) Contractual services, professional services, salaries, administrative expenses and costs of labor appertaining to the Water System, the cost of water purchased for delivery through the Water System and the cost of materials and supplies used for current operation or routine maintenance or repair of the Water System;

(h) The costs incurred in the billing and collection of all or any part of the Gross Pledged Revenues;

(i) Any costs of utility services furnished to the Water System by the City or otherwise;

(j) Any other such expenses considered by the City in determining the amount of water rates, fees, tolls and charges imposed for operation and maintenance; and

(k) Expenses in connection with the issuance of bonds or other securities evidencing any loan to the City and payable from Gross Pledged Revenues.

“Operating Expenses” do not include:

(a) Any allowance for depreciation;

(b) Any costs of improvement, extension or betterment that qualify as capital items in accordance with generally accepted accounting principles;

(c) Any accumulation of reserves for capital replacements;

- (d) Any reserves for operation, maintenance or repair of the Water System;
- (e) Any allowance for the redemption of any bonds or other securities payable from the Net Pledged Revenues or the payment of any interest thereon;
- (f) Any liabilities incurred in the acquisition of any facilities constituting part of the Water System; and
- (g) Any other ground of legal liability not based on contract.

“Ordinance” means this ordinance of the City, which provides for the issuance and delivery of the Bonds.

“Outstanding” when used with reference to the Bonds, the Parity Bonds, or any other designated securities and as of any particular date means all the Bonds, the Parity Bonds, or any such other securities payable from the Net Pledged Revenues or otherwise pertaining to the Water System, as the case may be, in any manner theretofore and thereupon being executed and delivered:

- (i) Except any Bond, Parity Bond, or other security canceled by the City, by any paying agent, or otherwise on the City’s behalf, at or before such date;

- (ii) Except any Bond, Parity Bond, or other security deemed to be paid as provided in Section 1201 hereof or any similar provision of the ordinance authorizing the issuance of such other security; and

- (iii) Except any Bond, Parity Bond, or other security in lieu of or in substitution for which another Bond, Parity Bond or other security shall have been executed and delivered pursuant to Sections 305, 306 or 1008 hereof or any similar provisions of the ordinance authorizing the issuance of such other security.

“Owner” means the registered owner of any designated Bond, Parity Bond, or other designated security.

“Parity Bonds” means any securities hereafter issued payable from and having an irrevocable lien upon the Net Pledged Revenues on a parity with the Bonds.

“Parity Bond Ordinances” means any ordinances or agreements hereafter entered into by the City with respect to or authorizing the issuance of Parity Bonds.

“Paying Agent” means UMB Bank, n.a., in Denver, Colorado, being an agent of the City for the payment of the Bond Requirements due in connection with the Bonds, the registrar for the

Bonds and for other administration of moneys pertaining to the Bonds and includes any successor Commercial Bank as paying agent.

“Paying Agent Agreement” means the Paying Agent Agreement between the City and the Paying Agent.

“Person” means a corporation, firm, other body corporate (including, without limitation, the Federal Government, the State, or any other body corporate and politic other than the City), partnership, limited liability company, association or individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

“Policy Costs” means repayment of draws under the Reserve Fund Insurance Policy, if any, plus all related reasonable expenses incurred by the Surety Provider, plus accrued interest thereon.

“Preliminary Official Statement” means the Preliminary Official Statement delivered in connection with the original issuance and sale of the Bonds.

“Project” means the acquisition, construction and installation of Capital Improvements to the Water System, the cost of which is to be defrayed with a portion of the proceeds of the Bonds.

“Project Fund” means the special fund designated as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022, Project Fund” created pursuant to Section 401 hereof.

“Purchaser” means the original purchaser of the Bonds as specified in the Sale Certificate.

“Rating Agency” means each nationally recognized securities rating agency then maintaining a rating on the Bonds.

“Rebate Fund” means the special fund designated as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022, Rebate Fund” created pursuant to Section 509 hereof.

“Record Date” means the close of business on the fifteenth day (whether or not a Business Day) of the calendar month next preceding an interest payment date.

“Redemption Date” means the date fixed for the redemption prior to their respective maturities of any Bonds or other designated securities payable from Net Pledged Revenues in any notice of prior redemption or otherwise fixed and designated by the City.

“Reserve Fund” means the special fund designated as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022, Reserve Fund” created pursuant to Section 506 hereof.

“Reserve Fund Insurance Policy” means any insurance policy, surety bond, irrevocable letter of credit or similar instrument deposited in or credited to the Reserve Fund in lieu of or in partial substitution for moneys on deposit therein.

“Reserve Fund Requirement” if any, has the meaning ascribed to such term in the Sale Certificate.

“Sale Certificate” means the sale certificate of the City relating to the Bonds issued pursuant to the Supplemental Public Securities Act and described in Section 213 hereof.

“Special Record Date” means the record date for determining ownership of the Bonds for purposes of paying accrued but unpaid interest, as such date may be determined pursuant to this Ordinance.

“Standard & Poor’s” means S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC, its successors and its assigns.

“State” means the State of Colorado.

“Subordinate Securities” means securities or other obligations payable from the Net Pledged Revenues subordinate and junior to the lien thereon of the Bonds and any Parity Bonds.

“Supplemental Public Securities Act” means Part 2 of Article 57 of Title 11, C.R.S., as amended.

“Surety Provider” means the Insurer or any other entity issuing a Reserve Fund Insurance Policy with respect to the Bonds.

“Tax Code” means the Internal Revenue Code of 1986, as amended to the date of delivery of the Bonds, and the regulations promulgated thereunder.

“Tax Compliance Certificate” means one or more federal tax compliance certificates executed by the City in connection with the initial issuance and delivery of the Bonds.

“Term Bonds” means Bonds that are payable on or before their specified maturing dates from sinking fund payments established for that purpose and calculated to retire such Bonds on or before their specified maturity dates.

“Trust Bank” means a Commercial Bank which is authorized to exercise and is exercising trust powers located within or without the State, and also means any branch of the Federal Reserve Bank.

“Water Enterprise Fund” means the special fund maintained by the City and designated as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Water Enterprise Fund.”

“Water System” means the City’s system for the collection, treatment and discharge of water and consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City, whether situated within or without the City boundaries, used in connection with such system of the City, and in any way appertaining thereto, including all present or future improvements, extensions, enlargements, betterments, replacements or additions thereof or thereto and administrative facilities

Parties Interested Herein. Nothing herein expressed or implied confers any right, remedy or claim upon any Person, other than the City, the Council, the Paying Agent, the Insurer, the Surety Provider, the Owners of the Bonds and the Owners of any Parity Bonds or other securities payable from the Net Pledged Revenues when reference is expressly made thereto. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Council, the Paying Agent, the Insurer, the Surety Provider, the Owners of the Bonds and the Owners of any such other securities in the event of such a reference.

Ratification; Approval of Documents. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Council, the officers, employees and agents of the City and otherwise taken by the City directed toward the Project and the sale and delivery of the Bonds for such purposes, be, and the same hereby is, ratified, approved and confirmed.

Repealer. All bylaws, orders, resolutions and ordinances or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any such bylaw, order, resolution or ordinance, or part thereof, heretofore repealed. All rules of the Council, if any, which might prevent the final passage and adoption of this Ordinance are hereby suspended.

Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance for any reason is invalid or unenforceable, the invalidity or unenforceability of such

section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

Ordinance Irrepealable. After any of the Bonds are issued, this Ordinance shall constitute an irrevocable contract between the City and the Owner or Owners of the Bonds and this Ordinance shall be and shall remain irrepealable until the Bonds, as to all Bond Requirements, shall be fully paid, canceled, and discharged, except as herein otherwise provided.

Conclusive Recitals. Pursuant to Section 11-57-210 of the Supplemental Public Securities Act, the Bonds shall contain a recital that they are issued pursuant to the Supplemental Public Securities Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value.

Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Public Securities Act, no legal or equitable action brought with respect to any legislative acts or proceedings of the City in connection with the authorization or issuance of the Bonds, including but not limited to the adoption of this Ordinance, shall be commenced more than thirty days after the authorization of the Bonds.

ARTICLE II

DETERMINATION OF THE CITY'S AUTHORITY AND OBLIGATIONS;

APPROVAL OF RELATED DOCUMENTS; AND ELECTION TO

APPLY SUPPLEMENTAL PUBLIC SECURITIES ACT TO THE BONDS

Authorization. The Bonds are issued in accordance with the Constitution and laws of the State, the Charter and the provisions of this Ordinance, specifically the Supplemental Public Securities Act; Title 37, Article 45.1, C.R.S., and all other laws of the State thereunto enabling. For the purpose of defraying the Costs of the Project, the City hereby authorizes the Bonds to be issued in the aggregate principal amount provided in the Sale Certificate as approved by the Mayor, the City Manager or the Director of Finance, subject to the parameters and restrictions contained in this Ordinance.

Bonds Equally Secured. The covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the Owners of any and all of the Outstanding Bonds and any Outstanding Parity Bonds heretofore or hereafter authorized and issued, all of which, regardless of the time or times of their issue or maturity,

shall be of equal rank without preference, priority or distinction of any of such securities over any other thereof, except as otherwise expressly provided in or pursuant to this Ordinance.

Special Obligations. All of the Bond Requirements of the Bonds and the Policy Costs shall be payable and collectible solely out of the Net Pledged Revenues which revenues are so pledged; the Owner or Owners of the Bonds, the Insurer, and the Surety Provider may not look to any general or other fund for the payment of the Bond Requirements or the Policy Costs, except the herein designated special funds pledged therefor; the Bonds and the Policy Costs shall not constitute an indebtedness or a debt within the meaning of any constitutional, or statutory provision or limitation; and the Bonds and the Policy Costs shall not be considered or held to be general obligations of the City but shall constitute its special obligations. No statutory, Charter, or constitutional provision enacted after the issuance of the Bonds shall in any manner be construed as limiting or impairing the obligation of the City to comply with the provisions of this Ordinance or to pay the Bond Requirements of the Bonds and the Policy Costs as herein provided.

Character of Agreement. None of the covenants, agreements, representations and warranties contained herein or in the Bonds shall ever impose or shall be construed as imposing any liability, obligation or charge against the City (except the special funds pledged therefor), or against its general credit, or as payable out of its general fund or out of any funds derived from taxation or out of any other revenue source (other than those pledged therefor).

No Pledge of Property. The payment of the Bonds and the Policy Costs is not secured by an encumbrance, mortgage or other pledge of property of the City, except for the Net Pledged Revenues and other moneys pledged for the payment of the Bond Requirements of the Bonds. No property of the City, subject to such exception, shall be liable to be forfeited or taken in payment of the Bonds or the Policy Costs.

No Recourse Against Officers and Agents. No recourse shall be had for the payment of the Bond Requirements of the Bonds or the Policy Costs or for any claim based thereon or otherwise upon this Ordinance or any other ordinance pertaining hereto, against any individual member of the Council or any officer, employee or other agent of the City, past, present or future, either directly or indirectly through the Council, or the City, or otherwise, whether by virtue of any penalty or otherwise, all such liability, if any, being by the acceptance of the Bonds and as part of the consideration of their issuance specially waived and released.

Authorization of the Project. The Council, on behalf of the City, does hereby determine to undertake the Project, which is hereby authorized, and the proceeds of the Bonds shall be used therefor.

Enterprise Status. The Council, on behalf of the City, hereby confirms its determination that the Water System is an “enterprise” for the purposes of Article X, Section 20 of the State Constitution and the Enterprise Act.

Sale of Bonds. The Bonds shall be sold by competitive sale to the Purchaser. Pursuant to the Supplemental Public Securities Act, the Council hereby delegates to the Mayor, the City Manager or the Director of Finance the authority to accept a binding bid for the Bonds, to execute the proposal for the purchase of the Bonds submitted by the Purchaser and to execute the Sale Certificate confirming the bond details.

Official Statement. The preparation and use of the Preliminary Official Statement and of the final Official Statement are hereby authorized. The Mayor, the City Manager, or the Director of Finance is hereby authorized to approve, on behalf of the City, the Official Statement, in substantially the form of the Preliminary Official Statement with such changes as are hereafter approved by the Mayor, the City Manager or the Director of Finance. The execution of the Official Statement by the Mayor, the City Manager, or the Director of Finance shall be conclusively deemed to evidence the approval of the form and contents thereof by the City.

Paying Agent. The Council hereby determines to approve the Paying Agent Agreement in substantially the form as is on file with the City Clerk. The Paying Agent may resign at any time on 30 days’ prior written notice to the City. The City may remove the Paying Agent upon 30 days’ prior written notice to the Paying Agent. If the Paying Agent appointed thereunder shall resign, or if the City shall determine to remove the Paying Agent, then the City may appoint a successor Paying Agent, upon notice mailed to each Owner of any Bond at such Person’s address last shown on the registration records maintained by the Paying Agent or by electronic means to DTC or its successors. No resignation or dismissal of the Paying Agent may take effect until a successor has been appointed and has accepted the duties of the Paying Agent. Every such successor Paying Agent shall be a Commercial Bank.

Other Related Documents. The forms, terms and provisions of, and the performance by the City of its obligations under the Notice of Sale, the Preliminary Official Statement, the Paying Agent Agreement, and the Continuing Disclosure Certificate are hereby approved, and

the Mayor or Mayor pro tem and the City Clerk or Deputy City Clerk are hereby authorized and directed to execute each of such documents on behalf of and in the name of the City, and to deliver each of such documents, in substantially the form on file with the City Clerk, with such changes as are not inconsistent herewith. The Mayor, the City Manager or the Director of Finance are hereby independently authorized to execute and deliver the Notice of Sale, the Sale Certificate and any Insurance Agreement as may be required by an Insurer relating to the issuance of the Insurance Policy or a Surety Provider relating to the Reserve Fund Insurance Policy. The execution of any instrument by the appropriate officers of the City herein authorized shall be conclusive evidence of the approval by the City of such instrument in accordance with the terms hereof.

Election to Apply Supplemental Public Securities Act to the Bonds. Pursuant to Section 11-57-204 of the Supplemental Public Securities Act, a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Public Securities Act. The Council hereby elects to apply all of the provisions of the Supplemental Public Securities Act to the Bonds. Pursuant to Section 11-57-205 of the Supplemental Public Securities Act, the Council hereby delegates to any of the Mayor, the City Manager or the Director of Finance the authority to make the following determinations with respect to the Bonds, subject to the parameters and restrictions contained in this Ordinance, without any requirement that the Council approve such determinations:

(i) **Interest Rate.** The rate of interest to be borne by the Bonds, provided that no Bond shall bear interest in excess of 6.00%.

(ii) **Redemption Provisions.** The prior redemption provisions of the Bonds, provided that the Bonds shall be subject to optional redemption at a redemption price not to exceed 103%.

(iii) **Purchase Price.** The price at which the Bonds will be sold to the purchaser, provided that the purchase price of the Bonds shall not be less than 98% of the aggregate principal amount of the Bonds.

(iv) **Principal Amount.** The aggregate principal amount of the Bonds, provided that the aggregate principal amount of the Bonds shall not exceed \$52,000,000.

(v) **Maturity Schedule.** The amount of principal of the Bonds maturing, or subject to mandatory sinking fund redemption in any particular year; provided that the maximum

annual repayment cost shall not exceed \$3,750,000 and the maximum total repayment cost shall not exceed \$104,000,000.

(vi) Term of the Bonds. The Bonds shall not mature later than December 1, 2053.

(vii) Capitalized Interest. The existence and amount of any capitalized interest on the Bonds.

(viii) Reserve Fund. The existence of, and amount to be deposited in the Reserve Fund.

(ix) Bond Insurance. Whether the Bonds will be secured by an Insurance Policy or a Reserve Fund Insurance Policy and the terms of any agreement with the provider of such Insurance Policy or Reserve Fund Insurance Policy.

Such determinations shall be evidenced by the Sale Certificate signed by the Mayor, the City Manager or the Director of Finance dated the date of the sale of the Bonds or the Closing Date, and delivered as of the Closing Date, which shall not be more than one year from the date of adoption of this Ordinance. If the City shall determine to not obtain an Insurance Policy to secure the payment of principal of and interest on the Bonds, or not to obtain a Reserve Fund Insurance Policy, any references to the Insurer, the Insurance Policy, the Reserve Fund Insurance Policy, the Surety Provider, Policy Costs, the Insurance Agreement, or other provisions relating to bond insurance shall be of no force or effect.

Useful Life of the Project. The Council estimates the useful life of the Project to be financed by the Bonds to be 40 years.

ARTICLE III
AUTHORIZATION, TERMS, EXECUTION AND
ISSUANCE OF BONDS

Section III01. Bond Details.

A. Basic Provisions. The Bonds shall be issued in fully registered form (*i.e.* registered as to payment of both principal and interest), in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be lettered “R” and shall be numbered separately from 1 upward. The Bonds shall be dated as of the date of their delivery. The Bonds shall mature on December 1, in the years and amounts and subject to prior redemption as set forth herein and in the Sale Certificate. The Bonds shall bear interest from the most recent interest payment date to which interest has been paid, or if no interest has been paid, from their date until their respective maturities (or prior redemption) at the rates set forth in the Sale Certificate. No interest shall accrue on any Bonds owned by or on behalf of the City. Interest on the Bonds shall be calculated on the basis of a 360-day year of twelve 30-day months, payable semiannually on each June 1 and December 1, commencing on the date provided in the Sale Certificate.

B. Payment of Bonds. The principal of each Bond shall be payable at the principal corporate trust office of the Paying Agent, or at such other office as the Paying Agent directs in writing to the Owners of the Bonds, or at the principal office of its successor, upon presentation and surrender of the Bond. Payment of interest on any Bond shall be made to the Owner thereof by the Paying Agent on or before each interest payment date, (or, if such interest payment date is not a Business Day, on or before the next succeeding Business Day), to such Owner at such Person’s address as it appears on the registration records kept by the Paying Agent on the Record Date; but any such interest not so timely paid or duly provided for shall cease to be payable to the Person who is the Owner thereof at the close of business on the Record Date and shall be payable to the Person who is the Owner thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Such Special Record Date and the date fixed for payment of such defaulted interest shall be fixed by the Paying Agent whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the Owners not less than ten days prior to the Special Record Date by first-class mail to each such Owner as shown on the Paying Agent’s registration books on a date selected by the Paying Agent, stating the date of the Special Record Date and the date fixed for the payment of

such defaulted interest. The Paying Agent may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the Owner of such Bond and the Paying Agent. If any Bond is not paid upon its presentation and surrender at or after its maturity or prior redemption, interest shall continue at its stated rate per annum until the principal thereof is paid in full. All such payments shall be made in lawful money of the United States of America.

Execution of Bonds. The Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor, shall be sealed with the corporate seal of the City or a facsimile thereof thereunto affixed, imprinted, engraved or otherwise reproduced and shall be attested by the manual or facsimile signature of the City Clerk. Any Bond may be signed (manually or by facsimile), sealed or attested on behalf of the City by any person who, at the date of such act, shall hold the proper office, notwithstanding that at the date of authentication, issuance or delivery, such person may have ceased to hold such office. The Mayor and the City Clerk may adopt as and for his or her own facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears on any of the Bonds. Before the execution of any Bond, the Mayor and the City Clerk shall each file with the Colorado Secretary of State his or her manual signature certified by him or her under oath.

Authentication Certificate. The authentication certificate upon the Bonds shall be substantially in the form and tenor provided in the form of the Bonds set forth in Section 309 hereof. No Bond shall be secured hereby or entitled to the benefit hereof, nor shall any Bond be valid or obligatory for any purpose, unless the certificate of authentication, substantially in such form, has been duly executed by the Paying Agent and such certificate of the Paying Agent upon any Bond shall be conclusive evidence that such Bond has been authenticated and delivered hereunder. The certificate of authentication shall be deemed to have been duly executed by the Paying Agent if manually signed by an authorized officer or employee of the Paying Agent, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds.

Registration and Payment. The Paying Agent shall keep or cause to be kept sufficient records for the registration and transfer of the Bonds, which shall at all times be open to inspection by the City. Upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said records, Bonds as herein provided. Except as provided in Section 306 and

Section 1101 hereof, the Person in whose name any Bond shall be registered on the registration records kept by the Paying Agent shall be deemed and regarded as the absolute owner thereof for the purpose of making payment of the Bond Requirements thereof and for all other purposes; and payment of or on account of the Bond Requirements of any Bond shall be made only to the Owner thereof or such Person's legal representative, but such registration may be changed upon transfer of such Bond in the manner and subject to the conditions and limitations provided herein. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid. The foregoing provisions of this Section are subject to the provisions of Section 307 hereof.

Transfer and Exchange. Any Bond may be transferred upon the records required to be kept pursuant to the provisions of Section 304 hereof by the Person in whose name it is registered, in person or by such Person's duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed. Whenever any Bond or Bonds shall be surrendered for transfer, the Paying Agent shall authenticate and deliver a new Bond or Bonds for a like aggregate principal amount and of the same maturity and interest rate and of any authorized denominations. The Bonds may be exchanged by the Paying Agent for a like aggregate principal amount of Bonds of the same maturity and interest rate and of other authorized denominations. The execution by the City of any Bond of any denomination shall constitute full and due authorization of such denomination and the Paying Agent shall thereby be authorized to authenticate and deliver such Bond.

The Paying Agent shall not be required to transfer or exchange (a) any Bond subject to redemption during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Bonds and ending at the close of business on the day such notice is mailed, or (b) any Bond so selected for redemption in whole or in part after the mailing of notice calling such Bond or any portion thereof for prior redemption except the unredeemed portion of Bonds being redeemed in part.

The Paying Agent shall require the payment by any Owner requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer and may charge a sum sufficient to pay the cost of preparing each new Bond

upon each exchange or transfer and any other expenses of the City or the Paying Agent incurred in connection therewith.

The foregoing provisions of this Section are subject to the provisions of Section 307 hereof.

Bond Replacement. Upon receipt by the City and the Paying Agent of evidence satisfactory to them of the ownership of and the loss, theft, destruction or mutilation of any Bond and, in the case of a lost, stolen or destroyed Bond, of indemnity satisfactory to them, and in the case of a mutilated Bond upon surrender and cancellation of the Bond, (a) the City shall execute and the Paying Agent shall authenticate and deliver a new Bond of the same date, interest rate and denomination in lieu of such lost, stolen, destroyed or mutilated Bond, or (b) if such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, in lieu of executing and delivering a new Bond as aforesaid, the City may pay such Bond. Any such new Bond shall bear a number not previously assigned. The applicant for any such new Bond may be required to pay all expenses and charges of the City and of the Paying Agent in connection with the issuance of such Bond. All Bonds shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing conditions are exclusive with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds, negotiable instruments or other securities.

Section III02. Custodial Deposit.

A. Depository. Notwithstanding any contrary provision of this Ordinance, the Bonds initially shall be evidenced by one Bond of the same maturity and interest rate in denominations equal to the aggregate principal amount of the Bonds of the same maturity and interest rate. Such initially delivered Bonds shall be registered in the name of “Cede & Co.” as nominee for The Depository Trust Company, the securities depository for the Bonds. The Bonds may not thereafter be transferred or exchanged except:

(1) to any successor of The Depository Trust Company or its nominee, which successor must be both a “clearing corporation” as defined in Section 4-8-102(a)(5), C.R.S. and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended; or

(2) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (1) or this clause (2) of this paragraph A, or a determination by the Council that The Depository Trust Company or such successor or a new depository institution is no longer able to carry out its functions, and the designation by the Council of another depository institution acceptable to the Council and to the depository institution then holding the Bonds, which new depository institution must be both a “clearing corporation” as defined in Section 4-8-102(a)(5), C.R.S. and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended, to carry out the functions of The Depository Trust Company or such successor new depository institution; or

(3) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (1) above or designation of a new depository institution pursuant to clause (2) above, or a determination of the Council that The Depository Trust Company or such successor or new depository institution is no longer able to carry out its functions, and the failure by the Council, after reasonable investigation, to locate another depository institution under clause (2) to carry out such depository institution functions.

B. Successor. In the case of a transfer to a successor of The Depository Trust Company or its nominee as referred to in clause (1) or (2) of paragraph A hereof, upon receipt of the outstanding Bonds by the Paying Agent together with written instructions for transfer satisfactory to the Paying Agent, a new Bond for each maturity and interest rate of the Bonds

then outstanding shall be issued to such successor or new depository, as the case may be, or its nominee, as is specified in such written transfer instructions. In the case of a resignation or determination under clause (3) of paragraph A hereof and the failure after reasonable investigation to locate another qualified depository institution for the Bonds as provided in clause (3) of paragraph A hereof, and upon receipt of the outstanding Bonds by the Paying Agent, together with written instructions for transfer satisfactory to the Paying Agent, new Bonds shall be issued in authorized denominations as provided in and subject to the limitations of Sections 301, 304, and 305 hereof, registered in the names of such Persons, as are requested in such written transfer instructions; however, the Paying Agent shall not be required to deliver such new Bonds within a period of less than 60 days from the date of receipt of such written transfer instructions.

C. Absolute Owner. The Council and the Paying Agent shall be entitled to treat the Owner of any Bond as the absolute owner thereof for all purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by any or all of them and the Council and the Paying Agent shall have no responsibility for transmitting payments or notices to the beneficial owners of the Bonds held by The Depository Trust Company or any successor or new depository named pursuant to paragraph A hereof.

D. Payment. The Council and the Paying Agent shall endeavor to cooperate with The Depository Trust Company or any successor or new depository named pursuant to clause (1) or (2) of paragraph A hereof in effectuating payment of the principal amount of the Bonds upon maturity or prior redemption by arranging for payment in such a manner that funds representing such payments are available to the depository on the date they are due.

E. Redemption. Upon any partial redemption of any maturity and interest rate of the Bonds, Cede & Co. (or its successor) in its discretion may request the City to issue and authenticate a new Bond or shall make an appropriate notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Paying Agent prior to payment. The records of the Paying Agent shall govern in the case of any dispute as to the amount of any partial prepayment made to Cede & Co. (or its successor).

Bond Cancellation. Whenever any Bond shall be surrendered to the Paying Agent upon payment thereof, or to the Paying Agent for transfer, exchange or replacement as provided

herein, such Bond shall be promptly canceled in accordance with the customary practices of the Paying Agent and applicable retention laws.

Bond Form. Subject to the provisions of this Ordinance, the Bonds shall be in substantially the following form, with such omissions, insertions, endorsements and variations as to any recitals of fact or other provisions as may be required by the circumstances, be required or permitted by this Ordinance, be consistent with this Ordinance or be necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto:

(FORM OF BOND)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the City or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA
STATE OF COLORADO
COUNTIES OF ADAMS AND JEFFERSON
CITY OF ARVADA, COLORADO
WATER ENTERPRISE REVENUE BOND
SERIES 2022

No. R- _____ \$ _____

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED AS OF</u>	<u>CUSIP</u>
_____ %	December 1, 20__	[Date of Delivery]	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Arvada (the “City”), in the Counties of Adams and Jefferson and State of Colorado (the “State”), for value received, hereby promises to pay to the registered owner specified above, or registered assigns, upon the presentation and surrender of this bond, solely from the special funds provided therefor, as hereinafter set forth, the principal amount set forth above on the maturity date specified above (unless this bond shall have been called for prior redemption, in which case on the Redemption Date) and to pay solely from such special funds interest hereon at the interest rate per annum specified above, payable semiannually on June 1 and December 1 in each year, beginning on [June 1, 2023], until the principal amount is paid or payment has been provided for, as described in an ordinance adopted by the City Council of the City on November 7, 2022 (the “Ordinance”). This is one of an authorized series of bonds issued under the Ordinance (the “Bonds”). The Bonds are all issued under and equally and

ratably secured by and entitled to the security of the Ordinance. To the extent not defined herein, terms used in this Bond shall have the same meanings as set forth in the Ordinance. This Bond bears interest, matures, is payable, is subject to redemption and is transferable as provided in the Ordinance.

Reference is made to the Ordinance and to all ordinances supplemental thereto, with respect to the nature and extent of the security for the Bonds, the accounts, funds or revenues pledged, rights, duties and obligations of the City, the Paying Agent, the Insurer, the Surety Provider, and the rights of the Owners of the Bonds, the events of default and remedies, the circumstances under which any Bond is no longer Outstanding, the issuance of additional bonds and the terms on which such additional bonds may be issued under and secured by the Ordinance, the ability to amend the Ordinance, and to all the provisions of which the Owner hereof by the acceptance of this Bond assents.

THE BONDS ARE ISSUED PURSUANT TO AND IN FULL COMPLIANCE WITH THE CONSTITUTION AND LAWS OF THE STATE OF COLORADO, AND PURSUANT TO THE ORDINANCE. THE BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE CITY, SECURED BY THE NET PLEDGED REVENUES. THE BONDS DO NOT CONSTITUTE A GENERAL OBLIGATION DEBT OF THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE CITY, THE STATE NOR ANY OF THE POLITICAL SUBDIVISIONS THEREOF IS LIABLE THEREFOR. NEITHER THE MEMBERS OF THE CITY COUNCIL OF THE CITY NOR ANY PERSONS EXECUTING THIS BOND SHALL BE PERSONALLY LIABLE FOR THIS BOND.

It is certified, recited and warranted that all the requirements of law have been fully complied with by the proper officers of the City in the issuance of this Bond; that it is issued pursuant to and in strict conformity with the Constitution of the State, and with the Ordinance and any ordinances supplemental thereto; and that this Bond does not contravene any constitutional, Charter or statutory limitation.

This Bond is one of a series of bonds issued pursuant to the Ordinance designated as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022” in the aggregate principal amount of \$_____ (the “Bonds”). The Bonds have been duly authorized for the purpose of providing moneys to defray a portion of the cost of extending, bettering or otherwise improving and equipping the Water System (the “Project”).

The bonds of the series of which this bond is one are issued under the authority of the City Charter; Title 37, Article 45.1, C.R.S.; and Title 11, Article 57, Part 2, C.R.S., and in full conformity therewith. Pursuant to Section 11-57-210, C.R.S., this recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds and the Bonds shall be incontestable for any cause whatsoever after their delivery for value.

Payment of the principal of and interest on the Bonds shall be made solely from the Net Pledged Revenues. The Net Pledged Revenues are irrevocably (but not exclusively) pledged as security for such payment pursuant to the Ordinance.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the certificate of authentication hereon shall have been duly executed by the Paying Agent.

IN WITNESS WHEREOF, the City has caused this Bond to be signed and executed in its name and upon its behalf with the facsimile signature of its Mayor, has caused the facsimile of the seal of the City to be affixed hereon and has caused this Bond to be signed, executed and attested with the facsimile signature of its City Clerk, all as of the date specified above.

By _____ (Facsimile Signature)
MAYOR

(FACSIMILE SEAL)

Attest:

By _____ (For Facsimile Signature)
CITY CLERK

(FORM OF CERTIFICATE OF AUTHENTICATION)

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within mentioned Ordinance.

UMB Bank, n.a., as Paying Agent

By _____
Authorized Signatory

Date of Authentication and Registration: _____

(END OF FORM OF CERTIFICATE OF AUTHENTICATION)

(FORM OF ASSIGNMENT)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ to transfer the within Bond on the records kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration or enlargement or any change whatever. The signature must be guaranteed by an eligible guarantor institution as defined in 17 CFR § 240.17 Ad-15(a)(2).

Signature Guaranteed:

Signature must be guaranteed by a member of a Medallion Signature Program.

Address of Transferee:

Social Security or other tax
identification number of
transferee:

TRANSFER FEES MAY BE CHARGED

(END OF FORM OF ASSIGNMENT)

(FORM OF PREPAYMENT PANEL)

PREPAYMENT PANEL

The following installments of principal (or portions thereof) of this Bond have been prepaid in accordance with the terms of the Ordinance.

<u>Date of Prepayment</u>	<u>Principal Prepaid</u>	<u>Signature of Authorized Representative of DTC</u>

(END OF FORM OF PREPAYMENT PANEL)

(END OF FORM OF BOND)

Optional Redemption. The Bonds will be subject to redemption, if any, at the option of the City in the time and manner, in the amounts and at the prices, and from any legally available funds all as set forth in the Sale Certificate.

Notwithstanding the foregoing, the Bonds may not be redeemed pursuant to this Section unless all Policy Costs, if any, due and owing at the time to the Surety Provider have been paid.

Mandatory Sinking Fund Redemption. The Term Bonds, if any, shall be subject to mandatory sinking fund redemption at the times, in the amounts and at the prices provided in the Sale Certificate.

On or before the thirtieth day prior to each such sinking fund payment date, the Paying Agent shall proceed to call the Term Bonds, if any, as provided in the Sale Certificate (or any Term Bond or Term Bonds issued to replace such Term Bonds) for redemption from the sinking fund on the next December 1, and give notice of such call without further instruction or notice from the City.

At its option, to be exercised on or before the sixtieth day next preceding each such sinking fund Redemption Date, the City may (a) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory sinking fund redemption on such date in an aggregate principal amount desired or (b) receive a credit in respect of its sinking fund redemption obligation for any Term Bonds of the maturity and interest rate subject to mandatory sinking fund redemption on such date, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Paying Agent and not theretofore applied as a credit against any sinking fund redemption obligation. Each Term Bond so delivered or previously redeemed will be credited by the Paying Agent at the principal amount thereof against the obligation of the City on such sinking fund date and such sinking fund obligation will be accordingly reduced. The City will on or before the sixtieth day next preceding each sinking fund Redemption Date furnish the Paying Agent with its certificate indicating whether or not and to what extent the provisions of (a) and (b) of the first sentence of this paragraph are to be availed with respect to such sinking fund payment. Failure of the City to deliver such certificate shall not affect the Paying Agent's duty to give notice of sinking fund redemption as provided in this paragraph.

Partial Redemption. In the case of Bonds of a denomination larger than \$5,000, a portion of such Bond (\$5,000 or any integral multiple thereof) may be redeemed, in which case

the Paying Agent shall, without charge to the owner of such Bond, authenticate and issue a replacement Bond or Bonds for the unredeemed portion thereof.

Notice of Prior Redemption. Notice of optional or mandatory redemption shall be given by the Paying Agent in the name of the City by sending a copy of such notice by first-class, postage prepaid mail or by electronic means to DTC or its successors, not more than 60 nor less than 30 days prior to the Redemption Date to each Owner at such Person's address as it last appears on the registration books kept by the Paying Agent; but neither failure to give such notice nor any defect therein shall affect the redemption of any Bond. Such notice shall identify the Bonds to be so redeemed (if less than all are to be redeemed) and the Redemption Date, and shall further state that on such Redemption Date there will become and be due and payable upon each Bond to be so redeemed, at the principal office of the Paying Agent, the principal amount thereof, accrued interest to the Redemption Date, and the stipulated premium, if any, and that from and after such date interest will cease to accrue. Notice having been given in the manner hereinabove provided, the Bond or Bonds so called for redemption shall become due and payable on the Redemption Date so designated; and upon presentation thereof at the principal office of the Paying Agent, the Paying Agent will pay the Bond or Bonds so called for redemption. No further interest shall accrue on the principal of any such Bond called for redemption from and after the Redemption Date, provided sufficient funds are deposited with the Paying Agent and available on the Redemption Date.

Notwithstanding the provisions of this Section, any notice of redemption shall either (a) contain a statement that the redemption is conditioned upon the receipt by the Paying Agent on or before the Redemption Date of funds sufficient to pay the redemption price of the Bonds so called for redemption, and that if such funds are not available, such redemption shall be canceled by written notice to the Owners of the Bonds called for redemption in the same manner as the original redemption notice was mailed, or (b) be given only if funds sufficient to pay the redemption price of the Bonds so called for redemption are on deposit with the Paying Agent in the applicable fund or account.

Bonds Owned by the City. Bonds owned by or on behalf of the City shall not be subject to redemption. At any time the City may surrender any Bonds owned by or on behalf of the City to the Paying Agent, which shall promptly cancel such Bonds. Any securities payable from any Net Pledged Revenues held by the City shall not be deemed to be Outstanding for the

purpose of redemption nor Outstanding for the purpose of consents hereunder or for any other purpose herein, except for payment.

No Partial Redemption After Default. Anything in this Ordinance to the contrary notwithstanding, if there shall have occurred and is continuing an Event of Default hereunder of which an officer of the Paying Agent has actual knowledge, there shall be no redemption of less than all of the Bonds at the time Outstanding (other than pursuant to Section 311 hereof).

ARTICLE IV

USE OF BOND PROCEEDS AND OTHER MONEYS

Disposition of Bond Proceeds.

A. The proceeds of the Bonds (net of underwriting discount), upon the receipt thereof, shall be accounted for in the following manner and priority:

(i) **Reserve Fund.** An amount equal to the portion of the Reserve Fund Requirement, if any, as described in the Sale Certificate shall be credited to the special and separate fund hereby created and to be known as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022 Reserve Fund.”

(ii) **Costs of Issuance.** An amount sufficient to pay the costs of issuing the Bonds, as described in the Paying Agent Agreement shall be credited to the fund created in the Paying Agent Agreement and known as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022 Costs of Issuance Fund.”

(iii) **Project Fund.** The remaining proceeds derived from the sale of the Bonds shall be credited to the special and separate account hereby created and to be known as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022 Project Fund.” Except as otherwise provided herein, the moneys in the Project Fund shall be used solely for the purpose of paying the Costs of the Project and for the purposes set forth in Section 402 hereof.

Payment of Expenses. Moneys deposited in the Project Fund pursuant to Section 401 hereof may be used and paid out by the City to defray the Costs of the Project and administrative costs of the Project, including, without limitation, amounts to be paid to the Paying Agent, legal fees, accounting fees, financial advisory fees, printing costs and rating fees. The City may defray any such administrative costs from time to time as Operation and Maintenance Expenses to the extent the moneys deposited in the Project Fund pursuant to Section 401 hereof are insufficient therefor.

Completion of Project. When the Project is completed in accordance with the relevant plans and specifications and all amounts due therefor, including all proper incidental expenses and all administrative costs of the Project referred to in Section 402 hereof, are paid, or for which full provision is made, the Director of Finance, to the extent permitted by the Tax Compliance Certificate, shall cause all surplus moneys remaining in the Project Fund, if any, except for any moneys designated in the certificate to be retained to pay any unpaid accrued costs or contingent obligations, to be transferred as follows: (a) to the Rebate Fund so as to enable the City to comply with requirements of the Tax Compliance Certificate with respect to the Bonds, (b) to the Reserve Fund to such extent as shall not cause the amount in the Reserve Fund to exceed the Reserve Fund Requirement and (c) to the Bond Fund to the extent of any remaining balance of such moneys to be applied against the next principal payment or payments coming due on the Bonds. Nothing herein prevents the transfer from the Project Fund to the Bond Fund, at any time prior to the termination of the Project Fund, of any moneys which the Director of Finance by certificate determines will not be necessary for the Project and will not be designated to be transferred to the Rebate Fund or the Reserve Fund.

Lien on Bond Proceeds. Until the proceeds of the Bonds deposited in the Project Fund are applied as herein provided, such Bond proceeds are subject to a lien thereon and pledge thereof for the benefit of the Owners of the Outstanding Bonds as provided in Section 501 hereof.

Purchaser Not Responsible. The validity of the Bonds is not dependent upon nor affected by the validity or regularity of any proceedings relating to the application of the Bond proceeds. The Purchaser and any subsequent Owners of any of the Bonds are not responsible for the application or disposal by the City or by any of its officers, agents and employees of the moneys derived from the sale of the Bonds or of any other moneys herein designated.

ARTICLE V

ADMINISTRATION OF AND ACCOUNTING FOR PLEDGED REVENUES

Pledge Securing Bonds. Subject only to the right of the City to cause amounts to be withdrawn and paid on account of Operation and Maintenance Expenses of the Water System, the Gross Pledged Revenues and, subject to the right of the City to cause amounts to be withdrawn to pay the Costs of the Project as provided herein and other than moneys and securities held in the

Rebate Fund to the extent such amounts are required to be paid to the United States, all moneys and securities paid or to be paid to or held or to be held in any fund or account under this Article or under Section 501 hereof are hereby pledged, and a lien thereon is hereby created, to secure the payment of the Bond Requirements of the Outstanding Bonds and to secure the obligations of the City to pay the Policy Costs. The pledge of the Net Pledged Revenues to secure the payment of the Bond Requirements of the Outstanding Bonds and any Outstanding Parity Bonds is on a parity with the pledge of the Net Pledged Revenues for, and lien thereon of the Parity Bonds heretofore issued and any Parity Bonds hereafter issued in compliance with the provisions of Article VII hereof. The pledge of Net Pledged Revenues to secure the payment of the Policy Costs is subordinate only to the pledge to pay the Bond Requirements with respect to the Bonds and any Parity Bonds. The pledge of the Net Pledged Revenues and the funds or accounts as described in this section shall be valid and binding from and after the date of the delivery of the Bonds, and the moneys as received by the City and hereby pledged shall immediately be subject to the lien of this pledge without any physical delivery thereof, any filing, or further act. The lien of this pledge and the obligation to perform the contractual provisions hereby made shall have priority over any or all other obligations and liabilities of the City except any Outstanding Parity Bonds heretofore or hereafter authorized. The lien of the pledge of the Net Pledged Revenues and the funds or accounts as described in this section shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City (except as herein otherwise provided) irrespective of whether such parties have notice thereof.

Water Enterprise Fund Deposits. So long as any of the Bonds or any Parity Bonds shall be Outstanding as to any Bond Requirements or Policy Costs related to the Bonds or any Parity Bonds, the entire Gross Pledged Revenues, upon their receipt from time to time by the City, shall be set aside and credited immediately to the special and separate account hereby created and known as the “City of Arvada, Water Enterprise Revenue Bonds, Water Enterprise Fund.”

Administration of Water Enterprise Fund. So long as any of the Bonds or any Parity Bonds shall be Outstanding, as to any Bond Requirements or Policy Costs related to the Bonds or any Parity Bonds, the following payments shall be made from the Water Enterprise Fund, as provided in Sections 504 through 511 hereof.

Operation and Maintenance Expenses. First, as a first charge on the Water Enterprise Fund, from time to time there shall continue to be held therein moneys sufficient to pay Operation and Maintenance Expenses, as they become due and payable, and thereupon they shall be promptly paid. Any surplus remaining in the Water Enterprise Fund at the end of the Fiscal Year and not needed for Operation and Maintenance Expenses shall be used for other purposes of the Water Enterprise Fund as herein provided.

Bond Fund Payments. Second, from any remaining Net Pledged Revenues, there shall be credited, concurrently with each other and with amounts required to meet the Bond Requirements with respect to any Outstanding Parity Bonds, to the special and separate accounts hereby created and to be known as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022, Bond Fund,” the following amounts:

A. **Interest Payments.** Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the Bonds, or commencing on the first day of the month six months next prior to the first interest payment date of any of the Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the interest due and payable on the Outstanding Bonds on the next succeeding interest payment date.

B. **Principal Payments.** Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the Bonds, or commencing on the first day of the month one year next prior to the first principal payment date of any of the Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the principal and redemption premium, if any, due and payable on the Outstanding Bonds on the next succeeding principal payment date.

If prior to any interest payment date or principal payment date, there has been accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in paragraph A or B (whichever is applicable) of this Section 505 may be appropriately reduced; but the required annual amounts again shall be so credited to such account commencing on such interest payment date or principal payment date.

The moneys credited to the Bond Fund shall be used to pay the Bond Requirements of the Bonds then Outstanding, as such Bond Requirements become due, except as provided in Sections 507, 508, 509, 603 and 1201 hereof.

Reserve Fund Payments. In satisfaction of the Reserve Fund Requirement, if any, upon delivery of the Bonds, either proceeds of the Bonds, cash or a Reserve Fund Insurance Policy being provided by Surety Provider, or any combination thereof, in the amount of the Reserve Fund Requirement shall be deposited in the special and separate fund hereby created and to be known as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022, Reserve Fund”. The proceeds of the Bonds, cash or a Reserve Fund Insurance Policy, or any combination thereof, shall be credited to Reserve Fund as provided in the Sale Certificate. Any Reserve Fund Insurance Policy shall be held by the Paying Agent. Any Reserve Fund Insurance Policy deposited to the credit of the Reserve Fund shall be valued at the amount available to be drawn or otherwise paid pursuant to such Reserve Fund Insurance Policy at the time of calculation. The Paying Agent shall maintain adequate records as to the amount available to be drawn at any time under the Reserve Fund Insurance Policy and as to the amounts, of which it has knowledge, of Policy Costs paid and owing to the Surety Provider. Such records shall be open to inspection and verification by the Surety Provider during business hours of the Paying Agent.

Thereafter, third, except as provided in Section 507 and 508 hereof, and concurrently with any payments required to be made pursuant to any Parity Bond Ordinances with respect to any reserve funds which may be, but are not required to be, established thereby and concurrently with any repayment or similar obligations payable to any surety provider issuing any reserve fund insurance policy with respect to any Parity Bonds, from any moneys remaining in the Water Enterprise Fund there shall be credited to the Reserve Fund monthly, commencing on the first day of the month next succeeding each date on which the moneys accounted for in the Reserve Fund for any reason are less than the Reserve Fund Requirement, such amounts in substantially equal monthly payments on the first day of each month to re-accumulate the Reserve Fund Requirement by not more than 12 such monthly payments. If a Reserve Fund Insurance Policy is on deposit in the Reserve Fund to fund all or a part of the Reserve Fund Requirement, the amounts payable into the Reserve Fund pursuant to the immediately preceding sentence shall be paid by the City first to the Surety Provider to reimburse it for Policy Costs due and owing and second to replenish cash in the Reserve Fund. If there are insufficient Net Pledged Revenues to

comply with the requirements of the first sentence of this paragraph, available Net Pledged Revenues shall be credited or paid to the Reserve Fund and to reserve funds which may be established by any Parity Bond Ordinances (or to the Surety Provider or any other surety provider issuing any reserve fund insurance policy with respect to any Parity Bonds) pro rata, based upon the aggregate principal amount of the Bonds and any such Parity Bonds then Outstanding; provided, however, that compliance with the provisions of this sentence shall not cure any Event of Default caused by non-compliance with the first sentence of this paragraph. If there are insufficient Net Pledged Revenues to comply with the requirements of the first sentence of this paragraph and more than one Reserve Fund Insurance Policy is on deposit in the Reserve Fund, available Net Pledged Revenues credited to or paid to the Reserve Fund shall be applied to reimburse the Surety Provider and any other surety provider providing a Reserve Fund Insurance Policy pro rata, based upon the original amount available to be drawn on each. The Reserve Fund Requirement shall be accumulated and, if necessary, re-accumulated from time to time, in the Reserve Fund from Net Pledged Revenues, except to the extent other moneys are credited to the Reserve Fund, and maintained as a continuing reserve to be used, except as hereinafter provided in Sections 507, 508, 509, 603 and 1201 hereof, only to prevent deficiencies in the payment of the Bond Requirements of the Bonds Outstanding from time to time from the failure to deposit into the Bond Fund sufficient moneys to pay such Bond Requirements as the same accrue and become due. No payment need be made into the Reserve Fund at any time so long as the moneys and/or the Reserve Fund Insurance Policy therein equal not less than the Reserve Fund Requirement and there are no Policy Costs due and owing. Unless otherwise provided in the Sale Certificate, the Reserve Fund Requirement shall be re-calculated upon (i) any principal payment, whether at stated maturity or upon redemption, or (ii) the defeasance of all or a portion of the Bonds. Moneys on deposit in the Reserve Fund or may be applied to the defeasance of the Bonds in accordance with Section 1201 hereof.

The City may at any time substitute (a) cash or Investment Securities for a Reserve Fund Insurance Policy or (b) a Reserve Fund Insurance Policy for cash or Investment Securities, so long as the amount on deposit in the Reserve Fund after such substitution is at least equal to the Reserve Fund Requirement. Notwithstanding the foregoing, no Reserve Fund Insurance Policy shall be deposited by the City in the Reserve Fund for such substitution unless the City has received an opinion of Bond Counsel to the effect that such substitution and the intended use by

the City of the cash or Investment Securities to be released from the Reserve Fund will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Termination of Deposits. No payment need be made into the Bond Fund or the Reserve Fund if there are no Policy Costs due and owing and if the amount in the Bond Fund and the amount in the Reserve Fund (exclusive of the amount available under a Reserve Fund Insurance Policy) total a sum at least sufficient so that all Outstanding Bonds are deemed to have been paid pursuant to Section 1201 hereof, in which case moneys therein (taking into account the known minimum gain from any investment of such moneys in Investment Securities from the time of any such investment or deposit shall be needed for such payment which will not be designated for transfer to the Rebate Fund) shall be used (together with any such gain from such investments) solely to pay the Bond Requirements of the Outstanding Bonds as the same become due; and any moneys in excess thereof in those two accounts and any other moneys derived from the Net Pledged Revenues or otherwise pertaining to the Water System may be used to make required payments into the Rebate Fund or in any other lawful manner determined by the City, as directed in writing by the Director of Finance.

Defraying Delinquencies. If at any time the City shall for any reason fail to pay into the Bond Fund the full amount above stipulated from the Net Pledged Revenues, then an amount shall be paid into the Bond Fund at such time from the Reserve Fund equal to the difference between that paid from the Net Pledged Revenues and the full amount so stipulated. The City shall use all cash in the Reserve Fund before drawing on a Reserve Fund Insurance Policy. If, (i) upon notice from the City requesting a draw or (ii) failure of the Paying Agent to receive the Bond Requirements by the third Business Day prior to June 1 or December 1 in each year, the Paying Agent determines that it is necessary to draw on the Reserve Fund Insurance Policy, the Paying Agent shall present a demand for payment, in the form and manner required by the Reserve Fund Insurance Policy, at least two Business Days before funds are needed. If there is more than one Reserve Fund Insurance Policy on deposit in the Reserve Fund, the Paying Agent shall draw on them on a pro rata basis, based upon the amount available to be drawn on each.

Any money so used or drawn shall be replaced as provided in Section 506 hereof from the first Net Pledged Revenues thereafter received and not required to be otherwise applied by this Article. Except as provided in Sections 505, 506, 509 and 603 hereof, the moneys in the

Bond Fund and in the Reserve Fund (including any Reserve Fund Insurance Policy) shall be used solely and only for the purpose of paying the Bond Requirements of the Bonds from time to time.

If the amount on deposit in the Reserve Fund exceeds the Reserve Fund Requirement for any reason, the amount to be released from the Reserve Fund shall be as directed in writing by the Director of Finance. Any excess amount released from the Reserve Fund may be deposited in the Bond Fund, the Rebate Fund, or deposited into a defeasance escrow account, or may be applied for other purposes authorized by law, as directed in writing by the Director of Finance.

Rebate Fund. Fourth, concurrently with any payments required to be made pursuant to any Parity Bond Ordinances with respect to any rebate funds established thereby, there shall be deposited into the special and separate account hereby created and to be known as the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022 Rebate Fund” moneys in the amounts and at the times specified in the Tax Compliance Certificate so as to enable the City to comply with Section 830 hereof. Amounts on deposit in the Rebate Fund shall not be subject to the lien and pledge of this Ordinance to the extent that such amounts are required to be paid to the United States Treasury. The City shall cause amounts on deposit in the Rebate Fund to be forwarded to the United States Treasury (at the address provided in the Tax Compliance Certificate) at the times and in the amounts set forth in the Tax Compliance Certificate.

If the moneys on deposit in the Rebate Fund are insufficient for the purposes thereof, the City shall transfer moneys in the amount of the insufficiency to the Rebate Fund from the Project Fund and, to the extent permitted by Section 508 hereof, from the Reserve Fund and the Bond Fund. Upon receipt by the City of an opinion of Bond Counsel to the effect that the amount in the Rebate Fund is in excess of the amount required to be contained therein, such excess may be transferred to the Water Enterprise Fund.

Payment of Subordinate Securities. Fifth, and subject to the provisions hereinabove in this Article, but subsequent to the payments required by Sections 504, 505, 506, and 509 hereof, any moneys remaining in the Water Enterprise Fund may be used by the City for the payment of Bond Requirements of Subordinate Securities, including reasonable reserves for such Subordinate Securities and for rebate of amounts to the United States Treasury with respect to such Subordinate Securities.

Use of Remaining Revenues. After the payments hereinabove required to be made by Sections 502 through 510 hereof are made, any remaining Net Pledged Revenues in the Water Enterprise Fund shall be used, first, for any one or any combination of reasonably necessary purposes and in the Council's discretion relating to the operation, improvement or debt management of the Water System and, second, to the extent of any remaining surplus, for any one or any combination of lawful purposes as the Council may from time to time conclusively determine.

ARTICLE VI

GENERAL ADMINISTRATION

Administration of Accounts. The special funds and accounts designated in Articles IV and V hereof shall be administered as provided in this Article (but not any account under Section 1201 hereof).

Places and Times of Deposits. Except as hereinafter provided, each of such special funds and accounts shall be maintained by the City as a book account and kept separate from all other accounts as a trust account solely for the purposes herein designated therefor. The moneys accounted for in such special book accounts may be in one or more bank accounts in one or more Commercial Banks. Each such bank account shall be continuously secured to the fullest extent required or permitted by the laws of the State for the securing of public funds and shall be irrevocable and not withdrawable by anyone for any purpose other than the respective designated purposes. Each periodic payment shall be credited to the proper book account not later than the date therefor herein designated, except that when any such date shall not be a Business Day, then such payment shall be made on or before the next preceding Business Day. Moneys shall be deposited with the Paying Agent for the Bonds not less than (a) three Business Days prior to each interest payment date and each maturity or mandatory Redemption Date, if funds are delivered by wire transfer, or (b) five Business Days prior to each payment date if funds are delivered by another method of payment, in immediately available amounts sufficient to pay the Bond Requirements then becoming due on the Outstanding Bonds.

Investment of Moneys. Any moneys in the Project Fund, the Water Enterprise Fund, the Bond Fund, the Reserve Fund, and the Rebate Fund that are not needed for immediate use shall be invested or reinvested by the Director of Finance in Investment Securities. All such investments shall (a) either be subject to redemption at any time at a fixed value by the holder

thereof at the option of such holder, or (b) mature not later than the estimated date or respective dates on which the proceeds are to be expended as estimated by the Director of Finance at the time of such investment or reinvestment; provided that (1) Investment Securities credited to the Reserve Fund shall not mature later than ten years from the date of such investment or reinvestment and (2) collateral securities of any Investment Securities may have a maturity of more than five years from the date of purchase thereof. For the purpose of any such investment or reinvestment, Investment Securities shall be deemed to mature at the earliest date on which the obligor is, on demand, obligated to pay a fixed sum in discharge of the whole of such obligations.

Accounting for Investments. The Investment Securities so purchased as an investment or reinvestment of moneys in any such account hereunder shall be deemed at all times to be a part of the account. Any interest or other gain from any investments and reinvestments of moneys accounted for in the Water Enterprise Fund, the Project Fund, the Bond Fund, and the Rebate Fund shall be credited to such account, and any loss resulting from any such investments or reinvestments of moneys accounted for in the Water Enterprise Fund, the Project Fund, the Bond Fund, the Reserve Fund, and the Rebate Fund shall be charged or debited to such fund.

Any interest or other gain from any investment or reinvestment of moneys accounted for in the Reserve Fund (a) shall be credited to the Rebate Fund or the Bond Fund, at the discretion of the Director of Finance, if the amount credited to the Reserve Fund immediately after such credit to the Rebate Fund or the Bond Fund is not less than the Reserve Fund Requirement and (b) if the amount credited to the Reserve Fund is less than the Reserve Fund Requirement, shall be credited to the Reserve Fund (up to the amount of the deficiency).

No loss or profit in any account on any investments or reinvestments in Investment Securities shall be deemed to take place as a result of market fluctuations of the Investment Securities prior to the sale or maturity thereof. In the computation of the amount in any account for any purpose hereunder, except as herein otherwise expressly provided or for rebate purposes, as described in the Tax Compliance Certificate, Investment Securities shall be valued at the cost thereof (including any amount paid as accrued interest at the time of purchase of the obligation); provided that any time or demand deposits shall be valued at the amounts deposited, in each case exclusive of any accrued interest or any other gain to the City until such gain is realized by the presentation of matured coupons for payment or otherwise.

Redemption or Sale of Investment Securities. The Director of Finance shall present for redemption or sale on the prevailing market at the best price obtainable any Investment Securities so purchased as an investment or reinvestment of moneys in the account whenever it shall be necessary in order to provide moneys to meet any withdrawal, payment or transfer from such account. Neither the Director of Finance nor any other officer or employee of the City shall be liable or responsible for any loss resulting from any such investment or reinvestment made in accordance with this Ordinance.

Character of Funds. The moneys in any account designated in Articles IV and V hereof shall consist either of lawful money of the United States or Investment Securities, or both such money and such Investment Securities. Moneys deposited in a demand or time deposit account in a bank or savings and loan association, appropriately secured according to the laws of the State, shall be deemed lawful money of the United States.

Payment of Bond Requirements. The moneys credited to any fund or account designated in Article V hereof for the payment of the Bond Requirements of any Bonds shall be used without requisition, voucher, warrant, further order or authority (other than as contained herein), or any other preliminaries, to promptly pay the Bond Requirements of any Bonds payable from such fund or account as such amounts are due, except to the extent any other moneys are available therefor.

ARTICLE VII

SECURITIES LIENS AND ADDITIONAL SECURITIES

Lien of Bonds. The Bonds constitute an irrevocable lien (but not necessarily an exclusive lien) upon the Net Pledged Revenues on a parity with the lien of the Net Pledged Revenues of the Parity Bonds. The Policy Costs constitute an irrevocable and subordinate lien (but not necessarily an exclusive subordinate lien) upon the Net Pledged Revenues.

Equality of Bonds. The Bonds and any Parity Bonds heretofore issued or hereafter authorized to be issued and from time to time Outstanding are equitably and ratably secured by a lien on the Net Pledged Revenues and shall not be entitled to any priority over one another in the application of the Net Pledged Revenues regardless of the time or times of the issuance of the Bonds and any other such Parity Bonds, it being the intention of the Council that there shall be no priority among the Bonds and any such Parity Bonds regardless of the fact that they may be actually issued and delivered at different times, except that (a) moneys in the Project Fund, the

Bond Fund and the Reserve Fund shall secure only the Bonds and the moneys in any acquisition, bond, reserve or similar funds established for other Parity Bonds shall secure only such Parity Bonds; and (b) other Parity Bonds may have a lien on Net Pledged Revenues on a parity with the lien thereon of the Bonds even if no reserve fund is established for such Parity Bonds or a reserve fund is established but with a different requirement as to the amount of moneys (or the value of a reserve fund insurance policy with respect to such Parity Bonds) required to be on deposit therein or the manner in which such reserve fund is funded or the period of time over which such reserve fund is funded.

Issuance of Parity Bonds. Nothing herein prevents the issuance by the City of additional securities payable from the Net Pledged Revenues and constituting a lien thereon on a parity with, but not prior nor superior to, the lien thereon of the Bonds; but before any such additional Parity Bonds, except as provided in Section 708, are authorized or actually issued all of the following conditions must be satisfied:

A. **Absence of Default.** At the time of the adoption of the ordinance authorizing the issuance of the additional securities, the City shall not be in default in making any payments required by Article V hereof or any Parity Bond Ordinances, including any payments of Policy Costs.

B. **Historic Earnings Test.** The Net Pledged Revenues for any 12 consecutive months out of the 24 months preceding the month in which such securities are to be issued are at least equal to the sum of (a) 120% of the Combined Maximum Annual Principal and Interest Requirements of the Outstanding Bonds, any Outstanding Parity Bonds and such additional Parity Bonds proposed to be issued, and (b) 100% of the Policy Costs then due and owing, if any, except as hereinafter otherwise expressly provided.

C. **Adjustment of Gross Pledged Revenues.** In any computation under paragraph B of this Section, the amount of the Gross Pledged Revenues for the applicable period shall be decreased and may be increased by the amount of loss or gain conservatively estimated by an Independent Accountant, Independent Engineer or the Director of Finance, as the case may be, which results from any changes in any schedule of fees, rates and other charges constituting Gross Pledged Revenues based on the number of users during the applicable period as if such modified schedule of fees, rates and other charges shall have been in effect during such entire time period. However, the Gross Pledged Revenues need not be decreased by the amount of any

such estimated loss to the extent the Independent Accountant, the Independent Engineer or the Director of Finance estimates the loss is temporary in nature or will be offset within a reasonable temporary period by an increase in revenues or a reduction in Operation and Maintenance Expenses not otherwise included in the calculations under this Section, and estimates any loss under this sentence will not at any time materially and adversely affect the City's apparent ability to comply with the rate maintenance covenant stated in Section 821 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

D. Reduction of Annual Requirements. The respective annual Bond Requirements (including as such the required amount of any prior redemption premiums due on any Redemption Date) shall be reduced to the extent such Bond Requirements are scheduled to be paid in each of the respective Fiscal Years with moneys held in trust or in escrow for that purpose by any Trust Bank, including the known minimum yield from any investment in Federal Securities and any bank deposits, including any certificate of deposit.

E. Consideration of Additional Expenses. In determining whether or not additional Parity Bonds may be issued as aforesaid, consideration shall be given to any probable increase (but not reduction) in the Operation and Maintenance Expenses of the Water System as estimated by the Director of Finance that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the additional securities; but the Director of Finance may reduce any such increase in Operation and Maintenance Expenses by the amount of any increase in revenues or any reduction in Operation and Maintenance Expenses resulting from the Capital Improvements to which such expenditure relates and not otherwise included in the calculations under this Section, if the Director of Finance also opines that any such increase in revenues or reduction in any increase in Operation and Maintenance Expenses will not materially and adversely affect the City's apparent ability to comply with the rate maintenance covenant stated in Section 821 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

Certification of Revenues. A written certificate or written opinion by the Director of Finance that the annual revenues required under paragraph B of Section 703 hereof, when adjusted as hereinabove provided in paragraphs C, D, and E of Section 703 hereof, are sufficient to pay such amounts, as provided in paragraph B of Section 703 hereof, shall be conclusively

presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver additional securities on a parity with the Bonds.

Subordinate Securities Permitted. Nothing herein prevents the City from issuing additional securities payable from the Net Pledged Revenues and having a lien thereon subordinate, inferior and junior to the lien thereon of the Bonds.

Superior Securities Prohibited. Nothing herein permits the City to issue additional securities payable from the Net Pledged Revenues and having a lien thereon prior and superior to the lien thereon of the Bonds.

Use of Proceeds. The proceeds of any Parity Bonds or other securities payable from any Net Pledged Revenues shall be used only to finance Capital Improvements and/or to refund all or any portion of the Bonds, Parity Bonds, or other securities payable from Net Pledged Revenues, regardless of the priority or the lien of such securities on Net Pledged Revenues.

Issuance of Refunding Securities. The City may issue any refunding securities payable from Net Pledged Revenues to refund any Outstanding Bonds or Parity Bonds, with such details as the Council may by ordinance provide so long as there is no material impairment of any contractual obligation imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such Outstanding securities of any one or more issues; but so long as the Bonds, or any part thereof, are Outstanding, refunding securities payable from Net Pledged Revenues may be issued on a parity with the unrefunded Bonds only if:

F. **Prior Consent.** The City first receives the consent of the Owner or Owners of the unrefunded portion of the Bonds; or

G. **Requirements Not Increased.** The Combined Maximum Annual Principal and Interest Requirements for the Bonds and Parity Bonds Outstanding immediately after the issuance of the refunding securities is not greater than the Combined Maximum Annual Principal and Interest Requirements for all Bonds and Parity Bonds Outstanding immediately prior to the issuance of the refunding securities and the lien of any refunding Parity Bonds on the Net Pledged Revenues is not raised to a higher priority than the lien thereon of any securities thereby refunded; or

H. **Earnings Test.** The refunding securities are issued in compliance with Section 703 hereof.

ARTICLE VIII
PROTECTIVE COVENANTS

General. The City hereby covenants and agrees with the Owners of the Bonds and makes provisions which shall be a part of its contract with such Owners to the effect and with the purpose set forth in the following Sections of this Article.

Performance of Duties. The City, acting by and through the Council or otherwise, shall faithfully and punctually perform, or cause to be performed, all duties with respect to the Gross Pledged Revenues and the Water System required by the Constitution and laws of the State and the various ordinances of the City, including, without limitation, the making and collection of reasonable and sufficient fees, rates and other charges for services rendered or furnished by or from the use of the Water System, as herein provided, and the proper segregation of the proceeds of the Bonds and of any securities hereafter authorized and the Gross Pledged Revenues and their application from time to time to the respective accounts provided therefor.

Contractual Obligations. The City shall perform all contractual obligations undertaken by it under any agreements relating to the Bonds, the Gross Pledged Revenues, the Project, or the Water System, or any combination thereof, with any other Persons.

Further Assurances. At any and all times the City shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge, deliver and file or record all and every such further instruments, acts, deeds, conveyances, assignments, transfers, other documents and assurances as may be reasonably necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, the Gross Pledged Revenues and other moneys and accounts hereby pledged or assigned, or intended to be pledged or assigned, or which the City may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Ordinance and to comply with any instrument of the City amendatory thereof, or supplemental thereto. The City, acting by and through the Council, or otherwise, shall at all times, to the extent permitted by law, reasonably defend, preserve and protect the pledge of the Gross Pledged Revenues and other moneys and accounts pledged hereunder and all the rights of every Owner of any Bond hereunder against all claims and demands of all Persons whomsoever.

Conditions Precedent. Upon the date of issuance of the Bonds, all conditions, acts and things required by the Federal or State Constitution, the Enterprise Act, the Supplemental Public Securities Act, the Charter, this Ordinance, or any other applicable law to exist, to have happened and to have been performed precedent to or in the issuance of the Bonds shall exist, have happened, and have been performed; and the Bonds, together with all other obligations of the City, shall not contravene any debt or other limitation prescribed by the State Constitution.

Efficient Operation and Maintenance. The City shall at all times operate the Water System properly and in a sound and economical manner; and the City shall maintain, preserve and keep the same properly or cause the same to be so maintained, preserved and kept, with the appurtenances and every part and parcel thereof in good repair, working order and condition, and shall from time to time make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the Water System may be properly and advantageously conducted. All salaries, fees, wages and other compensation paid by the City in connection with the maintenance, repair and operation of the Water System shall be reasonable and proper.

Rules, Regulations and Other Details. The City, acting by and through the Council, shall establish and enforce reasonable rules and regulations governing the operation, use and services of the Water System. The City shall observe and perform all of the terms and conditions contained in this Ordinance, and shall comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the Water System or to the City, except for any period during which the same are being contested in good faith by proper legal proceedings.

Payment of Governmental Charges. The City shall pay or cause to be paid all taxes and assessments or other governmental charges, if any, lawfully levied or assessed upon or in respect of the Water System, or upon any part thereof, or upon any portion of the Gross Pledged Revenues, when the same shall become due, and shall duly observe and comply with all valid requirements of any governmental authority relative to the Water System or any part thereof, except for any period during which the same are being contested in good faith by proper legal proceedings. The City shall not create or suffer to be created any lien upon the Water System, or any part thereof, or upon the Gross Pledged Revenues, except the pledge and lien created by this Ordinance for the payment of the Bond Requirements of the Bonds and except as herein

otherwise permitted. The City shall pay or cause to be discharged or shall make adequate provision to satisfy and to discharge, within 60 days after the same shall become payable, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the Water System, or any part thereof, or the Gross Pledged Revenues; but nothing herein requires the City to pay or cause to be discharged or to make provision for any such tax, assessment, lien or charge, so long as the validity thereof is contested in good faith and by appropriate legal proceedings.

Protection of Security. The City, the officers, agents and employees of the City, and the Council shall not take any action in such manner or to such extent as might materially prejudice the security for the payment of the Bond Requirements of the Bonds, the Parity Bonds, and any other securities payable from the Net Pledged Revenues or any Policy Costs relating thereto according to the terms thereof. No contract shall be entered into nor any other action taken by which the rights of any Owner of any Bond or other security payable from Net Pledged Revenues or any Policy Costs relating thereto might be prejudicially and materially impaired or diminished.

Prompt Payment of Bonds. The City shall promptly pay the Bond Requirements of the Bonds at the places, on the dates and in the manner specified herein and in the Bonds according to the true intent and meaning hereof.

Use of Bond and Reserve Funds. The Bond Fund and the Reserve Fund shall be used solely for and the moneys credited to such funds and accounts therein are hereby pledged, and a lien thereon is hereby created, for the purpose of paying the Bond Requirements of the Bonds to their respective maturities or any Redemption Date or Dates, subject to the provisions of Sections 505, 506, 507, 508, 509, 603 and 1201 hereof.

Other Liens. Other than as provided herein, there are no liens or encumbrances of any nature whatsoever on or against the Water System, or any part thereof, or on or against the Gross Pledged Revenues on a parity with or superior to the lien thereon of the Bonds.

Corporate Existence. The City shall maintain its corporate identity and existence so long as any of the Bonds remain Outstanding, unless another body corporate and politic by operation of law succeeds to the powers, privileges, rights, liabilities, disabilities, duties and immunities of the City and is obligated by law to operate and maintain the Water System and to

fix and collect the Gross Pledged Revenues as herein provided without adversely and materially affecting at any time the privileges and rights of any Owner of any Outstanding Bond.

Disposal of Water System Prohibited. Except for the use of the Water System and services pertaining thereto in the normal course of business, or as provided in Section 815 hereof, neither all nor a substantial part of the Water System shall be sold, leased, mortgaged, pledged, encumbered, alienated or otherwise disposed of, until all the Bonds have been paid in full, as to all Bond Requirements, or unless provision has been made therefor, or until the Bonds have otherwise been redeemed, including, without limitation, the termination of the pledge as herein authorized; and the City shall not dispose of its title to the Water System or to any useful part thereof, including any property necessary to the operation and use of the Water System and the lands and interests in lands comprising the sites of the Water System, except as provided in Section 815 hereof.

Disposal of Unnecessary Property. The City at any time and from time to time may sell, exchange, lease or otherwise dispose of any property constituting a part of the Water System and not useful in the construction, reconstruction or operation thereof, or which shall cease to be necessary for the efficient operation of the Water System, or which shall have been replaced by other property of at least equal value. Any proceeds of any such sale, exchange, lease or other disposition received and not used to replace such property so sold or so exchanged or otherwise so disposed of, shall be deposited by the City in the Water Enterprise Fund or into a special book account for the betterment, enlargement, extension, other improvement and equipment of the Water System, or any combination thereof, as the Council may determine, provided that any proceeds of any such lease received shall be deposited by the City as Gross Pledged Revenues in the Water Enterprise Fund.

Competing Water System. So long as any of the Bonds are Outstanding, the City shall not grant any franchise or license to any competing facilities so that the Gross Pledged Revenues shall not be sufficient to satisfy the covenant in Section 821 hereof.

Loss From Condemnation. If any part of the Water System is taken by the exercise of the power of eminent domain, the amount of any award received by the City as a result of such taking shall be paid into the Water Enterprise Fund or into a capital improvement account pertaining to the Water System for the purposes thereof, or, applied to the redemption of the

Outstanding Bonds and any Outstanding Parity Bonds relating thereto, all as the City may determine.

Employment of Management Engineers. If the City defaults in paying the Bond Requirements of the Bonds or any Parity Bonds, and any other securities or Policy Costs relating thereto payable from the Gross Pledged Revenues promptly as the same fall due, or an Event of Default has occurred and is continuing, or if the Net Pledged Revenues in any Fiscal Year fail to equal at least the amount of the Bond Requirements of the Outstanding Bonds, Parity Bonds, and any other securities (including all reserves therefor specified in the authorizing proceedings, including, without limitation, this Ordinance) or Policy Costs relating thereto payable from the Net Pledged Revenues in that Fiscal Year, the City shall retain a firm of competent management engineers skilled in the operation of such facilities to assist the management of the Water System so long as such default continues or so long as the Net Pledged Revenues are less than the amount hereinabove designated in this Section.

Budgets. The Council and officials of the City shall annually and at such other times as may be provided by law prepare and adopt a budget pertaining to the Water System.

Reasonable and Adequate Charges. While the Bonds remain Outstanding and unpaid, the fees, rates and other charges due to the City for the use of or otherwise pertaining to and services rendered by the Water System to the City, to its inhabitants and to all other users within and without the boundaries of the City shall be reasonable and just, taking into account and consideration public interests and needs, the cost and value of the Water System, the Operation and Maintenance Expenses thereof, and the amounts necessary to meet the Bond Requirements of all Bonds, the Parity Bonds, and any other securities payable from the Net Pledged Revenues, including, without limitation, reserves and any replacement accounts therefor.

Adequacy and Applicability of Charges. There shall be charged against users of service pertaining to and users of the Water System, except as provided by Section 822 hereof, such fees, rates and other charges so that the Gross Pledged Revenues shall be adequate to meet the requirements of this and the preceding Sections hereof. Such charges pertaining to the Water System shall be at least sufficient so that the Gross Pledged Revenues annually are sufficient to pay in each Fiscal Year:

A. **Operation and Maintenance Expenses.** An amount equal to the annual Operation and Maintenance Expenses for such Fiscal Year,

B. Principal and Interest. An amount equal to 120% of both the principal and interest on the Bonds and any Parity Bonds then Outstanding in that Fiscal Year (excluding the reserves therefor), and

C. Deficiencies. Any amounts required to pay all Policy Costs, if any, due and owing and all sums, if any, due and owing to meet then existing deficiencies pertaining to any fund or account relating to the Gross Pledged Revenues or any securities payable therefrom.

Limitations Upon Free Service. No free service or facilities shall be furnished by the Water System, except that if the City elects to use for City purposes any water facilities, or other services and facilities provided by the Water System or otherwise to use the Water System or any part thereof, the City is not required to pay for such use.

Levy of Charges. The City shall forthwith and in any event prior to the delivery of any of the Bonds, fix, establish and levy the fees, rates and other charges which are required by Section 821 of this Ordinance, if such action is necessary therefor. No reduction in any initial or existing rate schedule for the Water System may be made:

D. Proper Application. Unless the City has fully complied with the provisions of Article V of this Ordinance for at least the full Fiscal Year immediately preceding such reduction of the initial or any other existing rate schedule; and

E. Sufficient Revenues. Unless the audit required by the Independent Accountant by Section 827 hereof for the full Fiscal Year immediately preceding such reduction discloses that the estimated revenues resulting from the proposed rate schedule for the Water System, after the schedule's proposed reduction, shall be at least sufficient to produce the amounts required by Section 821 hereof.

Collection of Charges. The City shall use commercially reasonable best efforts to cause all fees, rates and other charges pertaining to the Water System to be collected as soon as is reasonable, shall reasonably prescribe and enforce rules and regulations or impose contractual obligations for the payment of such charges, and for the use of the Water System, and shall provide methods of collection and penalties, to the end that the Gross Pledged Revenues shall be adequate to meet the requirements of this Ordinance and any other ordinance supplemental thereto.

Procedure for Collecting Charges. All bills for water services and all other services or facilities furnished or served by or through the Water System shall be rendered to customers on a

regularly established basis. The fees, rates and other charges due shall be collected in a lawful manner, including, without limitation, discontinuance of service.

Maintenance of Records. So long as any of the Bonds and any Parity Bonds payable from the Gross Pledged Revenues remain Outstanding, proper books of record and account pertaining to the Gross Pledged Revenues and the Water System shall be kept by the City, separate and apart from all other records and accounts.

Audits Required. The City shall cause an audit for each Fiscal Year of the books and accounts pertaining to the Gross Pledged Revenues and the Water System to be completed by an Independent Accountant within 210 days following the close of such Fiscal Year.

Accounting Principles. Water System records and accounts, and audits thereof, shall be currently kept and made, as nearly as practicable, in accordance with the then generally accepted accounting principles, methods and terminology followed and construed for utility operations comparable to the Water System, except as may be otherwise provided herein or required by applicable law or regulation or by contractual obligation existing on the effective date of this Ordinance.

Insurance and Reconstruction. Except to the extent of any self-insurance, the City shall at all times maintain with responsible insurers fire and extended coverage insurance, worker's compensation insurance, public liability insurance and all such other insurance as is customarily maintained with respect to utilities of like character against loss of or damage to the Water System and against loss of revenues and against public and other liability to the extent reasonably necessary to protect the interests of the City and of each Owner of a Bond. If any useful part of the Water System shall be damaged or destroyed, the City shall, as expeditiously as may be possible, commence and diligently proceed with the repair or replacement of the damaged property so as to restore the same to use. The proceeds of any such insurance shall be payable to the City and (except for proceeds of any use and occupancy insurance) shall be applied to the necessary costs involved in such repair and replacement and to the extent not so applied shall (together with the proceeds of any such use and occupancy insurance) be deposited in the Water Enterprise Fund by the City as revenues derived from the operation of the Water System. If the costs of such repair and replacement of the damaged property exceed the proceeds of such insurance available for the payment of the same, moneys in the Water

Enterprise Fund may be used to the extent necessary for such purposes, as permitted by Section 511 hereof.

F. **Federal Income Tax Exemption.** The City covenants for the benefit of the Owners of the Bonds at any time Outstanding that it will not take any action or omit to take any action with respect to the Bonds, the proceeds thereof, any other funds of the City or any facilities financed or refinanced with the proceeds of the Bonds if such action or omission (i) would cause the interest on the Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, (ii) would cause interest on the Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, except to the extent that such interest is taken into account in determining the annual adjusted financial statement income of applicable corporations (as defined in Section 59(k) of the Tax Code) for the purpose of computing the alternative minimum tax imposed on corporations for tax years beginning after December 31, 2022, or (iii) would cause interest on the Bonds to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present State law. In furtherance of this covenant, the City agrees to comply with the procedures set forth in the Tax Compliance Certificate with respect to the Bonds. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Bonds until the date on which all obligations of the City in fulfilling the above covenant under the Tax Code and Colorado law have been met.

G. **Continuing Disclosure.** The City shall comply with the provisions of the Continuing Disclosure Certificate. Any failure by the City to perform in accordance with this Section shall not constitute an Event of Default under this Ordinance, and the rights and remedies provided by this Ordinance upon the occurrence of an Event of Default shall not apply to any such failure. The Paying Agent shall not have any power or duty to enforce this Section. No owner of a Bond shall be entitled to damages for the City's non-compliance with its obligations under this Section; however, the owners of the Bonds may enforce specific performance of the obligations contained in this Section by any judicial proceeding available.

ARTICLE IX

PRIVILEGES, RIGHTS AND REMEDIES

Owners' Remedies. Each Owner of any Bond shall be entitled to all of the privileges, rights and remedies provided or permitted by this Ordinance, and as otherwise provided or permitted by law or in equity or by any statutes, except as provided in Sections 202 through 206 and 1101 hereof, but subject to the provisions herein concerning the pledge of and the covenants and the other contractual provisions concerning the Gross Pledged Revenues and the proceeds of the Bonds.

Right to Enforce Payment. Nothing in this Article affects or impairs the right of any Owner of any Bond to enforce the payment of the Bond Requirements due in connection with such Person's Bond or the obligation of the City to pay the Bond Requirements of each Bond to the Owner thereof at the time and the place expressed in the Bond.

Events of Default. Each of the following events is hereby declared an "Event of Default," provided however, that in determining whether a payment default has occurred pursuant to paragraphs A or B of this Section, no effect shall be given to payments made under the Insurance Policy:

A. **Nonpayment of Principal.** Payment of the principal of any of the Bonds is not made when the same becomes due and payable, either at maturity or by proceedings for prior redemption, or otherwise;

B. **Nonpayment of Interest.** Payment of any installment of interest on any of the Bonds is not made when the same becomes due and payable;

C. **Cross Defaults.** The occurrence and continuance of an "event of default," as defined in any Parity Bond Ordinance;

D. **Failure to Reconstruct.** The City unreasonably delays or fails to carry out with reasonable dispatch the reconstruction of any part of the Water System which is destroyed or damaged and is not promptly repaired or replaced (whether such failure promptly to repair the same is due to impracticability of such repair or replacement or is due to a lack of moneys therefor or for any other reason), but it shall not be an Event of Default if such reconstruction is not essential to the efficient operation of the Water System;

E. **Appointment of Receiver.** An order or decree is entered by a court of competent jurisdiction with the consent or acquiescence of the City appointing a receiver or receivers for the Water System or for the Gross Pledged Revenues and any other moneys subject to the lien to secure the payment of the Bonds, or if an order or decree having been entered

without the consent or acquiescence of the City is not vacated or discharged or stayed on appeal within 60 days after entry;

F. Default Under Insurance Agreement. If an event of default shall have occurred and be continuing under the provisions of the Insurance Agreement; and

G. Default of Any Provision. The City defaults in the due and punctual performance of any other of the representations, covenants, conditions, agreements and other provisions contained in the Bonds or in this Ordinance on its part to be performed (other than Section 831 hereof), and such default continues for 60 days after written notice specifying such default and requiring the same to be remedied is given to the City and the Insurer specifying the failure and requiring that it be remedied, which notice may be given by the Paying Agent in its discretion and, except as provided in Section 1101 hereof, shall be given by the Paying Agent at the written request of the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding.

Remedies for Defaults. Except as provided in Section 1101 hereof, upon the happening and continuance of any Event of Default, the Owner or Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, including, without limitation, a trustee or trustees therefor, may proceed against the City and its agents, officers and employees to protect and to enforce the rights of any Owner of Bonds under this Ordinance by mandamus or by other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award of execution of any power herein granted for the enforcement of any proper legal or equitable remedy as such Owner or Owners may deem most effectual to protect and to enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any Owner of any Bond, or to require the City to act as if it were the trustee of an expressed trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Bonds. The City shall not be liable for incidental, punitive, exemplary or consequential damages, or for lost profits, whether direct or indirect. Acceleration shall not be a remedy upon the happening or continuance of any Event of Default. Notwithstanding the foregoing provisions of this Section, nothing in this Ordinance shall act as or be deemed to be a

waiver by the City of the Colorado Governmental Immunity Act, Title 24, Article 10, C.R.S., as now or hereafter amended.

Receiver's Rights and Privileges. Any receiver appointed in any proceedings to protect the rights of such Owners hereunder, the consent to any such appointment being hereby expressly granted by the City, may enter and may take possession of the Water System, may operate and maintain the same, may prescribe fees, rates and other charges, and may collect, receive and apply all Gross Pledged Revenues arising after the appointment of such receiver in the same manner as the City itself might do.

Rights and Privileges Cumulative. The failure of any Owner of any Outstanding Bond to proceed in any manner herein provided shall not relieve the City, or any of its officers, agents or employees of any liability for failure to perform or carry out any duty, obligation or other commitment. Each right or privilege of any such Owner (or trustee thereof) is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any Owner shall not be deemed a waiver of any other right or privilege thereof.

Duties upon Defaults. Upon the happening of any Event of Default, the City shall do and perform all proper acts on behalf of and for the Owners of Bonds to protect and to preserve the security created for the payment of the Bonds and to insure the payment of the Bond Requirements promptly as the same become due. While any Event of Default exists, except to the extent it may be unlawful to do so, all Gross Pledged Revenues shall be paid into the Bond Fund and into bond or similar funds established for any Parity Bonds then Outstanding, pro rata based upon the aggregate principal amount of the Bonds and Parity Bonds then Outstanding. Except as provided in Section 1101 hereof, if the City fails or refuses to proceed as in this Section provided, the Owner or Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, after demand in writing, may proceed to protect and to enforce the rights of the Owners of the Bonds as hereinabove provided, and to that end any such Owners of the Outstanding Bonds shall be subrogated to all rights of the City under any agreement, lease or other contract involving the Water System or the Gross Pledged Revenues entered into prior to the effective date of this Ordinance or thereafter while any of the Bonds are Outstanding.

ARTICLE X

AMENDMENT OF ORDINANCE

Section X01. Privilege of Amendments.

A. Except as hereafter provided, this Ordinance may be amended or supplemented by ordinances adopted by the Council in accordance with law, without receipt by the City of any additional consideration, but with the written consent of the Insurer and, subject to Section 1101 hereof, the Owners of not less than a majority of aggregate principal amount of the Bonds Outstanding at the time of the adoption of such amendatory or supplemental ordinance excluding, pursuant to Section 314 hereof, any Bonds which may then be held or owned for the account of the City. Notwithstanding the foregoing, no such ordinance shall permit:

(1) Changing Payment. A change in the maturity, terms of redemption or interest payment of any Outstanding Bond; or

(2) Reducing Return. A reduction in the principal amount of any Bond or the rate of interest thereon, without the consent of the Owner of the Bond; or

(3) Prior Lien. The creation of a lien upon or a pledge of revenues ranking prior, superior and senior to the lien or to the pledge created by this Ordinance; or

(4) Modifying Any Bond. A reduction of the principal amount or percentages or otherwise affecting the description of Bonds the consent of the Owners of which is required for any such modification or amendment; or

(5) Priorities Between Bonds The establishment of priorities as between Bonds issued and Outstanding; or

(6) Modification of Less Than All the Bonds. The modification of or otherwise affecting the rights of the Owners of less than all of the Outstanding Bonds.

B. Notwithstanding the foregoing provisions of this Section, this Ordinance and the rights and obligations of the City and of the Owners of the Bonds may also be modified or amended at any time, with the written consent of the Insurer but without the consent of any Owners of the Bonds, but only to the extent permitted by law and only for any or all of the following purposes:

(1) to add to the covenants and agreements of the City contained in this Ordinance other covenants and agreements thereafter to be observed;

(2) to subject to the covenants and agreements of the City in this Ordinance additional Water System revenues, to be defined and treated as Gross Pledged Revenues, for the purpose of providing additional security for the Bonds and any Parity Bonds;

(3) in connection with the provision of a Reserve Fund Insurance Policy subsequent to the issuance of the Bonds;

(4) to provide for the appointment of a new Paying Agent;

(5) to make such provisions for the purpose of curing any ambiguity or of curing or correcting any formal defect or omission in this Ordinance, or in regard to questions arising under this Ordinance, as the City may deem necessary or desirable, and which shall not adversely affect the interests of the Owners of the Bonds; or

(6) in order to preserve or protect the excludability from gross income for federal income tax purposes of the interest allocable to the Bonds.

Notice of Amendment. Whenever the Council proposes to amend or modify this Ordinance under the provisions of this Article, it shall cause notice of the proposed amendment to be mailed to Owners of all Outstanding Bonds at their addresses as the same last appear on the registration records maintained by the Paying Agent or by electronic means to DTC or its successors, and to the Insurer. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory ordinance is on file with the office of the City Clerk for public inspection. Notice of the proposed amendment, together with a copy of the proposed amendatory ordinance, shall be delivered to the Rating Agencies then maintaining a rating on the Bonds at least 15 days in advance of the adoption of the amendment. A full transcript of all proceedings relating to the execution of such amendatory ordinance shall be provided to the Insurer.

Time for Amendment. If the ordinance is required to be consented to by the Owners of the Bonds, whenever at any time within one year from the date of the giving of such notice there shall be filed with the City Manager an instrument or instruments executed by the Owners of not less than a majority of aggregate principal amount of the Bonds then Outstanding, which instrument or instruments shall refer to the proposed amendatory ordinance described in such notice and shall specifically consent to and approve the adoption of such ordinance, the Council may adopt such amendatory ordinance and such ordinance shall become effective. If the ordinance is not required to be consented to by the Owners of the Bonds, the amendatory ordinance may be adopted by the Council at any time.

Binding Consent to Amendment. If the Owners of not less than a majority of aggregate principal amount of the Bonds Outstanding at the time of the adoption of such amendatory

ordinance requiring consent of the Owners of the Bonds, or the predecessors in title of such Owners, shall have consented to and approved the adoption thereof as herein provided, no Owner of any Bond, whether or not such Owner shall have consented to or shall have revoked any consent as in this Article provided, shall have any right or interest to object to the adoption of such amendatory ordinance or to object to any of the terms or provisions therein contained or to the operation thereof or to enjoin or restrain the City from taking any action pursuant to the provisions thereof.

Time Consent Binding. Any consent given by the Owner of a Bond pursuant to the provisions of this Article shall be irrevocable for a period of 6 months from the date of the giving of the notice above provided for and shall be conclusive and binding upon all future Owners of the same Bond during such period. Such consent may be revoked at any time after 6 months from the date of such giving of such notice by the Owner who gave such consent or by a successor in title by filing notice of such revocation with the City Manager, but such revocation shall not be effective if the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding as in this Article provided, prior to the attempted revocation, consented to and approved the amendatory ordinance referred to in such revocation.

Unanimous Consent. Notwithstanding anything in the foregoing provisions of this Article, the terms and provisions of this Ordinance or of any ordinance amendatory thereof or supplemental thereto and the rights and the obligations of the City and of the Owners of the Bonds thereunder may be modified or amended in any respect upon the adoption by the City and upon the filing with the City Manager of an ordinance to that effect and with the consent of the Insurer and the Owners of all the then Outstanding Bonds, such consent to be given as provided in Section 1003 hereof; and no notice to Owners of Bonds shall be required as provided in Section 1002 hereof, nor shall the time of consent be limited except as may be provided in such consent.

Exclusion of City's Bonds. At the time of any consent or of other action taken under this Article, the City shall furnish to the City Manager a certificate of the Director of Finance, upon which the City may rely, describing all Bonds to be excluded for the purpose of consent or of other action or of any calculation of Outstanding Bonds provided for in this Article, and the City shall not be entitled with respect to such Bonds to give any consent or to take any other action provided for in this Article, as provided in Section 314 hereof.

Notation on Bonds. Bonds authenticated and delivered after the effective date of any action taken as in this Article provided may bear a notation by endorsement or otherwise in form approved by the Council as to such action; and after the approval of such notation, then upon demand of the Owner of any Bond Outstanding and upon presentation of such Person's Bond for that purpose at the principal office of the Paying Agent, suitable notation shall be made on such Bond by the Paying Agent as to any such action. If the Council so determines, new Bonds, so modified as in the opinion of the Council conform to such action, shall be prepared, executed, authenticated and delivered; and upon demand of the Owner of any Bond then Outstanding, shall be exchanged without cost to such Owner for Bonds then Outstanding upon surrender of such Bonds.

Proof of Instruments and Bonds. The fact and date of execution of any instrument under the provisions of this Article, the amount and number of the Bonds held by any Person executing such instrument, and the date of such Person's holding the same may be proved as provided by Section 1203 hereof.

Copies of Supplemental Ordinances to Rating Agencies. Copies of any supplemental or amendatory ordinance shall be sent by the City to the Rating Agencies at least 10 days prior to the effective date thereof.

ARTICLE II

INSURANCE POLICY AND RESERVE POLICY PROVISIONS

Section II01. Insurer To Be Deemed Owner, Rights of the Insurer, Payments by the Insurer; Notices.

A. Notwithstanding any provision of this Ordinance to the contrary, so long as the Insurer is not in default in its payment obligations under the Insurance Policy, the Insurer shall at all times be deemed the sole and exclusive Owner of the Outstanding Bonds for the purposes of all approvals, consents, waivers, institution of any action, and the direction of all remedies pursuant to this Ordinance, including but not limited to approval of or consent to any amendment of or supplement to this Ordinance which requires the consent or approval of the Owners of not less than a majority of the aggregate principal amount of the Bonds then Outstanding pursuant to this Ordinance; provided, however, that the Insurer shall not be deemed to be the sole and exclusive Owner of the Outstanding Bonds with respect to any amendment or supplement to this Ordinance which seeks to amend or supplement this Ordinance for the purposes set forth in

clauses A (1) through A (6) of Section 1001 hereof, and provided, further, that the Insurer shall not have the right to direct or consent to City, Paying Agent or Owner action as provided herein, if:

(1) the Insurer shall be in default under the Insurance Policy;

(2) any material provision of the Insurance Policy shall be held to be invalid by a final, non-appealable order of a court of competent jurisdiction, or the validity or enforceability thereof shall be contested by the Insurer; or

(3) a proceeding shall have been instituted in a court having jurisdiction in the premises seeking an order for relief, rehabilitation, reorganization, conservation, liquidation or dissolution in respect of the Insurer and such proceeding is not terminated for a period of 90 consecutive days or such court enters an order granting the relief sought in such proceeding.

B. To the extent that the Insurer makes payment of any principal of or interest on a Bond, it shall be fully subrogated to all of the Owner's rights thereunder in accordance with the terms of the Insurance Policy to the extent of such payment, including the Owner's rights to payment thereof.

C. In the event that the principal of or interest on a Bond shall be paid by the Insurer pursuant to the terms of the Insurance Policy: (1) such Bond shall continue to be "Outstanding" under this Ordinance, and (2) the Insurer shall be fully subrogated to all of the rights of the Owner thereof in accordance with the terms and conditions of paragraph B of this Section and the Insurance Policy.

D. This Ordinance shall not be discharged unless and until all amounts due to the Insurer have been paid in full or duly provided for.

E. The rights granted under this Ordinance to the Insurer to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Insurance Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit of or on behalf of the Owners, nor does such action evidence any position of the Insurer, positive or negative, as to whether Owner consent is required in addition to consent of the Insurer.

F. No modification, amendment or supplement to this Ordinance shall become effective except upon obtaining the prior written consent of the Insurer.

G. No contract shall be entered into nor any action taken by the City or the Paying Agent pursuant to which the rights of the Insurer or security for or sources of payment of the Bonds under this Ordinance may be materially impaired or prejudiced except upon obtaining the prior written consent of the Insurer.

H. The provisions of this Article shall be of no force and effect if the Bonds are not insured by an Insurer.

ARTICLE III MISCELLANEOUS

Defeasance. If, when the Bonds shall be paid in accordance with their terms (or payment of the Bonds has been provided for in the manner set forth in the following paragraph), together with all other sums payable hereunder, then this Ordinance and all rights granted hereunder shall thereupon cease, terminate and become void and be discharged and satisfied.

Payment of any Outstanding Bond shall prior to the maturity or Redemption Date thereof be deemed to have been provided for within the meaning and with the effect expressed in this Section if (a) in case said Bond is to be redeemed on any date prior to its maturity, the City shall have given to the Paying Agent in form satisfactory to it irrevocable instructions to give on a date in accordance with the provisions of Section 313 hereof, notice of redemption of such Bond on said Redemption Date, such notice to be given in accordance with the provisions of Section 313 hereof, (b) there shall have been deposited with the Paying Agent or other Trust Bank either moneys in an amount which shall be sufficient, and/or Federal Securities which shall not contain provisions permitting the redemption thereof at the option of the issuer, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held by the Paying Agent or other Trust Bank at the same time, shall be sufficient to pay when due the Bond Requirements due and to become due on said Bond on and prior to the Redemption Date or maturity date thereof, as the case may be, and (c) in the event said Bond is not by its terms subject to redemption within the next sixty days, the City shall have given the Paying Agent in form satisfactory to it irrevocable instructions to give, as soon as practicable in the same manner as the notice of redemption is given pursuant to Section 313 hereof, a notice to the Owner of such Bond that the deposit required by (b) above has been made with the Paying Agent or other Trust Bank and that payment of said Bond has been provided for in accordance with this Section and stating

such maturity or Redemption Date upon which moneys are to be available for the payment of the Bond Requirements of said Bond. Neither such securities nor moneys deposited with the Paying Agent or other Trust Bank pursuant to this Section or principal or interest payments on any such Federal Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Bond Requirements of said Bond; provided any cash received from such principal or interest payments on such Federal Securities deposited with the Paying Agent or other Trust Bank, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities of the type described in (b) of this paragraph maturing at times and in amounts sufficient to pay when due the Bond Requirements to become due on said Bond on or prior to such Redemption Date or maturity date thereof, as the case may be. At such time as payment of a Bond has been provided for as aforesaid, such Bond shall no longer be secured by or entitled to the benefits of this Ordinance, except for the purpose of any payment from such moneys or securities deposited with the Paying Agent or other Trust Bank.

The release of the obligations of the City under this Section shall be without prejudice to the right of the Paying Agent to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable expenses, charges and other disbursements incurred on or about the administration of and performance of its powers and duties hereunder.

Upon compliance with the foregoing provisions of this Section with respect to all Bonds then Outstanding, this Ordinance may be discharged in accordance with the provisions of this Section but the liability of the City in respect of the Bonds shall continue; provided that the Owners thereof shall thereafter be entitled to payment only out of the moneys or Federal Securities deposited with the Paying Agent or other Trust Bank as provided in this Section.

Delegated Powers. The officers, employees and agents of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including, without limitation:

A. Final Certificates. the execution of such certificates and closing documents as may be reasonably required by the Purchaser or Bond Counsel, including the Continuing Disclosure Certificate and Insurance Agreement, if any;

B. Paying Agent Agreement. the execution and delivery of an agreement with the Paying Agent necessary or desirable to evidence the acceptance by the Paying Agent of its duties hereunder;

C. Official Statement. the execution and delivery of the final Official Statement;

D. Purchase Contract. the execution and delivery of the bond purchase proposal from the Purchaser; and

E. Electronic Signatures. the use of electronic signatures to execute any of the documents described in this Section 1202 or elsewhere in this Ordinance, as authorized by Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act.

Evidence of Bond Owners. Any request, consent or other instrument which this Ordinance may require or may permit to be signed and to be executed by the Owners of any Bonds may be in one or more instruments of similar tenor and shall be signed or shall be executed by each such Owner in person or by such Person's attorney appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or the holding by any Person of the Bonds shall be sufficient for any purpose of this Ordinance (except as otherwise herein expressly provided) if made in the following manner:

F. Proof of Execution. The fact and the date of the execution by any Owner of any Bonds or such Person's attorney of such instrument may be established by a certificate, which need not be acknowledged or verified, of an officer of a bank or trust company satisfactory to the City Manager or Director of Finance, of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he or she purports to act, that the individual signing such request or other instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer; the authority of the individual or individuals executing any such instrument on behalf of a corporate Owner of any securities may be established without further proof if such instrument is signed by an individual purporting to be the president or vice-president of such corporation with a corporate seal affixed and attested by an individual purporting to be its secretary or an assistant secretary; and the authority of any Person or Persons executing any such instrument in any fiduciary or representative capacity may be established without further proof if such instrument is signed by a Person or Persons purporting to act in such fiduciary or representative capacity; and

G. Proof of Holdings. The amount of Bonds held by any Person and the numbers, date and other identification thereof, together with the date of such Person's holding the Bonds, shall be proved by the registration records maintained by the Paying Agent.

Parties Interested Herein. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any Person, other than the City, the Paying Agent, the Insurer and the Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Paying Agent, the Insurer, the Surety Provider and the Owners of the Bonds.

Notices. Except as otherwise may be provided in this Ordinance, all notices, certificates, requests or other communications pursuant to this Ordinance shall be in writing and shall be sufficiently given and shall be deemed given by personal delivery or when mailed by first class mail, and either delivered or addressed as follows:

If to the City at:

City of Arvada
8101 Ralston Road
Arvada, Colorado 80002
Attention: Director of Finance

If to the Paying Agent at:

UMB Bank, n.a.
1670 Broadway
Denver, Colorado 80202
Attention: Corporate Trust & Escrow Services Department

Any of the foregoing Persons may, by notice given hereunder to each of the other Persons, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Additional Notices to Rating Agencies. The Paying Agent hereby agrees that if at any time (a) the City shall redeem any portion of the Bonds Outstanding prior to maturity, but excluding redemptions pursuant to Section 311 hereof, (b) the City shall provide for the payment

of any portion of the Bonds pursuant to Section 1201 hereof, (c) a successor Paying Agent is appointed hereunder, or (d) any supplement to this Ordinance shall become effective or any Person shall waive any provision of this Ordinance, then, in each case, the Paying Agent shall give notice to each Rating Agency.

Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any rights, as provided in this Ordinance, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal date.

Effective Date. This Ordinance shall be in full force and effect five days after final publication.

Disposition of Ordinance. This Ordinance, as adopted by the Council, shall be numbered and recorded by the City Clerk in the official records of the City. The adoption and publication shall be authenticated by the signatures of the Mayor and City Clerk, and by the certificate of publication.

INTRODUCED, READ, AND ORDERED PUBLISHED this 17th day of October, 2022.

PASSED, ADOPTED AND APPROVED this 7th day of November, 2022.

Mayor Marc Williams

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: _____

Publication Dates: October 20, 2022
 November 10, 2022

STATE OF COLORADO)
)
COUNTIES OF ADAMS AND)
JEFFERSON) SS.
)
CITY OF ARVADA)

I, Kristen Rush, the City Clerk of the City of Arvada, Colorado (the “City”), do hereby certify:

1. The foregoing pages are a true, correct and complete copy of an ordinance adopted by the City Council of the City (the “Council”) (i) on first reading at a regular meeting of the Council held at the City Council Chambers on October 17, 2022, and (ii) on second reading, at a regular meeting of the Council held at the City Council Chambers on November 7, 2022.

2. The ordinance has been signed by the Mayor, sealed with the corporate seal of the City, attested by me as City Clerk, and duly recorded in the books of the City; and that the same remains of record in the book of records of the City.

3. The passage of the ordinance on October 17, 2022, on first reading was duly moved and seconded, and the ordinance was passed on first reading by an affirmative vote of a majority of the members of the Council as follows:

Name	“Yes”	“No”	Absent	Abstain
Marc Williams, Mayor				
David Jones, Mayor Pro Tem				
Bob Fifer				
John Marriott				
Randy Moorman				
Lauren Simpson				
Lisa Smith				

4. The passage of the ordinance on November 7, 2022, on second and final reading was duly moved and seconded, and the ordinance was passed on second and final reading by an affirmative vote of a majority of the members of the Council as follows:

Name	“Yes”	“No”	Absent	Abstain
Marc Williams, Mayor				
David Jones, Mayor Pro Tem				
Bob Fifer				
John Marriott				
Randy Moorman				
Lauren Simpson				
Lisa Smith				

5. There are no bylaws, rules or regulations of the Council which might prohibit the adoption of said Ordinance.

6. Notices of the meetings of October 17, 2022, and November 7, 2022, in the forms attached hereto as Exhibit A were posted not less than 24 hours prior to the meetings in accordance with law.

7. The Ordinance was published after first reading, which notice included the day, hour, and place at which the Council would hold a public hearing thereon, and the affidavit of publication is attached hereto as Exhibit B.

8. The Ordinance was published after second and final reading and the affidavit of publication is attached hereto as Exhibit C.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of
said City this _____ day of November, 2022.

(SEAL)

City Clerk

EXHIBIT A
(Attach Notices of Meetings)

EXHIBIT B

(Affidavit of Publication after First Reading)

EXHIBIT C

(Affidavit of Publication after Second Reading)

CONTINUING DISCLOSURE CERTIFICATE

City of Arvada, Colorado Water Enterprise Revenue Bonds Series 2022

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by the City of Arvada, Colorado (the “Issuer”), in connection with the issuance of its “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022” dated as of [CLOSING DATE], in the aggregate principal amount of \$[PAR] (the “Bonds”). The Bonds are being issued pursuant to an ordinance adopted by the City Council of the Issuer on November 7, 2022 (the “Ordinance”). The Issuer covenants and agrees as follows:

SECTION 1. Purpose of this Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Issuer for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with Rule 15c2-12(b)(5) of the Securities and Exchange Commission (the “SEC”).

SECTION 2. Definitions. In addition to the definitions set forth in the Ordinance or parenthetically defined herein, which apply to any capitalized terms used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the Issuer pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“Dissemination Agent” shall mean any Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

“Fiscal Year” shall mean the period beginning on January 1 of a calendar year and ending on December 31 of the same calendar year, or such other 12-month period as may be adopted by the Issuer in accordance with law.

“Listed Events” shall mean any of the events listed in Section 5 of this Disclosure Certificate.

“MSRB” shall mean the Municipal Securities Rulemaking Board. As of the date hereof, the MSRB’s required method of filing is electronically via its Electronic Municipal Market Access (EMMA) system, which is currently available at <http://emma.msrb.org>.

“Official Statement” means the final Official Statement prepared in connection with the Bonds.

“Participating Underwriter” shall mean the original underwriter of the Bonds required to comply with the Rule in connection with an offering of the Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as in effect on the date of this Disclosure Certificate.

SECTION 3. Provision of Annual Reports.

(a) The Issuer shall, or shall cause the Dissemination Agent to, not later than nine (9) months following the end of the Issuer’s Fiscal Year, commencing nine (9) months following the end of the Issuer’s Fiscal Year ending December 31, 2022, provide to the MSRB (in an electronic format as prescribed by the MSRB), an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than five business days prior to said date, the Issuer shall provide the Annual Report to the Dissemination Agent (if the Issuer has selected one). The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the Issuer may be submitted separately from the balance of the Annual Report. The information to be updated may be reported in any format chosen by the Issuer: it is not required that the format reflected in the Official Statement be used in future years.

(b) If the Issuer is unable to provide to the MSRB an Annual Report by the date required in subsection (a), the Issuer shall, in a timely manner, file or cause to be filed with the MSRB a notice in substantially the form attached to this Disclosure Certificate as Exhibit “A.”

SECTION 4. Content of Annual Reports. The Issuer’s Annual Report shall contain or incorporate by reference the following:

(a) A copy of its annual financial statements, if any, prepared in accordance with generally accepted accounting principles audited by a firm of certified public accountants. If audited annual financial statements are not available by the time specified in Section 3(a) above, audited financial statements will be provided when and if available.

(b) An update of the type of information identified in Exhibit “B” hereto, which is contained in the tables in the Official Statement with respect to the Bonds.

Any or all of the items listed above may be incorporated by reference from other documents (including official statements), which are available to the public on the MSRB’s Internet Web Site or filed with the SEC. The Issuer shall clearly identify each such document incorporated by reference.

SECTION 5. Reporting of Listed Events. The Issuer shall file or cause to be filed with the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, notice of any of the events listed below with respect to the Bonds. All of the events currently mandated by the Rule are listed below; however, some may not apply to the Bonds.

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, *if material*;

- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of bondholders, *if material*;
- (8) Bond calls, *if material*, and tender offers;
- (9) Defeasances;
- (10) Release, substitution or sale of property securing repayment of the Bonds, *if material*;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the obligated person;¹
- (13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, *if material*;
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, *if material*;
- (15) Incurrence of a financial obligation² of the obligated person, *if material*, or agreement to covenants, events of default, remedies, priority rights, or other similar terms

¹ For the purposes of the event identified in subparagraph (b)(5)(i)(C)(12) of the Rule, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and official or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

of a financial obligation of the obligated person, any of which affect security holders, *if material*; and

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation² of the obligated person, any of which reflect financial difficulties.

SECTION 6. Format; Identifying Information. All documents provided to the MSRB pursuant to this Disclosure Certificate shall be in the format prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB.

As of the date of this Disclosure Certificate, all documents submitted to the MSRB must be in portable document format (PDF) files configured to permit documents to be saved, viewed, printed and retransmitted by electronic means. In addition, such PDF files must be word-searchable, provided that diagrams, images and other non-textual elements are not required to be word-searchable.

SECTION 7. Termination of Reporting Obligation. The Issuer's obligations under this Disclosure Certificate shall terminate upon the earliest of: (i) the date of legal defeasance, prior redemption or payment in full of all of the Bonds; (ii) the date that the Issuer shall no longer constitute an "obligated person" within the meaning of the Rule; or (iii) the date on which those portions of the Rule which require this written undertaking are held to be invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the Bonds.

SECTION 8. Dissemination Agent.

(a) The Issuer may, from time to time, appoint or engage a Dissemination Agent to assist the Issuer in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. If the Issuer elects not to appoint a successor Dissemination Agent, it shall perform the duties thereof under this Disclosure Certificate. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate and any other agreement between the Issuer and the Dissemination Agent.

(b) In addition to the filing duties on behalf of the Issuer described in this Disclosure Certificate, the Dissemination Agent shall:

² For purposes of the events identified in subparagraphs (b)(5)(i)(C)(15) and (16) of the Rule, the term "financial obligation" is defined to mean a (A) debt obligation; (B) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (C) a guarantee of (A) or (B). The term "financial obligation" shall not include municipal securities as to which a final official statement has been otherwise provided to the MSRB consistent with the Rule. In complying with Listed Events (15) and (16), the Issuer intends to apply the guidance provided by the Rule or other applicable federal securities law, SEC Release No. 34-83885 (August 20, 2018) and any future guidance provided by the SEC or its staff.

(1) each year, prior to the date for providing the Annual Report, determine the appropriate electronic format prescribed by the MSRB;

(2) send written notice to the Issuer at least 30 but no more than 60 days prior to the date the Annual Report is due stating that the Annual Report is due as provided in Section 3(a) hereof; and

(3) certify in writing to the Issuer that the Annual Report has been provided pursuant to this Disclosure Certificate and the date it was provided.

(4) If the Annual Report (or any portion thereof) is not provided to the MSRB by the date required in Section (3)(a), the Dissemination Agent shall file with the MSRB a notice in substantially the form attached to this Disclosure Certificate as Exhibit A.

SECTION 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Issuer may amend this Disclosure Certificate and may waive any provision of this Disclosure Certificate, without the consent of the holders and beneficial owners of the Bonds, if such amendment or waiver does not, in and of itself, cause the undertakings herein (or action of any Participating Underwriter in reliance on the undertakings herein) to violate the Rule, but taking into account any subsequent change in or official interpretation of the Rule. The Issuer will provide notice of such amendment or waiver to the MSRB.

SECTION 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Issuer chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Issuer shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 11. Default. In the event of a failure of the Issuer to comply with any provision of this Disclosure Certificate, any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Ordinance, and the sole remedy under this Disclosure Certificate in the event of any failure of the Issuer to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriter and the holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

DATE: [CLOSING DATE]

CITY OF ARVADA, COLORADO

By: _____
Mayor

EXHIBIT “A”

NOTICE OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: City of Arvada
Name of Bond Issue: Water Enterprise Revenue Bonds, Series 2022
Date of Issuance: [CLOSING DATE]
CUSIP Number: _____

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Certificate dated [CLOSING DATE]. The Issuer anticipates that the Annual Report will be filed by _____.

Dated: _____, _____

CITY OF ARVADA, COLORADO

By: _____
Mayor

EXHIBIT “B”

OFFICIAL STATEMENT TABLES TO BE UPDATED

[To be discussed.]

**NOTICE OF PUBLIC SALE
DATED [NOVEMBER 22], 2022**

**CITY OF ARVADA, COLORADO
WATER ENTERPRISE REVENUE BONDS
SERIES 2022 - \$[PAR]***

PUBLIC NOTICE IS HEREBY GIVEN that the City Council (the “Council”) of the City of Arvada, Colorado (the “City”) will receive electronic bids for the purchase of the Bonds described below on:

[Tuesday, December 6, 2022]*

at the hour of 9:30 a.m., Colorado time.

Bids must be submitted electronically via the BIDCOMP/PARITY BIDDING SYSTEM (“BIDCOMP/PARITY”) as described in “BID PROPOSAL REQUIREMENTS” and “BIDCOMP/PARITY” below.

ISSUE DETAILS: The Bonds to be sold are the “City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022” (the “Bonds”) in the aggregate principal amount of \$[PAR].* The Bonds will be dated as of the date of delivery, will be issued in fully registered form, and will be initially evidenced by one Bond for each year in which the Bonds mature in denominations equal to the principal amount which matures in each such year. Any initially issued Bonds will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, as securities depository for the Bonds (“DTC”). The Bonds are being issued pursuant to an ordinance adopted by the Council on November 7, 2022 (the “Bond Ordinance”), and a sale certificate (the “Sale Certificate”) authorized pursuant to the Bond Ordinance.

MATURITIES: Except as otherwise provided below in “MANDATORY SINKING FUND REDEMPTION” and “ADJUSTMENT OF MATURITIES AFTER DETERMINATION OF BEST BID” below, the Bonds will mature on December 1 in the years and amounts designated below:

<u>Maturity Date</u> <u>(December 1)</u>	<u>Principal Amount*</u>
2023	\$
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	

* Subject to change.

2033
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2052

ADJUSTMENT OF MATURITIES AFTER DETERMINATION OF BEST BID:

The aggregate principal amount and the principal amount of each serial maturity of the Bonds set forth in the Maturity Schedule above are subject to adjustment by the City, after the determination of the best bid. Changes to be made will be communicated to the winning bidder at the time of award of the Bonds to the winning bidder; changes will not reduce or increase the aggregate principal amount of the Bonds by more than [_____] percent (___%) and will not reduce or increase the aggregate principal amount of any individual maturity by more than the greater of [_____] Hundred Thousand Dollars (\$[____]) or [_____] percent (___%) from the amount shown in the Maturity Schedule. The price bid (i.e., par less any discount bid or plus any premium bid) by a winning bidder may be changed as described below, but the interest rates specified by the winning bidder for all maturities will not change. A winning bidder may not withdraw its bid as a result of any changes made within these limits. The price bid will be changed so that the percentage net compensation to the winning bidder (i.e., the percentage resulting from dividing (i) the aggregate difference between the offering price of the Bonds to the public and the price to be paid to the City, less any bond insurance premium, if any, to be paid by the bidder, by (ii) the principal amount of the Bonds) does not increase or decrease from what it would have been if no adjustment was made to the principal amounts shown in the Maturity Schedule.

OPTIONAL PRIOR REDEMPTION: The Bonds maturing on or before [December 1, 2032], are not subject to redemption at the option of the City prior to maturity. The Bonds maturing on and after [December 1, 2033], will be subject to redemption prior to their respective maturities, at the option of the City, in whole or in part, in integral multiples of \$5,000, from such maturities as are selected by the City, and if less than all of the Bonds of a maturity are to be redeemed, the Bonds of such maturity are to be selected by lot (giving proportionate weight to Bonds in denominations larger than \$5,000), on [December 1, 2032], or

on any date thereafter, at a redemption price equal to the principal amount so redeemed plus accrued interest to the redemption date without a redemption premium. Redemption will be made in the manner and upon the conditions described in the Final Official Statement (as described below).

MANDATORY SINKING FUND REDEMPTION: Any bidder may, at its option, specify that one or more consecutive maturities of the Bonds will consist of term bonds (the “Term Bonds”) which are subject to mandatory sinking fund redemption in consecutive years immediately preceding the maturity thereof, as designated in the bid of such bidder. Amounts included as a Term Bond must consist of consecutive maturities, must bear the same rate of interest and must include the entire principal amount for any maturity included in the Term Bond (i.e., the principal amount maturing in any year may not be divided between a serial maturity and a mandatory sinking fund redemption). Any such Term Bond will be subject to mandatory sinking fund redemption in installments in the same amounts and on the same dates as the Bonds would have matured if they were not included in a Term Bond or Term Bonds. Bonds redeemed pursuant to the mandatory sinking fund redemption provisions will be redeemed at a redemption price equal to the principal amount of the Bonds to be redeemed plus accrued interest to the redemption date in the manner and as otherwise provided in the Bond Ordinance and the Sale Certificate. Any election to designate the Bonds as being included in a Term Bond must be made in the official bid forms.

INTEREST RATES AND LIMITATIONS: Interest shall be payable on June 1 and December 1 of each year, commencing [June 1, 2023], and will be computed on the basis of a 360-day year of twelve 30-day months.

1. There is no limit on the number of rates specified, except that one interest rate only shall be specified for the Bonds of any maturity.
2. The interest rate for the Bonds must be stated in a multiple of 1/8th or 1/20th of 1% per annum. A zero rate of interest may not be named for the Bonds.
3. The maximum differential between the lowest and the highest interest rates stated in the bid for the Bonds may not exceed 200 basis points (e.g., if the lowest rate is 4.00% the highest rate may not exceed 6.00%).
4. The maximum interest rate on any Bond shall not exceed 6.00%.

PURCHASE PRICE: The purchase price bid for the Bonds shall not be less than 100% of the par amount of the Bonds. SEE “WINNING BIDDER’S REOFFERING YIELDS”.

BOND INSURANCE AT BIDDER’S OPTION AND EXPENSE: Bids will be accepted which are based upon the issuance of a municipal bond insurance policy for some or all of the Bonds, provided that payment of any insurance premium and any additional fees charged by any rating agency for rating insured Bonds shall be the sole responsibility of the bidder.

Bids shall not be conditioned upon the issuance of a municipal bond insurance policy. Subject to the limitations described below, the City will cooperate in any effort to qualify the Bonds for such bond insurance. The City makes no representation as to whether the Bonds will qualify for municipal bond insurance, and satisfaction of any conditions to the issuance of a

municipal bond insurance policy shall be the sole responsibility of the bidder. In particular, the City will neither amend nor supplement any resolution or ordinance in any way nor will it agree in advance of the sale of the Bonds to enter into any additional agreements with respect to the provision of any such policy. **FAILURE OF THE INSURANCE PROVIDER TO ISSUE ITS POLICY SHALL NOT CONSTITUTE CAUSE FOR A FAILURE OR REFUSAL BY THE WINNING BIDDER TO ACCEPT DELIVERY OF OR PAY FOR THE BONDS.** The winning bidder must provide the City with the municipal bond insurance commitment and information with respect to the municipal bond insurance policy and the insurance provider for inclusion in the Final Official Statement (as defined below) within two (2) business days following the award of the bid by the City. On or prior to the date of delivery of the Bonds, the City will require an opinion of counsel to the insurance provider regarding the enforceability of the municipal bond insurance policy, and a certificate of an officer of the insurance provider regarding certain tax matters and regarding the information in the Official Statement concerning the insurance provider and policy, in form reasonably satisfactory to the City and the winning bidder.

INFORMATION AVAILABLE FROM PRELIMINARY OFFICIAL STATEMENT: Reference is made to the Preliminary Official Statement dated [November 22, 2022] (the “Preliminary Official Statement”) for information as to the authorization and purpose of the Bonds; security for the Bonds; the book-entry system, transfer, exchange and place of payment of the Bonds; the exclusion of the interest on the Bonds from federal and State of Colorado income taxation; and other information relating to the Bonds and the City.

BIDCOMP/PARITY: Bids must be submitted electronically using BIDCOMP/PARITY no later than the time designated herein for the receipt of bids. During the electronic bidding, no bidder will see any other bidder’s bid nor the status of their bid relative to other bids (i.e., whether their bid is a leading bid). Bidders may change or withdraw their bids at any time up to the time designated herein. Electronic bids may only be submitted through BIDCOMP/PARITY. If any provisions in this Notice of Public Sale should conflict with information or terms provided or required by BIDCOMP/PARITY, this Notice of Public Sale (and any amendments hereto) shall control.

BID PROPOSAL REQUIREMENTS: A prospective bidder must register electronically to bid for the Bonds via BIDCOMP/PARITY no later than 9:00 a.m., (Mountain Time), on [December 6, 2022]. A prospective bidder must register electronically to bid for the Bonds by completing the information required by BIDCOMP/PARITY. By registering to bid for the Bonds, a prospective electronic bidder represents and warrants to the City that such bidder’s bid for the purchase of the Bonds (if a bid is submitted in connection with the sale) is submitted for and on behalf of such prospective bidder by an officer or agent who is duly authorized to bind the prospective bidder to a legal, valid and enforceable contract for the purchase of the Bonds. By registering via BIDCOMP/PARITY to bid for the Bonds, a prospective bidder is not obligated to submit a bid in connection with the sale.

Bids must be submitted electronically for the purchase of the Bonds by means of BIDCOMP/PARITY by 9:30 a.m., (Mountain Time), on [December 6, 2022]. Prior to that time, an eligible prospective bidder may (1) input the proposed terms of its bid on BIDCOMP/PARITY, (2) modify the proposed terms of its bid, in which event the proposed terms as last modified will (unless the bid is withdrawn as described herein) constitute its bid for

the Bonds, (3) send its proposed bid, or (4) withdraw its proposed bid. Once the bids are communicated electronically via BIDCOMP/PARITY, each bid will constitute an irrevocable offer to purchase the Bonds on the terms therein provided.

Each prospective bidder shall be solely responsible to register to bid via BIDCOMP/PARITY as described above. Each qualified prospective bidder shall be solely responsible to make necessary arrangements to access BIDCOMP/PARITY for purposes of submitting its bid in a timely manner and in compliance with the requirements of this Notice of Public Sale. Neither the City nor the City's financial advisor Stifel, Nicolaus & Company, Incorporated (the "Financial Advisor") shall have any duty or be obligated to undertake such registration to bid for any prospective bidder or to provide or assure such access to any qualified prospective bidder, and neither the City nor the Financial Advisor shall be responsible for a bidder's failure to register to bid or for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, BIDCOMP/PARITY. The City is using BIDCOMP/PARITY as communication mechanisms, and not as the City's agents, to conduct the electronic bidding for the Bonds.

Each bidder is required to transmit electronically via BIDCOMP/PARITY an unconditional bid specifying the lowest rate or rates of interest and the premium, or discount, as applicable, at which the bidder will purchase the Bonds. Each bid must be for all the Bonds herein offered for sale.

For informational purposes only, the electronic bid will show the effective interest rate for the Bonds represented on a TIC basis, as described under "BASIS OF AWARD" below, represented by the rate or rates of interest and the bid price specified in the bid. No bid will be received after the time for receiving such bids specified above.

Further information about BIDCOMP/PARITY, including any fees charged, may be obtained from such respective entity as follows: Bidcomp/Parity, 1359 Broadway, 2nd Floor, New York, New York 10018, telephone (212) 849-5023; fax (212) 849-5021.

WINNING BIDDER'S REOFFERING YIELDS AND ESTABLISHING THE ISSUE PRICE: At or before 10:30 a.m. Mountain Time on [December 6, 2022], the winning bidder (or manager of the purchasing account) for the Bonds must provide to the Director of Finance of the City (the "Director of Finance") and the Financial Advisor the initial offering price and yield to the public.

The winning bidder shall assist the City in establishing the issue price of the Bonds for federal income tax purposes and shall execute and deliver to the City at Closing an "issue price" or similar certificate setting forth the reasonably expected initial offering price to the public or the sales price or prices of the Bonds, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit A, in a form acceptable to the City and Butler Snow LLP ("Bond Counsel"). All actions to be taken by the City under this Notice of Public Sale to establish the issue price of the Bonds may be taken on behalf of the City by the Financial Advisor and any notice or report to be provided to the City may be provided to the Financial Advisor.

The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining “competitive sale” for purposes of establishing the issue price of the Bonds) will apply to the initial sale of the Bonds (the “competitive sale requirements”) because:

- (i) the City will disseminate this Notice of Public Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- (ii) all bidders will have an equal opportunity to bid;
- (iii) the City may receive bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- (iv) the City anticipates awarding the sale of the Bonds to the bidder who submits a firm offer to purchase the Bonds at the highest price (or lowest interest cost), as set forth in this Notice of Public Sale.

Any bid submitted pursuant to this Notice of Public Sale shall be considered a firm offer for the purchase of the Bonds, as specified in the bid and in this Notice of Public Sale and shall not be subject to any conditions or qualifications except as permitted by this Notice of Public Sale. **By submitting a bid, each bidder confirms that it has an established industry reputation for underwriting new issuances of municipal obligations.**

In the event that the competitive sale requirements are not satisfied, the City shall so advise the winning bidder. The City may determine to treat (i) the first price at which 10% of a maturity of the Bonds (the “10% test”) is sold to the public as the issue price of that maturity and/or (ii) the initial offering price to the public as of the sale date of any maturity of the Bonds as the issue price of that maturity (the “hold-the-offering-price rule”), in each case applied on a maturity-by-maturity basis (and if different interest rates apply within a maturity, to each separate CUSIP number within that maturity). The winning bidder shall advise the City if any maturity of the Bonds satisfies the 10% test as of the date and time of the award of the Bonds. The City shall promptly advise the winning bidder, at or before the time of award of the Bonds, which maturities (and if different interest rates apply within a maturity, which separate CUSIP number within that maturity) of the Bonds shall be subject to the 10% test or shall be subject to the hold-the-offering-price rule. Bids will not be subject to cancellation in the event that the City determines to apply the hold-the-offering-price rule to any maturity of the Bonds. ***Bidders should prepare their bids on the assumption that some or all of the maturities of the Bonds will be subject to the hold-the-offering-price rule in order to establish the issue price of the Bonds.***

By submitting a bid, the winning bidder shall (i) confirm that the underwriters have offered or will offer the Bonds to the public on or before the date of award at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in the bid submitted by the winning bidder and (ii) agree, on behalf of the underwriters participating in the purchase of the Bonds, that the underwriters will neither offer nor sell unsold Bonds of any maturity to which the hold-the-offering-price rule shall apply to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

(A) the close of the fifth (5th) business day after the sale date; or

(B) the date on which the underwriters have sold at least 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public.

The winning bidder shall promptly advise the City when the underwriters have sold 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

If the competitive sale requirements are not satisfied, then until the 10% test has been satisfied as to each maturity of the Bonds, the winning bidder agrees to promptly report to the City the prices at which the unsold Bonds of that maturity have been sold to the public. That reporting obligation shall continue, whether or not the Closing Date, as set forth in the Final Official Statement, has occurred, until the 10% test has been satisfied as to the Bonds of that maturity or until all Bonds of that maturity have been sold.

The City acknowledges that, in making the representation set forth above, the winning bidder will rely on (i) the agreement of each underwriter to comply with the hold-the-offering-price rule, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an underwriter is a party to a retail distribution agreement that was employed in connection with the initial sale of the Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, as set forth in the retail distribution agreement and the related pricing wires. The City further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the hold-the-offering-price rule and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Bonds.

By submitting a bid, each bidder confirms that: (i) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the bidder is a party) relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to (A) report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the winning bidder that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the winning bidder and as set forth in the related pricing wires, and (ii) any agreement among underwriters relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of

the Bonds to the public to require each broker-dealer that is a party to such retail distribution agreement to (A) report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the winning bidder or such underwriter that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the winning bidder or such underwriter and as set forth in the related pricing wires.

Sales of any Bonds to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Notice of Public Sale. Further, for purposes of this Notice of Public Sale:

- (i) “public” means any person other than an underwriter or a related party,
- (ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the public),
- (iii) a purchaser of any of the Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and
- (iv) “sale date” means the date that the Bonds are awarded by the City to the winning bidder.

GOOD FAITH DEPOSIT: A good faith deposit in the amount of \$[] will be required to be made by the apparent winning bidder after the bids have been received. The apparent winning bidder will be required to wire the good faith deposit to the City no later than [1:00 p.m.] Mountain Time on [December 6, 2022]. The Financial Advisor will contact the apparent winning bidder and request the apparent winning bidder to wire such good faith deposit and the apparent winning bidder shall provide the Federal wire reference number of such good faith deposit to the Financial Advisor by [1:00 p.m.] Mountain Time on [December 6, 2022]. Wire information shall be provided by the City upon award.

The Bonds will not be officially awarded to a bidder until such time as the bidder has provided a Federal wire reference number for the good faith deposit to the Financial Advisor.

No interest on the good faith deposit will accrue to any bidder. The good faith deposit of the winning bidder for the Bonds will be applied to the purchase price of the Bonds. In the event the winning bidder for the Bonds fails to honor its accepted bid, the good faith deposit plus any interest accrued on the good faith deposit will be retained by the City. Any investment income earned on the good faith deposit will not be credited to the successful bidder on the purchase price of the Bonds.

SALE RESERVATIONS: The Council reserves the right (1) to reject any and all bids for the Bonds, (2) to reoffer the Bonds for sale as provided by law, and (3) to waive any irregularity or informality in any bid. In addition, the Council reserves the privilege of changing the date and/or time of sale of the Bonds. If the Council changes the date and/or time of the sale of the Bonds, this Notice of Public Sale shall remain effective, except as amended by communication or other amendment communicated to potential bidders.

If bids are not taken on [December 6, 2022], or if all bids are rejected on [December 6, 2022], the City may reoffer the Bonds for sale at any time thereafter.

BASIS OF AWARD: Subject to the sale reservations and limitations set forth herein, the Bonds will be sold to the responsible bidder making the best bid therefor. The best bid(s) will be determined by computing the actuarial yield on the Bonds (i.e., using an actuarial or true interest cost method) for each bid received. "True interest cost" on the Bonds as used herein means that yield which if used to compute the present worth as of the estimated delivery date of the Bonds of all payments of principal and interest to be made on such series of the Bonds from the estimated delivery date to their respective maturity dates (or mandatory sinking fund redemption dates), using the interest rates specified in the bid and the principal amounts specified in the Maturity Schedule, produces an amount equal to the principal amount of the Bonds, less any discount or plus any premium bid. All interest calculations and the calculation of the best bid shall be based on a 360-day year and a semiannual compounding interval. If an award is made, it will be made to the bidder whose bid results in the lowest true interest cost, i.e., to the bidder making the bid resulting in the lowest true interest cost on the Bonds. If two or more equal bids for the Bonds are received and such equal bids are the best bids received, the City will determine which bid will be accepted.

TIME OF AWARD: The Council has authorized certain designated officers, on behalf of the Council, to accept the best responsible bid for the purchase of the Bonds, and to accept such bid, for and in the name of the City, by notice to the winning bidder. The City will award the Bonds or reject all bids not later than twenty-four (24) hours after the expiration of the time herein specified for the receipt of bids unless such time of award is waived by the winning bidder.

MANNER AND TIME OF DELIVERY: The good faith deposit of the winning bidder will be credited to the winning bidder against the purchase price of the Bonds at the time of delivery of the Bonds (without accruing interest). If the winning bidder for the Bonds fails or neglects to complete the purchase of the Bonds when the Bonds are made ready and are tendered for delivery, the amount of this good faith deposit will be forfeited (as liquidated damages for noncompliance with the bid) to the City, except as hereinafter provided. In that event, the

Council may reoffer the Bonds for sale as provided by law. The purchaser will not be required to accept delivery of any of the Bonds if they are not tendered for delivery within sixty (60) days from the date herein stated for opening bids. If the Bonds are not so tendered within said period of time, the good faith deposit, if any, will be returned to the purchaser upon its request (without accruing interest). The City contemplates, however, effecting delivery of the Bonds to the purchaser through DTC on or about December 20, 2022.

PAYMENT: The winning bidder or bidders will be required to make payment of the balance due for the Bonds at a bank or trust company designated by the Director of Finance. Payment of the balance of the purchase price due at delivery must be made in Federal Reserve Funds or other funds acceptable to the City for immediate and unconditional credit to the City. The Bonds will be delivered at the office of The Depository Trust Company in New York, New York, on confirmation by the City of receipt of the balance of the purchase price.

CUSIP NUMBERS: CUSIP numbers will be ordered by the Financial Advisor and will be paid for by the City as a cost of issuance. CUSIP numbers will be printed on the Bonds. If a wrong number is imprinted on any Bond or if a number is not printed thereon, any such error or omission will not constitute cause for the winning bidder to refuse delivery of any Bond.

OFFICIAL STATEMENT: The City has prepared the Preliminary Official Statement, which is deemed by the City to be final as of its date for purposes of allowing bidders to comply with Rule 15c2-12(b)(1) of the Securities and Exchange Commission (the “Rule”), except for the omission of certain information as permitted by the Rule. The Preliminary Official Statement is subject to revision, amendment and completion in a Final Official Statement, as defined below.

Copies of the Preliminary Official Statement and other information concerning the City and the Bonds may be obtained prior to the sale from the sources listed under “INFORMATION” below.

The City will, as soon as practicable after the award of the Bonds to the winning bidder, update the information contained in the Preliminary Official Statement to the date of the award, and such updated Preliminary Official Statement will constitute the “Final Official Statement” relating to the Bonds. The City authorizes the winning bidder to distribute the Final Official Statement in connection with the offering of the Bonds. The City will provide to the winning bidder an amount not to exceed [] copies of the Final Official Statement on or before the seventh business day following the date of the award of the Bonds to the winning bidder. The winning bidder may obtain additional copies of the Final Official Statement at its expense. The Final Official Statements will be delivered to the winning bidder at the offices of the Financial Advisor at the address listed below (see “INFORMATION” herein). If the winning bidder fails to pick up the Final Official Statements at the offices of the Financial Advisor, the Final Official Statements will be forwarded to the winning bidder by mail or another delivery service mutually agreed to between the winning bidder and the Financial Advisor.

For a period beginning on the date of the Final Official Statement and ending twenty-five (25) days following the date the winning bidder shall no longer hold for sale any of the Bonds, if any event concerning the affairs, properties or financial condition of the City shall occur as a result of which it is necessary to supplement the Final Official Statement in order to

make the statements therein, in light of the circumstances existing at such time, not misleading, the City shall notify the winning bidder of any such event of which the Director of Finance has actual knowledge and, at the request of the winning bidder, shall cooperate fully in preparation and furnishing of any supplement to the Final Official Statement necessary, in the reasonable opinion of the City and the winning bidder, so that the statements therein as so supplemented will not be misleading in the light of the circumstances existing at such time.

SECONDARY MARKET DISCLOSURE UNDERTAKING: Pursuant to Securities and Exchange Commission Rule 15c2-12, the City will undertake to provide notice of the occurrence of certain listed events. A form of the undertaking is set forth as an appendix to the Preliminary Official Statement.

TRANSCRIPT AND LEGAL OPINION: The validity and enforceability of the Bonds will be approved by Butler Snow LLP, Denver, Colorado, as Bond Counsel. The purchaser will receive a transcript of legal proceedings, which will include, among other documents:

- A certificate executed by officials of the City stating that there is no litigation pending affecting the validity of the Bonds as of the date of their delivery;
- A certificate executed by the Director of Finance or other authorized official of the City stating that, to the best of such person's knowledge, the Final Official Statement as of its date did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements made in the Final Official Statement, in the light of the circumstances under which they were made, not misleading, subject to the condition that while information in the Final Official Statement obtained from sources other than the City is not guaranteed as to accuracy, completeness, or fairness, such person has no reason to believe and does not believe that such information is materially inaccurate, incomplete, or misleading, and that, to the best of such person's knowledge, since the date of the Final Official Statement no event has occurred which would cause the Final Official Statement as of the date of the delivery of the Bonds to contain any untrue statement of a material fact or to omit to state any material fact necessary to make the statements made in the Final Official Statement, in the light of the circumstances under which they were made, not misleading (provided that, if between the date of the public sale of the Bonds and the date of delivery of the Bonds, any event should occur or be discovered which would cause the Final Official Statement to contain an untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the City shall notify the purchaser thereof, and if in the opinion of the City or the purchaser such event requires the preparation and publication of a supplement or amendment to the Final Official Statement, the City, at its sole expense, will supplement or amend the Final Official Statement in a

form and in a manner approved by the purchaser and by Butler Snow LLP, Denver, Colorado, as Special Counsel to the City);

- The opinion of Butler Snow LLP as to the validity, enforceability and tax-exempt status of interest on the Bonds, a form of which is set forth as Appendix [] to the Preliminary Official Statement.

GOVERNING LAW AND VENUE: This Notice of Public Sale and the contract formed when the City accepts the winning bid is governed by the laws of the State of Colorado without regard to choice of law analysis. By submitting a bid, each bidder consents to the exclusive jurisdiction of any court of the State of Colorado located in either Adams or Jefferson County or the United States District Court for the State of Colorado for the purpose of any suit, action or other proceeding arising under this Notice of Public Sale, and each bidder hereby irrevocably agrees that all claims in respect of any such suit, action or proceeding may be heard and determined by such court. Each bidder further agrees that service of process in any such action commenced in such state or federal court shall be effective on such bidder by deposit of the same as registered mail addressed to the bidder at the address set forth in the bid submitted by the bidder.

INFORMATION: This Notice of Public Sale, the Preliminary Official Statement, the official bid form and other information concerning the City and the Bonds may be obtained from the Director of Finance, City of Arvada, 8101 Ralston Road, Arvada, Colorado 80002, phone (720) 898-7123 or from the Financial Advisors, Stifel, Nicolaus & Company, Incorporated, 1401 Lawrence Street, Suite 900, Denver, Colorado, 80202, phone (303) 291-5362.

Dated [November 22, 2022].

/s/ Bryan Archer

Director of Finance

EXHIBIT A

**CITY OF ARVADA, COLORADO
WATER ENTERPRISE REVENUE BONDS
SERIES 2022 - \$[_____] ***

(FOR USE WHEN COMPETITIVE SALE REQUIREMENTS ARE SATISFIED)

ISSUE PRICE CERTIFICATE

The undersigned, on behalf of [NAME OF UNDERWRITER] (“[SHORT NAME OF UNDERWRITER]”), hereby certifies as set forth below with respect to the sale of the above-captioned obligations (the “Bonds”).

1. Reasonably Expected Initial Offering Price.

(a) As of the Sale Date, the reasonably expected initial offering prices of the Bonds to the Public by [SHORT NAME OF UNDERWRITER] are the prices listed in Schedule A (the “Expected Offering Prices”). The Expected Offering Prices are the prices for the Maturities of the Bonds used by [SHORT NAME OF UNDERWRITER] in formulating its bid to purchase the Bonds. Attached as Schedule B is a true and correct copy of the bid provided by [SHORT NAME OF UNDERWRITER] to purchase the Bonds.

(b) [SHORT NAME OF UNDERWRITER] was not given the opportunity to review other bids prior to submitting its bid.¹

(c) The bid submitted by [SHORT NAME OF UNDERWRITER] constituted a firm offer to purchase the Bonds.

2. Defined Terms.

(a) **Maturity** means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate Maturities.

(b) **Public** means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(c) **Sale Date** means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is [DATE].

*Subject to change.

¹ Treas. Reg. §1.148-1(f)(3)(i)(B) requires that all bidders have an equal opportunity to bid to purchase bonds. If the bidding process affords an equal opportunity for bidders to review other bids prior to submitting their bids, then this representation should be modified to describe the bidding process.

(d) ***Underwriter*** means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents [SHORT NAME OF UNDERWRITER]'s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Butler Snow LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Bonds.

[UNDERWRITER]

By: _____

Name: _____

Dated: [ISSUE DATE]

**CITY OF ARVADA, COLORADO
WATER ENTERPRISE REVENUE BONDS
SERIES 2022 - \$[_____]***

**(FOR USE WHEN COMPETITIVE SALE REQUIREMENTS ARE NOT SATISFIED
TO BE ADJUSTED BY BOND COUNSEL AS APPLICABLE)**

ISSUE PRICE CERTIFICATE

The undersigned, on behalf of [NAME OF UNDERWRITER/REPRESENTATIVE] [“[SHORT NAME OF UNDERWRITER]”][the “Representative”)], on behalf of itself and [NAMES OF OTHER UNDERWRITERS] (together, the “Underwriting Group”), hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “Bonds”).

(1) ***[If all maturities satisfy the 10% test on the sale date:] Sale of the General Rule Maturities.*** As of the date of this certificate, for each Maturity of the Bonds, the first price at which at least 10% of such Maturity of the Bonds was sold to the Public is the respective price listed in Schedule A. ***[If only some of the maturities satisfy the 10% test on the sale date:]*** As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity was sold to the Public is the respective price listed in Schedule A.

(2) ***Initial Offering Price of the [Bonds][Hold-the-Offering-Price Maturities].***

(a) ***[If all maturities use hold-the-offering-price rule:]***[SHORT NAME OF UNDERWRITER][The Underwriting Group] offered the Bonds to the Public for purchase at the respective initial offering prices listed in Schedule A (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B. ***[If selected maturities use hold-the-offering-price rule:]***[SHORT NAME OF UNDERWRITER][The Underwriting Group] offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B.

(b) ***[If all maturities use hold-the-offering-price rule:]***As set forth in the Notice of Sale and bid award, [SHORT NAME OF UNDERWRITER][the members of the Underwriting Group] [has][have] agreed in writing that, (i) for each Maturity of the Bonds, [it][they] would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such

* Subject to Change

agreement, no Underwriter (as defined below) has offered or sold any Maturity of the Bonds at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period. *[If selected maturities use hold-the-offering-price rule:]*s set forth in the Notice of Sale and bid award, [SHORT NAME OF UNDERWRITER][the members of the Underwriting Group] [has][have] agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, [it][they] would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) has offered or sold any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.

(3) ***Defined Terms.***

(a) ***General Rule Maturities*** means those Maturities of the Bonds listed in Schedule A hereto as the “General Rule Maturities.”

(b) ***Hold-the-Offering-Price Maturities*** means those Maturities of the Bonds listed in Schedule A hereto as the “Hold-the-Offering-Price Maturities.”

(c) ***Holding Period*** means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date ([DATE]), or (ii) the date on which [SHORT NAME OF UNDERWRITER][the Underwriters] [has][have] sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.

(d) ***Issuer*** means the City of Arvada, Colorado.

(e) ***Maturity*** means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(f) ***Public*** means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(g) ***Sale Date*** means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is [DATE].

(h) ***Underwriter*** means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph

to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents [NAME OF UNDERWRITING FIRM][the Representative's] interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Butler Snow LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Bonds.

[Signature Page Follows]

[UNDERWRITER][REPRESENTATIVE]

By: _____

Name: _____

Dated: [ISSUE DATE]

SCHEDULE A

**SALE PRICES OF THE GENERAL RULE MATURITIES AND
INITIAL OFFERING PRICES OF THE HOLD-THE-OFFERING-PRICE MATURITIES**

(Attached)

SCHEDULE B
PRICING WIRE OR EQUIVALENT COMMUNICATION
(Attached)

PAYING AGENT AGREEMENT

THIS AGREEMENT, dated as of [CLOSING DATE, 2022], is by and between the City of Arvada, in the Counties of Adams and Jefferson and State of Colorado (the “City”), and UMB Bank, n.a., in Denver, Colorado (the “Bank”).

WITNESSETH:

WHEREAS, by an ordinance of the City Council of the City duly adopted on November 7, 2022 (the “Bond Ordinance”), the City has authorized the issuance of its Water Enterprise Revenue Bonds, Series 2022, in the aggregate principal amount of \$[PAR] (the “Bonds”); and

WHEREAS, it is mutually desirable to the City and the Bank that the Bank, through its Corporate Trust & Escrow Services Department, located in Denver, Colorado, act as Paying Agent (as defined in the Bond Ordinance) for the Bonds; and

WHEREAS, it is mutually desirable that this agreement (the “Agreement”) be entered into between the City and the Bank to provide for certain aspects of such Paying Agent services.

NOW, THEREFORE, the City and the Bank, in consideration of the mutual covenants herein contained, agree as follows:

1. The Bank hereby accepts all duties and responsibilities of the Paying Agent as provided in the Bond Ordinance and in this Agreement. The Bank shall cause the Bonds to be honored in accordance with their terms, provided that the City causes to be made available to the Bank all funds necessary in order to so honor the Bonds. Nothing in this Agreement shall require the Bank to pay or disburse any funds in excess of the amount then on deposit in the “Principal and Interest Payment Account” provided for in Section 2 of this Agreement. Nothing in this Agreement shall require the City to pay or disburse any funds for payment of the Bonds or interest thereon except at the times and in the manner provided herein, in the Bond Ordinance and in the Sale Certificate authorized by the Bond Ordinance (the “Sale Certificate”). In addition, the Bank hereby accepts the duties and responsibilities pertaining to the authentication, registration, transfer, exchange and replacement of the Bonds, and the duties and responsibilities pertaining to the calling of Bonds for prior redemption, all as provided in the Bond Ordinance.

2. Not less than (a) three business days prior to each payment date, if funds are delivered by wire transfer, or (b) five business days prior to each payment date, if funds are delivered by another method of payment, funds for the payment of the Bonds and interest thereon are to be deposited by the City with the Bank in an account designated “Principal and Interest Payment Account.” The funds so deposited shall be held and applied by the Bank through its Corporate Trust & Escrow Services Department solely for the payment of principal of, premium, if any, and interest on the Bonds. From such funds, the Bank agrees to pay at the times and in the manner provided in the Bond Ordinance and the Sale Certificate, the principal of, premium, if any, and interest on the Bonds. In the event a payment date is not a Business Day (as defined in the Bond Ordinance), the Bank shall make the principal and/or interest payment on the following Business Day with the same effect as if it had been made on the date scheduled for such payment. The Bank shall not be required to invest or to pay interest on any funds of the City for any period during which such funds are held by the Bank awaiting the presentation of the Bonds for payment.

3. The City shall pay to the Bank fees in accordance with its then existing fee schedule and reimburse the Bank solely from Gross Pledged Revenues for its expenses incurred in connection with its duties under this Agreement (including without limitation, legal fees and expenses). Attached to this Agreement as Exhibit A is the Bank’s current fee schedule. No new fee schedule shall become effective until 30 days after the Bank has given the City notice thereof.

4. Unless waived by the Bank, the City agrees to provide the Bank with not less than 60 days’ notice of any prior redemption of the Bonds.

5. The Bank agrees to annually notify the City, in writing, of the City’s obligation to file its Annual Report (as such term is defined in the Continuing Disclosure Certificate dated [CLOSING DATE, 2022], relating to the issuance of the Bonds), at least 30 but not more than 60 days prior to the date on which the Annual Report is required to be filed pursuant to the terms of the Continuing Disclosure Certificate. The Bank shall have no further obligation or duty relating to the City’s obligation under the Continuing Disclosure Certificate other than the provision of the notice as required by this Section. The Bank shall not be held liable for failure to provide such notice nor for the City’s failure to comply with such requirements.

6. At least 30 but not more than 60 days prior to [CLOSING DATE, 2027], [CLOSING DATE, 2032], [CLOSING DATE, 2037], [CLOSING DATE, 2042], [CLOSING DATE, 2047], [CLOSING DATE, 2052], and on the date on which the last Bond is discharged, the Bank shall send written notice to the City stating that the City must: (i) compute the amount of rebatable arbitrage, if any, which is due to the federal government pursuant to Sections 103 and 148(f) of the Internal Revenue Code of 1986, as amended, and (ii) pay such amount no later than 60 days from [CLOSING DATE, 2027], [CLOSING DATE, 2032], [CLOSING DATE, 2037], [CLOSING DATE, 2042], [CLOSING DATE, 2047], [CLOSING DATE, 2052], and on the date on which the last Bond is discharged. The Bank shall have no further obligation or duty related to the City's requirements under Sections 103 and 148(f) of the Internal Revenue Code of 1986 other than providing the notice required by this Section. The Bank shall not be held liable for failure to provide such notice nor for the City's failure to comply with such requirements.

7. Any moneys held by the Bank for the owners of the Bonds remaining unclaimed for one year after principal and/or interest of the respective Bonds with respect to which such moneys have been set aside have become due and payable shall without further request by the City be paid to the City. If funds are returned to the City, the City and the Bank agree that the registered owner of such Bond shall thereafter look only to the City for payment thereof, and that all liability of the Bank with respect to such moneys shall thereupon cease.

8. The Agreement may be terminated as provided in Section 211 of the Bond Ordinance.

9. In the event of any conflict between the provisions of this Agreement and the provisions of the Bond Ordinance, the provisions of the Bond Ordinance shall be controlling.

10. At any time, the Bank may apply to the City for instructions and may consult counsel for the City or nationally recognized bond counsel with respect to any matter arising in connection with this Agreement and it shall not be liable for any action taken or omitted by it in good faith in accordance with such instructions or upon the advice or opinion of such counsel. The Bank may conclusively rely and shall be protected in acting upon any paper or document believed by it in good faith to be genuine and to have been signed by any authorized officer of the City and shall not be held to have notice of any change of authority of any authorized officer until receipt by it of written notice thereof by the City. The Bank shall also be protected in recognizing Bonds that it reasonably believes bear the manual or facsimile

signatures of the authorized officers of the City. The Bank shall not be responsible, for any reason, for any action taken or omitted to be taken by it in good faith in connection with this Agreement or any of the Bonds except for its own negligence, willful misconduct or bad faith in the performance of any duty to be performed by the Bank hereunder.

11. Any company or national banking association into which the Bank may be merged or converted or with which it may be consolidated or any company or national banking association resulting from any merger, conversion or consolidation to which it shall be a party or any company or national banking association to which the Bank may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible, shall be the successor to the Bank without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

12. This Agreement shall be deemed to be a contract made under and shall be construed in accordance with and governed by the laws of the State of Colorado, without regard to choice of law analysis. Jurisdiction and venue for any disputes related to this Agreement shall be in any court of the State of Colorado located in Adams or Jefferson County or the United States District Court for the State of Colorado.

13. The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

14. There is hereby created and established with the Bank a fund to be designated "City of Arvada, Colorado, Water Enterprise Revenue Bonds, Series 2022 Costs of Issuance Fund" (the "Costs of Issuance Fund"). Into such Costs of Issuance Fund there shall be deposited \$[] of the proceeds of the Bonds, which shall be used to pay costs of issuance and expenses incurred as a result of the issuance of the Bonds. The Bank is hereby directed by the City to pay the approved costs of issuance to the parties and in the amounts listed in a copy of the closing memorandum provided by Stifel, Nicolaus & Company, Incorporated, upon presentation of an invoice from each party for the amount listed. Any discrepancies will be approved by the City prior to payment of the expense. Moneys held as part of the Costs of Issuance Fund shall remain uninvested. Any amounts remaining in the Costs of Issuance Fund

90 days after closing shall be transferred to the City subject to written confirmation from the City to the Bank that all costs of issuance have been paid.

IN WITNESS WHEREOF, the Bank and the City have caused this Agreement to be duly executed and delivered as of the day and year first above written.

CITY OF ARVADA, COLORADO

By: _____
Mayor

(SEAL)

Attest:

City Clerk

UMB BANK, N.A., as Paying Agent

By: _____
Senior Vice President

EXHIBIT A

(Attach Paying Agent's Fee Schedule)



REPORT TO CITY COUNCIL PUBLIC HEARING

AGENDA ITEM
10.G.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: CB22-078, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022 (Ordinance No. 4826)

Report in Brief

The Infrastructure Work System has been updating financial strategies to support Utilities infrastructure and, specifically, Strategic Result 3 (SR3), the Water, Sewer, and Stormwater Master Plans and their implementation. The financial strategies include plans to issue a bond for wastewater infrastructure.

The Wastewater Master Plan identified projects required to add capacity for planned development and to reinvest in existing infrastructure.

The team is requesting that the City Council authorize the issuance of revenue bonds to fund these projects.

The Arvada team recommends that the City Council approve CB22-078, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022.

Financial Impact

If approved by the City Council, the bond issue will increase the Wastewater Enterprise Revenue debt by approximately \$50 million with annual payments of approximately \$2.6 million for 30 years and a total maximum repayment cost of approximately \$80 million. The source of the payments (principal and interest on the bonds) is revenue from wastewater customers along with system development charges.

Background

The City's Infrastructure team continues to prepare for investments in operations and infrastructure as part of our ongoing commitment to continue to provide reliable water, sewer, and stormwater drainage services to our community. Over the past two years, the team has provided information and updates to the Council regarding this, including annual budgets and workshops related to the water, sewer, and stormwater master planning efforts. This work supports the 2020-2025 City Council Strategic Plan that calls for updated master plans for water, sewer and stormwater, as well as an implementation plan and budget recommendations.

During the July 25 workshops, the City team presented financial strategies that would support reinvestment and planned development. We received direction from the Council to continue on the path to implement a plan to adjust rates, bimonthly service fees, and system development charges (formerly referred to as tap fees). The adjustments will provide additional resources to support implementation of the master plans called for in Strategic Result 3, including issuing bonds for water and sewer infrastructure.

The Wastewater Enterprise fund currently has no debt. Issuing debt at this time will provide funds immediately for projects and allow the city to pay over 30 years. Using bond funds to pay for large infrastructure that has a long life (20 to 50+ years) ensures intergenerational equity for our customers. This means that because most bonds have a 20-30 year term, all customers

who benefit from the completed projects, whether they live in the city now or will move here in the near future, will pay for them.

Revenue for bond payments will come from a combination of rates, fees, and system development charges. Rates and fees will pay for the portion of the bond that is related to reinvestment, and system development charges will pay for the portion of the bond that is related to capacity. This ensures the growth pays for itself in Arvada.

Discussion

Strategic Result 3 (SR3) directs the City team to complete Water, Sewer, and Stormwater Master Plans and their implementation. In order to implement the master plan findings, the City team developed financial strategies that include adjustments to rates, bimonthly service fees, system development charges, and issuance of bonds. This funding is critical to support the projects identified in the Master Plans so that our customers will continue to have reliable wastewater collection and management services and that the City's infrastructure has the capacity to support planned development.

The 10-year capital plan for wastewater includes major reinvestment and expansion of existing collection system infrastructure. This includes design and construction of upgrades and expansion of the North Trunk and Central Ralston Trunk sewer interceptors. To fund the initial phase of this work for the years 2023-2025, the City team is recommending a \$50 million bond issue in 2022. Using bonds is a best management practice for funding major infrastructure and will support Strategic Result 3.

The Wastewater Enterprise fund currently has no debt. In order to support bond payments, adjustments to rates, fees, and system development charges will be required to raise additional revenue. These adjustments are proposed under separate ordinances to revise City Code. Rates and fees will pay for the portion of costs associated with reinvestment, and system development charges will pay the portion related to added capacity for planned development. This approach ensures that growth pays for itself, and at the same time existing customers pay for reinvestment in aging infrastructure.

Approving this ordinance will support the Utilities financial strategies discussed at the July 25 workshop. The strategies support implementation of the Wastewater Master Plan as directed by Strategic Result 3. This action will also support reliable wastewater collection and management for the community for decades to come.

Public Contact

Posting of the City Council agenda

Commission Recommendation

N/A

Strategic Alignment

The recommendation to issue revenue bonds aligns with the following Strategic Result within the Infrastructure Priority Area of the City Council Strategic Plan:

By 12/2023 update water, sewer, stormwater master plans and develop an implementation plan to address all findings.

In addition, issuing revenue bonds aligns with the following Principle stated within the Infrastructure Priority Area:

Provides the community with a safe, reliable, high-quality water supply, drainage system, and wastewater disposal services for full city build-out, as defined by the Comprehensive Plan. This includes maintaining utility rates at the lowest practical levels with accurate billing that supports replacement of aging infrastructure in order to maintain robust utility systems.

Alternative Courses of Action

Approve CB22-078, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022.

Recommendation for Action

The Arvada team recommends that the City Council approve CB22-078, An Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022.

Suggested Motion:

I move that CB22-078, AAn Ordinance Authorizing the Issuance of the City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022 , be (approved on final reading, numbered 4826 and ordered published in full) (rejected).

Prepared by:
Bryan Archer, Director of Finance

Reviewed by:

Approved by:

Jenna Belec, Executive Assistant	10/18/2022
Bryan Archer, Director of Finance	10/18/2022
Gail Walker, Legal Specialist-Contracts	10/19/2022
Rachel Morris, City Attorney	10/24/2022
Linda Haley, Deputy City Manager	10/24/2022
Lorie Gillis, City Manager	10/25/2022

Enclosure, exhibits & attachments required to support the report

CONTINUING DISCLOSURE CERTIFICATE

City of Arvada, Colorado Wastewater Enterprise Revenue Bonds Series 2022

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by the City of Arvada, Colorado (the “Issuer”), in connection with the issuance of its “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022” dated as of [CLOSING DATE], in the aggregate principal amount of \$[PAR] (the “Bonds”). The Bonds are being issued pursuant to an ordinance adopted by the City Council of the Issuer on November 7, 2022 (the “Ordinance”). The Issuer covenants and agrees as follows:

SECTION 1. Purpose of this Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Issuer for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with Rule 15c2-12(b)(5) of the Securities and Exchange Commission (the “SEC”).

SECTION 2. Definitions. In addition to the definitions set forth in the Ordinance or parenthetically defined herein, which apply to any capitalized terms used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the Issuer pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“Dissemination Agent” shall mean any Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

“Fiscal Year” shall mean the period beginning on January 1 of a calendar year and ending on December 31 of the same calendar year, or such other 12-month period as may be adopted by the Issuer in accordance with law.

“Listed Events” shall mean any of the events listed in Section 5 of this Disclosure Certificate.

“MSRB” shall mean the Municipal Securities Rulemaking Board. As of the date hereof, the MSRB’s required method of filing is electronically via its Electronic Municipal Market Access (EMMA) system, which is currently available at <http://emma.msrb.org>.

“Official Statement” means the final Official Statement prepared in connection with the Bonds.

“Participating Underwriter” shall mean the original underwriter of the Bonds required to comply with the Rule in connection with an offering of the Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as in effect on the date of this Disclosure Certificate.

SECTION 3. Provision of Annual Reports.

(a) The Issuer shall, or shall cause the Dissemination Agent to, not later than nine (9) months following the end of the Issuer’s Fiscal Year, commencing nine (9) months following the end of the Issuer’s Fiscal Year ending December 31, 2022, provide to the MSRB (in an electronic format as prescribed by the MSRB), an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than five business days prior to said date, the Issuer shall provide the Annual Report to the Dissemination Agent (if the Issuer has selected one). The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the Issuer may be submitted separately from the balance of the Annual Report. The information to be updated may be reported in any format chosen by the Issuer: it is not required that the format reflected in the Official Statement be used in future years.

(b) If the Issuer is unable to provide to the MSRB an Annual Report by the date required in subsection (a), the Issuer shall, in a timely manner, file or cause to be filed with the MSRB a notice in substantially the form attached to this Disclosure Certificate as Exhibit “A.”

SECTION 4. Content of Annual Reports. The Issuer’s Annual Report shall contain or incorporate by reference the following:

(a) A copy of its annual financial statements, if any, prepared in accordance with generally accepted accounting principles audited by a firm of certified public accountants. If audited annual financial statements are not available by the time specified in Section 3(a) above, audited financial statements will be provided when and if available.

(b) An update of the type of information identified in Exhibit “B” hereto, which is contained in the tables in the Official Statement with respect to the Bonds.

Any or all of the items listed above may be incorporated by reference from other documents (including official statements), which are available to the public on the MSRB’s Internet Web Site or filed with the SEC. The Issuer shall clearly identify each such document incorporated by reference.

SECTION 5. Reporting of Listed Events. The Issuer shall file or cause to be filed with the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, notice of any of the events listed below with respect to the Bonds. All of the events currently mandated by the Rule are listed below; however, some may not apply to the Bonds.

(1) Principal and interest payment delinquencies;

- (2) Non-payment related defaults, *if material*;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of bondholders, *if material*;
- (8) Bond calls, *if material*, and tender offers;
- (9) Defeasances;
- (10) Release, substitution or sale of property securing repayment of the Bonds, *if material*;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the obligated person;¹
- (13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, *if material*;
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, *if material*;
- (15) Incurrence of a financial obligation² of the obligated person, *if material*, or agreement to covenants, events of default, remedies, priority rights, or other similar terms

¹ For the purposes of the event identified in subparagraph (b)(5)(i)(C)(12) of the Rule, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and official or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

of a financial obligation of the obligated person, any of which affect security holders, *if material*; and

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation² of the obligated person, any of which reflect financial difficulties.

SECTION 6. Format; Identifying Information. All documents provided to the MSRB pursuant to this Disclosure Certificate shall be in the format prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB.

As of the date of this Disclosure Certificate, all documents submitted to the MSRB must be in portable document format (PDF) files configured to permit documents to be saved, viewed, printed and retransmitted by electronic means. In addition, such PDF files must be word-searchable, provided that diagrams, images and other non-textual elements are not required to be word-searchable.

SECTION 7. Termination of Reporting Obligation. The Issuer's obligations under this Disclosure Certificate shall terminate upon the earliest of: (i) the date of legal defeasance, prior redemption or payment in full of all of the Bonds; (ii) the date that the Issuer shall no longer constitute an "obligated person" within the meaning of the Rule; or (iii) the date on which those portions of the Rule which require this written undertaking are held to be invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the Bonds.

SECTION 8. Dissemination Agent.

(a) The Issuer may, from time to time, appoint or engage a Dissemination Agent to assist the Issuer in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. If the Issuer elects not to appoint a successor Dissemination Agent, it shall perform the duties thereof under this Disclosure Certificate. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate and any other agreement between the Issuer and the Dissemination Agent.

(b) In addition to the filing duties on behalf of the Issuer described in this Disclosure Certificate, the Dissemination Agent shall:

² For purposes of the events identified in subparagraphs (b)(5)(i)(C)(15) and (16) of the Rule, the term "financial obligation" is defined to mean a (A) debt obligation; (B) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (C) a guarantee of (A) or (B). The term "financial obligation" shall not include municipal securities as to which a final official statement has been otherwise provided to the MSRB consistent with the Rule. In complying with Listed Events (15) and (16), the Issuer intends to apply the guidance provided by the Rule or other applicable federal securities law, SEC Release No. 34-83885 (August 20, 2018) and any future guidance provided by the SEC or its staff.

(1) each year, prior to the date for providing the Annual Report, determine the appropriate electronic format prescribed by the MSRB;

(2) send written notice to the Issuer at least 30 but no more than 60 days prior to the date the Annual Report is due stating that the Annual Report is due as provided in Section 3(a) hereof; and

(3) certify in writing to the Issuer that the Annual Report has been provided pursuant to this Disclosure Certificate and the date it was provided.

(4) If the Annual Report (or any portion thereof) is not provided to the MSRB by the date required in Section (3)(a), the Dissemination Agent shall file with the MSRB a notice in substantially the form attached to this Disclosure Certificate as Exhibit A.

SECTION 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Issuer may amend this Disclosure Certificate and may waive any provision of this Disclosure Certificate, without the consent of the holders and beneficial owners of the Bonds, if such amendment or waiver does not, in and of itself, cause the undertakings herein (or action of any Participating Underwriter in reliance on the undertakings herein) to violate the Rule, but taking into account any subsequent change in or official interpretation of the Rule. The Issuer will provide notice of such amendment or waiver to the MSRB.

SECTION 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Issuer chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Issuer shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 11. Default. In the event of a failure of the Issuer to comply with any provision of this Disclosure Certificate, any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Ordinance, and the sole remedy under this Disclosure Certificate in the event of any failure of the Issuer to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriter and the holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

DATE: [CLOSING DATE]

CITY OF ARVADA, COLORADO

By: _____
Mayor

EXHIBIT “A”

NOTICE OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: City of Arvada
Name of Bond Issue: Wastewater Enterprise Revenue Bonds, Series 2022
Date of Issuance: [CLOSING DATE]
CUSIP Number: _____

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Certificate dated [CLOSING DATE]. The Issuer anticipates that the Annual Report will be filed by _____.

Dated: _____, _____

CITY OF ARVADA, COLORADO

By: _____
Mayor

EXHIBIT “B”

OFFICIAL STATEMENT TABLES TO BE UPDATED

[To be discussed.]

**NOTICE OF PUBLIC SALE
DATED [NOVEMBER 22], 2022**

**CITY OF ARVADA, COLORADO
WASTEWATER ENTERPRISE REVENUE BONDS
SERIES 2022 - \$[PAR]***

PUBLIC NOTICE IS HEREBY GIVEN that the City Council (the “Council”) of the City of Arvada, Colorado (the “City”) will receive electronic bids for the purchase of the Bonds described below on:

[Tuesday, December 6, 2022]*

at the hour of 9:30 a.m., Colorado time.

Bids must be submitted electronically via the BIDCOMP/PARITY BIDDING SYSTEM (“BIDCOMP/PARITY”) as described in “BID PROPOSAL REQUIREMENTS” and “BIDCOMP/PARITY” below.

ISSUE DETAILS: The Bonds to be sold are the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022” (the “Bonds”) in the aggregate principal amount of \$[PAR].* The Bonds will be dated as of the date of delivery, will be issued in fully registered form, and will be initially evidenced by one Bond for each year in which the Bonds mature in denominations equal to the principal amount which matures in each such year. Any initially issued Bonds will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, as securities depository for the Bonds (“DTC”). The Bonds are being issued pursuant to an ordinance adopted by the Council on November 7, 2022 (the “Bond Ordinance”), and a sale certificate (the “Sale Certificate”) authorized pursuant to the Bond Ordinance.

MATURITIES: Except as otherwise provided below in “MANDATORY SINKING FUND REDEMPTION” and “ADJUSTMENT OF MATURITIES AFTER DETERMINATION OF BEST BID” below, the Bonds will mature on December 1 in the years and amounts designated below:

<u>Maturity Date</u> <u>(December 1)</u>	<u>Principal Amount*</u>
2023	\$
2024	
2025	
2026	
2027	
2028	
2029	
2030	

* Subject to change.

2031
2032
2033
2034
2035
2036
2037
2038
2039
2040
2041
2042
2043
2044
2045
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2048
2049
2050
2051
2052

ADJUSTMENT OF MATURITIES AFTER DETERMINATION OF BEST BID:

The aggregate principal amount and the principal amount of each serial maturity of the Bonds set forth in the Maturity Schedule above are subject to adjustment by the City, after the determination of the best bid. Changes to be made will be communicated to the winning bidder at the time of award of the Bonds to the winning bidder; changes will not reduce or increase the aggregate principal amount of the Bonds by more than [_____] percent (____%) and will not reduce or increase the aggregate principal amount of any individual maturity by more than the greater of [_____] Hundred Thousand Dollars (\$[____]) or [_____] percent (____%) from the amount shown in the Maturity Schedule. The price bid (i.e., par less any discount bid or plus any premium bid) by a winning bidder may be changed as described below, but the interest rates specified by the winning bidder for all maturities will not change. A winning bidder may not withdraw its bid as a result of any changes made within these limits. The price bid will be changed so that the percentage net compensation to the winning bidder (i.e., the percentage resulting from dividing (i) the aggregate difference between the offering price of the Bonds to the public and the price to be paid to the City, less any bond insurance premium, if any, to be paid by the bidder, by (ii) the principal amount of the Bonds) does not increase or decrease from what it would have been if no adjustment was made to the principal amounts shown in the Maturity Schedule.

OPTIONAL PRIOR REDEMPTION: The Bonds maturing on or before [December 1, 2032], are not subject to redemption at the option of the City prior to maturity. The Bonds maturing on and after [December 1, 2033], will be subject to redemption prior to their respective maturities, at the option of the City, in whole or in part, in integral multiples of

\$5,000, from such maturities as are selected by the City, and if less than all of the Bonds of a maturity are to be redeemed, the Bonds of such maturity are to be selected by lot (giving proportionate weight to Bonds in denominations larger than \$5,000), on [December 1, 2032], or on any date thereafter, at a redemption price equal to the principal amount so redeemed plus accrued interest to the redemption date without a redemption premium. Redemption will be made in the manner and upon the conditions described in the Final Official Statement (as described below).

MANDATORY SINKING FUND REDEMPTION: Any bidder may, at its option, specify that one or more consecutive maturities of the Bonds will consist of term bonds (the “Term Bonds”) which are subject to mandatory sinking fund redemption in consecutive years immediately preceding the maturity thereof, as designated in the bid of such bidder. Amounts included as a Term Bond must consist of consecutive maturities, must bear the same rate of interest and must include the entire principal amount for any maturity included in the Term Bond (i.e., the principal amount maturing in any year may not be divided between a serial maturity and a mandatory sinking fund redemption). Any such Term Bond will be subject to mandatory sinking fund redemption in installments in the same amounts and on the same dates as the Bonds would have matured if they were not included in a Term Bond or Term Bonds. Bonds redeemed pursuant to the mandatory sinking fund redemption provisions will be redeemed at a redemption price equal to the principal amount of the Bonds to be redeemed plus accrued interest to the redemption date in the manner and as otherwise provided in the Bond Ordinance and the Sale Certificate. Any election to designate the Bonds as being included in a Term Bond must be made in the official bid forms.

INTEREST RATES AND LIMITATIONS: Interest shall be payable on June 1 and December 1 of each year, commencing [June 1, 2023], and will be computed on the basis of a 360-day year of twelve 30-day months.

1. There is no limit on the number of rates specified, except that one interest rate only shall be specified for the Bonds of any maturity.
2. The interest rate for the Bonds must be stated in a multiple of 1/8th or 1/20th of 1% per annum. A zero rate of interest may not be named for the Bonds.
3. The maximum differential between the lowest and the highest interest rates stated in the bid for the Bonds may not exceed 200 basis points (e.g., if the lowest rate is 4.00% the highest rate may not exceed 6.00%).
4. The maximum interest rate on any Bond shall not exceed 6.00%.

PURCHASE PRICE: The purchase price bid for the Bonds shall not be less than 100% of the par amount of the Bonds. SEE “WINNING BIDDER’S REOFFERING YIELDS”.

BOND INSURANCE AT BIDDER’S OPTION AND EXPENSE: Bids will be accepted which are based upon the issuance of a municipal bond insurance policy for some or all of the Bonds, provided that payment of any insurance premium and any additional fees charged by any rating agency for rating insured Bonds shall be the sole responsibility of the bidder.

Bids shall not be conditioned upon the issuance of a municipal bond insurance policy. Subject to the limitations described below, the City will cooperate in any effort to qualify the Bonds for such bond insurance. The City makes no representation as to whether the Bonds will qualify for municipal bond insurance, and satisfaction of any conditions to the issuance of a municipal bond insurance policy shall be the sole responsibility of the bidder. In particular, the City will neither amend nor supplement any resolution or ordinance in any way nor will it agree in advance of the sale of the Bonds to enter into any additional agreements with respect to the provision of any such policy. **FAILURE OF THE INSURANCE PROVIDER TO ISSUE ITS POLICY SHALL NOT CONSTITUTE CAUSE FOR A FAILURE OR REFUSAL BY THE WINNING BIDDER TO ACCEPT DELIVERY OF OR PAY FOR THE BONDS.** The winning bidder must provide the City with the municipal bond insurance commitment and information with respect to the municipal bond insurance policy and the insurance provider for inclusion in the Final Official Statement (as defined below) within two (2) business days following the award of the bid by the City. On or prior to the date of delivery of the Bonds, the City will require an opinion of counsel to the insurance provider regarding the enforceability of the municipal bond insurance policy, and a certificate of an officer of the insurance provider regarding certain tax matters and regarding the information in the Official Statement concerning the insurance provider and policy, in form reasonably satisfactory to the City and the winning bidder.

INFORMATION AVAILABLE FROM PRELIMINARY OFFICIAL STATEMENT: Reference is made to the Preliminary Official Statement dated [November 22, 2022] (the “Preliminary Official Statement”) for information as to the authorization and purpose of the Bonds; security for the Bonds; the book-entry system, transfer, exchange and place of payment of the Bonds; the exclusion of the interest on the Bonds from federal and State of Colorado income taxation; and other information relating to the Bonds and the City.

BIDCOMP/PARITY: Bids must be submitted electronically using BIDCOMP/PARITY no later than the time designated herein for the receipt of bids. During the electronic bidding, no bidder will see any other bidder’s bid nor the status of their bid relative to other bids (i.e., whether their bid is a leading bid). Bidders may change or withdraw their bids at any time up to the time designated herein. Electronic bids may only be submitted through BIDCOMP/PARITY. If any provisions in this Notice of Public Sale should conflict with information or terms provided or required by BIDCOMP/PARITY, this Notice of Public Sale (and any amendments hereto) shall control.

BID PROPOSAL REQUIREMENTS: A prospective bidder must register electronically to bid for the Bonds via BIDCOMP/PARITY no later than 9:00 a.m., (Mountain Time), on [December 6, 2022]. A prospective bidder must register electronically to bid for the Bonds by completing the information required by BIDCOMP/PARITY. By registering to bid for the Bonds, a prospective electronic bidder represents and warrants to the City that such bidder’s bid for the purchase of the Bonds (if a bid is submitted in connection with the sale) is submitted for and on behalf of such prospective bidder by an officer or agent who is duly authorized to bind the prospective bidder to a legal, valid and enforceable contract for the purchase of the Bonds. By registering via BIDCOMP/PARITY to bid for the Bonds, a prospective bidder is not obligated to submit a bid in connection with the sale.

Bids must be submitted electronically for the purchase of the Bonds by means of BIDCOMP/PARITY by 9:30 a.m., (Mountain Time), on [December 6, 2022]. Prior to that time, an eligible prospective bidder may (1) input the proposed terms of its bid on BIDCOMP/PARITY, (2) modify the proposed terms of its bid, in which event the proposed terms as last modified will (unless the bid is withdrawn as described herein) constitute its bid for the Bonds, (3) send its proposed bid, or (4) withdraw its proposed bid. Once the bids are communicated electronically via BIDCOMP/PARITY, each bid will constitute an irrevocable offer to purchase the Bonds on the terms therein provided.

Each prospective bidder shall be solely responsible to register to bid via BIDCOMP/PARITY as described above. Each qualified prospective bidder shall be solely responsible to make necessary arrangements to access BIDCOMP/PARITY for purposes of submitting its bid in a timely manner and in compliance with the requirements of this Notice of Public Sale. Neither the City nor the City's financial advisor Stifel, Nicolaus & Company, Incorporated (the "Financial Advisor") shall have any duty or be obligated to undertake such registration to bid for any prospective bidder or to provide or assure such access to any qualified prospective bidder, and neither the City nor the Financial Advisor shall be responsible for a bidder's failure to register to bid or for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, BIDCOMP/PARITY. The City is using BIDCOMP/PARITY as communication mechanisms, and not as the City's agents, to conduct the electronic bidding for the Bonds.

Each bidder is required to transmit electronically via BIDCOMP/PARITY an unconditional bid specifying the lowest rate or rates of interest and the premium, or discount, as applicable, at which the bidder will purchase the Bonds. Each bid must be for all the Bonds herein offered for sale.

For informational purposes only, the electronic bid will show the effective interest rate for the Bonds represented on a TIC basis, as described under "BASIS OF AWARD" below, represented by the rate or rates of interest and the bid price specified in the bid. No bid will be received after the time for receiving such bids specified above.

Further information about BIDCOMP/PARITY, including any fees charged, may be obtained from such respective entity as follows: Bidcomp/Parity, 1359 Broadway, 2nd Floor, New York, New York 10018, telephone (212) 849-5023; fax (212) 849-5021.

WINNING BIDDER'S REOFFERING YIELDS AND ESTABLISHING THE ISSUE PRICE: At or before 10:30 a.m. Mountain Time on [December 6, 2022], the winning bidder (or manager of the purchasing account) for the Bonds must provide to the Director of Finance of the City (the "Director of Finance") and the Financial Advisor the initial offering price and yield to the public.

The winning bidder shall assist the City in establishing the issue price of the Bonds for federal income tax purposes and shall execute and deliver to the City at Closing an "issue price" or similar certificate setting forth the reasonably expected initial offering price to the public or the sales price or prices of the Bonds, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit A, in a form acceptable to the City and Butler Snow LLP ("Bond Counsel"). All actions to be taken by the

City under this Notice of Public Sale to establish the issue price of the Bonds may be taken on behalf of the City by the Financial Advisor and any notice or report to be provided to the City may be provided to the Financial Advisor.

The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining “competitive sale” for purposes of establishing the issue price of the Bonds) will apply to the initial sale of the Bonds (the “competitive sale requirements”) because:

- (i) the City will disseminate this Notice of Public Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- (ii) all bidders will have an equal opportunity to bid;
- (iii) the City may receive bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- (iv) the City anticipates awarding the sale of the Bonds to the bidder who submits a firm offer to purchase the Bonds at the highest price (or lowest interest cost), as set forth in this Notice of Public Sale.

Any bid submitted pursuant to this Notice of Public Sale shall be considered a firm offer for the purchase of the Bonds, as specified in the bid and in this Notice of Public Sale and shall not be subject to any conditions or qualifications except as permitted by this Notice of Public Sale. **By submitting a bid, each bidder confirms that it has an established industry reputation for underwriting new issuances of municipal obligations.**

In the event that the competitive sale requirements are not satisfied, the City shall so advise the winning bidder. The City may determine to treat (i) the first price at which 10% of a maturity of the Bonds (the “10% test”) is sold to the public as the issue price of that maturity and/or (ii) the initial offering price to the public as of the sale date of any maturity of the Bonds as the issue price of that maturity (the “hold-the-offering-price rule”), in each case applied on a maturity-by-maturity basis (and if different interest rates apply within a maturity, to each separate CUSIP number within that maturity). The winning bidder shall advise the City if any maturity of the Bonds satisfies the 10% test as of the date and time of the award of the Bonds. The City shall promptly advise the winning bidder, at or before the time of award of the Bonds, which maturities (and if different interest rates apply within a maturity, which separate CUSIP number within that maturity) of the Bonds shall be subject to the 10% test or shall be subject to the hold-the-offering-price rule. Bids will not be subject to cancellation in the event that the City determines to apply the hold-the-offering-price rule to any maturity of the Bonds. ***Bidders should prepare their bids on the assumption that some or all of the maturities of the Bonds will be subject to the hold-the-offering-price rule in order to establish the issue price of the Bonds.***

By submitting a bid, the winning bidder shall (i) confirm that the underwriters have offered or will offer the Bonds to the public on or before the date of award at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in the bid submitted by the winning bidder and (ii) agree, on behalf of the underwriters participating

in the purchase of the Bonds, that the underwriters will neither offer nor sell unsold Bonds of any maturity to which the hold-the-offering-price rule shall apply to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

(A) the close of the fifth (5th) business day after the sale date; or

(B) the date on which the underwriters have sold at least 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public.

The winning bidder shall promptly advise the City when the underwriters have sold 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

If the competitive sale requirements are not satisfied, then until the 10% test has been satisfied as to each maturity of the Bonds, the winning bidder agrees to promptly report to the City the prices at which the unsold Bonds of that maturity have been sold to the public. That reporting obligation shall continue, whether or not the Closing Date, as set forth in the Final Official Statement, has occurred, until the 10% test has been satisfied as to the Bonds of that maturity or until all Bonds of that maturity have been sold.

The City acknowledges that, in making the representation set forth above, the winning bidder will rely on (i) the agreement of each underwriter to comply with the hold-the-offering-price rule, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an underwriter is a party to a retail distribution agreement that was employed in connection with the initial sale of the Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, as set forth in the retail distribution agreement and the related pricing wires. The City further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the hold-the-offering-price rule and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Bonds.

By submitting a bid, each bidder confirms that: (i) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the bidder is a party) relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to (A) report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the winning bidder that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the

public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the winning bidder and as set forth in the related pricing wires, and (ii) any agreement among underwriters relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of the Bonds to the public to require each broker-dealer that is a party to such retail distribution agreement to (A) report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the winning bidder or such underwriter that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the winning bidder or such underwriter and as set forth in the related pricing wires.

Sales of any Bonds to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Notice of Public Sale. Further, for purposes of this Notice of Public Sale:

- (i) “public” means any person other than an underwriter or a related party,
- (ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the public),
- (iii) a purchaser of any of the Bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and
- (iv) “sale date” means the date that the Bonds are awarded by the City to the winning bidder.

GOOD FAITH DEPOSIT: A good faith deposit in the amount of \$[_____] will be required to be made by the apparent winning bidder after the bids have been received. The apparent winning bidder will be required to wire the good faith deposit to the City no later than [1:00 p.m.] Mountain Time on [December 6, 2022]. The Financial Advisor will contact the

apparent winning bidder and request the apparent winning bidder to wire such good faith deposit and the apparent winning bidder shall provide the Federal wire reference number of such good faith deposit to the Financial Advisor by [1:00 p.m.] Mountain Time on [December 6, 2022]. Wire information shall be provided by the City upon award.

The Bonds will not be officially awarded to a bidder until such time as the bidder has provided a Federal wire reference number for the good faith deposit to the Financial Advisor.

No interest on the good faith deposit will accrue to any bidder. The good faith deposit of the winning bidder for the Bonds will be applied to the purchase price of the Bonds. In the event the winning bidder for the Bonds fails to honor its accepted bid, the good faith deposit plus any interest accrued on the good faith deposit will be retained by the City. Any investment income earned on the good faith deposit will not be credited to the successful bidder on the purchase price of the Bonds.

SALE RESERVATIONS: The Council reserves the right (1) to reject any and all bids for the Bonds, (2) to reoffer the Bonds for sale as provided by law, and (3) to waive any irregularity or informality in any bid. In addition, the Council reserves the privilege of changing the date and/or time of sale of the Bonds. If the Council changes the date and/or time of the sale of the Bonds, this Notice of Public Sale shall remain effective, except as amended by communication or other amendment communicated to potential bidders.

If bids are not taken on [December 6, 2022], or if all bids are rejected on [December 6, 2022], the City may reoffer the Bonds for sale at any time thereafter.

BASIS OF AWARD: Subject to the sale reservations and limitations set forth herein, the Bonds will be sold to the responsible bidder making the best bid therefor. The best bid(s) will be determined by computing the actuarial yield on the Bonds (i.e., using an actuarial or true interest cost method) for each bid received. "True interest cost" on the Bonds as used herein means that yield which if used to compute the present worth as of the estimated delivery date of the Bonds of all payments of principal and interest to be made on such series of the Bonds from the estimated delivery date to their respective maturity dates (or mandatory sinking fund redemption dates), using the interest rates specified in the bid and the principal amounts specified in the Maturity Schedule, produces an amount equal to the principal amount of the Bonds, less any discount or plus any premium bid. All interest calculations and the calculation of the best bid shall be based on a 360-day year and a semiannual compounding interval. If an award is made, it will be made to the bidder whose bid results in the lowest true interest cost, i.e., to the bidder making the bid resulting in the lowest true interest cost on the Bonds. If two or more equal bids for the Bonds are received and such equal bids are the best bids received, the City will determine which bid will be accepted.

TIME OF AWARD: The Council has authorized certain designated officers, on behalf of the Council, to accept the best responsible bid for the purchase of the Bonds, and to accept such bid, for and in the name of the City, by notice to the winning bidder. The City will award the Bonds or reject all bids not later than twenty-four (24) hours after the expiration of the time herein specified for the receipt of bids unless such time of award is waived by the winning bidder.

MANNER AND TIME OF DELIVERY: The good faith deposit of the winning bidder will be credited to the winning bidder against the purchase price of the Bonds at the time of delivery of the Bonds (without accruing interest). If the winning bidder for the Bonds fails or neglects to complete the purchase of the Bonds when the Bonds are made ready and are tendered for delivery, the amount of this good faith deposit will be forfeited (as liquidated damages for noncompliance with the bid) to the City, except as hereinafter provided. In that event, the Council may reoffer the Bonds for sale as provided by law. The purchaser will not be required to accept delivery of any of the Bonds if they are not tendered for delivery within sixty (60) days from the date herein stated for opening bids. If the Bonds are not so tendered within said period of time, the good faith deposit, if any, will be returned to the purchaser upon its request (without accruing interest). The City contemplates, however, effecting delivery of the Bonds to the purchaser through DTC on or about December 20, 2022.

PAYMENT: The winning bidder or bidders will be required to make payment of the balance due for the Bonds at a bank or trust company designated by the Director of Finance. Payment of the balance of the purchase price due at delivery must be made in Federal Reserve Funds or other funds acceptable to the City for immediate and unconditional credit to the City. The Bonds will be delivered at the office of The Depository Trust Company in New York, New York, on confirmation by the City of receipt of the balance of the purchase price.

CUSIP NUMBERS: CUSIP numbers will be ordered by the Financial Advisor and will be paid for by the City as a cost of issuance. CUSIP numbers will be printed on the Bonds. If a wrong number is imprinted on any Bond or if a number is not printed thereon, any such error or omission will not constitute cause for the winning bidder to refuse delivery of any Bond.

OFFICIAL STATEMENT: The City has prepared the Preliminary Official Statement, which is deemed by the City to be final as of its date for purposes of allowing bidders to comply with Rule 15c2-12(b)(1) of the Securities and Exchange Commission (the “Rule”), except for the omission of certain information as permitted by the Rule. The Preliminary Official Statement is subject to revision, amendment and completion in a Final Official Statement, as defined below.

Copies of the Preliminary Official Statement and other information concerning the City and the Bonds may be obtained prior to the sale from the sources listed under “INFORMATION” below.

The City will, as soon as practicable after the award of the Bonds to the winning bidder, update the information contained in the Preliminary Official Statement to the date of the award, and such updated Preliminary Official Statement will constitute the “Final Official Statement” relating to the Bonds. The City authorizes the winning bidder to distribute the Final Official Statement in connection with the offering of the Bonds. The City will provide to the winning bidder an amount not to exceed [] copies of the Final Official Statement on or before the seventh business day following the date of the award of the Bonds to the winning bidder. The winning bidder may obtain additional copies of the Final Official Statement at its expense. The Final Official Statements will be delivered to the winning bidder at the offices of the Financial Advisor at the address listed below (see “INFORMATION” herein). If the winning bidder fails to pick up the Final Official Statements at the offices of the Financial Advisor, the

Final Official Statements will be forwarded to the winning bidder by mail or another delivery service mutually agreed to between the winning bidder and the Financial Advisor.

For a period beginning on the date of the Final Official Statement and ending twenty-five (25) days following the date the winning bidder shall no longer hold for sale any of the Bonds, if any event concerning the affairs, properties or financial condition of the City shall occur as a result of which it is necessary to supplement the Final Official Statement in order to make the statements therein, in light of the circumstances existing at such time, not misleading, the City shall notify the winning bidder of any such event of which the Director of Finance has actual knowledge and, at the request of the winning bidder, shall cooperate fully in preparation and furnishing of any supplement to the Final Official Statement necessary, in the reasonable opinion of the City and the winning bidder, so that the statements therein as so supplemented will not be misleading in the light of the circumstances existing at such time.

SECONDARY MARKET DISCLOSURE UNDERTAKING: Pursuant to Securities and Exchange Commission Rule 15c2-12, the City will undertake to provide notice of the occurrence of certain listed events. A form of the undertaking is set forth as an appendix to the Preliminary Official Statement.

TRANSCRIPT AND LEGAL OPINION: The validity and enforceability of the Bonds will be approved by Butler Snow LLP, Denver, Colorado, as Bond Counsel. The purchaser will receive a transcript of legal proceedings, which will include, among other documents:

- A certificate executed by officials of the City stating that there is no litigation pending affecting the validity of the Bonds as of the date of their delivery;
- A certificate executed by the Director of Finance or other authorized official of the City stating that, to the best of such person's knowledge, the Final Official Statement as of its date did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements made in the Final Official Statement, in the light of the circumstances under which they were made, not misleading, subject to the condition that while information in the Final Official Statement obtained from sources other than the City is not guaranteed as to accuracy, completeness, or fairness, such person has no reason to believe and does not believe that such information is materially inaccurate, incomplete, or misleading, and that, to the best of such person's knowledge, since the date of the Final Official Statement no event has occurred which would cause the Final Official Statement as of the date of the delivery of the Bonds to contain any untrue statement of a material fact or to omit to state any material fact necessary to make the statements made in the Final Official Statement, in the light of the circumstances under which they were made, not misleading (provided that, if between the date of the public sale of the Bonds and the date of delivery of the Bonds, any event should occur or be discovered which would cause the Final Official Statement to contain an untrue statement of a material fact or to omit to

state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the City shall notify the purchaser thereof, and if in the opinion of the City or the purchaser such event requires the preparation and publication of a supplement or amendment to the Final Official Statement, the City, at its sole expense, will supplement or amend the Final Official Statement in a form and in a manner approved by the purchaser and by Butler Snow LLP, Denver, Colorado, as Special Counsel to the City);

- The opinion of Butler Snow LLP as to the validity, enforceability and tax-exempt status of interest on the Bonds, a form of which is set forth as Appendix [] to the Preliminary Official Statement.

GOVERNING LAW AND VENUE: This Notice of Public Sale and the contract formed when the City accepts the winning bid is governed by the laws of the State of Colorado without regard to choice of law analysis. By submitting a bid, each bidder consents to the exclusive jurisdiction of any court of the State of Colorado located in either Adams or Jefferson County or the United States District Court for the State of Colorado for the purpose of any suit, action or other proceeding arising under this Notice of Public Sale, and each bidder hereby irrevocably agrees that all claims in respect of any such suit, action or proceeding may be heard and determined by such court. Each bidder further agrees that service of process in any such action commenced in such state or federal court shall be effective on such bidder by deposit of the same as registered mail addressed to the bidder at the address set forth in the bid submitted by the bidder.

INFORMATION: This Notice of Public Sale, the Preliminary Official Statement, the official bid form and other information concerning the City and the Bonds may be obtained from the Director of Finance, City of Arvada, 8101 Ralston Road, Arvada, Colorado 80002, phone (720) 898-7123 or from the Financial Advisors, Stifel, Nicolaus & Company, Incorporated, 1401 Lawrence Street, Suite 900, Denver, Colorado, 80202, phone (303) 291-5362.

Dated [November 22, 2022].

/s/ Bryan Archer

Director of Finance

EXHIBIT A

**CITY OF ARVADA, COLORADO
WASTEWATER ENTERPRISE REVENUE BONDS
SERIES 2022 - \$[_____] ***

(FOR USE WHEN COMPETITIVE SALE REQUIREMENTS ARE SATISFIED)

ISSUE PRICE CERTIFICATE

The undersigned, on behalf of [NAME OF UNDERWRITER] (“[SHORT NAME OF UNDERWRITER]”), hereby certifies as set forth below with respect to the sale of the above-captioned obligations (the “Bonds”).

1. *Reasonably Expected Initial Offering Price.*

(a) As of the Sale Date, the reasonably expected initial offering prices of the Bonds to the Public by [SHORT NAME OF UNDERWRITER] are the prices listed in Schedule A (the “Expected Offering Prices”). The Expected Offering Prices are the prices for the Maturities of the Bonds used by [SHORT NAME OF UNDERWRITER] in formulating its bid to purchase the Bonds. Attached as Schedule B is a true and correct copy of the bid provided by [SHORT NAME OF UNDERWRITER] to purchase the Bonds.

(b) [SHORT NAME OF UNDERWRITER] was not given the opportunity to review other bids prior to submitting its bid.¹

(c) The bid submitted by [SHORT NAME OF UNDERWRITER] constituted a firm offer to purchase the Bonds.

2. *Defined Terms.*

(a) ***Maturity*** means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate Maturities.

(b) ***Public*** means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(c) ***Sale Date*** means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is [DATE].

*Subject to change.

¹ Treas. Reg. §1.148-1(f)(3)(i)(B) requires that all bidders have an equal opportunity to bid to purchase bonds. If the bidding process affords an equal opportunity for bidders to review other bids prior to submitting their bids, then this representation should be modified to describe the bidding process.

(d) ***Underwriter*** means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents [SHORT NAME OF UNDERWRITER]'s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Butler Snow LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Bonds.

[UNDERWRITER]

By: _____

Name: _____

Dated: [ISSUE DATE]

**CITY OF ARVADA, COLORADO
WASTEWATER ENTERPRISE REVENUE BONDS
SERIES 2022 - \$[_____]***

**(FOR USE WHEN COMPETITIVE SALE REQUIREMENTS ARE NOT SATISFIED
TO BE ADJUSTED BY BOND COUNSEL AS APPLICABLE)**

ISSUE PRICE CERTIFICATE

The undersigned, on behalf of [NAME OF UNDERWRITER/REPRESENTATIVE] [“[SHORT NAME OF UNDERWRITER]”][the “Representative”)][, on behalf of itself and [NAMES OF OTHER UNDERWRITERS] (together, the “Underwriting Group”),] hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “Bonds”).

(1) ***[If all maturities satisfy the 10% test on the sale date:] Sale of the General Rule Maturities.*** As of the date of this certificate, for each Maturity of the Bonds, the first price at which at least 10% of such Maturity of the Bonds was sold to the Public is the respective price listed in Schedule A. ***[If only some of the maturities satisfy the 10% test on the sale date:]*** As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity was sold to the Public is the respective price listed in Schedule A.

(2) ***Initial Offering Price of the [Bonds]/[Hold-the-Offering-Price Maturities].***

(a) ***[If all maturities use hold-the-offering-price rule:]***[SHORT NAME OF UNDERWRITER][The Underwriting Group] offered the Bonds to the Public for purchase at the respective initial offering prices listed in Schedule A (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B. ***[If selected maturities use hold-the-offering-price rule:]***[SHORT NAME OF UNDERWRITER][The Underwriting Group] offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B.

(b) ***[If all maturities use hold-the-offering-price rule:]***As set forth in the Notice of Sale and bid award, [SHORT NAME OF UNDERWRITER][the members of the Underwriting Group] [has][have] agreed in writing that, (i) for each Maturity of the Bonds, [it][they] would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such

* Subject to Change

agreement, no Underwriter (as defined below) has offered or sold any Maturity of the Bonds at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period. *[If selected maturities use hold-the-offering-price rule:]*s set forth in the Notice of Sale and bid award, [SHORT NAME OF UNDERWRITER][the members of the Underwriting Group] [has][have] agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, [it][they] would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) has offered or sold any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.

(3) ***Defined Terms.***

(a) ***General Rule Maturities*** means those Maturities of the Bonds listed in Schedule A hereto as the “General Rule Maturities.”

(b) ***Hold-the-Offering-Price Maturities*** means those Maturities of the Bonds listed in Schedule A hereto as the “Hold-the-Offering-Price Maturities.”

(c) ***Holding Period*** means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date ([DATE]), or (ii) the date on which [SHORT NAME OF UNDERWRITER][the Underwriters] [has][have] sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.

(d) ***Issuer*** means the City of Arvada, Colorado.

(e) ***Maturity*** means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(f) ***Public*** means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(g) ***Sale Date*** means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is [DATE].

(h) ***Underwriter*** means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph

to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents [NAME OF UNDERWRITING FIRM][the Representative's] interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Butler Snow LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Bonds.

[Signature Page Follows]

[UNDERWRITER][REPRESENTATIVE]

By: _____

Name: _____

Dated: [ISSUE DATE]

SCHEDULE A

**SALE PRICES OF THE GENERAL RULE MATURITIES AND
INITIAL OFFERING PRICES OF THE HOLD-THE-OFFERING-PRICE MATURITIES**

(Attached)

SCHEDULE B
PRICING WIRE OR EQUIVALENT COMMUNICATION
(Attached)

PAYING AGENT AGREEMENT

THIS AGREEMENT, dated as of [CLOSING DATE, 2022], is by and between the City of Arvada, in the Counties of Adams and Jefferson and State of Colorado (the “City”), and UMB Bank, n.a., in Denver, Colorado (the “Bank”).

WITNESSETH:

WHEREAS, by an ordinance of the City Council of the City duly adopted on November 7, 2022 (the “Bond Ordinance”), the City has authorized the issuance of its Wastewater Enterprise Revenue Bonds, Series 2022, in the aggregate principal amount of \$[PAR] (the “Bonds”); and

WHEREAS, it is mutually desirable to the City and the Bank that the Bank, through its Corporate Trust & Escrow Services Department, located in Denver, Colorado, act as Paying Agent (as defined in the Bond Ordinance) for the Bonds; and

WHEREAS, it is mutually desirable that this agreement (the “Agreement”) be entered into between the City and the Bank to provide for certain aspects of such Paying Agent services.

NOW, THEREFORE, the City and the Bank, in consideration of the mutual covenants herein contained, agree as follows:

1. The Bank hereby accepts all duties and responsibilities of the Paying Agent as provided in the Bond Ordinance and in this Agreement. The Bank shall cause the Bonds to be honored in accordance with their terms, provided that the City causes to be made available to the Bank all funds necessary in order to so honor the Bonds. Nothing in this Agreement shall require the Bank to pay or disburse any funds in excess of the amount then on deposit in the “Principal and Interest Payment Account” provided for in Section 2 of this Agreement. Nothing in this Agreement shall require the City to pay or disburse any funds for payment of the Bonds or interest thereon except at the times and in the manner provided herein, in the Bond Ordinance and in the Sale Certificate authorized by the Bond Ordinance (the “Sale Certificate”). In addition, the Bank hereby accepts the duties and responsibilities pertaining to the authentication, registration, transfer, exchange and replacement of the Bonds, and the duties and responsibilities pertaining to the calling of Bonds for prior redemption, all as provided in the Bond Ordinance.

2. Not less than (a) three business days prior to each payment date, if funds are delivered by wire transfer, or (b) five business days prior to each payment date, if funds are delivered by another method of payment, funds for the payment of the Bonds and interest thereon are to be deposited by the City with the Bank in an account designated “Principal and Interest Payment Account.” The funds so deposited shall be held and applied by the Bank through its Corporate Trust & Escrow Services Department solely for the payment of principal of, premium, if any, and interest on the Bonds. From such funds, the Bank agrees to pay at the times and in the manner provided in the Bond Ordinance and the Sale Certificate, the principal of, premium, if any, and interest on the Bonds. In the event a payment date is not a Business Day (as defined in the Bond Ordinance), the Bank shall make the principal and/or interest payment on the following Business Day with the same effect as if it had been made on the date scheduled for such payment. The Bank shall not be required to invest or to pay interest on any funds of the City for any period during which such funds are held by the Bank awaiting the presentation of the Bonds for payment.

3. The City shall pay to the Bank fees in accordance with its then existing fee schedule and reimburse the Bank solely from Gross Pledged Revenues for its expenses incurred in connection with its duties under this Agreement (including without limitation, legal fees and expenses). Attached to this Agreement as Exhibit A is the Bank’s current fee schedule. No new fee schedule shall become effective until 30 days after the Bank has given the City notice thereof.

4. Unless waived by the Bank, the City agrees to provide the Bank with not less than 60 days’ notice of any prior redemption of the Bonds.

5. The Bank agrees to annually notify the City, in writing, of the City’s obligation to file its Annual Report (as such term is defined in the Continuing Disclosure Certificate dated [CLOSING DATE, 2022], relating to the issuance of the Bonds), at least 30 but not more than 60 days prior to the date on which the Annual Report is required to be filed pursuant to the terms of the Continuing Disclosure Certificate. The Bank shall have no further obligation or duty relating to the City’s obligation under the Continuing Disclosure Certificate other than the provision of the notice as required by this Section. The Bank shall not be held liable for failure to provide such notice nor for the City’s failure to comply with such requirements.

6. At least 30 but not more than 60 days prior to [CLOSING DATE, 2027], [CLOSING DATE, 2032], [CLOSING DATE, 2037], [CLOSING DATE, 2042], [CLOSING DATE, 2047], [CLOSING DATE, 2052], and on the date on which the last Bond is discharged, the Bank shall send written notice to the City stating that the City must: (i) compute the amount of rebatable arbitrage, if any, which is due to the federal government pursuant to Sections 103 and 148(f) of the Internal Revenue Code of 1986, as amended, and (ii) pay such amount no later than 60 days from [CLOSING DATE, 2027], [CLOSING DATE, 2032], [CLOSING DATE, 2037], [CLOSING DATE, 2042], [CLOSING DATE, 2047], [CLOSING DATE, 2052], and on the date on which the last Bond is discharged. The Bank shall have no further obligation or duty related to the City's requirements under Sections 103 and 148(f) of the Internal Revenue Code of 1986 other than providing the notice required by this Section. The Bank shall not be held liable for failure to provide such notice nor for the City's failure to comply with such requirements.

7. Any moneys held by the Bank for the owners of the Bonds remaining unclaimed for one year after principal and/or interest of the respective Bonds with respect to which such moneys have been set aside have become due and payable shall without further request by the City be paid to the City. If funds are returned to the City, the City and the Bank agree that the registered owner of such Bond shall thereafter look only to the City for payment thereof, and that all liability of the Bank with respect to such moneys shall thereupon cease.

8. The Agreement may be terminated as provided in Section 211 of the Bond Ordinance.

9. In the event of any conflict between the provisions of this Agreement and the provisions of the Bond Ordinance, the provisions of the Bond Ordinance shall be controlling.

10. At any time, the Bank may apply to the City for instructions and may consult counsel for the City or nationally recognized bond counsel with respect to any matter arising in connection with this Agreement and it shall not be liable for any action taken or omitted by it in good faith in accordance with such instructions or upon the advice or opinion of such counsel. The Bank may conclusively rely and shall be protected in acting upon any paper or document believed by it in good faith to be genuine and to have been signed by any authorized officer of the City and shall not be held to have notice of any change of authority of any authorized officer until receipt by it of written notice thereof by the City. The Bank shall also be protected in recognizing Bonds that it reasonably believes bear the manual or facsimile

signatures of the authorized officers of the City. The Bank shall not be responsible, for any reason, for any action taken or omitted to be taken by it in good faith in connection with this Agreement or any of the Bonds except for its own negligence, willful misconduct or bad faith in the performance of any duty to be performed by the Bank hereunder.

11. Any company or national banking association into which the Bank may be merged or converted or with which it may be consolidated or any company or national banking association resulting from any merger, conversion or consolidation to which it shall be a party or any company or national banking association to which the Bank may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible, shall be the successor to the Bank without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

12. This Agreement shall be deemed to be a contract made under and shall be construed in accordance with and governed by the laws of the State of Colorado, without regard to choice of law analysis. Jurisdiction and venue for any disputes related to this Agreement shall be in any court of the State of Colorado located in Adams or Jefferson County or the United States District Court for the State of Colorado.

13. The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

14. There is hereby created and established with the Bank a fund to be designated "City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022 Costs of Issuance Fund" (the "Costs of Issuance Fund"). Into such Costs of Issuance Fund there shall be deposited \$[] of the proceeds of the Bonds, which shall be used to pay costs of issuance and expenses incurred as a result of the issuance of the Bonds. The Bank is hereby directed by the City to pay the approved costs of issuance to the parties and in the amounts listed in a copy of the closing memorandum provided by Stifel, Nicolaus & Company, Incorporated, upon presentation of an invoice from each party for the amount listed. Any discrepancies will be approved by the City prior to payment of the expense. Moneys held as part of the Costs of Issuance Fund shall remain uninvested. Any amounts remaining in the Costs of Issuance Fund

90 days after closing shall be transferred to the City subject to written confirmation from the City to the Bank that all costs of issuance have been paid.

IN WITNESS WHEREOF, the Bank and the City have caused this Agreement to be duly executed and delivered as of the day and year first above written.

CITY OF ARVADA, COLORADO

By: _____
Mayor

(SEAL)

Attest:

City Clerk

UMB BANK, N.A., as Paying Agent

By: _____
Senior Vice President

EXHIBIT A

(Attach Paying Agent's Fee Schedule)

COUNCIL BILL NO. 22-078
ORDINANCE NO. 4826

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF ARVADA,
COLORADO, WASTEWATER ENTERPRISE REVENUE BONDS, SERIES 2022

WHEREAS, the City of Arvada (the “City”) is a municipal corporation and political subdivision of the State of Colorado (the “State”) duly organized and existing under the City’s home rule charter (the “Charter”) adopted pursuant to Article XX of the Constitution of the State; and

WHEREAS, the members of the City Council of the City (the “Council”) have been duly elected or appointed and qualified; and

WHEREAS, the City now owns and operates a municipal sewer system (the “Wastewater System”); and

WHEREAS, the Council has determined and hereby determines that the Wastewater System constitutes an enterprise pursuant to Article X, Section 20 of the Colorado Constitution (“TABOR”) and Title 37, Article 45.1, C.R.S. (the “Enterprise Act”); and

WHEREAS, the City is authorized by Section 11.5 of the Charter to issue bonds for the purpose of purchasing, constructing, condemning, otherwise acquiring, extending, or improving a sewer system provided that the bonds shall be made payable solely out of the net revenues derived from the operations of such system; and

WHEREAS, the Council proposes to extend, better, otherwise improve and equip the Wastewater System (as more fully described herein, the “Project”); and

WHEREAS, the City is authorized by Section 11.5 of the Charter, and the Enterprise Act, to issue revenue bonds authorized by action of the Council; and

WHEREAS, the City intends to issue its “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022” (the “Bonds”) to defray in part the costs of the Project; and

WHEREAS, the City is authorized by TABOR, the Enterprise Act and Section 11.5 of the Charter to issue the Bonds without an election; and

WHEREAS, the City has not previously pledged nor hypothecated the revenues derived or to be derived from the operation of the Wastewater System, or any part thereof, to the payment of any outstanding bonds or other financial obligations or for any other purpose; and

WHEREAS, the City intends to conduct a public sale of the Bonds where the Bonds will be sold to the highest and best bidders for cash and to the best advantage of the City for the purpose of defraying in whole or in part the costs of the Project in accordance with Section 11.8 of the Charter; and

WHEREAS, pursuant to Section 11-57-205, C.R.S., the City desires to delegate to the City Manager or the Director of Finance the independent power to accept a binding bid for the Bonds and to make final determinations relating to the Bonds, subject to the parameters contained in Section 213 of this Ordinance; and

WHEREAS, there are on file with the City Clerk the forms of the following documents: (i) the Notice of Sale; (ii) the Paying Agent Agreement; (iii) the Preliminary Official Statement; and (iv) the Continuing Disclosure Certificate; and

WHEREAS, it is necessary to provide for the form of the Bonds, Bond details, the payment of the Bonds, and other provisions relating to the authorization, issuance, and sale of the Bonds.

BE IT ORDAINED BY THE CITY OF ARVADA, COLORADO:

DEFINITIONS, INTERPRETATION,
RATIFICATION AND EFFECTIVE DATE

Section I01. Meanings and Construction.

A. Definitions. The terms in this Section for all purposes of this Ordinance and of any ordinance amendatory hereof or supplemental hereto, or relating hereto, and of any other ordinance or any other document pertaining hereto, except where the context by clear implication otherwise requires, shall have the meanings herein specified:

“acquire” or “acquisition” means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the Federal Government, the State, any body corporate and politic therein, or any other Person, the endowment, bequest, devise, transfer, assignment, option to purchase, other contract, or other acquisition, or any combination thereof, of any properties pertaining to the Wastewater System, or an interest therein, or any other properties herein designated.

“Bond Counsel” means an attorney or a firm of attorneys, designated by the City of nationally recognized standing in matters pertaining to the tax status of interest on bonds issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“Bond Fund” means the special fund designated as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022, Bond Fund” created pursuant to Section 505 hereof.

“Bond Requirements” means the principal of, any prior redemption premiums due in connection with, and the interest on the Bonds, any Parity Bonds, or other securities payable from the Net Pledged Revenues and heretofore or hereafter issued, if any, or such part of such securities as may be designated.

“Bonds” means City’s Wastewater Enterprise Revenue Bonds, Series 2022, issued pursuant to this Ordinance.

“book-entry form” or “book-entry system” means, with respect to the Bonds, a form or system, as applicable, under which physical Bond certificates in fully registered form are registered only in the name of The Depository Trust Company or its nominee as Owner, with the physical Bond certificates “immobilized” in the custody of The Depository Trust Company. The book-entry system maintained by and the responsibility of The Depository Trust Company and

not maintained by or the responsibility of the City or the Paying Agent is the record that identifies, and records the transfer of the interests of, the owners of book-entry interests in the Bonds.

“Business Day” means a day of the year, other than a Saturday or Sunday, other than a day on which commercial banks located in the city in which the principal corporate trust office of the Paying Agent is located are required or authorized to remain closed and other than a day on which the New York Stock Exchange is closed.

“Capital Improvements” means the acquisition of land, easements, facilities, and equipment (other than ordinary repairs and replacements), and those property improvements or any combination of property improvements which will constitute enlargements, extensions or betterments to the Wastewater System and will be incorporated into the Wastewater System.

“City” means the City of Arvada, Adams and Jefferson Counties, Colorado, a municipal corporation and political subdivision of the State.

“City Clerk” means the City Clerk of the City, or his or her successor in functions, if any.

“City Manager” means the City Manager of the City, or his or her successor in functions, if any.

“Charter” means the home rule charter of the City, including all amendments thereto prior to the date hereof.

“Closing Date” means the date of delivery of and payment for the Bonds.

“Combined Maximum Annual Principal and Interest Requirements” means the largest sum of the principal of and interest on the Bonds, any Outstanding Parity Bonds and any additional Parity Bonds proposed to be issued, excluding any securities the principal of which is payable within less than one year from the date on which issued, to be paid during any one Fiscal Year for the period beginning with the Fiscal Year in which such computation is made and ending with the Fiscal Year in which any Bond or other such security last becomes due at maturity or on a Redemption Date, whichever time is later (but excluding any reserve requirement to secure such payments unless otherwise expressly provided), subject in all respects to the following, as applicable:

(1) The word “principal,” as used in this definition, means the principal which must be paid to security Owners, whether on stated maturity dates or on mandatory Redemption Dates, or otherwise.

(2) Any computation made under this definition shall be adjusted for all purposes in the same manner as is provided in Section 703 hereof.

“Commercial Bank” means a state or national bank or trust company which is a member of the Federal Deposit Insurance Corporation (or any successors thereto) and of the Federal Reserve System, which has a capital and surplus of \$10,000,000 or more, and which is located within the United States of America.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate for the Bonds executed by the City.

“Costs of the Project” means all costs, as designated by the City, of the Project, or any interest therein, which cost, at the option of the City (except as may be otherwise limited by law) may include all, any one or other portion of the incidental costs pertaining to the Project, including, without limitation:

(i) All preliminary expenses or other costs advanced by the City or advanced by the Federal Government, the State or by any other Person from any source, with the approval of the Council, or any combination thereof, or otherwise;

(ii) The costs of making surveys and tests, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;

(iii) The costs of contingencies;

(iv) The costs of premiums on any builders’ risk insurance and performance bonds during the construction, installation and other acquisition of the Project, or a reasonably allocated share thereof;

(v) The costs of appraising, printing, estimates, advice, inspection, other services of engineers, architects, accountants, financial consultants, attorneys at law, clerical help and other agents and employees;

(vi) The costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the Project and the issuance of the Bonds;

(vii) All costs and expenses of issuing the Bonds including, without limitation, fees of the Paying Agent, Bond Counsel, counsel to the Purchaser, counsel to the City, financial advisor, rating agencies and printers to the extent not defrayed as an Operation and Maintenance Expense;

(viii) The costs of the filing or recording of instruments and the cost of any title insurance premiums;

(ix) The costs of funding any construction loans and other temporary loans pertaining to the Project and of the incidental expenses incurred in connection with such loans;

(x) The costs of demolishing, removing, or relocating any buildings, structures, or other facilities on land acquired for the Project, and of acquiring lands to which such buildings, structures or other facilities may be moved or relocated;

(xi) The costs of machinery and equipment;

(xii) The costs of any properties, rights, easements or other interests in properties, or any licenses, privileges, agreements and franchises;

(xiii) The payment of the premium for the Insurance Policy issued by the Insurer and Reserve Fund Insurance Policy issued by the Surety Provider;

(xiv) The costs of labor, material and obligations incurred to contractors, builders and materialmen in connection with the acquisition and construction of the Project;

(xv) The costs of amending any ordinance or other instrument pertaining to the Bonds or otherwise to the Wastewater System; and

(xvi) All other expenses pertaining to the Project.

“Council” means the City Council of the City.

“C.R.S.” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“Director of Finance” means the Director of Finance of the City, or his or her successor in functions, if any.

“Enterprise Act” means Title 37, Article 45.1, C.R.S., as amended.

“Events of Default” means the events stated in Section 903 hereof.

“Federal Government” means the United States of America and any agency, instrumentality or corporation thereof.

“Federal Securities” means bills, certificates of indebtedness, notes, or bonds which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America.

“Fitch” means Fitch, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns.

“Fiscal Year” means the calendar year or any other 12-month period hereafter selected by the City as its fiscal year.

“Gross Pledged Revenues” means all income from rates, fees, tolls and charges and tap fees, or any combination thereof, but not special assessments, for the services furnished by, or the direct or indirect connection with, or the use of, or any commodity from the Wastewater System, including without limiting the generality of the foregoing, minimum charges, charges for the availability of service, disconnection fees, reconnection fees and reasonable penalties for any delinquencies, and all income or other realized gain, if any, from any investment of Gross Pledged Revenues and of the proceeds of securities payable from Net Pledged Revenues (except income or other gain from any investment of moneys held in an escrow fund or account for the defeasance of securities payable from the Net Pledged Revenues or any other similar fund) to the extent not required to be rebated to the federal government; provided however, that there shall be excluded from Gross Pledged Revenue: ad valorem property taxes; any moneys borrowed and used for providing Capital Improvements; any money and securities, and investment income therefrom, in any refunding fund, escrow account, or similar account, pledged to the payment of any bonds or other obligations; and any moneys received as grants or appropriations from the United States, the State of Colorado or other sources, the use of which is limited or restricted by the grantor or donor to the provision of Capital Improvements or for other purposes resulting in the general unavailability thereof, except to the extent any such moneys shall be received as payments for the use of the Wastewater System, services rendered thereby, the availability of any such service, or the disposal of any commodities therefrom. Gross Pledged Revenues shall also include amounts on deposit in a rate stabilization fund. Gross Pledged Revenues excludes any refund of rates, tolls and charges due to others.

“improve” or “improvement” means the extension, reconstruction, alteration, betterment or other improvement by the construction, purchase or other acquisition of facilities, including, without limitation, appurtenant machinery, apparatus, fixtures, structures and buildings.

“Independent Accountant” means any certified public accountant, or any firm of certified public accountants, duly licensed to practice and practicing as such under the laws of the State:

- (i) Who is, in fact, independent and not under the control of the City;
- (ii) Who does not have any substantial interest, direct or indirect, with the City, and

(iii) Who is not connected with the City as an officer or employee thereof, but who may be regularly retained to make annual or similar audits of any books or records of the City.

“Independent Engineer” means an individual, firm or corporation engaged in the engineering profession of recognized good standing and having specific experience in respect of business and properties of a character similar to those of the Wastewater System, which individual, firm or corporation has no substantial interest, direct or indirect, in the City and in the case of an individual, is not a member of the Council, or an officer or employee of the City, and in the case of a firm or corporation, does not have a partner, director, officer or employee who is a member of the Council or an officer or employee of the City.

“Insurance Agreement” means an agreement entered into between the City and any Insurer pursuant to Section 213 of this Ordinance.

“Insurance Policy” means the municipal bond new issue insurance policy, if any, issued by the Insurer that guarantees payment of principal of and interest on the Bonds when due.

“Insurer” means the issuer of the Insurance Policy, if any, as set forth in the Sale Certificate.

“Investment Securities” means any securities or other obligations permitted as investments of moneys of the City under the laws of the State.

“Letter of Representations” means the Blanket Issuer Letter of Representations from the City to The Depository Trust Company in connection with the issuance of the Bonds in a book-entry system, as supplemented and amended from time to time.

“Mayor” means the Mayor of the City or his or her successor in functions, if any.

“Moody’s” means Moody’s Investor Services, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns.

“Net Pledged Revenues” means the Gross Pledged Revenues remaining after the payment of the Operation and Maintenance Expenses of the Wastewater System.

“Official Statement” means the Official Statement delivered in connection with the original issuance and sale of the Bonds.

“Operation and Maintenance Expenses” means all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the Wastewater System as may be determined by the City, including, except as limited by contract or otherwise limited by law, without limiting the generality of the foregoing:

(a) Engineering, auditing, legal and other overhead expenses directly related and reasonably allocable to the administration, operation and maintenance of the Wastewater System;

(b) Insurance, surety bond and interest rate cap agreement premiums appertaining to the Wastewater System;

(c) The reasonable charges of any paying agent, registrar, transfer agent, depository or escrow bank appertaining to any securities payable from the Net Pledged Revenues;

(d) Annual payments to pension, retirement, health and hospitalization funds appertaining to the Wastewater System;

(e) Any taxes, assessments, franchise fees or other charges or payments in lieu of the foregoing;

(f) Ordinary and current rentals or equipment or other property;

(g) Contractual services, professional services, salaries, administrative expenses and costs of labor appertaining to the Wastewater System, and the cost of materials and supplies used for current operation or routine maintenance or repair of the Wastewater System;

(h) The costs incurred in the billing and collection of all or any part of the Gross Pledged Revenues;

(i) Any costs of utility services furnished to the Wastewater System by the City or otherwise;

(j) Any other such expenses considered by the City in determining the amount of wastewater rates, fees, tolls and charges imposed for operation and maintenance; and

(k) Expenses in connection with the issuance of bonds or other securities evidencing any loan to the City and payable from Gross Pledged Revenues.

“Operating Expenses” do not include:

(a) Any allowance for depreciation;

(b) Any costs of improvement, extension or betterment that qualify as capital items in accordance with generally accepted accounting principles;

(c) Any accumulation of reserves for capital replacements;

(d) Any reserves for operation, maintenance or repair of the Wastewater System;

(e) Any allowance for the redemption of any bonds or other securities payable from the Net Pledged Revenues or the payment of any interest thereon;

(f) Any liabilities incurred in the acquisition of any facilities constituting part of the Wastewater System; and

(g) Any other ground of legal liability not based on contract.

“Ordinance” means this ordinance of the City, which provides for the issuance and delivery of the Bonds.

“Outstanding” when used with reference to the Bonds, the Parity Bonds, or any other designated securities and as of any particular date means all the Bonds, the Parity Bonds, or any such other securities payable from the Net Pledged Revenues or otherwise pertaining to the Wastewater System, as the case may be, in any manner theretofore and thereupon being executed and delivered:

(i) Except any Bond, Parity Bond, or other security canceled by the City, by any paying agent, or otherwise on the City’s behalf, at or before such date;

(ii) Except any Bond, Parity Bond, or other security deemed to be paid as provided in Section 1201 hereof or any similar provision of the ordinance authorizing the issuance of such other security; and

(iii) Except any Bond, Parity Bond, or other security in lieu of or in substitution for which another Bond, Parity Bond or other security shall have been executed and delivered pursuant to Sections 305, 306 or 1008 hereof or any similar provisions of the ordinance authorizing the issuance of such other security.

“Owner” means the registered owner of any designated Bond, Parity Bond, or other designated security.

“Parity Bonds” means any securities hereafter issued payable from and having an irrevocable lien upon the Net Pledged Revenues on a parity with the Bonds.

“Parity Bond Ordinances” means any ordinances or agreements hereafter entered into by the City with respect to or authorizing the issuance of Parity Bonds.

“Paying Agent” means UMB Bank, n.a., in Denver, Colorado, being an agent of the City for the payment of the Bond Requirements due in connection with the Bonds, the registrar for the Bonds and for other administration of moneys pertaining to the Bonds and includes any successor Commercial Bank as paying agent.

“Paying Agent Agreement” means the Paying Agent Agreement between the City and the Paying Agent.

“Person” means a corporation, firm, other body corporate (including, without limitation, the Federal Government, the State, or any other body corporate and politic other than the City), partnership, limited liability company, association or individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

“Policy Costs” means repayment of draws under the Reserve Fund Insurance Policy, if any, plus all related reasonable expenses incurred by the Surety Provider, plus accrued interest thereon.

“Preliminary Official Statement” means the Preliminary Official Statement delivered in connection with the original issuance and sale of the Bonds.

“Project” means the acquisition, construction and installation of Capital Improvements to the Wastewater System, the cost of which is to be defrayed with a portion of the proceeds of the Bonds.

“Project Fund” means the special fund designated as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022, Project Fund” created pursuant to Section 401 hereof.

“Purchaser” means the original purchaser of the Bonds as specified in the Sale Certificate.

“Rating Agency” means each nationally recognized securities rating agency then maintaining a rating on the Bonds.

“Rebate Fund” means the special fund designated as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022, Rebate Fund” created pursuant to Section 509 hereof.

“Record Date” means the close of business on the fifteenth day (whether or not a Business Day) of the calendar month next preceding an interest payment date.

“Redemption Date” means the date fixed for the redemption prior to their respective maturities of any Bonds or other designated securities payable from Net Pledged Revenues in any notice of prior redemption or otherwise fixed and designated by the City.

“Reserve Fund” means the special fund designated as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022, Reserve Fund” created pursuant to Section 506 hereof.

“Reserve Fund Insurance Policy” means any insurance policy, surety bond, irrevocable letter of credit or similar instrument deposited in or credited to the Reserve Fund in lieu of or in partial substitution for moneys on deposit therein.

“Reserve Fund Requirement” if any, has the meaning ascribed to such term in the Sale Certificate.

“Sale Certificate” means the sale certificate of the City relating to the Bonds issued pursuant to the Supplemental Public Securities Act and described in Section 213 hereof.

“Special Record Date” means the record date for determining ownership of the Bonds for purposes of paying accrued but unpaid interest, as such date may be determined pursuant to this Ordinance.

“Standard & Poor’s” means S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC, its successors and its assigns.

“State” means the State of Colorado.

“Subordinate Securities” means securities or other obligations payable from the Net Pledged Revenues subordinate and junior to the lien thereon of the Bonds and any Parity Bonds.

“Supplemental Public Securities Act” means Part 2 of Article 57 of Title 11, C.R.S., as amended.

“Surety Provider” means the Insurer or any other entity issuing a Reserve Fund Insurance Policy with respect to the Bonds.

“Tax Code” means the Internal Revenue Code of 1986, as amended to the date of delivery of the Bonds, and the regulations promulgated thereunder.

“Tax Compliance Certificate” means one or more federal tax compliance certificates executed by the City in connection with the initial issuance and delivery of the Bonds.

“Term Bonds” means Bonds that are payable on or before their specified maturing dates from sinking fund payments established for that purpose and calculated to retire such Bonds on or before their specified maturity dates.

“Trust Bank” means a Commercial Bank which is authorized to exercise and is exercising trust powers located within or without the State, and also means any branch of the Federal Reserve Bank.

“Wastewater Enterprise Fund” means the special fund maintained by the City and designated as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Wastewater Enterprise Fund.”

“Wastewater System” means the City’s system for the collection, treatment and discharge of wastewater and consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City, whether situated within or without the City boundaries, used in connection with such system of the City, and in any way appertaining thereto, including all present or future improvements, extensions, enlargements, betterments, replacements or additions thereof or thereto and administrative facilities

Parties Interested Herein. Nothing herein expressed or implied confers any right, remedy or claim upon any Person, other than the City, the Council, the Paying Agent, the Insurer, the Surety Provider, the Owners of the Bonds and the Owners of any Parity Bonds or other securities payable from the Net Pledged Revenues when reference is expressly made thereto. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Council, the Paying Agent, the Insurer, the Surety Provider, the Owners of the Bonds and the Owners of any such other securities in the event of such a reference.

Ratification; Approval of Documents. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Council, the officers, employees and agents of the City and otherwise taken by the City directed toward the Project and the sale and delivery of the Bonds for such purposes, be, and the same hereby is, ratified, approved and confirmed.

Repealer. All bylaws, orders, resolutions and ordinances or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any such bylaw, order, resolution or ordinance, or part thereof, heretofore repealed. All rules of the Council, if any, which might prevent the final passage and adoption of this Ordinance are hereby suspended.

Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance for any reason is invalid or unenforceable, the invalidity or unenforceability of such

section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

Ordinance Irrepealable. After any of the Bonds are issued, this Ordinance shall constitute an irrevocable contract between the City and the Owner or Owners of the Bonds and this Ordinance shall be and shall remain irrepealable until the Bonds, as to all Bond Requirements, shall be fully paid, canceled, and discharged, except as herein otherwise provided.

Conclusive Recitals. Pursuant to Section 11-57-210 of the Supplemental Public Securities Act, the Bonds shall contain a recital that they are issued pursuant to the Supplemental Public Securities Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value.

Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Public Securities Act, no legal or equitable action brought with respect to any legislative acts or proceedings of the City in connection with the authorization or issuance of the Bonds, including but not limited to the adoption of this Ordinance, shall be commenced more than thirty days after the authorization of the Bonds.

ARTICLE II

DETERMINATION OF THE CITY'S AUTHORITY AND OBLIGATIONS;

APPROVAL OF RELATED DOCUMENTS; AND ELECTION TO

APPLY SUPPLEMENTAL PUBLIC SECURITIES ACT TO THE BONDS

Authorization. The Bonds are issued in accordance with the Constitution and laws of the State, the Charter and the provisions of this Ordinance, specifically the Supplemental Public Securities Act; Title 37, Article 45.1, C.R.S., and all other laws of the State thereunto enabling. For the purpose of defraying the Costs of the Project, the City hereby authorizes the Bonds to be issued in the aggregate principal amount provided in the Sale Certificate as approved by the Mayor, the City Manager or the Director of Finance, subject to the parameters and restrictions contained in this Ordinance.

Bonds Equally Secured. The covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the Owners of any and all of the Outstanding Bonds and any Outstanding Parity Bonds heretofore or hereafter authorized and issued, all of which, regardless of the time or times of their issue or maturity,

shall be of equal rank without preference, priority or distinction of any of such securities over any other thereof, except as otherwise expressly provided in or pursuant to this Ordinance.

Special Obligations. All of the Bond Requirements of the Bonds and the Policy Costs shall be payable and collectible solely out of the Net Pledged Revenues which revenues are so pledged; the Owner or Owners of the Bonds, the Insurer, and the Surety Provider may not look to any general or other fund for the payment of the Bond Requirements or the Policy Costs, except the herein designated special funds pledged therefor; the Bonds and the Policy Costs shall not constitute an indebtedness or a debt within the meaning of any constitutional, or statutory provision or limitation; and the Bonds and the Policy Costs shall not be considered or held to be general obligations of the City but shall constitute its special obligations. No statutory, Charter, or constitutional provision enacted after the issuance of the Bonds shall in any manner be construed as limiting or impairing the obligation of the City to comply with the provisions of this Ordinance or to pay the Bond Requirements of the Bonds and the Policy Costs as herein provided.

Character of Agreement. None of the covenants, agreements, representations and warranties contained herein or in the Bonds shall ever impose or shall be construed as imposing any liability, obligation or charge against the City (except the special funds pledged therefor), or against its general credit, or as payable out of its general fund or out of any funds derived from taxation or out of any other revenue source (other than those pledged therefor).

No Pledge of Property. The payment of the Bonds and the Policy Costs is not secured by an encumbrance, mortgage or other pledge of property of the City, except for the Net Pledged Revenues and other moneys pledged for the payment of the Bond Requirements of the Bonds. No property of the City, subject to such exception, shall be liable to be forfeited or taken in payment of the Bonds or the Policy Costs.

No Recourse Against Officers and Agents. No recourse shall be had for the payment of the Bond Requirements of the Bonds or the Policy Costs or for any claim based thereon or otherwise upon this Ordinance or any other ordinance pertaining hereto, against any individual member of the Council or any officer, employee or other agent of the City, past, present or future, either directly or indirectly through the Council, or the City, or otherwise, whether by virtue of any penalty or otherwise, all such liability, if any, being by the acceptance of the Bonds and as part of the consideration of their issuance specially waived and released.

Authorization of the Project. The Council, on behalf of the City, does hereby determine to undertake the Project, which is hereby authorized, and the proceeds of the Bonds shall be used therefor.

Enterprise Status. The Council, on behalf of the City, hereby confirms its determination that the Wastewater System is an “enterprise” for the purposes of Article X, Section 20 of the State Constitution and the Enterprise Act.

Sale of Bonds. The Bonds shall be sold by competitive sale to the Purchaser. Pursuant to the Supplemental Public Securities Act, the Council hereby delegates to the Mayor, the City Manager or the Director of Finance the authority to accept a binding bid for the Bonds, to execute the proposal for the purchase of the Bonds submitted by the Purchaser and to execute the Sale Certificate confirming the bond details.

Official Statement. The preparation and use of the Preliminary Official Statement and of the final Official Statement are hereby authorized. The Mayor, the City Manager, or the Director of Finance is hereby authorized to approve, on behalf of the City, the Official Statement, in substantially the form of the Preliminary Official Statement with such changes as are hereafter approved by the Mayor, the City Manager or the Director of Finance. The execution of the Official Statement by the Mayor, the City Manager, or the Director of Finance shall be conclusively deemed to evidence the approval of the form and contents thereof by the City.

Paying Agent. The Council hereby determines to approve the Paying Agent Agreement in substantially the form as is on file with the City Clerk. The Paying Agent may resign at any time on 30 days’ prior written notice to the City. The City may remove the Paying Agent upon 30 days’ prior written notice to the Paying Agent. If the Paying Agent appointed thereunder shall resign, or if the City shall determine to remove the Paying Agent, then the City may appoint a successor Paying Agent, upon notice mailed to each Owner of any Bond at such Person’s address last shown on the registration records maintained by the Paying Agent or by electronic means to DTC or its successors. No resignation or dismissal of the Paying Agent may take effect until a successor has been appointed and has accepted the duties of the Paying Agent. Every such successor Paying Agent shall be a Commercial Bank.

Other Related Documents. The forms, terms and provisions of, and the performance by the City of its obligations under the Notice of Sale, the Preliminary Official Statement, the Paying Agent Agreement, and the Continuing Disclosure Certificate are hereby approved, and

the Mayor or Mayor pro tem and the City Clerk or Deputy City Clerk are hereby authorized and directed to execute each of such documents on behalf of and in the name of the City, and to deliver each of such documents, in substantially the form on file with the City Clerk, with such changes as are not inconsistent herewith. The Mayor, the City Manager or the Director of Finance are hereby independently authorized to execute and deliver the Notice of Sale, the Sale Certificate and any Insurance Agreement as may be required by an Insurer relating to the issuance of the Insurance Policy or a Surety Provider relating to the Reserve Fund Insurance Policy. The execution of any instrument by the appropriate officers of the City herein authorized shall be conclusive evidence of the approval by the City of such instrument in accordance with the terms hereof.

Election to Apply Supplemental Public Securities Act to the Bonds. Pursuant to Section 11-57-204 of the Supplemental Public Securities Act, a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Public Securities Act. The Council hereby elects to apply all of the provisions of the Supplemental Public Securities Act to the Bonds. Pursuant to Section 11-57-205 of the Supplemental Public Securities Act, the Council hereby delegates to any of the Mayor, the City Manager or the Director of Finance the authority to make the following determinations with respect to the Bonds, subject to the parameters and restrictions contained in this Ordinance, without any requirement that the Council approve such determinations:

(i) **Interest Rate.** The rate of interest to be borne by the Bonds, provided that no Bond shall bear interest in excess of 6.00%.

(ii) **Redemption Provisions.** The prior redemption provisions of the Bonds, provided that the Bonds shall be subject to optional redemption at a redemption price not to exceed 103%.

(iii) **Purchase Price.** The price at which the Bonds will be sold to the purchaser, provided that the purchase price of the Bonds shall not be less than 98% of the aggregate principal amount of the Bonds.

(iv) **Principal Amount.** The aggregate principal amount of the Bonds, provided that the aggregate principal amount of the Bonds shall not exceed \$52,000,000.

(v) **Maturity Schedule.** The amount of principal of the Bonds maturing, or subject to mandatory sinking fund redemption in any particular year; provided that the maximum

annual repayment cost shall not exceed \$3,750,000 and the maximum total repayment cost shall not exceed \$104,000,000.

(vi) Term of the Bonds. The Bonds shall not mature later than December 1, 2053.

(vii) Capitalized Interest. The existence and amount of any capitalized interest on the Bonds.

(viii) Reserve Fund. The existence of, and amount to be deposited in the Reserve Fund.

(ix) Bond Insurance. Whether the Bonds will be secured by an Insurance Policy or a Reserve Fund Insurance Policy and the terms of any agreement with the provider of such Insurance Policy or Reserve Fund Insurance Policy.

Such determinations shall be evidenced by the Sale Certificate signed by the Mayor, the City Manager or the Director of Finance dated the date of the sale of the Bonds or the Closing Date, and delivered as of the Closing Date, which shall not be more than one year from the date of adoption of this Ordinance. If the City shall determine to not obtain an Insurance Policy to secure the payment of principal of and interest on the Bonds, or not to obtain a Reserve Fund Insurance Policy, any references to the Insurer, the Insurance Policy, the Reserve Fund Insurance Policy, the Surety Provider, Policy Costs, the Insurance Agreement, or other provisions relating to bond insurance shall be of no force or effect.

Useful Life of the Project. The Council estimates the useful life of the Project to be financed by the Bonds to be 40 years.

ARTICLE III
AUTHORIZATION, TERMS, EXECUTION AND
ISSUANCE OF BONDS

Section III01. Bond Details.

A. Basic Provisions. The Bonds shall be issued in fully registered form (*i.e.* registered as to payment of both principal and interest), in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be lettered “R” and shall be numbered separately from 1 upward. The Bonds shall be dated as of the date of their delivery. The Bonds shall mature on December 1, in the years and amounts and subject to prior redemption as set forth herein and in the Sale Certificate. The Bonds shall bear interest from the most recent interest payment date to which interest has been paid, or if no interest has been paid, from their date until their respective maturities (or prior redemption) at the rates set forth in the Sale Certificate. No interest shall accrue on any Bonds owned by or on behalf of the City. Interest on the Bonds shall be calculated on the basis of a 360-day year of twelve 30-day months, payable semiannually on each June 1 and December 1, commencing on the date provided in the Sale Certificate.

B. Payment of Bonds. The principal of each Bond shall be payable at the principal corporate trust office of the Paying Agent, or at such other office as the Paying Agent directs in writing to the Owners of the Bonds, or at the principal office of its successor, upon presentation and surrender of the Bond. Payment of interest on any Bond shall be made to the Owner thereof by the Paying Agent on or before each interest payment date, (or, if such interest payment date is not a Business Day, on or before the next succeeding Business Day), to such Owner at such Person’s address as it appears on the registration records kept by the Paying Agent on the Record Date; but any such interest not so timely paid or duly provided for shall cease to be payable to the Person who is the Owner thereof at the close of business on the Record Date and shall be payable to the Person who is the Owner thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Such Special Record Date and the date fixed for payment of such defaulted interest shall be fixed by the Paying Agent whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the Owners not less than ten days prior to the Special Record Date by first-class mail to each such Owner as shown on the Paying Agent’s registration books on a date selected by the Paying Agent, stating the date of the Special Record Date and the date fixed for the payment of

such defaulted interest. The Paying Agent may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the Owner of such Bond and the Paying Agent. If any Bond is not paid upon its presentation and surrender at or after its maturity or prior redemption, interest shall continue at its stated rate per annum until the principal thereof is paid in full. All such payments shall be made in lawful money of the United States of America.

Execution of Bonds. The Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor, shall be sealed with the corporate seal of the City or a facsimile thereof thereunto affixed, imprinted, engraved or otherwise reproduced and shall be attested by the manual or facsimile signature of the City Clerk. Any Bond may be signed (manually or by facsimile), sealed or attested on behalf of the City by any person who, at the date of such act, shall hold the proper office, notwithstanding that at the date of authentication, issuance or delivery, such person may have ceased to hold such office. The Mayor and the City Clerk may adopt as and for his or her own facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears on any of the Bonds. Before the execution of any Bond, the Mayor and the City Clerk shall each file with the Colorado Secretary of State his or her manual signature certified by him or her under oath.

Authentication Certificate. The authentication certificate upon the Bonds shall be substantially in the form and tenor provided in the form of the Bonds set forth in Section 309 hereof. No Bond shall be secured hereby or entitled to the benefit hereof, nor shall any Bond be valid or obligatory for any purpose, unless the certificate of authentication, substantially in such form, has been duly executed by the Paying Agent and such certificate of the Paying Agent upon any Bond shall be conclusive evidence that such Bond has been authenticated and delivered hereunder. The certificate of authentication shall be deemed to have been duly executed by the Paying Agent if manually signed by an authorized officer or employee of the Paying Agent, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds.

Registration and Payment. The Paying Agent shall keep or cause to be kept sufficient records for the registration and transfer of the Bonds, which shall at all times be open to inspection by the City. Upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said records, Bonds as herein provided. Except as provided in Section 306 and

Section 1101 hereof, the Person in whose name any Bond shall be registered on the registration records kept by the Paying Agent shall be deemed and regarded as the absolute owner thereof for the purpose of making payment of the Bond Requirements thereof and for all other purposes; and payment of or on account of the Bond Requirements of any Bond shall be made only to the Owner thereof or such Person's legal representative, but such registration may be changed upon transfer of such Bond in the manner and subject to the conditions and limitations provided herein. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid. The foregoing provisions of this Section are subject to the provisions of Section 307 hereof.

Transfer and Exchange. Any Bond may be transferred upon the records required to be kept pursuant to the provisions of Section 304 hereof by the Person in whose name it is registered, in person or by such Person's duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed. Whenever any Bond or Bonds shall be surrendered for transfer, the Paying Agent shall authenticate and deliver a new Bond or Bonds for a like aggregate principal amount and of the same maturity and interest rate and of any authorized denominations. The Bonds may be exchanged by the Paying Agent for a like aggregate principal amount of Bonds of the same maturity and interest rate and of other authorized denominations. The execution by the City of any Bond of any denomination shall constitute full and due authorization of such denomination and the Paying Agent shall thereby be authorized to authenticate and deliver such Bond.

The Paying Agent shall not be required to transfer or exchange (a) any Bond subject to redemption during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Bonds and ending at the close of business on the day such notice is mailed, or (b) any Bond so selected for redemption in whole or in part after the mailing of notice calling such Bond or any portion thereof for prior redemption except the unredeemed portion of Bonds being redeemed in part.

The Paying Agent shall require the payment by any Owner requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer and may charge a sum sufficient to pay the cost of preparing each new Bond

upon each exchange or transfer and any other expenses of the City or the Paying Agent incurred in connection therewith.

The foregoing provisions of this Section are subject to the provisions of Section 307 hereof.

Bond Replacement. Upon receipt by the City and the Paying Agent of evidence satisfactory to them of the ownership of and the loss, theft, destruction or mutilation of any Bond and, in the case of a lost, stolen or destroyed Bond, of indemnity satisfactory to them, and in the case of a mutilated Bond upon surrender and cancellation of the Bond, (a) the City shall execute and the Paying Agent shall authenticate and deliver a new Bond of the same date, interest rate and denomination in lieu of such lost, stolen, destroyed or mutilated Bond, or (b) if such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, in lieu of executing and delivering a new Bond as aforesaid, the City may pay such Bond. Any such new Bond shall bear a number not previously assigned. The applicant for any such new Bond may be required to pay all expenses and charges of the City and of the Paying Agent in connection with the issuance of such Bond. All Bonds shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing conditions are exclusive with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds, negotiable instruments or other securities.

Section III02. Custodial Deposit.

A. **Depository.** Notwithstanding any contrary provision of this Ordinance, the Bonds initially shall be evidenced by one Bond of the same maturity and interest rate in denominations equal to the aggregate principal amount of the Bonds of the same maturity and interest rate. Such initially delivered Bonds shall be registered in the name of “Cede & Co.” as nominee for The Depository Trust Company, the securities depository for the Bonds. The Bonds may not thereafter be transferred or exchanged except:

(1) to any successor of The Depository Trust Company or its nominee, which successor must be both a “clearing corporation” as defined in Section 4-8-102(a)(5), C.R.S. and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended; or

(2) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (1) or this clause (2) of this paragraph A, or a

determination by the Council that The Depository Trust Company or such successor or a new depository institution is no longer able to carry out its functions, and the designation by the Council of another depository institution acceptable to the Council and to the depository institution then holding the Bonds, which new depository institution must be both a “clearing corporation” as defined in Section 4-8-102(a)(5), C.R.S. and a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended, to carry out the functions of The Depository Trust Company or such successor new depository institution; or

(3) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (1) above or designation of a new depository institution pursuant to clause (2) above, or a determination of the Council that The Depository Trust Company or such successor or new depository institution is no longer able to carry out its functions, and the failure by the Council, after reasonable investigation, to locate another depository institution under clause (2) to carry out such depository institution functions.

B. Successor. In the case of a transfer to a successor of The Depository Trust Company or its nominee as referred to in clause (1) or (2) of paragraph A hereof, upon receipt of the outstanding Bonds by the Paying Agent together with written instructions for transfer satisfactory to the Paying Agent, a new Bond for each maturity and interest rate of the Bonds then outstanding shall be issued to such successor or new depository, as the case may be, or its nominee, as is specified in such written transfer instructions. In the case of a resignation or determination under clause (3) of paragraph A hereof and the failure after reasonable investigation to locate another qualified depository institution for the Bonds as provided in clause (3) of paragraph A hereof, and upon receipt of the outstanding Bonds by the Paying Agent, together with written instructions for transfer satisfactory to the Paying Agent, new Bonds shall be issued in authorized denominations as provided in and subject to the limitations of Sections 301, 304, and 305 hereof, registered in the names of such Persons, as are requested in such written transfer instructions; however, the Paying Agent shall not be required to deliver such new Bonds within a period of less than 60 days from the date of receipt of such written transfer instructions.

C. Absolute Owner. The Council and the Paying Agent shall be entitled to treat the Owner of any Bond as the absolute owner thereof for all purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by any or all of them and the Council

and the Paying Agent shall have no responsibility for transmitting payments or notices to the beneficial owners of the Bonds held by The Depository Trust Company or any successor or new depository named pursuant to paragraph A hereof.

D. Payment. The Council and the Paying Agent shall endeavor to cooperate with The Depository Trust Company or any successor or new depository named pursuant to clause (1) or (2) of paragraph A hereof in effectuating payment of the principal amount of the Bonds upon maturity or prior redemption by arranging for payment in such a manner that funds representing such payments are available to the depository on the date they are due.

E. Redemption. Upon any partial redemption of any maturity and interest rate of the Bonds, Cede & Co. (or its successor) in its discretion may request the City to issue and authenticate a new Bond or shall make an appropriate notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Paying Agent prior to payment. The records of the Paying Agent shall govern in the case of any dispute as to the amount of any partial prepayment made to Cede & Co. (or its successor).

Bond Cancellation. Whenever any Bond shall be surrendered to the Paying Agent upon payment thereof, or to the Paying Agent for transfer, exchange or replacement as provided herein, such Bond shall be promptly canceled in accordance with the customary practices of the Paying Agent and applicable retention laws.

Bond Form. Subject to the provisions of this Ordinance, the Bonds shall be in substantially the following form, with such omissions, insertions, endorsements and variations as to any recitals of fact or other provisions as may be required by the circumstances, be required or permitted by this Ordinance, be consistent with this Ordinance or be necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto:

(FORM OF BOND)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the City or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA
STATE OF COLORADO
COUNTIES OF ADAMS AND JEFFERSON
CITY OF ARVADA, COLORADO
WASTEWATER ENTERPRISE REVENUE BOND
SERIES 2022

No. R- _____ \$ _____

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED AS OF</u>	<u>CUSIP</u>
_____%	December 1, 20__	[Date of Delivery]	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

The City of Arvada (the “City”), in the Counties of Adams and Jefferson and State of Colorado (the “State”), for value received, hereby promises to pay to the registered owner specified above, or registered assigns, upon the presentation and surrender of this bond, solely from the special funds provided therefor, as hereinafter set forth, the principal amount set forth above on the maturity date specified above (unless this bond shall have been called for prior redemption, in which case on the Redemption Date) and to pay solely from such special funds interest hereon at the interest rate per annum specified above, payable semiannually on June 1 and December 1 in each year, beginning on [June 1, 2023], until the principal amount is paid or payment has been provided for, as described in an ordinance adopted by the City Council of the

City on November 7, 2022 (the “Ordinance”). This is one of an authorized series of bonds issued under the Ordinance (the “Bonds”). The Bonds are all issued under and equally and ratably secured by and entitled to the security of the Ordinance. To the extent not defined herein, terms used in this Bond shall have the same meanings as set forth in the Ordinance. This Bond bears interest, matures, is payable, is subject to redemption and is transferable as provided in the Ordinance.

Reference is made to the Ordinance and to all ordinances supplemental thereto, with respect to the nature and extent of the security for the Bonds, the accounts, funds or revenues pledged, rights, duties and obligations of the City, the Paying Agent, the Insurer, the Surety Provider, and the rights of the Owners of the Bonds, the events of default and remedies, the circumstances under which any Bond is no longer Outstanding, the issuance of additional bonds and the terms on which such additional bonds may be issued under and secured by the Ordinance, the ability to amend the Ordinance, and to all the provisions of which the Owner hereof by the acceptance of this Bond assents.

THE BONDS ARE ISSUED PURSUANT TO AND IN FULL COMPLIANCE WITH THE CONSTITUTION AND LAWS OF THE STATE OF COLORADO, AND PURSUANT TO THE ORDINANCE. THE BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE CITY, SECURED BY THE NET PLEDGED REVENUES. THE BONDS DO NOT CONSTITUTE A GENERAL OBLIGATION DEBT OF THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE CITY, THE STATE NOR ANY OF THE POLITICAL SUBDIVISIONS THEREOF IS LIABLE THEREFOR. NEITHER THE MEMBERS OF THE CITY COUNCIL OF THE CITY NOR ANY PERSONS EXECUTING THIS BOND SHALL BE PERSONALLY LIABLE FOR THIS BOND.

It is certified, recited and warranted that all the requirements of law have been fully complied with by the proper officers of the City in the issuance of this Bond; that it is issued pursuant to and in strict conformity with the Constitution of the State, and with the Ordinance and any ordinances supplemental thereto; and that this Bond does not contravene any constitutional, Charter or statutory limitation.

This Bond is one of a series of bonds issued pursuant to the Ordinance designated as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022” in the aggregate principal amount of \$_____ (the “Bonds”). The Bonds have been duly authorized for the

purpose of providing moneys to defray a portion of the cost of extending, bettering or otherwise improving and equipping the Wastewater System (the “Project”).

The bonds of the series of which this bond is one are issued under the authority of the City Charter; Title 37, Article 45.1, C.R.S.; and Title 11, Article 57, Part 2, C.R.S., and in full conformity therewith. Pursuant to Section 11-57-210, C.R.S., this recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds and the Bonds shall be incontestable for any cause whatsoever after their delivery for value.

Payment of the principal of and interest on the Bonds shall be made solely from the Net Pledged Revenues. The Net Pledged Revenues are irrevocably (but not exclusively) pledged as security for such payment pursuant to the Ordinance.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the certificate of authentication hereon shall have been duly executed by the Paying Agent.

IN WITNESS WHEREOF, the City has caused this Bond to be signed and executed in its name and upon its behalf with the facsimile signature of its Mayor, has caused the facsimile of the seal of the City to be affixed hereon and has caused this Bond to be signed, executed and attested with the facsimile signature of its City Clerk, all as of the date specified above.

By (Facsimile Signature)
MAYOR

(FACSIMILE SEAL)

Attest:

By (For Facsimile Signature)
CITY CLERK

(FORM OF CERTIFICATE OF AUTHENTICATION)

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within mentioned Ordinance.

UMB Bank, n.a., as Paying Agent

By _____
Authorized Signatory

Date of Authentication and Registration: _____

(END OF FORM OF CERTIFICATE OF AUTHENTICATION)

(FORM OF ASSIGNMENT)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ to transfer the within Bond on the records kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration or enlargement or any change whatever. The signature must be guaranteed by an eligible guarantor institution as defined in 17 CFR § 240.17 Ad-15(a)(2).

Signature Guaranteed:

Signature must be guaranteed by a member of a Medallion Signature Program.

Address of Transferee:

Social Security or other tax
identification number of
transferee:

TRANSFER FEES MAY BE CHARGED

(END OF FORM OF ASSIGNMENT)

(FORM OF PREPAYMENT PANEL)

PREPAYMENT PANEL

The following installments of principal (or portions thereof) of this Bond have been prepaid in accordance with the terms of the Ordinance.

<u>Date of Prepayment</u>	<u>Principal Prepaid</u>	<u>Signature of Authorized Representative of DTC</u>

(END OF FORM OF PREPAYMENT PANEL)

(END OF FORM OF BOND)

Optional Redemption. The Bonds will be subject to redemption, if any, at the option of the City in the time and manner, in the amounts and at the prices, and from any legally available funds all as set forth in the Sale Certificate.

Notwithstanding the foregoing, the Bonds may not be redeemed pursuant to this Section unless all Policy Costs, if any, due and owing at the time to the Surety Provider have been paid.

Mandatory Sinking Fund Redemption. The Term Bonds, if any, shall be subject to mandatory sinking fund redemption at the times, in the amounts and at the prices provided in the Sale Certificate.

On or before the thirtieth day prior to each such sinking fund payment date, the Paying Agent shall proceed to call the Term Bonds, if any, as provided in the Sale Certificate (or any Term Bond or Term Bonds issued to replace such Term Bonds) for redemption from the sinking fund on the next December 1, and give notice of such call without further instruction or notice from the City.

At its option, to be exercised on or before the sixtieth day next preceding each such sinking fund Redemption Date, the City may (a) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory sinking fund redemption on such date in an aggregate principal amount desired or (b) receive a credit in respect of its sinking fund redemption obligation for any Term Bonds of the maturity and interest rate subject to mandatory sinking fund redemption on such date, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Paying Agent and not theretofore applied as a credit against any sinking fund redemption obligation. Each Term Bond so delivered or previously redeemed will be credited by the Paying Agent at the principal amount thereof against the obligation of the City on such sinking fund date and such sinking fund obligation will be accordingly reduced. The City will on or before the sixtieth day next preceding each sinking fund Redemption Date furnish the Paying Agent with its certificate indicating whether or not and to what extent the provisions of (a) and (b) of the first sentence of this paragraph are to be availed with respect to such sinking fund payment. Failure of the City to deliver such certificate shall not affect the Paying Agent's duty to give notice of sinking fund redemption as provided in this paragraph.

Partial Redemption. In the case of Bonds of a denomination larger than \$5,000, a portion of such Bond (\$5,000 or any integral multiple thereof) may be redeemed, in which case

the Paying Agent shall, without charge to the owner of such Bond, authenticate and issue a replacement Bond or Bonds for the unredeemed portion thereof.

Notice of Prior Redemption. Notice of optional or mandatory redemption shall be given by the Paying Agent in the name of the City by sending a copy of such notice by first-class, postage prepaid mail or by electronic means to DTC or its successors, not more than 60 nor less than 30 days prior to the Redemption Date to each Owner at such Person's address as it last appears on the registration books kept by the Paying Agent; but neither failure to give such notice nor any defect therein shall affect the redemption of any Bond. Such notice shall identify the Bonds to be so redeemed (if less than all are to be redeemed) and the Redemption Date, and shall further state that on such Redemption Date there will become and be due and payable upon each Bond to be so redeemed, at the principal office of the Paying Agent, the principal amount thereof, accrued interest to the Redemption Date, and the stipulated premium, if any, and that from and after such date interest will cease to accrue. Notice having been given in the manner hereinabove provided, the Bond or Bonds so called for redemption shall become due and payable on the Redemption Date so designated; and upon presentation thereof at the principal office of the Paying Agent, the Paying Agent will pay the Bond or Bonds so called for redemption. No further interest shall accrue on the principal of any such Bond called for redemption from and after the Redemption Date, provided sufficient funds are deposited with the Paying Agent and available on the Redemption Date.

Notwithstanding the provisions of this Section, any notice of redemption shall either (a) contain a statement that the redemption is conditioned upon the receipt by the Paying Agent on or before the Redemption Date of funds sufficient to pay the redemption price of the Bonds so called for redemption, and that if such funds are not available, such redemption shall be canceled by written notice to the Owners of the Bonds called for redemption in the same manner as the original redemption notice was mailed, or (b) be given only if funds sufficient to pay the redemption price of the Bonds so called for redemption are on deposit with the Paying Agent in the applicable fund or account.

Bonds Owned by the City. Bonds owned by or on behalf of the City shall not be subject to redemption. At any time the City may surrender any Bonds owned by or on behalf of the City to the Paying Agent, which shall promptly cancel such Bonds. Any securities payable from any Net Pledged Revenues held by the City shall not be deemed to be Outstanding for the

purpose of redemption nor Outstanding for the purpose of consents hereunder or for any other purpose herein, except for payment.

No Partial Redemption After Default. Anything in this Ordinance to the contrary notwithstanding, if there shall have occurred and is continuing an Event of Default hereunder of which an officer of the Paying Agent has actual knowledge, there shall be no redemption of less than all of the Bonds at the time Outstanding (other than pursuant to Section 311 hereof).

ARTICLE IV

USE OF BOND PROCEEDS AND OTHER MONEYS

Disposition of Bond Proceeds.

A. The proceeds of the Bonds (net of underwriting discount), upon the receipt thereof, shall be accounted for in the following manner and priority:

(i) **Reserve Fund.** An amount equal to the portion of the Reserve Fund Requirement, if any, as described in the Sale Certificate shall be credited to the special and separate fund hereby created and to be known as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022 Reserve Fund.”

(ii) **Costs of Issuance.** An amount sufficient to pay the costs of issuing the Bonds, as described in the Paying Agent Agreement shall be credited to the fund created in the Paying Agent Agreement and known as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022 Costs of Issuance Fund.”

(iii) **Project Fund.** The remaining proceeds derived from the sale of the Bonds shall be credited to the special and separate account hereby created and to be known as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022 Project Fund.” Except as otherwise provided herein, the moneys in the Project Fund shall be used solely for the purpose of paying the Costs of the Project and for the purposes set forth in Section 402 hereof.

Payment of Expenses. Moneys deposited in the Project Fund pursuant to Section 401 hereof may be used and paid out by the City to defray the Costs of the Project and administrative costs of the Project, including, without limitation, amounts to be paid to the Paying Agent, legal fees, accounting fees, financial advisory fees, printing costs and rating fees. The City may defray any such administrative costs from time to time as Operation and Maintenance Expenses

to the extent the moneys deposited in the Project Fund pursuant to Section 401 hereof are insufficient therefor.

Completion of Project. When the Project is completed in accordance with the relevant plans and specifications and all amounts due therefor, including all proper incidental expenses and all administrative costs of the Project referred to in Section 402 hereof, are paid, or for which full provision is made, the Director of Finance, to the extent permitted by the Tax Compliance Certificate, shall cause all surplus moneys remaining in the Project Fund, if any, except for any moneys designated in the certificate to be retained to pay any unpaid accrued costs or contingent obligations, to be transferred as follows: (a) to the Rebate Fund so as to enable the City to comply with requirements of the Tax Compliance Certificate with respect to the Bonds, (b) to the Reserve Fund to such extent as shall not cause the amount in the Reserve Fund to exceed the Reserve Fund Requirement and (c) to the Bond Fund to the extent of any remaining balance of such moneys to be applied against the next principal payment or payments coming due on the Bonds. Nothing herein prevents the transfer from the Project Fund to the Bond Fund, at any time prior to the termination of the Project Fund, of any moneys which the Director of Finance by certificate determines will not be necessary for the Project and will not be designated to be transferred to the Rebate Fund or the Reserve Fund.

Lien on Bond Proceeds. Until the proceeds of the Bonds deposited in the Project Fund are applied as herein provided, such Bond proceeds are subject to a lien thereon and pledge thereof for the benefit of the Owners of the Outstanding Bonds as provided in Section 501 hereof.

Purchaser Not Responsible. The validity of the Bonds is not dependent upon nor affected by the validity or regularity of any proceedings relating to the application of the Bond proceeds. The Purchaser and any subsequent Owners of any of the Bonds are not responsible for the application or disposal by the City or by any of its officers, agents and employees of the moneys derived from the sale of the Bonds or of any other moneys herein designated.

ARTICLE V

ADMINISTRATION OF AND ACCOUNTING FOR PLEDGED REVENUES

Pledge Securing Bonds. Subject only to the right of the City to cause amounts to be withdrawn and paid on account of Operation and Maintenance Expenses of the Wastewater System, the

Gross Pledged Revenues and, subject to the right of the City to cause amounts to be withdrawn to pay the Costs of the Project as provided herein and other than moneys and securities held in the Rebate Fund to the extent such amounts are required to be paid to the United States, all moneys and securities paid or to be paid to or held or to be held in any fund or account under this Article or under Section 501 hereof are hereby pledged, and a lien thereon is hereby created, to secure the payment of the Bond Requirements of the Outstanding Bonds and to secure the obligations of the City to pay the Policy Costs. The pledge of the Net Pledged Revenues to secure the payment of the Bond Requirements of the Outstanding Bonds and any Outstanding Parity Bonds is on a parity with the pledge of the Net Pledged Revenues for, and lien thereon of the Parity Bonds heretofore issued and any Parity Bonds hereafter issued in compliance with the provisions of Article VII hereof. The pledge of Net Pledged Revenues to secure the payment of the Policy Costs is subordinate only to the pledge to pay the Bond Requirements with respect to the Bonds and any Parity Bonds. The pledge of the Net Pledged Revenues and the funds or accounts as described in this section shall be valid and binding from and after the date of the delivery of the Bonds, and the moneys as received by the City and hereby pledged shall immediately be subject to the lien of this pledge without any physical delivery thereof, any filing, or further act. The lien of this pledge and the obligation to perform the contractual provisions hereby made shall have priority over any or all other obligations and liabilities of the City except any Outstanding Parity Bonds heretofore or hereafter authorized. The lien of the pledge of the Net Pledged Revenues and the funds or accounts as described in this section shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City (except as herein otherwise provided) irrespective of whether such parties have notice thereof.

Wastewater Enterprise Fund Deposits. So long as any of the Bonds or any Parity Bonds shall be Outstanding as to any Bond Requirements or Policy Costs related to the Bonds or any Parity Bonds, the entire Gross Pledged Revenues, upon their receipt from time to time by the City, shall be set aside and credited immediately to the special and separate account hereby created and known as the “City of Arvada, Wastewater Enterprise Revenue Bonds, Wastewater Enterprise Fund.”

Administration of Wastewater Enterprise Fund. So long as any of the Bonds or any Parity Bonds shall be Outstanding, as to any Bond Requirements or Policy Costs related to the

Bonds or any Parity Bonds, the following payments shall be made from the Wastewater Enterprise Fund, as provided in Sections 504 through 511 hereof.

Operation and Maintenance Expenses. First, as a first charge on the Wastewater Enterprise Fund, from time to time there shall continue to be held therein moneys sufficient to pay Operation and Maintenance Expenses, as they become due and payable, and thereupon they shall be promptly paid. Any surplus remaining in the Wastewater Enterprise Fund at the end of the Fiscal Year and not needed for Operation and Maintenance Expenses shall be used for other purposes of the Wastewater Enterprise Fund as herein provided.

Bond Fund Payments. Second, from any remaining Net Pledged Revenues, there shall be credited, concurrently with each other and with amounts required to meet the Bond Requirements with respect to any Outstanding Parity Bonds, to the special and separate accounts hereby created and to be known as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022, Bond Fund,” the following amounts:

A. **Interest Payments.** Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the Bonds, or commencing on the first day of the month six months next prior to the first interest payment date of any of the Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the interest due and payable on the Outstanding Bonds on the next succeeding interest payment date.

B. **Principal Payments.** Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the Bonds, or commencing on the first day of the month one year next prior to the first principal payment date of any of the Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the principal and redemption premium, if any, due and payable on the Outstanding Bonds on the next succeeding principal payment date.

If prior to any interest payment date or principal payment date, there has been accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in paragraph A or B (whichever is applicable) of this Section 505 may be appropriately reduced; but the required annual amounts again shall be so credited to such account commencing on such interest payment date or principal payment date.

The moneys credited to the Bond Fund shall be used to pay the Bond Requirements of the Bonds then Outstanding, as such Bond Requirements become due, except as provided in Sections 507, 508, 509, 603 and 1201 hereof.

Reserve Fund Payments. In satisfaction of the Reserve Fund Requirement, if any, upon delivery of the Bonds, either proceeds of the Bonds, cash or a Reserve Fund Insurance Policy being provided by Surety Provider, or any combination thereof, in the amount of the Reserve Fund Requirement shall be deposited in the special and separate fund hereby created and to be known as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022, Reserve Fund”. The proceeds of the Bonds, cash or a Reserve Fund Insurance Policy, or any combination thereof, shall be credited to Reserve Fund as provided in the Sale Certificate. Any Reserve Fund Insurance Policy shall be held by the Paying Agent. Any Reserve Fund Insurance Policy deposited to the credit of the Reserve Fund shall be valued at the amount available to be drawn or otherwise paid pursuant to such Reserve Fund Insurance Policy at the time of calculation. The Paying Agent shall maintain adequate records as to the amount available to be drawn at any time under the Reserve Fund Insurance Policy and as to the amounts, of which it has knowledge, of Policy Costs paid and owing to the Surety Provider. Such records shall be open to inspection and verification by the Surety Provider during business hours of the Paying Agent.

Thereafter, third, except as provided in Section 507 and 508 hereof, and concurrently with any payments required to be made pursuant to any Parity Bond Ordinances with respect to any reserve funds which may be, but are not required to be, established thereby and concurrently with any repayment or similar obligations payable to any surety provider issuing any reserve fund insurance policy with respect to any Parity Bonds, from any moneys remaining in the Wastewater Enterprise Fund there shall be credited to the Reserve Fund monthly, commencing on the first day of the month next succeeding each date on which the moneys accounted for in the Reserve Fund for any reason are less than the Reserve Fund Requirement, such amounts in substantially equal monthly payments on the first day of each month to re-accumulate the Reserve Fund Requirement by not more than 12 such monthly payments. If a Reserve Fund Insurance Policy is on deposit in the Reserve Fund to fund all or a part of the Reserve Fund Requirement, the amounts payable into the Reserve Fund pursuant to the immediately preceding sentence shall be paid by the City first to the Surety Provider to reimburse it for Policy Costs due

and owing and second to replenish cash in the Reserve Fund. If there are insufficient Net Pledged Revenues to comply with the requirements of the first sentence of this paragraph, available Net Pledged Revenues shall be credited or paid to the Reserve Fund and to reserve funds which may be established by any Parity Bond Ordinances (or to the Surety Provider or any other surety provider issuing any reserve fund insurance policy with respect to any Parity Bonds) pro rata, based upon the aggregate principal amount of the Bonds and any such Parity Bonds then Outstanding; provided, however, that compliance with the provisions of this sentence shall not cure any Event of Default caused by non-compliance with the first sentence of this paragraph. If there are insufficient Net Pledged Revenues to comply with the requirements of the first sentence of this paragraph and more than one Reserve Fund Insurance Policy is on deposit in the Reserve Fund, available Net Pledged Revenues credited to or paid to the Reserve Fund shall be applied to reimburse the Surety Provider and any other surety provider providing a Reserve Fund Insurance Policy pro rata, based upon the original amount available to be drawn on each. The Reserve Fund Requirement shall be accumulated and, if necessary, re-accumulated from time to time, in the Reserve Fund from Net Pledged Revenues, except to the extent other moneys are credited to the Reserve Fund, and maintained as a continuing reserve to be used, except as hereinafter provided in Sections 507, 508, 509, 603 and 1201 hereof, only to prevent deficiencies in the payment of the Bond Requirements of the Bonds Outstanding from time to time from the failure to deposit into the Bond Fund sufficient moneys to pay such Bond Requirements as the same accrue and become due. No payment need be made into the Reserve Fund at any time so long as the moneys and/or the Reserve Fund Insurance Policy therein equal not less than the Reserve Fund Requirement and there are no Policy Costs due and owing. Unless otherwise provided in the Sale Certificate, the Reserve Fund Requirement shall be re-calculated upon (i) any principal payment, whether at stated maturity or upon redemption, or (ii) the defeasance of all or a portion of the Bonds. Moneys on deposit in the Reserve Fund or may be applied to the defeasance of the Bonds in accordance with Section 1201 hereof.

The City may at any time substitute (a) cash or Investment Securities for a Reserve Fund Insurance Policy or (b) a Reserve Fund Insurance Policy for cash or Investment Securities, so long as the amount on deposit in the Reserve Fund after such substitution is at least equal to the Reserve Fund Requirement. Notwithstanding the foregoing, no Reserve Fund Insurance Policy shall be deposited by the City in the Reserve Fund for such substitution unless the City has

received an opinion of Bond Counsel to the effect that such substitution and the intended use by the City of the cash or Investment Securities to be released from the Reserve Fund will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Termination of Deposits. No payment need be made into the Bond Fund or the Reserve Fund if there are no Policy Costs due and owing and if the amount in the Bond Fund and the amount in the Reserve Fund (exclusive of the amount available under a Reserve Fund Insurance Policy) total a sum at least sufficient so that all Outstanding Bonds are deemed to have been paid pursuant to Section 1201 hereof, in which case moneys therein (taking into account the known minimum gain from any investment of such moneys in Investment Securities from the time of any such investment or deposit shall be needed for such payment which will not be designated for transfer to the Rebate Fund) shall be used (together with any such gain from such investments) solely to pay the Bond Requirements of the Outstanding Bonds as the same become due; and any moneys in excess thereof in those two accounts and any other moneys derived from the Net Pledged Revenues or otherwise pertaining to the Wastewater System may be used to make required payments into the Rebate Fund or in any other lawful manner determined by the City, as directed in writing by the Director of Finance.

Defraying Delinquencies. If at any time the City shall for any reason fail to pay into the Bond Fund the full amount above stipulated from the Net Pledged Revenues, then an amount shall be paid into the Bond Fund at such time from the Reserve Fund equal to the difference between that paid from the Net Pledged Revenues and the full amount so stipulated. The City shall use all cash in the Reserve Fund before drawing on a Reserve Fund Insurance Policy. If, (i) upon notice from the City requesting a draw or (ii) failure of the Paying Agent to receive the Bond Requirements by the third Business Day prior to June 1 or December 1 in each year, the Paying Agent determines that it is necessary to draw on the Reserve Fund Insurance Policy, the Paying Agent shall present a demand for payment, in the form and manner required by the Reserve Fund Insurance Policy, at least two Business Days before funds are needed. If there is more than one Reserve Fund Insurance Policy on deposit in the Reserve Fund, the Paying Agent shall draw on them on a pro rata basis, based upon the amount available to be drawn on each.

Any money so used or drawn shall be replaced as provided in Section 506 hereof from the first Net Pledged Revenues thereafter received and not required to be otherwise applied by

this Article. Except as provided in Sections 505, 506, 509 and 603 hereof, the moneys in the Bond Fund and in the Reserve Fund (including any Reserve Fund Insurance Policy) shall be used solely and only for the purpose of paying the Bond Requirements of the Bonds from time to time.

If the amount on deposit in the Reserve Fund exceeds the Reserve Fund Requirement for any reason, the amount to be released from the Reserve Fund shall be as directed in writing by the Director of Finance. Any excess amount released from the Reserve Fund may be deposited in the Bond Fund, the Rebate Fund, or deposited into a defeasance escrow account, or may be applied for other purposes authorized by law, as directed in writing by the Director of Finance.

Rebate Fund. Fourth, concurrently with any payments required to be made pursuant to any Parity Bond Ordinances with respect to any rebate funds established thereby, there shall be deposited into the special and separate account hereby created and to be known as the “City of Arvada, Colorado, Wastewater Enterprise Revenue Bonds, Series 2022 Rebate Fund” moneys in the amounts and at the times specified in the Tax Compliance Certificate so as to enable the City to comply with Section 830 hereof. Amounts on deposit in the Rebate Fund shall not be subject to the lien and pledge of this Ordinance to the extent that such amounts are required to be paid to the United States Treasury. The City shall cause amounts on deposit in the Rebate Fund to be forwarded to the United States Treasury (at the address provided in the Tax Compliance Certificate) at the times and in the amounts set forth in the Tax Compliance Certificate.

If the moneys on deposit in the Rebate Fund are insufficient for the purposes thereof, the City shall transfer moneys in the amount of the insufficiency to the Rebate Fund from the Project Fund and, to the extent permitted by Section 508 hereof, from the Reserve Fund and the Bond Fund. Upon receipt by the City of an opinion of Bond Counsel to the effect that the amount in the Rebate Fund is in excess of the amount required to be contained therein, such excess may be transferred to the Wastewater Enterprise Fund.

Payment of Subordinate Securities. Fifth, and subject to the provisions hereinabove in this Article, but subsequent to the payments required by Sections 504, 505, 506, and 509 hereof, any moneys remaining in the Wastewater Enterprise Fund may be used by the City for the payment of Bond Requirements of Subordinate Securities, including reasonable reserves for such Subordinate Securities and for rebate of amounts to the United States Treasury with respect to such Subordinate Securities.

Use of Remaining Revenues. After the payments hereinabove required to be made by Sections 502 through 510 hereof are made, any remaining Net Pledged Revenues in the Wastewater Enterprise Fund shall be used, first, for any one or any combination of reasonably necessary purposes and in the Council's discretion relating to the operation, improvement or debt management of the Wastewater System and, second, to the extent of any remaining surplus, for any one or any combination of lawful purposes as the Council may from time to time conclusively determine.

ARTICLE VI

GENERAL ADMINISTRATION

Administration of Accounts. The special funds and accounts designated in Articles IV and V hereof shall be administered as provided in this Article (but not any account under Section 1201 hereof).

Places and Times of Deposits. Except as hereinafter provided, each of such special funds and accounts shall be maintained by the City as a book account and kept separate from all other accounts as a trust account solely for the purposes herein designated therefor. The moneys accounted for in such special book accounts may be in one or more bank accounts in one or more Commercial Banks. Each such bank account shall be continuously secured to the fullest extent required or permitted by the laws of the State for the securing of public funds and shall be irrevocable and not withdrawable by anyone for any purpose other than the respective designated purposes. Each periodic payment shall be credited to the proper book account not later than the date therefor herein designated, except that when any such date shall not be a Business Day, then such payment shall be made on or before the next preceding Business Day. Moneys shall be deposited with the Paying Agent for the Bonds not less than (a) three Business Days prior to each interest payment date and each maturity or mandatory Redemption Date, if funds are delivered by wire transfer, or (b) five Business Days prior to each payment date if funds are delivered by another method of payment, in immediately available amounts sufficient to pay the Bond Requirements then becoming due on the Outstanding Bonds.

Investment of Moneys. Any moneys in the Project Fund, the Wastewater Enterprise Fund, the Bond Fund, the Reserve Fund, and the Rebate Fund that are not needed for immediate use shall be invested or reinvested by the Director of Finance in Investment Securities. All such investments shall (a) either be subject to redemption at any time at a fixed value by the holder

thereof at the option of such holder, or (b) mature not later than the estimated date or respective dates on which the proceeds are to be expended as estimated by the Director of Finance at the time of such investment or reinvestment; provided that (1) Investment Securities credited to the Reserve Fund shall not mature later than ten years from the date of such investment or reinvestment and (2) collateral securities of any Investment Securities may have a maturity of more than five years from the date of purchase thereof. For the purpose of any such investment or reinvestment, Investment Securities shall be deemed to mature at the earliest date on which the obligor is, on demand, obligated to pay a fixed sum in discharge of the whole of such obligations.

Accounting for Investments. The Investment Securities so purchased as an investment or reinvestment of moneys in any such account hereunder shall be deemed at all times to be a part of the account. Any interest or other gain from any investments and reinvestments of moneys accounted for in the Wastewater Enterprise Fund, the Project Fund, the Bond Fund, and the Rebate Fund shall be credited to such account, and any loss resulting from any such investments or reinvestments of moneys accounted for in the Wastewater Enterprise Fund, the Project Fund, the Bond Fund, the Reserve Fund, and the Rebate Fund shall be charged or debited to such fund.

Any interest or other gain from any investment or reinvestment of moneys accounted for in the Reserve Fund (a) shall be credited to the Rebate Fund or the Bond Fund, at the discretion of the Director of Finance, if the amount credited to the Reserve Fund immediately after such credit to the Rebate Fund or the Bond Fund is not less than the Reserve Fund Requirement and (b) if the amount credited to the Reserve Fund is less than the Reserve Fund Requirement, shall be credited to the Reserve Fund (up to the amount of the deficiency).

No loss or profit in any account on any investments or reinvestments in Investment Securities shall be deemed to take place as a result of market fluctuations of the Investment Securities prior to the sale or maturity thereof. In the computation of the amount in any account for any purpose hereunder, except as herein otherwise expressly provided or for rebate purposes, as described in the Tax Compliance Certificate, Investment Securities shall be valued at the cost thereof (including any amount paid as accrued interest at the time of purchase of the obligation); provided that any time or demand deposits shall be valued at the amounts deposited, in each case

exclusive of any accrued interest or any other gain to the City until such gain is realized by the presentation of matured coupons for payment or otherwise.

Redemption or Sale of Investment Securities. The Director of Finance shall present for redemption or sale on the prevailing market at the best price obtainable any Investment Securities so purchased as an investment or reinvestment of moneys in the account whenever it shall be necessary in order to provide moneys to meet any withdrawal, payment or transfer from such account. Neither the Director of Finance nor any other officer or employee of the City shall be liable or responsible for any loss resulting from any such investment or reinvestment made in accordance with this Ordinance.

Character of Funds. The moneys in any account designated in Articles IV and V hereof shall consist either of lawful money of the United States or Investment Securities, or both such money and such Investment Securities. Moneys deposited in a demand or time deposit account in a bank or savings and loan association, appropriately secured according to the laws of the State, shall be deemed lawful money of the United States.

Payment of Bond Requirements. The moneys credited to any fund or account designated in Article V hereof for the payment of the Bond Requirements of any Bonds shall be used without requisition, voucher, warrant, further order or authority (other than as contained herein), or any other preliminaries, to promptly pay the Bond Requirements of any Bonds payable from such fund or account as such amounts are due, except to the extent any other moneys are available therefor.

ARTICLE VII

SECURITIES LIENS AND ADDITIONAL SECURITIES

Lien of Bonds. The Bonds constitute an irrevocable lien (but not necessarily an exclusive lien) upon the Net Pledged Revenues on a parity with the lien of the Net Pledged Revenues of the Parity Bonds. The Policy Costs constitute an irrevocable and subordinate lien (but not necessarily an exclusive subordinate lien) upon the Net Pledged Revenues.

Equality of Bonds. The Bonds and any Parity Bonds heretofore issued or hereafter authorized to be issued and from time to time Outstanding are equitably and ratably secured by a lien on the Net Pledged Revenues and shall not be entitled to any priority over one another in the application of the Net Pledged Revenues regardless of the time or times of the issuance of the Bonds and any other such Parity Bonds, it being the intention of the Council that there shall be

no priority among the Bonds and any such Parity Bonds regardless of the fact that they may be actually issued and delivered at different times, except that (a) moneys in the Project Fund, the Bond Fund and the Reserve Fund shall secure only the Bonds and the moneys in any acquisition, bond, reserve or similar funds established for other Parity Bonds shall secure only such Parity Bonds; and (b) other Parity Bonds may have a lien on Net Pledged Revenues on a parity with the lien thereon of the Bonds even if no reserve fund is established for such Parity Bonds or a reserve fund is established but with a different requirement as to the amount of moneys (or the value of a reserve fund insurance policy with respect to such Parity Bonds) required to be on deposit therein or the manner in which such reserve fund is funded or the period of time over which such reserve fund is funded.

Issuance of Parity Bonds. Nothing herein prevents the issuance by the City of additional securities payable from the Net Pledged Revenues and constituting a lien thereon on a parity with, but not prior nor superior to, the lien thereon of the Bonds; but before any such additional Parity Bonds, except as provided in Section 708, are authorized or actually issued all of the following conditions must be satisfied:

A. **Absence of Default.** At the time of the adoption of the ordinance authorizing the issuance of the additional securities, the City shall not be in default in making any payments required by Article V hereof or any Parity Bond Ordinances, including any payments of Policy Costs.

B. **Historic Earnings Test.** The Net Pledged Revenues for any 12 consecutive months out of the 24 months preceding the month in which such securities are to be issued are at least equal to the sum of (a) 120% of the Combined Maximum Annual Principal and Interest Requirements of the Outstanding Bonds, any Outstanding Parity Bonds and such additional Parity Bonds proposed to be issued, and (b) 100% of the Policy Costs then due and owing, if any, except as hereinafter otherwise expressly provided.

C. **Adjustment of Gross Pledged Revenues.** In any computation under paragraph B of this Section, the amount of the Gross Pledged Revenues for the applicable period shall be decreased and may be increased by the amount of loss or gain conservatively estimated by an Independent Accountant, Independent Engineer or the Director of Finance, as the case may be, which results from any changes in any schedule of fees, rates and other charges constituting Gross Pledged Revenues based on the number of users during the applicable period as if such

modified schedule of fees, rates and other charges shall have been in effect during such entire time period. However, the Gross Pledged Revenues need not be decreased by the amount of any such estimated loss to the extent the Independent Accountant, the Independent Engineer or the Director of Finance estimates the loss is temporary in nature or will be offset within a reasonable temporary period by an increase in revenues or a reduction in Operation and Maintenance Expenses not otherwise included in the calculations under this Section, and estimates any loss under this sentence will not at any time materially and adversely affect the City's apparent ability to comply with the rate maintenance covenant stated in Section 821 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

D. Reduction of Annual Requirements. The respective annual Bond Requirements (including as such the required amount of any prior redemption premiums due on any Redemption Date) shall be reduced to the extent such Bond Requirements are scheduled to be paid in each of the respective Fiscal Years with moneys held in trust or in escrow for that purpose by any Trust Bank, including the known minimum yield from any investment in Federal Securities and any bank deposits, including any certificate of deposit.

E. Consideration of Additional Expenses. In determining whether or not additional Parity Bonds may be issued as aforesaid, consideration shall be given to any probable increase (but not reduction) in the Operation and Maintenance Expenses of the Wastewater System as estimated by the Director of Finance that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the additional securities; but the Director of Finance may reduce any such increase in Operation and Maintenance Expenses by the amount of any increase in revenues or any reduction in Operation and Maintenance Expenses resulting from the Capital Improvements to which such expenditure relates and not otherwise included in the calculations under this Section, if the Director of Finance also opines that any such increase in revenues or reduction in any increase in Operation and Maintenance Expenses will not materially and adversely affect the City's apparent ability to comply with the rate maintenance covenant stated in Section 821 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

Certification of Revenues. A written certificate or written opinion by the Director of Finance that the annual revenues required under paragraph B of Section 703 hereof, when

adjusted as hereinabove provided in paragraphs C, D, and E of Section 703 hereof, are sufficient to pay such amounts, as provided in paragraph B of Section 703 hereof, shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver additional securities on a parity with the Bonds.

Subordinate Securities Permitted. Nothing herein prevents the City from issuing additional securities payable from the Net Pledged Revenues and having a lien thereon subordinate, inferior and junior to the lien thereon of the Bonds.

Superior Securities Prohibited. Nothing herein permits the City to issue additional securities payable from the Net Pledged Revenues and having a lien thereon prior and superior to the lien thereon of the Bonds.

Use of Proceeds. The proceeds of any Parity Bonds or other securities payable from any Net Pledged Revenues shall be used only to finance Capital Improvements and/or to refund all or any portion of the Bonds, Parity Bonds, or other securities payable from Net Pledged Revenues, regardless of the priority or the lien of such securities on Net Pledged Revenues.

Issuance of Refunding Securities. The City may issue any refunding securities payable from Net Pledged Revenues to refund any Outstanding Bonds or Parity Bonds, with such details as the Council may by ordinance provide so long as there is no material impairment of any contractual obligation imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such Outstanding securities of any one or more issues; but so long as the Bonds, or any part thereof, are Outstanding, refunding securities payable from Net Pledged Revenues may be issued on a parity with the unrefunded Bonds only if:

F. **Prior Consent.** The City first receives the consent of the Owner or Owners of the unrefunded portion of the Bonds; or

G. **Requirements Not Increased.** The Combined Maximum Annual Principal and Interest Requirements for the Bonds and Parity Bonds Outstanding immediately after the issuance of the refunding securities is not greater than the Combined Maximum Annual Principal and Interest Requirements for all Bonds and Parity Bonds Outstanding immediately prior to the issuance of the refunding securities and the lien of any refunding Parity Bonds on the Net Pledged Revenues is not raised to a higher priority than the lien thereon of any securities thereby refunded; or

H. Earnings Test. The refunding securities are issued in compliance with Section 703 hereof.

ARTICLE VIII
PROTECTIVE COVENANTS

General. The City hereby covenants and agrees with the Owners of the Bonds and makes provisions which shall be a part of its contract with such Owners to the effect and with the purpose set forth in the following Sections of this Article.

Performance of Duties. The City, acting by and through the Council or otherwise, shall faithfully and punctually perform, or cause to be performed, all duties with respect to the Gross Pledged Revenues and the Wastewater System required by the Constitution and laws of the State and the various ordinances of the City, including, without limitation, the making and collection of reasonable and sufficient fees, rates and other charges for services rendered or furnished by or from the use of the Wastewater System, as herein provided, and the proper segregation of the proceeds of the Bonds and of any securities hereafter authorized and the Gross Pledged Revenues and their application from time to time to the respective accounts provided therefor.

Contractual Obligations. The City shall perform all contractual obligations undertaken by it under any agreements relating to the Bonds, the Gross Pledged Revenues, the Project, or the Wastewater System, or any combination thereof, with any other Persons.

Further Assurances. At any and all times the City shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge, deliver and file or record all and every such further instruments, acts, deeds, conveyances, assignments, transfers, other documents and assurances as may be reasonably necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, the Gross Pledged Revenues and other moneys and accounts hereby pledged or assigned, or intended to be pledged or assigned, or which the City may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Ordinance and to comply with any instrument of the City amendatory thereof, or supplemental thereto. The City, acting by and through the Council, or otherwise, shall at all times, to the extent permitted by law, reasonably defend, preserve and protect the pledge of the Gross Pledged Revenues and other moneys and accounts pledged hereunder and all the rights of every Owner of any Bond hereunder against all claims and demands of all Persons whomsoever.

Conditions Precedent. Upon the date of issuance of the Bonds, all conditions, acts and things required by the Federal or State Constitution, the Enterprise Act, the Supplemental Public Securities Act, the Charter, this Ordinance, or any other applicable law to exist, to have happened and to have been performed precedent to or in the issuance of the Bonds shall exist, have happened, and have been performed; and the Bonds, together with all other obligations of the City, shall not contravene any debt or other limitation prescribed by the State Constitution.

Efficient Operation and Maintenance. The City shall at all times operate the Wastewater System properly and in a sound and economical manner; and the City shall maintain, preserve and keep the same properly or cause the same to be so maintained, preserved and kept, with the appurtenances and every part and parcel thereof in good repair, working order and condition, and shall from time to time make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the Wastewater System may be properly and advantageously conducted. All salaries, fees, wages and other compensation paid by the City in connection with the maintenance, repair and operation of the Wastewater System shall be reasonable and proper.

Rules, Regulations and Other Details. The City, acting by and through the Council, shall establish and enforce reasonable rules and regulations governing the operation, use and services of the Wastewater System. The City shall observe and perform all of the terms and conditions contained in this Ordinance, and shall comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the Wastewater System or to the City, except for any period during which the same are being contested in good faith by proper legal proceedings.

Payment of Governmental Charges. The City shall pay or cause to be paid all taxes and assessments or other governmental charges, if any, lawfully levied or assessed upon or in respect of the Wastewater System, or upon any part thereof, or upon any portion of the Gross Pledged Revenues, when the same shall become due, and shall duly observe and comply with all valid requirements of any governmental authority relative to the Wastewater System or any part thereof, except for any period during which the same are being contested in good faith by proper legal proceedings. The City shall not create or suffer to be created any lien upon the Wastewater System, or any part thereof, or upon the Gross Pledged Revenues, except the pledge and lien created by this Ordinance for the payment of the Bond Requirements of the Bonds and except as

herein otherwise permitted. The City shall pay or cause to be discharged or shall make adequate provision to satisfy and to discharge, within 60 days after the same shall become payable, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the Wastewater System, or any part thereof, or the Gross Pledged Revenues; but nothing herein requires the City to pay or cause to be discharged or to make provision for any such tax, assessment, lien or charge, so long as the validity thereof is contested in good faith and by appropriate legal proceedings.

Protection of Security. The City, the officers, agents and employees of the City, and the Council shall not take any action in such manner or to such extent as might materially prejudice the security for the payment of the Bond Requirements of the Bonds, the Parity Bonds, and any other securities payable from the Net Pledged Revenues or any Policy Costs relating thereto according to the terms thereof. No contract shall be entered into nor any other action taken by which the rights of any Owner of any Bond or other security payable from Net Pledged Revenues or any Policy Costs relating thereto might be prejudicially and materially impaired or diminished.

Prompt Payment of Bonds. The City shall promptly pay the Bond Requirements of the Bonds at the places, on the dates and in the manner specified herein and in the Bonds according to the true intent and meaning hereof.

Use of Bond and Reserve Funds. The Bond Fund and the Reserve Fund shall be used solely for and the moneys credited to such funds and accounts therein are hereby pledged, and a lien thereon is hereby created, for the purpose of paying the Bond Requirements of the Bonds to their respective maturities or any Redemption Date or Dates, subject to the provisions of Sections 505, 506, 507, 508, 509, 603 and 1201 hereof.

Other Liens. Other than as provided herein, there are no liens or encumbrances of any nature whatsoever on or against the Wastewater System, or any part thereof, or on or against the Gross Pledged Revenues on a parity with or superior to the lien thereon of the Bonds.

Corporate Existence. The City shall maintain its corporate identity and existence so long as any of the Bonds remain Outstanding, unless another body corporate and politic by operation of law succeeds to the powers, privileges, rights, liabilities, disabilities, duties and immunities of the City and is obligated by law to operate and maintain the Wastewater System

and to fix and collect the Gross Pledged Revenues as herein provided without adversely and materially affecting at any time the privileges and rights of any Owner of any Outstanding Bond.

Disposal of Wastewater System Prohibited. Except for the use of the Wastewater System and services pertaining thereto in the normal course of business, or as provided in Section 815 hereof, neither all nor a substantial part of the Wastewater System shall be sold, leased, mortgaged, pledged, encumbered, alienated or otherwise disposed of, until all the Bonds have been paid in full, as to all Bond Requirements, or unless provision has been made therefor, or until the Bonds have otherwise been redeemed, including, without limitation, the termination of the pledge as herein authorized; and the City shall not dispose of its title to the Wastewater System or to any useful part thereof, including any property necessary to the operation and use of the Wastewater System and the lands and interests in lands comprising the sites of the Wastewater System, except as provided in Section 815 hereof.

Disposal of Unnecessary Property. The City at any time and from time to time may sell, exchange, lease or otherwise dispose of any property constituting a part of the Wastewater System and not useful in the construction, reconstruction or operation thereof, or which shall cease to be necessary for the efficient operation of the Wastewater System, or which shall have been replaced by other property of at least equal value. Any proceeds of any such sale, exchange, lease or other disposition received and not used to replace such property so sold or so exchanged or otherwise so disposed of, shall be deposited by the City in the Wastewater Enterprise Fund or into a special book account for the betterment, enlargement, extension, other improvement and equipment of the Wastewater System, or any combination thereof, as the Council may determine, provided that any proceeds of any such lease received shall be deposited by the City as Gross Pledged Revenues in the Wastewater Enterprise Fund.

Competing Wastewater System. So long as any of the Bonds are Outstanding, the City shall not grant any franchise or license to any competing facilities so that the Gross Pledged Revenues shall not be sufficient to satisfy the covenant in Section 821 hereof.

Loss From Condemnation. If any part of the Wastewater System is taken by the exercise of the power of eminent domain, the amount of any award received by the City as a result of such taking shall be paid into the Wastewater Enterprise Fund or into a capital improvement account pertaining to the Wastewater System for the purposes thereof, or, applied

to the redemption of the Outstanding Bonds and any Outstanding Parity Bonds relating thereto, all as the City may determine.

Employment of Management Engineers. If the City defaults in paying the Bond Requirements of the Bonds or any Parity Bonds, and any other securities or Policy Costs relating thereto payable from the Gross Pledged Revenues promptly as the same fall due, or an Event of Default has occurred and is continuing, or if the Net Pledged Revenues in any Fiscal Year fail to equal at least the amount of the Bond Requirements of the Outstanding Bonds, Parity Bonds, and any other securities (including all reserves therefor specified in the authorizing proceedings, including, without limitation, this Ordinance) or Policy Costs relating thereto payable from the Net Pledged Revenues in that Fiscal Year, the City shall retain a firm of competent management engineers skilled in the operation of such facilities to assist the management of the Wastewater System so long as such default continues or so long as the Net Pledged Revenues are less than the amount hereinabove designated in this Section.

Budgets. The Council and officials of the City shall annually and at such other times as may be provided by law prepare and adopt a budget pertaining to the Wastewater System.

Reasonable and Adequate Charges. While the Bonds remain Outstanding and unpaid, the fees, rates and other charges due to the City for the use of or otherwise pertaining to and services rendered by the Wastewater System to the City, to its inhabitants and to all other users within and without the boundaries of the City shall be reasonable and just, taking into account and consideration public interests and needs, the cost and value of the Wastewater System, the Operation and Maintenance Expenses thereof, and the amounts necessary to meet the Bond Requirements of all Bonds, the Parity Bonds, and any other securities payable from the Net Pledged Revenues, including, without limitation, reserves and any replacement accounts therefor.

Adequacy and Applicability of Charges. There shall be charged against users of service pertaining to and users of the Wastewater System, except as provided by Section 822 hereof, such fees, rates and other charges so that the Gross Pledged Revenues shall be adequate to meet the requirements of this and the preceding Sections hereof. Such charges pertaining to the Wastewater System shall be at least sufficient so that the Gross Pledged Revenues annually are sufficient to pay in each Fiscal Year:

A. **Operation and Maintenance Expenses.** An amount equal to the annual Operation and Maintenance Expenses for such Fiscal Year,

B. Principal and Interest. An amount equal to 120% of both the principal and interest on the Bonds and any Parity Bonds then Outstanding in that Fiscal Year (excluding the reserves therefor), and

C. Deficiencies. Any amounts required to pay all Policy Costs, if any, due and owing and all sums, if any, due and owing to meet then existing deficiencies pertaining to any fund or account relating to the Gross Pledged Revenues or any securities payable therefrom.

Limitations Upon Free Service. No free service or facilities shall be furnished by the Wastewater System, except that if the City elects to use for City purposes any wastewater facilities, or other services and facilities provided by the Wastewater System or otherwise to use the Wastewater System or any part thereof, the City is not required to pay for such use.

Levy of Charges. The City shall forthwith and in any event prior to the delivery of any of the Bonds, fix, establish and levy the fees, rates and other charges which are required by Section 821 of this Ordinance, if such action is necessary therefor. No reduction in any initial or existing rate schedule for the Wastewater System may be made:

D. Proper Application. Unless the City has fully complied with the provisions of Article V of this Ordinance for at least the full Fiscal Year immediately preceding such reduction of the initial or any other existing rate schedule; and

E. Sufficient Revenues. Unless the audit required by the Independent Accountant by Section 827 hereof for the full Fiscal Year immediately preceding such reduction discloses that the estimated revenues resulting from the proposed rate schedule for the Wastewater System, after the schedule's proposed reduction, shall be at least sufficient to produce the amounts required by Section 821 hereof.

Collection of Charges. The City shall use commercially reasonable best efforts to cause all fees, rates and other charges pertaining to the Wastewater System to be collected as soon as is reasonable, shall reasonably prescribe and enforce rules and regulations or impose contractual obligations for the payment of such charges, and for the use of the Wastewater System, and shall provide methods of collection and penalties, to the end that the Gross Pledged Revenues shall be adequate to meet the requirements of this Ordinance and any other ordinance supplemental thereto.

Procedure for Collecting Charges. All bills for wastewater services and all other services or facilities furnished or served by or through the Wastewater System shall be rendered

to customers on a regularly established basis. The fees, rates and other charges due shall be collected in a lawful manner, including, without limitation, discontinuance of service.

Maintenance of Records. So long as any of the Bonds and any Parity Bonds payable from the Gross Pledged Revenues remain Outstanding, proper books of record and account pertaining to the Gross Pledged Revenues and the Wastewater System shall be kept by the City, separate and apart from all other records and accounts.

Audits Required. The City shall cause an audit for each Fiscal Year of the books and accounts pertaining to the Gross Pledged Revenues and the Wastewater System to be completed by an Independent Accountant within 210 days following the close of such Fiscal Year.

Accounting Principles. Wastewater System records and accounts, and audits thereof, shall be currently kept and made, as nearly as practicable, in accordance with the then generally accepted accounting principles, methods and terminology followed and construed for utility operations comparable to the Wastewater System, except as may be otherwise provided herein or required by applicable law or regulation or by contractual obligation existing on the effective date of this Ordinance.

Insurance and Reconstruction. Except to the extent of any self-insurance, the City shall at all times maintain with responsible insurers fire and extended coverage insurance, worker's compensation insurance, public liability insurance and all such other insurance as is customarily maintained with respect to utilities of like character against loss of or damage to the Wastewater System and against loss of revenues and against public and other liability to the extent reasonably necessary to protect the interests of the City and of each Owner of a Bond. If any useful part of the Wastewater System shall be damaged or destroyed, the City shall, as expeditiously as may be possible, commence and diligently proceed with the repair or replacement of the damaged property so as to restore the same to use. The proceeds of any such insurance shall be payable to the City and (except for proceeds of any use and occupancy insurance) shall be applied to the necessary costs involved in such repair and replacement and to the extent not so applied shall (together with the proceeds of any such use and occupancy insurance) be deposited in the Wastewater Enterprise Fund by the City as revenues derived from the operation of the Wastewater System. If the costs of such repair and replacement of the damaged property exceed the proceeds of such insurance available for the payment of the same,

moneys in the Wastewater Enterprise Fund may be used to the extent necessary for such purposes, as permitted by Section 511 hereof.

F. **Federal Income Tax Exemption.** The City covenants for the benefit of the Owners of the Bonds at any time Outstanding that it will not take any action or omit to take any action with respect to the Bonds, the proceeds thereof, any other funds of the City or any facilities financed or refinanced with the proceeds of the Bonds if such action or omission (i) would cause the interest on the Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, (ii) would cause interest on the Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, except to the extent that such interest is taken into account in determining the annual adjusted financial statement income of applicable corporations (as defined in Section 59(k) of the Tax Code) for the purpose of computing the alternative minimum tax imposed on corporations for tax years beginning after December 31, 2022, or (iii) would cause interest on the Bonds to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present State law. In furtherance of this covenant, the City agrees to comply with the procedures set forth in the Tax Compliance Certificate with respect to the Bonds. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Bonds until the date on which all obligations of the City in fulfilling the above covenant under the Tax Code and Colorado law have been met.

G. **Continuing Disclosure.** The City shall comply with the provisions of the Continuing Disclosure Certificate. Any failure by the City to perform in accordance with this Section shall not constitute an Event of Default under this Ordinance, and the rights and remedies provided by this Ordinance upon the occurrence of an Event of Default shall not apply to any such failure. The Paying Agent shall not have any power or duty to enforce this Section. No owner of a Bond shall be entitled to damages for the City's non-compliance with its obligations under this Section; however, the owners of the Bonds may enforce specific performance of the obligations contained in this Section by any judicial proceeding available.

ARTICLE IX

PRIVILEGES, RIGHTS AND REMEDIES

Owners' Remedies. Each Owner of any Bond shall be entitled to all of the privileges, rights and remedies provided or permitted by this Ordinance, and as otherwise provided or permitted by law or in equity or by any statutes, except as provided in Sections 202 through 206 and 1101 hereof, but subject to the provisions herein concerning the pledge of and the covenants and the other contractual provisions concerning the Gross Pledged Revenues and the proceeds of the Bonds.

Right to Enforce Payment. Nothing in this Article affects or impairs the right of any Owner of any Bond to enforce the payment of the Bond Requirements due in connection with such Person's Bond or the obligation of the City to pay the Bond Requirements of each Bond to the Owner thereof at the time and the place expressed in the Bond.

Events of Default. Each of the following events is hereby declared an "Event of Default," provided however, that in determining whether a payment default has occurred pursuant to paragraphs A or B of this Section, no effect shall be given to payments made under the Insurance Policy:

A. **Nonpayment of Principal.** Payment of the principal of any of the Bonds is not made when the same becomes due and payable, either at maturity or by proceedings for prior redemption, or otherwise;

B. **Nonpayment of Interest.** Payment of any installment of interest on any of the Bonds is not made when the same becomes due and payable;

C. **Cross Defaults.** The occurrence and continuance of an "event of default," as defined in any Parity Bond Ordinance;

D. **Failure to Reconstruct.** The City unreasonably delays or fails to carry out with reasonable dispatch the reconstruction of any part of the Wastewater System which is destroyed or damaged and is not promptly repaired or replaced (whether such failure promptly to repair the same is due to impracticability of such repair or replacement or is due to a lack of moneys therefor or for any other reason), but it shall not be an Event of Default if such reconstruction is not essential to the efficient operation of the Wastewater System;

E. **Appointment of Receiver.** An order or decree is entered by a court of competent jurisdiction with the consent or acquiescence of the City appointing a receiver or receivers for the Wastewater System or for the Gross Pledged Revenues and any other moneys subject to the lien to secure the payment of the Bonds, or if an order or decree having been

entered without the consent or acquiescence of the City is not vacated or discharged or stayed on appeal within 60 days after entry;

F. Default Under Insurance Agreement. If an event of default shall have occurred and be continuing under the provisions of the Insurance Agreement; and

G. Default of Any Provision. The City defaults in the due and punctual performance of any other of the representations, covenants, conditions, agreements and other provisions contained in the Bonds or in this Ordinance on its part to be performed (other than Section 831 hereof), and such default continues for 60 days after written notice specifying such default and requiring the same to be remedied is given to the City and the Insurer specifying the failure and requiring that it be remedied, which notice may be given by the Paying Agent in its discretion and, except as provided in Section 1101 hereof, shall be given by the Paying Agent at the written request of the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding.

Remedies for Defaults. Except as provided in Section 1101 hereof, upon the happening and continuance of any Event of Default, the Owner or Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, including, without limitation, a trustee or trustees therefor, may proceed against the City and its agents, officers and employees to protect and to enforce the rights of any Owner of Bonds under this Ordinance by mandamus or by other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award of execution of any power herein granted for the enforcement of any proper legal or equitable remedy as such Owner or Owners may deem most effectual to protect and to enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any Owner of any Bond, or to require the City to act as if it were the trustee of an expressed trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Bonds. The City shall not be liable for incidental, punitive, exemplary or consequential damages, or for lost profits, whether direct or indirect. Acceleration shall not be a remedy upon the happening or continuance of any Event of Default. Notwithstanding the foregoing provisions of this Section, nothing in this Ordinance shall act as or be deemed to be a

waiver by the City of the Colorado Governmental Immunity Act, Title 24, Article 10, C.R.S., as now or hereafter amended.

Receiver's Rights and Privileges. Any receiver appointed in any proceedings to protect the rights of such Owners hereunder, the consent to any such appointment being hereby expressly granted by the City, may enter and may take possession of the Wastewater System, may operate and maintain the same, may prescribe fees, rates and other charges, and may collect, receive and apply all Gross Pledged Revenues arising after the appointment of such receiver in the same manner as the City itself might do.

Rights and Privileges Cumulative. The failure of any Owner of any Outstanding Bond to proceed in any manner herein provided shall not relieve the City, or any of its officers, agents or employees of any liability for failure to perform or carry out any duty, obligation or other commitment. Each right or privilege of any such Owner (or trustee thereof) is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any Owner shall not be deemed a waiver of any other right or privilege thereof.

Duties upon Defaults. Upon the happening of any Event of Default, the City shall do and perform all proper acts on behalf of and for the Owners of Bonds to protect and to preserve the security created for the payment of the Bonds and to insure the payment of the Bond Requirements promptly as the same become due. While any Event of Default exists, except to the extent it may be unlawful to do so, all Gross Pledged Revenues shall be paid into the Bond Fund and into bond or similar funds established for any Parity Bonds then Outstanding, pro rata based upon the aggregate principal amount of the Bonds and Parity Bonds then Outstanding. Except as provided in Section 1101 hereof, if the City fails or refuses to proceed as in this Section provided, the Owner or Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, after demand in writing, may proceed to protect and to enforce the rights of the Owners of the Bonds as hereinabove provided, and to that end any such Owners of the Outstanding Bonds shall be subrogated to all rights of the City under any agreement, lease or other contract involving the Wastewater System or the Gross Pledged Revenues entered into prior to the effective date of this Ordinance or thereafter while any of the Bonds are Outstanding.

ARTICLE X

AMENDMENT OF ORDINANCE

Section X01. Privilege of Amendments.

A. Except as hereafter provided, this Ordinance may be amended or supplemented by ordinances adopted by the Council in accordance with law, without receipt by the City of any additional consideration, but with the written consent of the Insurer and, subject to Section 1101 hereof, the Owners of not less than a majority of aggregate principal amount of the Bonds Outstanding at the time of the adoption of such amendatory or supplemental ordinance excluding, pursuant to Section 314 hereof, any Bonds which may then be held or owned for the account of the City. Notwithstanding the foregoing, no such ordinance shall permit:

(1) Changing Payment. A change in the maturity, terms of redemption or interest payment of any Outstanding Bond; or

(2) Reducing Return. A reduction in the principal amount of any Bond or the rate of interest thereon, without the consent of the Owner of the Bond; or

(3) Prior Lien. The creation of a lien upon or a pledge of revenues ranking prior, superior and senior to the lien or to the pledge created by this Ordinance; or

(4) Modifying Any Bond. A reduction of the principal amount or percentages or otherwise affecting the description of Bonds the consent of the Owners of which is required for any such modification or amendment; or

(5) Priorities Between Bonds The establishment of priorities as between Bonds issued and Outstanding; or

(6) Modification of Less Than All the Bonds. The modification of or otherwise affecting the rights of the Owners of less than all of the Outstanding Bonds.

B. Notwithstanding the foregoing provisions of this Section, this Ordinance and the rights and obligations of the City and of the Owners of the Bonds may also be modified or amended at any time, with the written consent of the Insurer but without the consent of any Owners of the Bonds, but only to the extent permitted by law and only for any or all of the following purposes:

(1) to add to the covenants and agreements of the City contained in this Ordinance other covenants and agreements thereafter to be observed;

(2) to subject to the covenants and agreements of the City in this Ordinance additional Wastewater System revenues, to be defined and treated as Gross Pledged Revenues, for the purpose of providing additional security for the Bonds and any Parity Bonds;

(3) in connection with the provision of a Reserve Fund Insurance Policy subsequent to the issuance of the Bonds;

(4) to provide for the appointment of a new Paying Agent;

(5) to make such provisions for the purpose of curing any ambiguity or of curing or correcting any formal defect or omission in this Ordinance, or in regard to questions arising under this Ordinance, as the City may deem necessary or desirable, and which shall not adversely affect the interests of the Owners of the Bonds; or

(6) in order to preserve or protect the excludability from gross income for federal income tax purposes of the interest allocable to the Bonds.

Notice of Amendment. Whenever the Council proposes to amend or modify this Ordinance under the provisions of this Article, it shall cause notice of the proposed amendment to be mailed to Owners of all Outstanding Bonds at their addresses as the same last appear on the registration records maintained by the Paying Agent or by electronic means to DTC or its successors, and to the Insurer. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory ordinance is on file with the office of the City Clerk for public inspection. Notice of the proposed amendment, together with a copy of the proposed amendatory ordinance, shall be delivered to the Rating Agencies then maintaining a rating on the Bonds at least 15 days in advance of the adoption of the amendment. A full transcript of all proceedings relating to the execution of such amendatory ordinance shall be provided to the Insurer.

Time for Amendment. If the ordinance is required to be consented to by the Owners of the Bonds, whenever at any time within one year from the date of the giving of such notice there shall be filed with the City Manager an instrument or instruments executed by the Owners of not less than a majority of aggregate principal amount of the Bonds then Outstanding, which instrument or instruments shall refer to the proposed amendatory ordinance described in such notice and shall specifically consent to and approve the adoption of such ordinance, the Council may adopt such amendatory ordinance and such ordinance shall become effective. If the ordinance is not required to be consented to by the Owners of the Bonds, the amendatory ordinance may be adopted by the Council at any time.

Binding Consent to Amendment. If the Owners of not less than a majority of aggregate principal amount of the Bonds Outstanding at the time of the adoption of such amendatory

ordinance requiring consent of the Owners of the Bonds, or the predecessors in title of such Owners, shall have consented to and approved the adoption thereof as herein provided, no Owner of any Bond, whether or not such Owner shall have consented to or shall have revoked any consent as in this Article provided, shall have any right or interest to object to the adoption of such amendatory ordinance or to object to any of the terms or provisions therein contained or to the operation thereof or to enjoin or restrain the City from taking any action pursuant to the provisions thereof.

Time Consent Binding. Any consent given by the Owner of a Bond pursuant to the provisions of this Article shall be irrevocable for a period of 6 months from the date of the giving of the notice above provided for and shall be conclusive and binding upon all future Owners of the same Bond during such period. Such consent may be revoked at any time after 6 months from the date of such giving of such notice by the Owner who gave such consent or by a successor in title by filing notice of such revocation with the City Manager, but such revocation shall not be effective if the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding as in this Article provided, prior to the attempted revocation, consented to and approved the amendatory ordinance referred to in such revocation.

Unanimous Consent. Notwithstanding anything in the foregoing provisions of this Article, the terms and provisions of this Ordinance or of any ordinance amendatory thereof or supplemental thereto and the rights and the obligations of the City and of the Owners of the Bonds thereunder may be modified or amended in any respect upon the adoption by the City and upon the filing with the City Manager of an ordinance to that effect and with the consent of the Insurer and the Owners of all the then Outstanding Bonds, such consent to be given as provided in Section 1003 hereof; and no notice to Owners of Bonds shall be required as provided in Section 1002 hereof, nor shall the time of consent be limited except as may be provided in such consent.

Exclusion of City's Bonds. At the time of any consent or of other action taken under this Article, the City shall furnish to the City Manager a certificate of the Director of Finance, upon which the City may rely, describing all Bonds to be excluded for the purpose of consent or of other action or of any calculation of Outstanding Bonds provided for in this Article, and the City shall not be entitled with respect to such Bonds to give any consent or to take any other action provided for in this Article, as provided in Section 314 hereof.

Notation on Bonds. Bonds authenticated and delivered after the effective date of any action taken as in this Article provided may bear a notation by endorsement or otherwise in form approved by the Council as to such action; and after the approval of such notation, then upon demand of the Owner of any Bond Outstanding and upon presentation of such Person's Bond for that purpose at the principal office of the Paying Agent, suitable notation shall be made on such Bond by the Paying Agent as to any such action. If the Council so determines, new Bonds, so modified as in the opinion of the Council conform to such action, shall be prepared, executed, authenticated and delivered; and upon demand of the Owner of any Bond then Outstanding, shall be exchanged without cost to such Owner for Bonds then Outstanding upon surrender of such Bonds.

Proof of Instruments and Bonds. The fact and date of execution of any instrument under the provisions of this Article, the amount and number of the Bonds held by any Person executing such instrument, and the date of such Person's holding the same may be proved as provided by Section 1203 hereof.

Copies of Supplemental Ordinances to Rating Agencies. Copies of any supplemental or amendatory ordinance shall be sent by the City to the Rating Agencies at least 10 days prior to the effective date thereof.

ARTICLE II

INSURANCE POLICY AND RESERVE POLICY PROVISIONS

Section II01. Insurer To Be Deemed Owner, Rights of the Insurer, Payments by the Insurer; Notices.

A. Notwithstanding any provision of this Ordinance to the contrary, so long as the Insurer is not in default in its payment obligations under the Insurance Policy, the Insurer shall at all times be deemed the sole and exclusive Owner of the Outstanding Bonds for the purposes of all approvals, consents, waivers, institution of any action, and the direction of all remedies pursuant to this Ordinance, including but not limited to approval of or consent to any amendment of or supplement to this Ordinance which requires the consent or approval of the Owners of not less than a majority of the aggregate principal amount of the Bonds then Outstanding pursuant to this Ordinance; provided, however, that the Insurer shall not be deemed to be the sole and exclusive Owner of the Outstanding Bonds with respect to any amendment or supplement to this Ordinance which seeks to amend or supplement this Ordinance for the purposes set forth in clauses A (1) through A (6) of Section 1001 hereof, and provided, further, that the Insurer shall not have the right to direct or consent to City, Paying Agent or Owner action as provided herein, if:

- (1) the Insurer shall be in default under the Insurance Policy;
- (2) any material provision of the Insurance Policy shall be held to be invalid by a final, non-appealable order of a court of competent jurisdiction, or the validity or enforceability thereof shall be contested by the Insurer; or
- (3) a proceeding shall have been instituted in a court having jurisdiction in the premises seeking an order for relief, rehabilitation, reorganization, conservation, liquidation or dissolution in respect of the Insurer and such proceeding is not terminated for a period of 90 consecutive days or such court enters an order granting the relief sought in such proceeding.

B. To the extent that the Insurer makes payment of any principal of or interest on a Bond, it shall be fully subrogated to all of the Owner's rights thereunder in accordance with the terms of the Insurance Policy to the extent of such payment, including the Owner's rights to payment thereof.

C. In the event that the principal of or interest on a Bond shall be paid by the Insurer pursuant to the terms of the Insurance Policy: (1) such Bond shall continue to be “Outstanding” under this Ordinance, and (2) the Insurer shall be fully subrogated to all of the rights of the Owner thereof in accordance with the terms and conditions of paragraph B of this Section and the Insurance Policy.

D. This Ordinance shall not be discharged unless and until all amounts due to the Insurer have been paid in full or duly provided for.

E. The rights granted under this Ordinance to the Insurer to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Insurance Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer’s contractual rights and shall not be construed or deemed to be taken for the benefit of or on behalf of the Owners, nor does such action evidence any position of the Insurer, positive or negative, as to whether Owner consent is required in addition to consent of the Insurer.

F. No modification, amendment or supplement to this Ordinance shall become effective except upon obtaining the prior written consent of the Insurer.

G. No contract shall be entered into nor any action taken by the City or the Paying Agent pursuant to which the rights of the Insurer or security for or sources of payment of the Bonds under this Ordinance may be materially impaired or prejudiced except upon obtaining the prior written consent of the Insurer.

H. The provisions of this Article shall be of no force and effect if the Bonds are not insured by an Insurer.

ARTICLE III

MISCELLANEOUS

Defeasance. If, when the Bonds shall be paid in accordance with their terms (or payment of the Bonds has been provided for in the manner set forth in the following paragraph), together with all other sums payable hereunder, then this Ordinance and all rights granted hereunder shall thereupon cease, terminate and become void and be discharged and satisfied.

Payment of any Outstanding Bond shall prior to the maturity or Redemption Date thereof be deemed to have been provided for within the meaning and with the effect expressed in this Section if (a) in case said Bond is to be redeemed on any date prior to its maturity, the City shall have given to the Paying Agent in form satisfactory to it irrevocable instructions to give on a

date in accordance with the provisions of Section 313 hereof, notice of redemption of such Bond on said Redemption Date, such notice to be given in accordance with the provisions of Section 313 hereof, (b) there shall have been deposited with the Paying Agent or other Trust Bank either moneys in an amount which shall be sufficient, and/or Federal Securities which shall not contain provisions permitting the redemption thereof at the option of the issuer, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held by the Paying Agent or other Trust Bank at the same time, shall be sufficient to pay when due the Bond Requirements due and to become due on said Bond on and prior to the Redemption Date or maturity date thereof, as the case may be, and (c) in the event said Bond is not by its terms subject to redemption within the next sixty days, the City shall have given the Paying Agent in form satisfactory to it irrevocable instructions to give, as soon as practicable in the same manner as the notice of redemption is given pursuant to Section 313 hereof, a notice to the Owner of such Bond that the deposit required by (b) above has been made with the Paying Agent or other Trust Bank and that payment of said Bond has been provided for in accordance with this Section and stating such maturity or Redemption Date upon which moneys are to be available for the payment of the Bond Requirements of said Bond. Neither such securities nor moneys deposited with the Paying Agent or other Trust Bank pursuant to this Section or principal or interest payments on any such Federal Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Bond Requirements of said Bond; provided any cash received from such principal or interest payments on such Federal Securities deposited with the Paying Agent or other Trust Bank, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities of the type described in (b) of this paragraph maturing at times and in amounts sufficient to pay when due the Bond Requirements to become due on said Bond on or prior to such Redemption Date or maturity date thereof, as the case may be. At such time as payment of a Bond has been provided for as aforesaid, such Bond shall no longer be secured by or entitled to the benefits of this Ordinance, except for the purpose of any payment from such moneys or securities deposited with the Paying Agent or other Trust Bank.

The release of the obligations of the City under this Section shall be without prejudice to the right of the Paying Agent to be paid reasonable compensation for all services rendered by it

hereunder and all its reasonable expenses, charges and other disbursements incurred on or about the administration of and performance of its powers and duties hereunder.

Upon compliance with the foregoing provisions of this Section with respect to all Bonds then Outstanding, this Ordinance may be discharged in accordance with the provisions of this Section but the liability of the City in respect of the Bonds shall continue; provided that the Owners thereof shall thereafter be entitled to payment only out of the moneys or Federal Securities deposited with the Paying Agent or other Trust Bank as provided in this Section.

Delegated Powers. The officers, employees and agents of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including, without limitation:

A. **Final Certificates.** the execution of such certificates and closing documents as may be reasonably required by the Purchaser or Bond Counsel, including the Continuing Disclosure Certificate and Insurance Agreement, if any;

B. **Paying Agent Agreement.** the execution and delivery of an agreement with the Paying Agent necessary or desirable to evidence the acceptance by the Paying Agent of its duties hereunder;

C. **Official Statement.** the execution and delivery of the final Official Statement;

D. **Purchase Contract.** the execution and delivery of the bond purchase proposal from the Purchaser; and

E. **Electronic Signatures.** the use of electronic signatures to execute any of the documents described in this Section 1202 or elsewhere in this Ordinance, as authorized by Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act.

Evidence of Bond Owners. Any request, consent or other instrument which this Ordinance may require or may permit to be signed and to be executed by the Owners of any Bonds may be in one or more instruments of similar tenor and shall be signed or shall be executed by each such Owner in person or by such Person's attorney appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or the holding by any Person of the Bonds shall be sufficient for any purpose of this Ordinance (except as otherwise herein expressly provided) if made in the following manner:

F. Proof of Execution. The fact and the date of the execution by any Owner of any Bonds or such Person's attorney of such instrument may be established by a certificate, which need not be acknowledged or verified, of an officer of a bank or trust company satisfactory to the City Manager or Director of Finance, of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he or she purports to act, that the individual signing such request or other instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer; the authority of the individual or individuals executing any such instrument on behalf of a corporate Owner of any securities may be established without further proof if such instrument is signed by an individual purporting to be the president or vice-president of such corporation with a corporate seal affixed and attested by an individual purporting to be its secretary or an assistant secretary; and the authority of any Person or Persons executing any such instrument in any fiduciary or representative capacity may be established without further proof if such instrument is signed by a Person or Persons purporting to act in such fiduciary or representative capacity; and

G. Proof of Holdings. The amount of Bonds held by any Person and the numbers, date and other identification thereof, together with the date of such Person's holding the Bonds, shall be proved by the registration records maintained by the Paying Agent.

Parties Interested Herein. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any Person, other than the City, the Paying Agent, the Insurer and the Owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof; and all the covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Paying Agent, the Insurer, the Surety Provider and the Owners of the Bonds.

Notices. Except as otherwise may be provided in this Ordinance, all notices, certificates, requests or other communications pursuant to this Ordinance shall be in writing and shall be sufficiently given and shall be deemed given by personal delivery or when mailed by first class mail, and either delivered or addressed as follows:

If to the City at:

City of Arvada

8101 Ralston Road
Arvada, Colorado 80002
Attention: Director of Finance

If to the Paying Agent at:

UMB Bank, n.a.
1670 Broadway
Denver, Colorado 80202
Attention: Corporate Trust & Escrow Services Department

Any of the foregoing Persons may, by notice given hereunder to each of the other Persons, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Additional Notices to Rating Agencies. The Paying Agent hereby agrees that if at any time (a) the City shall redeem any portion of the Bonds Outstanding prior to maturity, but excluding redemptions pursuant to Section 311 hereof, (b) the City shall provide for the payment of any portion of the Bonds pursuant to Section 1201 hereof, (c) a successor Paying Agent is appointed hereunder, or (d) any supplement to this Ordinance shall become effective or any Person shall waive any provision of this Ordinance, then, in each case, the Paying Agent shall give notice to each Rating Agency.

Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any rights, as provided in this Ordinance, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal date.

Effective Date. This Ordinance shall be in full force and effect five days after final publication.

Disposition of Ordinance. This Ordinance, as adopted by the Council, shall be numbered and recorded by the City Clerk in the official records of the City. The adoption and publication shall be authenticated by the signatures of the Mayor and City Clerk, and by the certificate of publication.

INTRODUCED, READ, AND ORDERED PUBLISHED this 17th day of October, 2022.

PASSED, ADOPTED AND APPROVED this 7th day of November, 2022.

Mayor Marc Williams

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: _____

Publication Dates: October 20, 2022
 November 10, 2022

STATE OF COLORADO)
)
COUNTIES OF ADAMS AND)
JEFFERSON) SS.
)
CITY OF ARVADA)

I, Kristen Rush, the City Clerk of the City of Arvada, Colorado (the “City”), do hereby certify:

1. The foregoing pages are a true, correct and complete copy of an ordinance adopted by the City Council of the City (the “Council”) (i) on first reading at a regular meeting of the Council held at the City Council Chambers on October 17, 2022, and (ii) on second reading, at a regular meeting of the Council held at the City Council Chambers on November 7, 2022.

2. The ordinance has been signed by the Mayor, sealed with the corporate seal of the City, attested by me as City Clerk, and duly recorded in the books of the City; and that the same remains of record in the book of records of the City.

3. The passage of the ordinance on October 17, 2022, on first reading was duly moved and seconded, and the ordinance was passed on first reading by an affirmative vote of a majority of the members of the Council as follows:

Name	“Yes”	“No”	Absent	Abstain
Marc Williams, Mayor				
David Jones, Mayor Pro Tem				
Bob Fifer				
John Marriott				
Randy Moorman				
Lauren Simpson				
Lisa Smith				

4. The passage of the ordinance on November 7, 2022, on second and final reading was duly moved and seconded, and the ordinance was passed on second and final reading by an affirmative vote of a majority of the members of the Council as follows:

Name	“Yes”	“No”	Absent	Abstain
Marc Williams, Mayor				
David Jones, Mayor Pro Tem				
Bob Fifer				
John Marriott				
Randy Moorman				
Lauren Simpson				
Lisa Smith				

5. There are no bylaws, rules or regulations of the Council which might prohibit the adoption of said Ordinance.

6. Notices of the meetings of October 17, 2022, and November 7, 2022, in the forms attached hereto as Exhibit A were posted not less than 24 hours prior to the meetings in accordance with law.

7. The Ordinance was published after first reading, which notice included the day, hour, and place at which the Council would hold a public hearing thereon, and the affidavit of publication is attached hereto as Exhibit B.

8. The Ordinance was published after second and final reading and the affidavit of publication is attached hereto as Exhibit C.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of
said City this _____ day of November, 2022.

(SEAL)

City Clerk

EXHIBIT A
(Attach Notices of Meetings)

EXHIBIT B

(Affidavit of Publication after First Reading)

EXHIBIT C

(Affidavit of Publication after Second Reading)



REPORT FROM CITY COUNCIL

AGENDA ITEM
12.A.

DATE: November 7, 2022

SUBJECT: Council Committee Reports

Report in Brief

City Council members are appointed to various committees and boards as set out on the attached listing. As meetings are held, individual council members will report back to the full City Council any relevant discussions and issues that occurred.

Prepared by:
Chris Koch, CCO Admin

Reviewed by:

Approved by:

Enclosure, exhibits & attachments required to support the report

Council Member	Committee
Marc Williams	Arvada Municipal Court/Judicial Committee Arvada City Attorney Committee Arvada Urban Renewal Authority E-470 Authority (alternate) Jefferson Parkway Public Highway Authority Northwest Parkway Authority (Associate Member) (alternate) Urban Drainage and Flood Control District West Connect Coalition *Metro Mayors Caucus
Bob Fifer	Adams County Regional Economic Partnership (ACREP) Apex Coordinating Committee Arvada City Attorney Committee Arvada Transportation Committee Denver Regional Council of Governments (Alternate) Jefferson County R-1 Schools Coordinating Committee Jeffco Transportation Action & Advisory Group (JEFFTAAG) Smart City Advisory Committee
David Jones	E-470 Authority (alternate) Jefferson County Community Corrections Board Jefferson County R-1 Schools Coordinating Committee Jefferson Economic Development Council (JEDC) Jefferson Parkway Public Highway Authority Northwest Parkway Authority (Associate Member) (alternate) West Connect Coalition (alternate)
John Marriott	Adams County Regional Economic Partnership (ACREP) (alternate) Apex Coordinating Committee Arvada Economic Development Association Board Arvada Municipal Court/Judicial Committee Arvada Parks Advisory Committee Arvada Visitors Center Committee (alternate) CML Policy Committee Olde Town Business Improvement (BID) District Rocky Mountain Metropolitan Airport Community Noise Roundtable
Randy Moorman	Arvada Audit Committee Arvada Sustainability Advisory Committee CML Policy Committee Rocky Flats Stewardship Council
Lauren Simpson	Arvada Audit Committee Arvada Center for the Arts and Humanities Arvada Fire Protection District Coordinating Committee Arvada Visitors Center Committee Olde Town Business Improvement (BID) District (alternate)
Lisa Smith	Arvada Chamber of Commerce Government Affairs Committee Arvada Fire Protection District Coordinating Committee Denver Regional Council of Governments Jefferson County Community Corrections Board (alternate) Jeffco Transportation Action & Advisory Group (JEFFTAAG) (alternate) Smart City Advisory Committee

*Asterisked committees are not appointed by Council

City Clerk Team Drive: Council appointed committees



REPORT TO CITY COUNCIL

AGENDA ITEM
13.A.

TO: THE HONORABLE CITY COUNCIL

DATE: November 7, 2022

SUBJECT: Review of Future Workshops and Presentations

Report in Brief

The City Manager's Office maintains a list of upcoming workshops and presentations to be scheduled for City Council meetings. During City Manager Reports, at the end of City Council business meetings, City Manager, Mark Deven, will review with City Council the tentative schedule and make any adjustments necessary.

Prepared by:
Chris Koch, CCO Admin

Reviewed by:

Approved by:

Rachel Morris, City Attorney	10/17/2022
Linda Haley, Deputy City Manager	10/17/2022
Lorie Gillis, City Manager	10/21/2022

Enclosure, exhibits & attachments required to support the report

2022/2023 CITY COUNCIL WORKSHOPS, STUDY SESSIONS, PRESENTATIONS AND RETREATS (TENTATIVE)

WORKSHOPS	Date	Lead
Micromobility (e-bike/eScooter) Pilot Project Update The Arvada Public Works Department will present the results of Arvada's pilot micromobility project to the City Council and share staff recommendations for Council's feedback.	Nov 14	PW
Olde Town Strategic Reinvestment Plan Update	Nov 14	CED
Streets Maintenance 10-year Plan	Nov 28	PW
Infrastructure Master Plan Strategic Result Update	Dec 12	PW/Utilities
DEI	Jan 23	
	Feb 13	
	Mar 13	
This workshop may be cancelled - NLC	Mar 27	
	April 10	
	April 24	
	May 8	
STUDY SESSIONS		
Homelessness	TBD	
2023 Legislation & Lobbyist	TBD	
Sustainability	TBD	
Workshop TBD's		
Financial resiliency recommendations	TBD	Fin
Neighborhood Engagement and Marketing Updates	TBD	CMO
Total Rewards Philosophy and Strategy Update	TBD	HR
Athletic Field Programming	TBD-2023	VCN
Regional Homelessness	TBD	CMO
Fleet Electrification	TBD	Utilities
Council Retreat Update	TBD	CMO
Pre-Sentencing/One Small Step	TBD	Courts
Pocket Neighborhoods	TBD	CED
Meyers Pool	TBD	CMO
City Marketing Plan	TBD	CMO
Traffic Violation Fee	TBD	PW
Financial Scenarios for Street Maintenance Deficit/Options for Increasing Maintenance Funds Engage City Council in a discussion around the current street maintenance needs and how the City might fund them. This will include revenue enhancements, future allocations and expenditure realignments.	TBD	PW/Fin/CMO
Fiber Master Plan The Fiber Master Plan which is also called Arvada Fiber Optic Network (AFON), was first presented to City Council 4/10/2017. City Councils had set a strategic goal to build a fiber network to enable high speed/real-time connectivity to city facilities and assets in order to enhance city operations. This workshop is intended to brief City Council as to the progress of the AFON build out. Updates are intended to cover conduit installation progress, fiber installation progress, current co-locate opportunities, IGA member updates, and connections to current assets (city buildings, traffic, signals, utilities, radio, etc.).	TBD	PW

Community Survey Update The purpose of this item is to continue a discussion with Council about the Community Survey results and what the City team is doing to apply what is learned. Discussion will include an update on action plans targeting key drivers of the City's 5-star rating as well as how Worksystems are targeting specific measures.	TBD	CMO
Problem Properties	TBD	P.D.
Activation of Historical Assets	TBD	VCN
Customer Service Philosophy	TBD	CMO
Ask Arvada Update	TBD	CMO
APAC	TBD	VCN
Golf Course	TBD	VCN
COUNCIL JOINT MEETINGS/DINNERS:		
Denver Water Board Apex Board AURA Board Arvada Center Board—Per Coop Agreement - Annually after October 1 of each year Jefferson Parkway Meeting with Jeffco and Broomfield Council Annual Retreat		