

**MANAGEMENT AND FINANCE POLICY COMMITTEE (M&F)  
MEETING**

**TUESDAY, APRIL 23, 2019  
2:30 PM, Ponderosa, Aurora Municipal Center**

Council Member Gruber, Chair  
Council Member Lawson, Vice Chair  
Council Member Richardson  
Deputy City Manager Michelle Wolfe  
Finance Director Terri Velasquez

The Management and Finance Committee oversees the following Council goal and objectives:

**PROVIDE A WELL-MANAGED AND FINANCIALLY STRONG CITY**

- Ensure the delivery of high quality services to residents in an efficient and cost effective manner.
- Maintain superior financial reporting, financial controls, appropriate reserves, budgeting financial management, and transparency, and invest in capital and infrastructure to support efficient and effective long-term provision of services.
- Maintain a high financial credit (bond) rating, maintain debt policies and debt practices that allow the assessment of appropriate debt levels, and periodically review debt and debt service to minimize costs.
- Provide appropriate stewardship of natural resources to ensure long-term sustainability for the city.

**1. APPROVAL OF MARCH 26, 2019 DRAFT MINUTES**

**2. CONSENT ITEMS**

- **Sales Tax Chart**

Presenter: Greg Hays, Budget Officer

**3. EXCLUSION OF PROPERTY FROM THE PORTEOS BUSINESS IMPROVEMENT DISTRICT**

Presenter: Mark Geyer, General Management (10 minutes)

**4. ACCELA UPDATE**

Presenter: Aleta Jeffress, Information Technology (15 minutes)

**5. 2018 EXTERNAL AUDIT PRE-AUDIT LETTER**

Presenter: Nancy Wishmeyer, Controller (10 minutes)

**6. ELIMINATION OF GOING OUT OF BUSINESS LICENSE REQUIREMENT**

Presenter: Trevor Vaughn, Manager of Tax and Licensing (10 minutes)

**7. LIQUOR CODE UPDATES**

Presenter: Trevor Vaughn, Manager of Tax and Licensing (10 minutes)

**8. LODGERS TAX CODE CORRECTION AND TECHNICAL ADJUSTMENT**

Presenter: Trevor Vaughn, Manager of Tax and Licensing (5 minutes)

**9. UPDATE ON COLLECTING ONLINE SALES TAX**

Presenter: Trevor Vaughn, Manager of Tax and Licensing (5 minutes)

**10. MISCELLANEOUS MATTERS FOR CONSIDERATION**

- Next meeting is on May 28 at 2:30 PM.

*Total projected meeting time: 65 minutes*

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**MANAGEMENT AND FINANCE POLICY COMMITTEE**

March 26, 2019

Members Present: Council Member David Gruber – Chair, Council Member Angela Lawson – Vice Chair, and Council Member Charlie Richardson – Member

Others Present: City Manager Twombly, N. Freed, M. Wolfe, T. Velasquez, D. Chambers, T. Barrett, M. Hinterreiter, P. Bateman, Z. DeBoyes, J. Giddings, G. Hansen, A. Jeffress, J. Napper, L. Rehwalt, H. Hernandez, R. Venegas, J. Hancock, J. Schneebeck, J. Wesolowski, B. Bell, J. Campbell, D. Collins, J. Ehmann, K. Claspell, M. Shannon, J. Scott, A. Pi, G. Zimmer, G. Pennington, K. Brown, J. Speer, and T. Hoyle

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**MINUTES**

February 26, 2019 minutes were approved.

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**CONSENT ITEMS**

January of 2019 was 4.0 percent higher than January of 2018. Kerstin Claspell stated the 4% sales tax revenue met the required 2019 sales tax revenue budget.

**Outcome**

The Committee thanked staff.

**Follow-up Action**

No follow-up needed.

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**SPRING SUPPLEMENTAL****Summary of Issue and Discussion**

Jackie Ehmann presented the Spring Supplemental. The 2019 Spring Supplemental Ordinance appropriates amounts for a number of operating expenditures and capital projects that require appropriations and inter-fund transfers in the funds listed in the agenda item attachment. This ordinance impacts the 2018 and 2019 budget years. Items for 2018 represent financial activities that have already occurred.

One of the first steps of the annual budget process is to prepare an updated projection of current year requirements. Some requirements that had been identified in the 2018 projection prepared for the 2019 Adopted Budget were reviewed and appropriated as part of the 2018 Fall Supplemental process. Others were deferred, as departments are often able to offset the impact, either partially or entirely. Most of the requests included for 2018 in this 2019 Spring Supplemental request were identified and included in the 2018 projection in the 2019 budget document.

Many of requests included in this supplemental process are technical. Technical items are typically budget lapses or reallocations, zero-dollar amendments with appropriation offset by revenue, or accounting and other adjustments. These items are indicated by including “technical” in the title and may or may not have been reviewed by Council. Most items with a significant impact to a fund have been previously reviewed by Council or Council Committee. Council

review includes items included in the 2018 projection and reviewed as part of the 2019 Adopted Budget process, as well as items reviewed at either a Council Committee meeting or City Council meeting. Council review details are included in the narrative for each supplemental request.

The attachments included for this agenda item reflect summary and detail information regarding the requested appropriation changes for each fund and department. Transfers result in a move of funding from one fund to another. The details of these appropriation amendments are found in:

- Attachment A: 2018 Appropriation Summaries by Fund;
- Attachment B: 2019 Appropriation Summaries by Fund;
- Attachment C: 2018 Appropriation Detail by Fund; and
- Attachment D: 2019 Appropriation Detail by Fund.

As noted, the Spring Supplemental process covers two budget years and often includes several items. The following discussion will identify and focus on significant changes included for each budget year by fund, rather than the list in its entirety. Please see attachments C and D for the details on each request.

### 2018 Supplemental Amendments

One-time appropriation increases in the General Fund total **\$7.0 million**, with \$6.3 million in revenue offsets. Significant items include:

- A **\$4.8 million** transfer of additional revenue to the Capital Projects Fund (CPF). This item was not included in the 2018 projection, as a significant amount of the additional revenue occurred late in 2018.
- A **\$1.1 million** transfer to the Designated Revenues Fund to cover an anticipated use tax rebate associated with an incentivized project. This item was not included in the 2018 projection due to the timing of the receipt of funds.

Significant supplemental items in other funds include:

- Budget reductions (lapses) in the CPF totaling **\$1.5 million** due to the completion of various capital project in Public Works and Parks Rec & Open Space (PROS) under budget. A total of \$645,000 will be returned to agencies as unused funding.
- Appropriations totaling **\$1.8 million** in the Development Review Fund
  - o \$1.1 million for personnel costs incurred in response to development related workload.
  - o \$650,900 for implementation of the Accela Workflow Management system.
- Lapses totaling **\$598,300** in the Wastewater Fund, primarily due to capital budgets that include funding for annual maintenance that was not spent.
- New appropriation totaling **\$11.1 million** in the Water and Wastewater funds for the Upper First Creek Detention Pond and Aurora Pump Station Upgrades projects, as well as additional water right acquisitions.

### 2019 Supplemental Amendment Requests

Supplemental requests create budget authority for a total of **7.0 FTE** across three funds.

- 1.0 FTE Production Manager will be added in the Cultural Services Fund. The cost will be mostly offset by a reduction in contracted services.

- 2.0 Career Service FTE will be eliminated from the Photo Red Light Program in the Designated Revenues Fund. The employees in the eliminated positions were placed in existing vacancies in the Police Department.
- Public Works will convert contingent funding to add 5.0 FTE to the General Fund. This will have a zero dollar impact to the General Fund, as well as the CPF. The cost will be allocated or transferred from the General Fund to the Capital Projects Fund where existing budget or intergovernmental revenue will cover the cost. These contingent conversions are needed for retention purposes for the Priority Transportation and South Aurora Regional Improvement Authority projects.
- The City of Aurora Public Safety Training Center will convert contingent funding in the General Fund to add 0.5 FTE to assist the Manager of the facility.
- The Office of Immigrant Affairs will add 0.5 FTE to the General Fund to create one full-time position. The cost will be offset by a reduction in contracted services.
- Two full-time positions will be added to the Gifts and Grants Fund to include 1.0 FTE in the Police Department and 1.0 FTE City Attorney's Office. Both are partially funded for 2019 by grants. Additional grant funding or an alternate funding source will be required to fully fund each of these positions once the grant period is over.

Significant supplemental items in all funds include:

- The appropriation of **\$16.1 million** in the Capital Projects Fund for several Public Works projects. Revenue offsets for these projects total \$13.9 million. Large projects include the Harvest – Alexander to Orchard and Westerly Creek Transportation Improvement.
- A lapse of **\$1.7 million** in the Designated Revenues Fund to eliminate the Photo Red Light Program budget. 4.0 Civil FTE will be transferred to the General Fund for an impact of \$454,200 to that fund.
- The appropriation of **\$8.4 million** in the Water Fund for Wemlinger Water Purification Facility Improvements.

Detail behind all supplemental items can be found in Attachments C and D.

Council Member Gruber asked how the 4.0 Civil FTE transfers were funded. J. Ehmann said through an increase to the General Fund. Council Member Gruber said, so these were not transfers that filled open vacancies but were 4.0 new FTE's added to the General Fund. J. Ehmann replied yes. T. Velasquez stated, at April 1, 2019 Study Session there will be more discussion about the financial impacts and elimination of the Photo Red Light Program. She said, as part of the program there also were two civilian employees that were placed in other vacancies with no additional costs or layoffs.

Council Member Lawson asked, when departments don't fill positions where does the vacancy savings go, does it stay in the department or does it go back into the General Fund. T. Velasquez said, at end of the year it goes back to the fund balance of the General Fund. J. Ehmann said sometimes there's vacancy savings returned and you find a positive amount, so not all of it was spent at the end of the year. T. Velasquez said and those usually translate to one-time savings. M. Wolfe stated, there are times that it's not returned to the General Fund balance when there's unmet needs and it's used for other expenses.

Council Member Gruber said could we go into more detail on the Gifts and Grants fund and FTEs, and tell how that works. J. Ehmann said the positions are brought on to perform grant work and unless a follow-on grant is obtained the funding then is over. The funding for the Crisis Response Team (CRT) goes till September and the City Attorney's Office is to May. Council Member Gruber asked, was there success in achieving any other grants in addition to what we have. J. Ehmann replied currently she didn't know of any, or any plans for continuation. Jen Campbell stated, for the Crisis Response Team we plan to apply for a continuation grant but it's not opened yet. We also put in for a Grant application that we haven't heard back on and so we are pursuing multiple options. And if we receive a continuation for the one we currently have, we expect that will start on October 1. Council Member Gruber stated, so continually you are aggressively going after grants. Staff concurred.

#### Outcome

Committee Members Gruber and Lawson recommended this item be sent to Study Session. Committee Member Richardson joined the meeting following this item.

#### Follow-up Action

Staff will forward this item to April 15, 2019 Study Session. Subsequently, the City Manager added a 2019 supplemental request for 2.0 FTE Information Technology Positions dedicated to the Water Department. These positions will be funded by the Water funds and will add \$97,181 to the Wastewater Fund and \$145,771 to the Water Fund. This information was provided in an email to the Management and Finance Policy Committee.

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## **DEBT MANUAL**

### Summary of Issue and Discussion

Each year the Management & Finance Policy Committee (M&F) is provided an overview of the City's outstanding debt. As part of that overview, the Debt Manual is provided to members of M&F. This Manual is updated every spring to reflect the actual outstanding debt as of the end of the prior calendar year. Part of the review includes a short overview of the City's Investor Page (<https://www.auroragov.org/cms/one.aspx?pageId=8592972>)

This review is part of the City's best practices for encouraging and providing transparency to investors and citizens of Aurora, which includes an overview of the City's Investor Page, which is available to the public, outlining the City's debt related transactions and more. In a recent ratings report from S&P for the Central Recreation Center COPs, S&P provided a rating upgrade from AA- to AA. In addition to the overall strong economy in the region, S&P mentioned "very strong management, with strong financial policies and practices. We revised our assessment to strong from good due to changes in our view of the city's debt management policy, reporting, and capital planning practices." Additionally, S&P identified other highlights such as "debt policy last updated in 2016 that includes clear conceptual framework, detailed swap policy and limited ratio constraints, although its annual "debt book" provides strong transparency as to holdings, including private placement financing."

Council Member Lawson asked, what does the rolling stock financing go to? M. Shannon replied it's for the big fleet equipment such as fire apparatuses, graders, dump trucks, etc. Council Member Gruber asked if capital projects and O&M [are not included, but if we have a separate program for leasing automobiles. M. Shannon replied no, and all automobiles are paid by cash.

T. Velasquez said, part of the reason why we pay cash is the life of a vehicle isn't as long as we would like it to be. For an example, Police vehicles that might end up in an accident or damaged in some other way. It can be very difficult to get those in and out of a lease transaction when the loan hasn't been paid.

Council Member Gruber commented that there's been collateral discussions before about using different things as collateral such as Fire departments, City buildings and so forth. He asked does the Debt manual identify which building as collateral and which loan it applies to. Mike Shannon replied yes. He talked about Tallyn's Reach Campus and the property pledged to finance the extension of the Stephen D. Hogan Parkway.

Council Member Lawson stated, I know this would never happen but what if payments were not paid and they take away all three assets, what would happen to Hogan Parkway? M. Shannon replied there wouldn't be a concern with the Hogan Parkway. H. Hernandez said to help understand, as payments are made over time a portion of the pledge asset is then released.

Council Member Gruber said last year there was an analysis report of capital properties that we own that public charities use. Are any of those properties used as collateral? T. Velasquez replied no. The IRS has specific requirements when you have a private entity leasing the space.

Council Member Gruber stated he was impressed with the overall presentation and suggested that staff give a presentation to the Colorado Municipal League.

#### Outcome

The Committee thanked staff.

#### Follow-up Action

No follow-up needed.

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## **MISCELLANEOUS MATTERS FOR CONSIDERATION**

### Summary of Issue and Discussion

- ACCELA & Overall IT Update
- Collision Centers
  
- The next meeting is on Tuesday, April 23, 2019.

THESE MINUTES WERE APPROVED AS SUBMITTED

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David Gruber, Chair of the Management and Finance (M&F) Committee

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Date

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## Management and Finance Policy Committee Agenda Item Commentary

<b>Item Title:</b> Sales Tax Chart
<b>Item Initiator:</b> Greg Hays
<b>Staff Source:</b> Greg Hays, Budget Officer
<b>Deputy City Manager Signature:</b> Michelle Wolfe
<b>Outside Speaker:</b>
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

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

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

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

Members of the Management and Finance Policy Committee have asked for the monthly sales tax performance chart.

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

Attached is the February sales tax performance chart. February of 2019 was 5.9 percent higher than February of 2018.

### **QUESTIONS FOR Committee**

N/A, Information Only

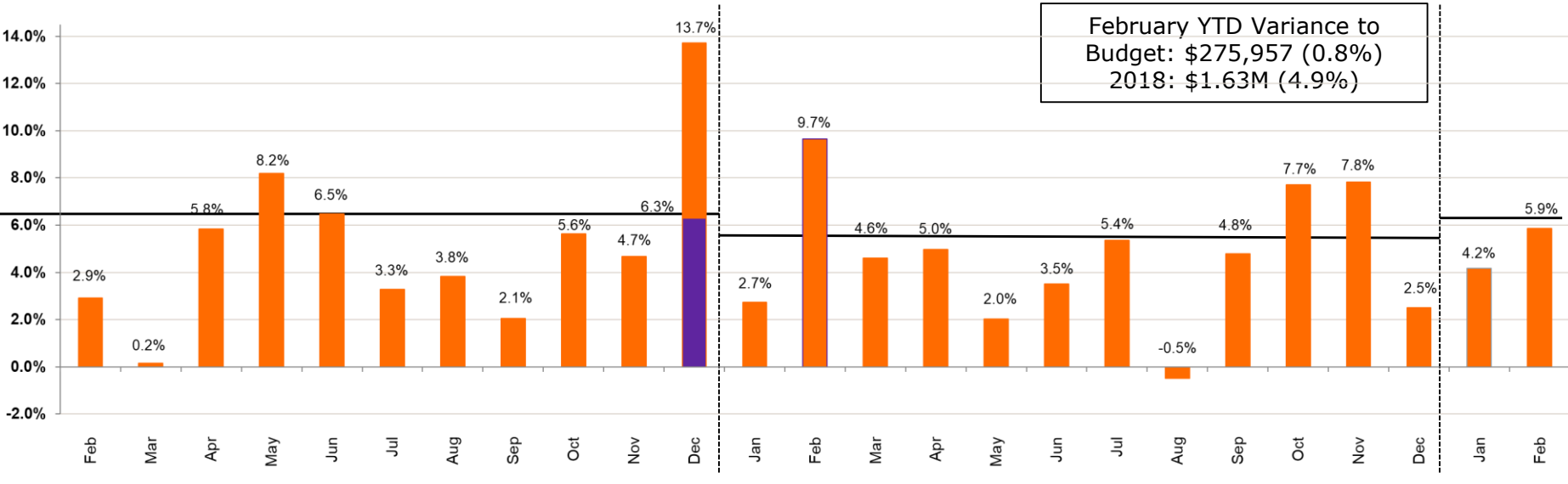
### **EXHIBITS ATTACHED:**

Sales Tax Chart\_Feb19.pptx

# February Sales Tax Performance



## Percent Change from Prior Year By Month



**2017**  
5.4%

**2018**  
4.5%

**2019**  
4.9%

■ w/o refund

**Growth Required to hit Budget**  
3.84%



# Variance Analysis

- 1). The Highway User's Tax Fund YTD Budget was based upon actual distributions in January and February of 2018 and may not have taken into account the increasing volume of collections, to which nearly the entirety of the current collection-over-budget amounts are attributable. Per CDOR, spikes in the amount of HUTF funding received in January and February reflect corrections to county remittance schedules as delayed payments beginning in August of 2018 and attributable to system changes are compressed, effectively, into on-time payments going forward. HUTF revenue is expected to flatten out in the next couple of months as all counties are brought up to speed.
- 2). The difference between YTD Budget and actuals in External Charges for Services is due primarily to the fact that the January 2019 monthly payment for Ambulance Services (\$139,324) was actually received and booked in 2018, in which 13 payments were received. The additional differences (~\$140K) are due to in large part lower than expected many small
- 3). Under-collection in BMUT is due largely to the fact that we based the 2019 budget on 2018 actuals, and that may have not taken into account the absence of large projects so far in 2019. In 2018 during this period, two transactions accounted for approximately \$500,000.
- 4). Variance in OPT, Franchise Fees, Business Licenses and Other Permits are still being investigated.

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## Management and Finance Policy Committee Agenda Item Commentary

<b>Item Title:</b> Approval of an ORDINANCE excluding certain property from the boundaries of the Porteos Business Improvement District.
<b>Item Initiator:</b> Mark Geyer
<b>Staff Source:</b> Mark Geyer, Project Manager, Office of Development Assistance
<b>Deputy City Manager Signature:</b> Jason Batchelor
<b>Outside Speaker:</b>
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

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

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

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

City Council approved the establishment of the Porteos Business Improvement District (BID) in 2016 (Ord. No. 2016-43). The BID is generally located east of Harvest Road between 56th And 68th Avenues.

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

The JA Green Development Corporation recently purchased three (3) parcels of land, approximately 496 acres in size, in the northeast portion of the Porteos project (vicinity map attached). A petition was received and approved by the Board of Directors of the the Porteos Business Improvement District (BID) to exclude this property from the district (Resolution attached).

As required by state statute, the exclusion also requires City Council approval. Therefore, the developer has submitted Petitions requesting the exclusion of the parcels identified as PA6A North, PA6A South and PA 5A (Petitions attached).

This exclusion request requires City Council approval.

### **QUESTIONS FOR Committee**

Does the Committee wish to move this items to City Council Study Session?

### **EXHIBITS ATTACHED:**

Board Resolution for Approval of Exclusion.pdf  
Green Industrial Development Group North LLC Porteos BID 2019 03 07 Petition for Exclusion.pdf

Green Industrial Development Group South LLC Porteos BID 2019 03 07 Petition for Exclusion.pdf  
Green Industrial Group LLC Porteos BID 2019 03 07 Petition for Exclusion.pdf  
Vicinity Map Porteos BID.pdf

**RESOLUTION TO APPROVE PETITION FOR EXCLUSION  
PORTEOS BUSINESS IMPROVEMENT DISTRICT**

COMES NOW, the President of Porteos Business Improvement District, and certifies that at a regular meeting of the Board of Directors of the District, held November 15, 2018 at 4:00 p.m. at 5600 Greenwood Plaza Boulevard, Suite 220, Greenwood Village, Colorado, the following resolution was adopted, to-wit:

WHEREAS, ACP DIA 1287 INVESTORS LLC C/O A AND C PROPERTIES INC. has petitioned the Porteos Business Improvement District (the "District") for the exclusion from said District of the land described in the Petition for Exclusion attached hereto as Exhibit A; and

WHEREAS, the area sought to be excluded from the District is located entirely within the City of Aurora, in Adams County, Colorado, and does not include property within any other county or within any other incorporated city, town, or city and county.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the District shall, and hereby does approve of the exclusion of the land described in Exhibit B attached hereto from the boundaries of the Porteos Business Improvement District, provided, however, that such order of exclusion of land is subject to and conditioned on the closing of real property pursuant to that certain Purchase and Sale Agreement and Escrow Instructions between ACP DIA 1287 Investors LLC c/o A and C Properties Inc., J.A. Green Development Corp., and Green Industrial Development Group LLC, dated March 6, 2018.

FURTHER, that the name and address of the owner of said property are as follows:

Petitioner/ Owner:	ACP DIA 1287 INVESTORS LLC C/O A AND C PROPERTIES INC.
Address:	4530 E. Shea Boulevard, Suite 100 Phoenix, Arizona 85028

FURTHER, that the Board of Directors of the District, being fully informed, hereby finds and determines that the change in boundaries of the Porteos Business Improvement District as proposed in the Petition does not adversely affect such District.

FURTHER, that the Board of Directors of the District directs that the Petition be sent to the Aurora City Council for consideration and approval pursuant to Section 31-25-1220, C.R.S.

The foregoing is a true and accurate copy of the action taken by the governing body of the Porteos Business Improvement District.





**EXHIBIT A**

**Petition for Exclusion**

**PETITION FOR EXCLUSION OF PROPERTY  
FROM  
PORTEOS BUSINESS IMPROVEMENT DISTRICT**

TO: City Council, City of Aurora, Colorado.

The undersigned, ACP DIA 1287 INVESTORS LLC C/O A AND C PROPERTIES INC., respectfully petitions the City Council of the City of Aurora in accordance with the provisions of Section 31-25-1220, C.R.S., for the exclusion of the hereinafter described property from the Porteos Business Improvement District (the "District").

The undersigned hereby requests that the property described on Exhibit A, which is attached hereto and incorporated herein (the "Property") be excluded from said District and that an Ordinance be adopted by the City Council excluding said property from said District, and that from and after the entry of such Ordinance, said property shall not be liable for assessments and other obligations of said District.

The undersigned represents to the City Council that it is the owner of the property and that no other persons, entity or entities own an interest in the Property.

Acceptance of the Petition shall be deemed to have occurred at that time when the City Council sets the date for the public hearing for the consideration of the Petition.

The undersigned agrees that it shall pay in full the fees and costs incurred by the City and the District for the publication of the notice of the hearing on exclusion, publication of the ordinance approving the exclusion (if any), filing and recording fees, and all other costs of exclusion of the property from said District, whether or not such exclusion is approved.

The legal description of said property situated in the County of Adams, State of Colorado, is attached hereto as Exhibit A.

This is a verified petition.

*[Signature page to follow]*

DN 3277143 1

PETITIONER:

ACP DIA 1287 INVESTORS, LLC,  
a Colorado limited liability company

By: DIA 1287 HOLDINGS, LLC,  
an Arizona limited liability company  
Its: Sole Member and Manager

By: A&C Properties, Inc.  
an Arizona company  
Its: Manager

By: *Joseph Cattaneo*  
Name: JOSEPH CATTANEO  
Its: PRESIDENT

Date: July 1, 2018

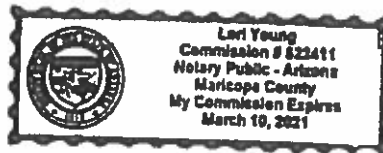
STATE OF ARIZONA )  
 ) ss.  
COUNTY OF Maricopa )

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of July, 2018, by Joseph Cattaneo, as PRESIDENT of A&C Properties, Inc., the Manager of DIA 1287 Holdings, LLC, an Arizona limited liability company, the Sole Member of ACP DIA 1287 Investors, LLC, a Colorado limited liability company, Petitioner.

Witness my hand and official seal.

My Commission Expires: 3-10-2021

(Notary Seal)



*Lari Young*  
Notary Public

**LEGAL DESCRIPTION – PA -6A (NORTH)**

A PARCEL OF LAND BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 4 AND A PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER QUARTER CORNER OF SAID SECTION 4, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN AND CONSIDERING THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, BEING MONUMENTED AS SHOWN ON THE ATTACHED EXHIBIT, TO BEAR NORTH 89°43'05" EAST, 2640.54 FEET WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE SOUTH 00°30'43" EAST ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 554.41 FEET;

THENCE SOUTH 65°53'01" WEST, A DISTANCE OF 620.59 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 625.00 FEET, A CENTRAL ANGLE OF 23°57'22", AN ARC LENGTH OF 261.32 FEET, THE CHORD OF WHICH BEARS SOUTH 77°51'42" WEST, 259.42 FEET;

THENCE SOUTH 89°50'23" WEST, A DISTANCE OF 2030.93 FEET TO A POINT OF NON-TANGENT CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 955.00 FEET, A CENTRAL ANGLE OF 23°56'34", AN ARC LENGTH OF 399.08 FEET, THE CHORD OF WHICH BEARS NORTH 11°56'02" WEST, 396.18 FEET TO A POINT OF TANGENCY;

THENCE NORTH 00°02'15" EAST, A DISTANCE OF 469.23 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5;

THENCE SOUTH 89°40'06" EAST ALONG SAID NORTH LINE, A DISTANCE OF 287.13 FEET TO A POINT BEING THE EAST QUARTER CORNER OF SAID SECTION 5;

THENCE NORTH 89°43'05" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 2640.54 FEET TO THE POINT OF BEGINNING,

SAID PARCEL CONTAINING A CALCULATED AREA OF 2,396,112 SQUARE FEET OR 55.007 ACRES, MORE OR LESS.

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

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

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

**LEGAL DESCRIPTION – PA -6A (SOUTH)**

A PARCEL OF LAND BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 4 AND A PART OF THE SOUTHEAST QUARTER OF SECTION 5, AND A PART OF THE NORTHEAST QUARTER OF SECTION 8 AND A PART OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 4, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN AND CONSIDERING THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, BEING MONUMENTED AS SHOWN ON THE ATTACHED EXHIBIT, TO BEAR NORTH 89°43'05" EAST, 2640.54 FEET WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE SOUTH 00°30'43" EAST ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 554.41 FEET TO A POINT BEING THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 00°30'43" EAST ALONG SAID EAST LINE, A DISTANCE OF 2111.16 FEET TO A POINT BEING THE SOUTH QUARTER CORNER OF SAID SECTION 4;

THENCE SOUTH 00°27'07" EAST ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 9, A DISTANCE OF 57.00 FEET;

THENCE NORTH 89°53'30" WEST, A DISTANCE OF 2682.81 FEET;

THENCE NORTH 00°24'45" WEST, A DISTANCE OF 1281.64 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 955.00 FEET, A CENTRAL ANGLE OF 29°18'18", AN ARC LENGTH OF 488.45 FEET, THE CHORD OF WHICH BEARS NORTH 15°07'49" WEST, 483.14 FEET;

THENCE NORTH 29°46'58" WEST, A DISTANCE OF 15.95 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 955.00 FEET, A CENTRAL ANGLE OF 05°52'39", AN ARC LENGTH OF 97.96 FEET, THE CHORD OF WHICH BEARS NORTH 26°50'39" WEST, 97.92 FEET;

THENCE NORTH 89°50'23" EAST, A DISTANCE OF 2030.93 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 625.00 FEET, A CENTRAL ANGLE OF 23°57'22", AN ARC LENGTH OF 261.32 FEET, THE CHORD OF WHICH BEARS NORTH 77°51'42" EAST, 259.42 FEET;

THENCE NORTH 65°53'01" EAST, A DISTANCE OF 620.59 FEET TO THE POINT OF BEGINNING,

SAID PARCEL CONTAINING A CALCULATED AREA OF 5,116,803 SQUARE FEET OR 117.466 ACRES, MORE OR LESS.

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

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

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

**LEGAL DESCRIPTION – PA -5A**

A PARCEL OF LAND BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 4, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN AND CONSIDERING THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, BEING MONUMENTED AS SHOWN ON THE ATTACHED EXHIBIT, TO BEAR NORTH 89°43'05" EAST, 2640.54 FEET WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE NORTH 89°40'06" WEST ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5, A DISTANCE OF 287.13 FEET TO A POINT BEING THE POINT OF BEGINNING;

THENCE SOUTH 00°02'15" WEST, A DISTANCE OF 469.23 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 955.00 FEET, A CENTRAL ANGLE OF 29°49'13", AN ARC LENGTH OF 497.04 FEET, THE CHORD OF WHICH BEARS SOUTH 14°52'22" EAST, 491.45 FEET;

THENCE SOUTH 29°46'58" EAST, A DISTANCE OF 15.95 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 955.50 FEET, A CENTRAL ANGLE OF 29°17'21", AN ARC LENGTH OF 488.45 FEET, THE CHORD OF WHICH BEARS SOUTH 15°07'49" EAST, 483.14 FEET;

THENCE SOUTH 00°24'45" EAST, A DISTANCE OF 380.33 FEET;

THENCE NORTH 90°00'00" WEST, A DISTANCE OF 1959.88 FEET;

THENCE NORTH 00°00'00" EAST, A DISTANCE OF 1814.60 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5;

THENCE SOUTH 89°40'06" EAST ALONG SAID NORTH LINE, A DISTANCE OF 1697.31 FEET TO THE POINT OF BEGINNING,

SAID PARCEL CONTAINING A CALCULATED AREA OF 3,293,681 SQUARE FEET OR 75.613 ACRES, MORE OR LESS.

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

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

**PETITION FOR EXCLUSION OF PROPERTY  
FROM  
PORTEOS BUSINESS IMPROVEMENT DISTRICT**

TO: City Council, City of Aurora, Colorado.

The undersigned, GREEN INDUSTRIAL DEVELOPMENT GROUP, NORTH LLC, respectfully petitions the City Council of the City of Aurora in accordance with the provisions of Section 31-25-1220, C.R.S., for the exclusion of the hereinafter described property from the Porteos Business Improvement District (the "District").

The undersigned hereby requests that the property described on **Exhibit A**, which is attached hereto and incorporated herein (the "Property") be excluded from said District and that an Ordinance be adopted by the City Council excluding said property from said District, and that from and after the entry of such Ordinance, said property shall not be liable for assessments and other obligations of said District.

The undersigned represents to the City Council that it is the owner of the property and that no other persons, entity or entities own an interest in the Property.

Acceptance of the Petition shall be deemed to have occurred at that time when the City Council sets the date for the public hearing for the consideration of the Petition.

The undersigned agrees that it shall pay in full the fees and costs incurred by the City and the District for the publication of the notice of the hearing on exclusion, publication of the ordinance approving the exclusion (if any), filing and recording fees, and all other costs of exclusion of the property from said District, whether or not such exclusion is approved.

The legal description of said property situated in the County of Adams, State of Colorado, is attached hereto as **Exhibit A**.

This is a verified petition.

*[Signature page to follow]*





**EXHIBIT A**  
**Petition for Exclusion**  
**Porteos Business Improvement District**

**LEGAL DESCRIPTION – PA -6A (NORTH)**

A PARCEL OF LAND BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 4 AND A PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE CENTER QUARTER CORNER OF SAID SECTION 4, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN AND CONSIDERING THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, BEING MONUMENTED AS SHOWN ON THE ATTACHED EXHIBIT, TO BEAR NORTH 89°43'05" EAST, 2640.54 FEET WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE SOUTH 00°30'43" EAST ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 554.41 FEET;

THENCE SOUTH 65°53'01" WEST, A DISTANCE OF 620.59 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 625.00 FEET, A CENTRAL ANGLE OF 23°57'22", AN ARC LENGTH OF 261.32 FEET, THE CHORD OF WHICH BEARS SOUTH 77°51'42" WEST, 259.42 FEET;

THENCE SOUTH 89°50'23" WEST, A DISTANCE OF 2030.93 FEET TO A POINT OF NON-TANGENT CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 955.00 FEET, A CENTRAL ANGLE OF 23°56'34", AN ARC LENGTH OF 399.08 FEET, THE CHORD OF WHICH BEARS NORTH 11°56'02" WEST, 396.18 FEET TO A POINT OF TANGENCY;

THENCE NORTH 00°02'15" EAST, A DISTANCE OF 469.23 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5;

THENCE SOUTH 89°40'06" EAST ALONG SAID NORTH LINE, A DISTANCE OF 287.13 FEET TO A POINT BEING THE EAST QUARTER CORNER OF SAID SECTION 5;

THENCE NORTH 89°43'05" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 2640.54 FEET TO THE **POINT OF BEGINNING**,

SAID PARCEL CONTAINING A CALCULATED AREA OF 2,396,112 SQUARE FEET OR 55.007 ACRES, MORE OR LESS.

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

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

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

**PETITION FOR EXCLUSION OF PROPERTY  
FROM  
PORTEOS BUSINESS IMPROVEMENT DISTRICT**

TO: City Council, City of Aurora, Colorado.

The undersigned, GREEN INDUSTRIAL DEVELOPMENT GROUP, SOUTH LLC, respectfully petitions the City Council of the City of Aurora in accordance with the provisions of Section 31-25-1220, C.R.S., for the exclusion of the hereinafter described property from the Porteos Business Improvement District (the "District").

The undersigned hereby requests that the property described on **Exhibit A**, which is attached hereto and incorporated herein (the "Property") be excluded from said District and that an Ordinance be adopted by the City Council excluding said property from said District, and that from and after the entry of such Ordinance, said property shall not be liable for assessments and other obligations of said District.

The undersigned represents to the City Council that it is the owner of the property and that no other persons, entity or entities own an interest in the Property.

Acceptance of the Petition shall be deemed to have occurred at that time when the City Council sets the date for the public hearing for the consideration of the Petition.

The undersigned agrees that it shall pay in full the fees and costs incurred by the City and the District for the publication of the notice of the hearing on exclusion, publication of the ordinance approving the exclusion (if any), filing and recording fees, and all other costs of exclusion of the property from said District, whether or not such exclusion is approved.

The legal description of said property situated in the County of Adams, State of Colorado, is attached hereto as **Exhibit A**.

This is a verified petition.

*[Signature page to follow]*



**EXHIBIT A**  
**Petition for Exclusion**  
**Porteos Business Improvement District**

**LEGAL DESCRIPTION – PA -6A (SOUTH)**

A PARCEL OF LAND BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 4 AND A PART OF THE SOUTHEAST QUARTER OF SECTION 5, AND A PART OF THE NORTHEAST QUARTER OF SECTION 8 AND A PART OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 4, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN AND CONSIDERING THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, BEING MONUMENTED AS SHOWN ON THE ATTACHED EXHIBIT, TO BEAR NORTH 89°43'05" EAST, 2640.54 FEET WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE SOUTH 00°30'43" EAST ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 554.41 FEET TO A POINT BEING THE **POINT OF BEGINNING**;

THENCE CONTINUING SOUTH 00°30'43" EAST ALONG SAID EAST LINE, A DISTANCE OF 2111.16 FEET TO A POINT BEING THE SOUTH QUARTER CORNER OF SAID SECTION 4;

THENCE SOUTH 00°27'07" EAST ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 9, A DISTANCE OF 57.00 FEET;

THENCE NORTH 89°53'30" WEST, A DISTANCE OF 2682.81 FEET;

THENCE NORTH 00°24'45" WEST, A DISTANCE OF 1281.64 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 955.00 FEET, A CENTRAL ANGLE OF 29°18'18", AN ARC LENGTH OF 488.45 FEET, THE CHORD OF WHICH BEARS NORTH 15°07'49" WEST, 483.14 FEET;

THENCE NORTH 29°46'58" WEST, A DISTANCE OF 15.95 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 955.00 FEET, A CENTRAL ANGLE OF 05°52'39", AN ARC LENGTH OF 97.96 FEET, THE CHORD OF WHICH BEARS NORTH 26°50'39" WEST, 97.92 FEET;

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THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 625.00 FEET, A CENTRAL ANGLE OF 23°57'22", AN ARC LENGTH OF 261.32 FEET, THE CHORD OF WHICH BEARS NORTH 77°51'42" EAST, 259.42 FEET;

THENCE NORTH 65°53'01" EAST, A DISTANCE OF 620.59 FEET TO THE **POINT OF BEGINNING**,

SAID PARCEL CONTAINING A CALCULATED AREA OF 5,116,803 SQUARE FEET OR 117.466 ACRES, MORE OR LESS.

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

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FOR AND ON BEHALF OF  
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10333 E. DRY CREEK ROAD, SUITE 240  
ENGLEWOOD, CO 80112

**PETITION FOR EXCLUSION OF PROPERTY  
FROM  
PORTEOS BUSINESS IMPROVEMENT DISTRICT**

TO: City Council, City of Aurora, Colorado.

The undersigned, GREEN INDUSTRIAL DEVELOPMENT GROUP, LLC, respectfully petitions the City Council of the City of Aurora in accordance with the provisions of Section 31-25-1220, C.R.S., for the exclusion of the hereinafter described property from the Porteos Business Improvement District (the "District").

The undersigned hereby requests that the property described on **Exhibit A**, which is attached hereto and incorporated herein (the "Property") be excluded from said District and that an Ordinance be adopted by the City Council excluding said property from said District, and that from and after the entry of such Ordinance, said property shall not be liable for assessments and other obligations of said District.

The undersigned represents to the City Council that it is the owner of the property and that no other persons, entity or entities own an interest in the Property.

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The legal description of said property situated in the County of Adams, State of Colorado, is attached hereto as **Exhibit A**.

This is a verified petition.

*[Signature page to follow]*





**EXHIBIT A**  
**Petition for Exclusion**  
**Porteos Business Improvement District**

**LEGAL DESCRIPTION – PA -5A**

A PARCEL OF LAND BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE NORTH 89°40'06" WEST ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5, A DISTANCE OF 287.13 FEET TO A POINT BEING THE **POINT OF BEGINNING**;

THENCE SOUTH 00°02'15" WEST, A DISTANCE OF 469.23 FEET TO A POINT OF CURVATURE;

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THENCE SOUTH 00°24'45" EAST, A DISTANCE OF 380.33 FEET;

THENCE NORTH 90°00'00" WEST, A DISTANCE OF 1959.88 FEET;

THENCE NORTH 00°00'00" EAST, A DISTANCE OF 1814.60 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5;

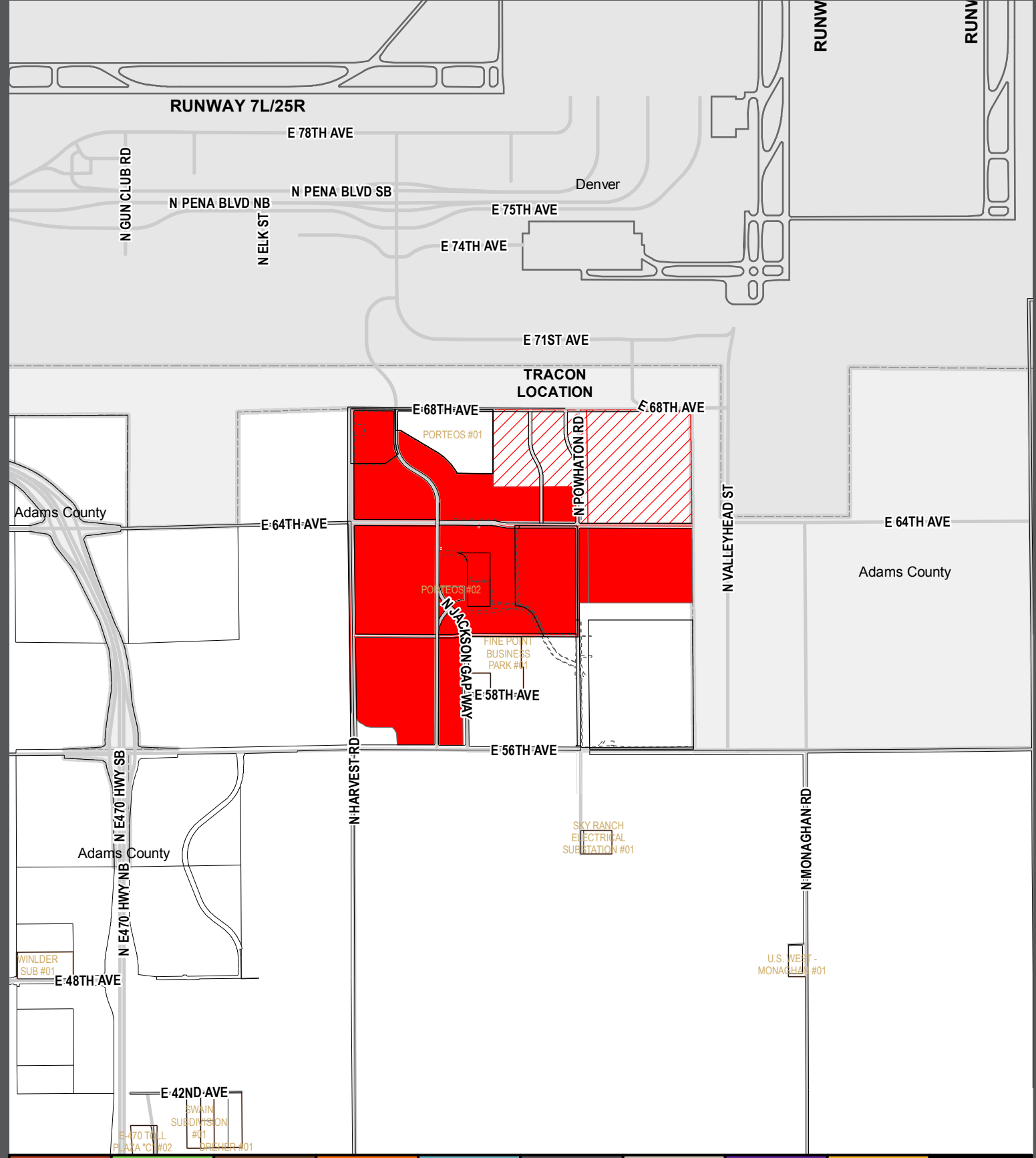
THENCE SOUTH 89°40'06" EAST ALONG SAID NORTH LINE, A DISTANCE OF 1697.31 FEET TO THE **POINT OF BEGINNING**,

SAID PARCEL CONTAINING A CALCULATED AREA OF 3,293,681 SQUARE FEET OR 75.613 ACRES, MORE OR LESS.

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CVL CONSULTANTS OF COLORADO, INC.  
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ENGLEWOOD, CO 80112



**Planning & Development Services**

15151 E. Alameda Pkwy  
 Aurora CO 80012 USA  
[www.auroragov.org](http://www.auroragov.org)  
 303-739-7250  
[GIS@auroragov.org](mailto:GIS@auroragov.org)

**City of Aurora, Colorado**

2019 Porteos  
 Business Improvement District

April 16, 2019

*Aurora is Worth Discovering!*



**Legend**

- BID
- Exclusion Area
- Aurora
- Denver
- Unincorporated County



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## Management and Finance Policy Committee Agenda Item Commentary

<b>Item Title:</b> Accela Implementation Update
<b>Item Initiator:</b> Craig Brown
<b>Staff Source:</b> Aleta Jeffress, CIO
<b>Deputy City Manager Signature:</b> Jason Batchelor
<b>Outside Speaker:</b> None
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

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

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

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

The Development Review workflow management system is reaching its end-of-life. In 2015-2016 requirements were collected and vetted for a replacement system. On September 7, 2016, the City Council approved the purchase of the Accela workflow management software solution and implementation services.

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

The Accela Implementation Update is a presentation on the status of the Accela project.

### **QUESTIONS FOR Committee**

None

### **EXHIBITS ATTACHED:**

MF\_Accela Updates\_20190423.pptx

# Accela Update

April 23, 2019



# Overview

- Implementation Updates
- Customer Campaign
- Development Approach





# Implementation Updates

- Accela Implementation
  - Build/Testing Phase
- Electronic Document Review Solution
  - Purchasing Phase
  - Go-Live Dependency

Target Go-Live September 2019



# Customer Campaign

- Developing Communications & Training Plan
  - Targeting Internal & External Customers
  - Rollout Planning
    - User Training (In-Person, Guides, Videos)
    - Communications – Overall & Department Specific



# To-Be DevOps Approach

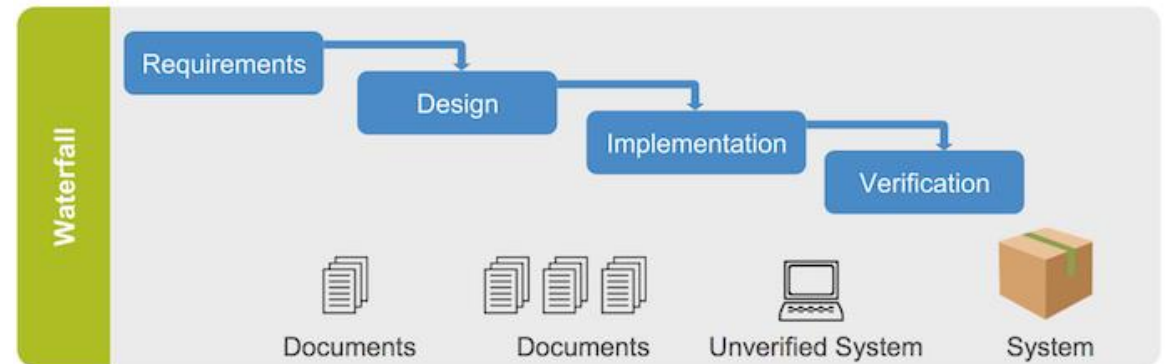
## Agile

- Build Incrementally
  - Release on Demand
- Value Early & Often**



## Waterfall

- Long Development Cycle
- Delivers Value Later**



# Questions





## Management and Finance Policy Committee Agenda Item Commentary

<b>Item Title:</b> 2018 External Audit Pre-Audit Letter
<b>Item Initiator:</b> Nancy Wishmeyer
<b>Staff Source:</b> Nancy Wishmeyer, Controller
<b>Deputy City Manager Signature:</b> Michelle Wolfe
<b>Outside Speaker:</b>
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

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

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

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

BKD, LLP, the city's external auditors, provide this pre-audit letter to communicate various matters related to the scope and timing of the 2018 financial statement audit. BKD, LLP also provided an engagement letter dated November 29, 2018 that was presented at the January 15, 2019 Management & Finance Policy Committee meeting. The engagement letter is the contract for the upcoming audit and defines auditor and city management responsibilities as well as fees. The pre-audit letter communicates various matters related to audit scope that are more appropriately communicated as the engagement begins.

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

The pre-audit letter is required auditor communication to the city's audit committee at the beginning of the audit engagement. The letter outlines audit risk areas and the corresponding audit approach to address those risks. The pre-audit letter also outlines areas that governance should be particularly aware of as it oversees the financial reporting process. Finally, the pre-audit letter discusses how the auditors address fraud.

### **QUESTIONS FOR Committee**

NA - Information Only

### **EXHIBITS ATTACHED:**

City of Aurora Pre-Audit Ltr 123118.pdf

March 11, 2019

Mayor and City Council Members  
City of Aurora, Colorado  
15151 East Alameda Parkway  
Aurora, Colorado 80012

The purpose of this communication is to summarize various matters related to the planned scope and timing for the December 31, 2018 audits of the financial statements of the City of Aurora, Colorado (the City) and of its compliance with specified requirements applicable to its major federal award programs.

Please refer to our engagement letter dated November 29, 2018 for additional information and the terms of our engagement.

## OVERVIEW

We will conduct our audits in accordance with auditing standards generally accepted in the United States of America, the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards require that we plan and perform:

- The audit of the financial statements to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.
- The audit of compliance with the types of compliance requirements described in the U.S. Office of Management and Budget, *Compliance Supplement* that are applicable to each major federal award program to obtain reasonable rather than absolute assurance about whether noncompliance having a direct and material effect on a major federal award program occurred.

Additionally, with respect to the Scientific and Cultural Facilities District (SCFD) we will:

- Audit the financial statements of the City of Aurora, Colorado’s Cultural Service Division, including the Schedule of Annual Operating Income for the year ended December 31, 2018.
- Perform certain agreed-upon procedures, as described in the SCFD Tier II Qualification Application, to schedules required to be submitted in connection with the SCFD audit report package. Such procedures will be performed in accordance with the attestation standards established by the American Institute of Certified Public Accountants.

**PLANNED SCOPE & TIMING**

We have preliminarily identified the following areas of significant risks of material misstatement due to error or fraud and of material noncompliance and propose to address these areas as described:

<b>Opinion Unit</b>	<b>Risk Area</b>	<b>Audit Approach</b>
All	Management override of controls	Examine journal entries for evidence of material misstatement, review accounting estimates for bias, and evaluate business rationale for significant unusual transactions
All	Revenue recognition	Review revenue for proper cut-off and compliance with requirements determining recognition
Governmental activities, general fund and other aggregate funds	System Implementation (GenTax)	Review for Conversion and Reconciliation between systems and IT specialist review of system

<b>Opinion Unit</b>	<b>Risk Area</b>	<b>Audit Approach</b>
Governmental and business-type activities, water, sewer, and other aggregate funds	Implementation of new accounting standards: GASB 75, <i>Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions</i> and GASB 89, <i>Accounting for Interest Cost Incurred Before the End of a Construction Period</i>	Review for compliance with new standards including required footnote disclosures
Governmental and business-type activities, water, sewer, and other aggregate funds	Debt	Review significant activity, including confirming new debt and debt paid off and debt refunding calculations and review debt covenants for compliance with terms outlined in debt agreements
Governmental and business-type activities, water, sewer, and other aggregate funds	Capital Assets	Review for propriety of capitalization and reasonableness of depreciation
Single audit	Compliance with requirements described in the U.S. Office of Management and Budget, <i>Compliance Supplement</i> for major federal awards programs	Select samples and test for compliance with federal and grant requirements

We welcome any input you may have regarding the risk areas identified above, any other significant risk areas in your opinion or other matters you believe warrant particular attention.

We propose the following timeline:

- Final fieldwork has been scheduled for April 1, 2019 to April 26, 2019
- Final reports will be issued by May 30, 2019



## **CONTACTS**

We understand the appropriate person in the governance structure with whom to communicate is Council Member Dave Gruber, Chair of the Management and Finance Committee.

If for any reason any member of the Management and Finance Committee or City Council would need to contact us, please call Christopher Telli, Partner, or Marcie Ardan, Director, at 303.861.4545.

## **ACCOUNTING & AUDITING MATTERS**

The following matters are, in our judgment, relevant to the planned scope of the audit as well as your responsibilities in overseeing the financial reporting process.

- Segregation of accounting duties
- Revenue recognition
- Self-insurance liabilities
- Third-party service providers
- Related-party transactions
- Component units
- Joint venture
- Commitments and contingencies
- Significant estimates
- Recording of restricted net position and restricted, committed and assigned fund balances
- Investments and investment valuation
- Debt
- Fixed assets
- Expenses/expenditures
- Compliance with federal award programs

## **CONSIDERATION OF ERROR OR FRAUD**

One of the most common questions we receive from audit committees is, “How do you address fraud in a financial statement audit?” Our responsibility, as it relates to fraud, in an audit of financial statements is addressed in auditing standards generally accepted in the United States of America.

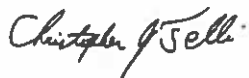
Our audit approach includes such procedures as:

- Engagement Team Brainstorming
  - Discussions include how and where we believe the City's financial statements might be susceptible to material misstatement due to error or fraud, how management could perpetrate and conceal fraudulent financial reporting and how assets of the City could be misappropriated
  - An emphasis is placed on the importance of maintaining the proper state of mind throughout the audit regarding the potential for material misstatement due to error or fraud
- Inquiries of Management and Others
  - Personnel interviewed include the Management and Finance Committee Chair, the City Manager, the Deputy City Manager, the Finance Director, the Internal Auditor, the Controller and others
  - Inquiries are directed towards the risks of error or fraud and whether personnel have knowledge of any fraud or suspected fraud affecting the City
- Reviewing Accounting Estimates for Bias
- Evaluating Business Rationale for Significant Unusual Transactions
- Incorporating an Element of Unpredictability Into the Audit Each Year

\* \* \* \* \*

This communication is intended solely for the information and use of those charged with governance (the Mayor, the City Council, and the Management and Finance Committee) and management and is not intended to be and should not be used by anyone other than these parties.

Sincerely,



Christopher J. Telli, CPA  
Partner



Marcella D. Ardan, CPA  
Director

PLEASE CALL BRYN FILLINGER AT EXT. 37501 FOR PICKUP

FROM: PURCHASING SERVICES

The attached Agreement requires your review and approval. Please return documents to Purchasing Services once complete. Further, if any changes are to be made, attach your comments to these documents.

PROJECT/BID NO.: N/A

PROJECT/BID TITLE: Zoll X Series Manual Monitors/Defibrillators

CONTRACTOR: Zoll

COUNCIL APPROVAL DATE: Weekly Report of April 8, 2019 AGENDA ITEM:

AWARD ORDER AMOUNT: \$687,171.62

**DISTRIBUTION:**

<u>DEPT.</u>	<u>DATE SENT</u>	<u>DATE RETURNED</u>
CONTRACTOR	_____	04/18/2019
RISK MANAGER	_____	_____
CITY ATTORNEY	04/18/2019	_____

**\*PLEASE RETURN TO APPROPRIATE BUYER TO COMPLETE AND ATTACH PURCHASE ORDER.**

MANAGER OF PURCHASING SERVICES	_____	_____
ASSISTANT CITY MANAGER	_____	_____
CITY CLERK	_____	_____
PROCUREMENT ASST.	_____	_____

AFTER REVIEWING THE ATTACHED DOCUMENTS, PLEASE RETURN THIS PACKAGE TO PURCHASING SERVICES OR CALL X7100 TO ARRANGE FOR IT TO BE PICKED UP.

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THANK-YOU, Bryn Fillinger ext. 37501  
PURCHASING SERVICES

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## Management and Finance Policy Committee Agenda Item Commentary

<b>Item Title:</b> FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, REPEALING CHAPTER 46 OF THE AURORA CITY CODE, AND OTHER RELATED MATTERS
<b>Item Initiator:</b> Trevor Vaughn, Manager of Tax and Licensing
<b>Staff Source:</b> Trevor Vaughn, Manager of Tax and Licensing
<b>Deputy City Manager Signature:</b> Michelle Wolfe
<b>Outside Speaker:</b>
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

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

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

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

In 1960 the city adopted a licensing requirement for going out of business and altered goods sales. The intent was to prevent deceptive marketing of false sales.

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

This is a staff proposal to eliminate a rarely enforced ordinance dating back to 1960 requiring licensing for going out of business or altered goods sales. The current ordinance requires a license for these sales. However, only one license was issued in the last twenty years when a business inquired if the city had such a requirement.

The intent of the ordinance is to prohibit deceptive going out of business or altered goods sales. Deceptive going out of business sales attempt to lure in consumers with promises of significant price reductions as the result of a need to clear inventory. However, a business engaged in the practice would have no intent of going out of business and price reductions would be fabricated. However, with the increased information available online, consumers are less susceptible to this tactic and deceptive going out of business sales are no longer seen as a significant consumer issue. The current ordinance was adopted in 1960. A licensing structure is used as a screening and proactive measure, in practice it is likely that an enforcement action would only occur under this ordinance after a sale has started. Staff is recommending elimination of the requirement altogether. However, if the city were to maintain regulation in this area, it would be less cumbersome to business and use less enforcement resources if it is maintained as a regulation and not as a license.

**QUESTIONS FOR Committee**

**EXHIBITS ATTACHED:**

2019-Chapter 46 Repeal.doc  
Chapter\_46\_\_\_CONSUMER\_PROTECTION.doc

ORDINANCE NO. 2019-\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, REPEALING CHAPTER 46 OF THE AURORA CITY CODE, AND OTHER RELATED MATTERS

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

WHEREAS, under Article XX Section 6 the Colorado Constitution, the City has authority over local matters, and the City has decided to remove Chapter 46 of the city code; and

WHEREAS, the regulations contained in Chapter 46 were intended to protect the public from deceptive advertising indicating that a business was having a sale because the business was liquidating when in reality the business was just attempting to attract clients, but under the current market conditions consumers are less susceptible to this deceptive practice and this is no longer a significant consumer issue; and

WHEREAS, Council finds and determines that it is reasonable and appropriate to repeal Chapter 46 of the Code.

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

Section 1. Chapter 46 of the Aurora City Code is hereby repealed.

Section 2. All ordinances or parts of ordinances of the City Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the city clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
BOB LEGARE, Mayor

ATTEST:

---

STEPHEN J. RUGER, City Clerk

APPROVED AS TO FORM:

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HANOSKY HERNANDEZ,  
Assistant City Attorney



## Chapter 46 - CONSUMER PROTECTION<sup>[1]</sup>

Footnotes:

--- (1) ---

**Cross reference**— Businesses, ch. 26; secondhand goods, ch. 110.

### ARTICLE I. - IN GENERAL

Secs. 46-1—46-25. - Reserved.

### ARTICLE II. - GOING OUT OF BUSINESS AND ALTERED GOODS SALES<sup>[2]</sup>

Footnotes:

--- (2) ---

**Cross reference**— Businesses, ch. 26.

#### DIVISION 1. - GENERALLY

Sec. 46-26. - 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:

*Fire and other altered goods sale* means a sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.

*Going out of business sale* means a sale held out in such a manner as to reasonably cause the public to believe that, upon the disposal of the stock of goods on hand, the business will cease and be discontinued, including but not limited to the following sales: adjuster's, adjustment, alteration, assignee's, bankrupt, benefit of administrator's, benefit of creditor's, benefit of trustees, building coming down, closing, creditor's committee, creditor's end, executor's, final days, forced out, forced out of business, insolvents', last days, lease expires, liquidation, loss of lease, mortgage sale, receiver's, quitting business, trustee's.

*Goods* means any goods, wares, merchandise or other property capable of being the object of a sale regulated under this article.

(Code 1979, § 31-16)

**Cross reference**— Definitions generally, § 1-2.

Sec. 46-27. - Exemptions.

This article shall not apply to or affect the following persons:

- (1) Persons acting in accordance with their powers and duties as public officials.
- (2) Duly licensed auctioneers, selling at auction.

(Code 1979, § 31-17)

Sec. 46-28. - Deceptive advertising.

Licensees under this article shall refrain from employing any untrue, deceptive or misleading advertising.

(Code 1979, § 31-18)

Sec. 46-29. - Adherence to advertising.

Licensees under this article shall conduct the licensed sale in strict conformity with any advertising or holding out incident thereto.

(Code 1979, § 31-19)

Sec. 46-30. - Adherence to inventory.

A licensee under this article shall make no additions whatsoever, during the period of the licensed sale, to the stock of goods set forth in the inventory attached to the application for a license.

(Code 1979, § 31-20)

Sec. 46-31. - Duplicate inventory.

Licensees under this article shall keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to inspecting officials upon request.

(Code 1979, § 31-21)

Sec. 46-32. - Segregation of noninventoried goods.

Licensees under this article shall keep any goods not inventoried separate and apart from the goods listed in the filed inventory as being objects of sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale apprising the public of the status of all goods.

(Code 1979, § 31-22)

Secs. 46-33—46-60. - Reserved.

DIVISION 2. - LICENSE

Sec. 46-61. - Required.

A license issued by the director of finance or designee shall be obtained by any person before selling or offering to sell any goods at a sale to be advertised or held out by any means to be one of the following kinds:

- (1) Going out of business sale.
- (2) Fire and other altered stock sale.

(Code 1979, § 31-30; Ord. No. 95-53, exhibit A (§ 31-30), 9-11-95)

Sec. 46-62. - Application.

A person desiring to conduct a sale regulated by this article shall make a written application to the director of finance setting forth and containing the following information:

- (1) The true name and address of the owner of the goods to be the object of the sale.
- (2) The true name and address of the person from whom he or she purchased the goods to be sold and the price thereof and, if not purchased, the manner of such acquisition.
- (3) A description of the place where such sale is to be held.
- (4) The nature of the occupancy, whether by lease or sublease and the effective date of termination of such occupancy.
- (5) The dates of the period of time in which the sale is to be conducted.
- (6) A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted.
- (7) The means to be employed in advertising such sale.
- (8) A complete and detailed inventory of the goods to be sold at such sale as disclosed by the applicant's records. Such inventory shall be attached to and become part of the required application.
  - a. Bone fide orders. All goods included in such inventory shall have been purchased by the applicant for resale on bone fide orders without cancellation privileges and shall not comprise goods purchased on consignment.
  - b. Goods purchased for sale. Such inventory shall not include goods ordered in contemplation of conducting a sale regulated under this article. Any unusual purchase or additions to the stock of goods of the business affected by this subsection within 30 days before the filing of an application under this division shall be deemed to be of such character.

(Code 1979, § 31-31; Ord. No. 95-53, exhibit A (§ 31-31), 9-11-95)

Sec. 46-63. - Fees.

Any applicant for a license under this division shall submit to the director of finance or designee with his or her application an application fee in the amount of \$5.00 and a license fee in the amount of \$50.00.

(Code 1979, § 31-32; Ord. No. 95-53, exhibit A (§ 31-32), 9-11-95)

Sec. 46-64. - Time limits on issuance.

Any person who has held a going out of business sale, as regulated under this article, at the location stated in the application, within one year last past from the date of such application shall not be granted a license under this division.

(Code 1979, § 31-33)

Sec. 46-65. - Issuance to one premises only.

Where a person applying for a license under this division operates more than one place of business, the license issued shall apply only to the one store or branch specified in the application, and no other store or branch shall advertise or represent that it is cooperating with it or in any way participate in the

licensed sale nor shall the store or branch conducting the licensed sale advertise or represent that any one store or branch is cooperating with it or participating in any way in the licensed sale unless the other stores or branches are likewise licensed.

(Code 1979, § 31-34)

Sec. 46-66. - Surrender of general license.

Upon being issued a license under this division for a going out of business sale, the licensee shall surrender to the director of finance or designee, at the conclusion of the sale, all other city business licenses he or she may hold at that time applicable to the location and goods covered by the application for a license under this division and which may not be needed after the sale.

(Code 1979, § 31-35; Ord. No. 95-53, exhibit A (§ 31-35), 9-11-95)

Sec. 46-67. - Designation of type of sale, location and inventory.

- (a) The license under this division shall authorize only the one type of sale described in the application at the location named therein.
- (b) The license shall authorize only the sale of goods described in the inventory attached to the application.

(Code 1979, § 31-36)

Sec. 46-68. - Term.

A license shall be issued under this division for a period of not more than 60 days following the issuance thereof.

(Code 1979, § 31-37)

Sec. 46-69. - Transfer.

Any license provided for in this division shall not be assignable or transferable.

(Code 1979, § 31-38)

Sec. 46-70. - Renewal.

- (a) The director of finance or designee shall renew a license under this division for one period only to be in addition to the 60 days permitted in the original license and not to exceed 30 days, when he or she finds:
  - (1) Unsold goods remain in the business.
  - (2) The licensee has filed an application for renewal.
  - (3) The licensee has submitted with the application for renewal a revised inventory showing the items listed on the original inventory remaining unsold and not listing any goods not included in the original application and inventory.

- (b) For the purposes of this section, any application for a license under this article, covering any goods previously inventoried as required under this article, shall be deemed to be an application for renewal, whether presented by the original applicant or by any other person.
- (c) The renewal fee shall be \$25.00.

(Code 1979, § 31-39; Ord. No. 95-53, exhibit A (§ 31-39), 9-11-95)

Sec. 46-71. - Suspension, revocation.

In addition to the other penalties provided in section 1-13, the director of finance or designee shall have the power to suspend or revoke, at any time, any license granted under this division whenever any such sale is conducted in violation of this article or in such a manner as to deceive or defraud the public. No license shall be suspended or revoked without granting the licensee an opportunity for a hearing and at least five days' written notice of the hearing and a concise written statement of the violation that the licensee is charged with having committed.

(Code 1979, § 31-40; Ord. No. 95-53, exhibit A (§ 31-40), 9-11-95)

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## Management and Finance Policy Committee Agenda Item Commentary

<b>Item Title:</b> FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 6 OF THE CITY CODE RELATED TO ALCOHOL BEVERAGES AND CABARETS.
<b>Item Initiator:</b> Trevor Vaughn, Manager of Tax and Licensing
<b>Staff Source:</b> Trevor Vaughn, Manager of Tax and Licensing
<b>Deputy City Manager Signature:</b> Michelle Wolfe
<b>Outside Speaker:</b>
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

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

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

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

Over the last few years significant changes have occurred in state liquor code including the addition of new license types and the change from 3.2% beer to full strength beer. The liquor code also was moved from title 12 of the Colorado Revised Statutes to Title 44. The ordinance incorporates a number of these changes and also includes amendments making violations of the state code a municipal offense and clarifying in city code that liquor licensed establishments are responsible for taking mitigating action to prevent acts of disorderly conduct for their entire business location including exterior areas such as the entryway or parking lot.

The ordinance also adds the ability for summarily suspending a cabaret license (dance floor) if the business is willfully violating the requirements of the license and also extends the requirements of running a decent and orderly establishment and location to the cabaret license. Language regarding entry of minors is also clarified to remove ambiguity about when minors are permitted into a restaurant with an accessory dance floor.

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

This ordinance updates Chapter 6 of the city code relating the licensing of Alcoholic Beverage Businesses. The ordinance includes technical changes to change references to State code for the re-codification of liquor licensing from Title 12 to Title 44. The ordinance also merges both classes of cabaret licenses as there is no longer 3.2% fermented malt beverages.

The proposed ordinance also adds several new license types to the exemption from the distance requirement from schools. New liquor licenses must be 500 feet from schools unless exempted by local ordinance. Hotel/Restaurant licenses are exempted from the distance limitation. This ordinance adds the following restaurant type licenses to the exemption list; Vintners Restaurant, Distillery Pub, and Brew Pub. These businesses must have at least 15% food sales. The Lodging and Entertainment License is also exempted by this ordinance from the distance limitation. These businesses must primarily derive revenue from Entertainment or Lodging and not alcohol sales. Examples would be a paint and sip studio or a business offering cooking classes as its primary function.

Additionally this ordinance makes any violations of the state liquor code a municipal offense. These changes allow for a summons to be issued to municipal court for failure to have a liquor license. The ordinance also specifies that businesses are responsible for conduct of their establishment consistent with state liquor rule 47-900. This conduct is also clarified to include the immediate vicinity. The city and state prosecute for activity surrounding a business under regulation 47-900. However, adding this to city code will provide more clarity that a business is not only responsible for activity directly inside the walls but also for violent or other activity offensive to the neighborhood occurring in the immediate vicinity as a result of their business operation. Most issues of violence occur immediately outside of a licensed establishment. These incidents are often a result of poor business practices such as over service of alcohol, failure to report disturbances from inside the business, permitting loitering and drinking in the parking lot, and entry or service to minors.

The requirements of running a decent and orderly establishment are extended to the cabaret license. An option to summarily suspend a cabaret license similar to a liquor license is also added. Entry of minors into a cabaret licensed business is clarified to avoid abuse of the provision.

**QUESTIONS FOR Committee**

Does the committee wish to forward the ordinance to study session for formal consideration?

**EXHIBITS ATTACHED:**

Ordinance 2019 Alcohol Beverage code update PDF.pdf



ORDINANCE NO. 2019-\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 6 OF THE CITY CODE RELATED TO ALCOHOL BEVERAGES AND CABARETS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That section 6-1 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-1. - Definitions.

The definitions set forth in C.R.S. tit. ~~12~~ 44, arts. ~~46, 47 and 48~~ 3, 4 and 5, as amended, as well as the definitions set forth in the Colorado Liquor Rules, 1 C.C.R. 203-2, as amended, shall apply equally to this article, except where specifically defined below. Except as otherwise indicated by the context, the following words and phrases shall have the following meanings for purposes of this article:

*Ancillary facility* means a permanent, temporary or movable structure located on an optional premises which is used to sell or serve malt, vinous or spirituous liquors.

*Applicant* means any person who has applied for but has not yet been issued, a license to sell alcohol beverages.

*Colorado Beer Code* means article 46 4 of title ~~12~~ 44 of the Colorado Revised Statutes, as amended.

*Colorado Liquor Code* means article ~~47~~ 3 of title ~~12~~ 44 of the Colorado Revised Statutes, as amended.

*Finance director* means the director of finance of the City of Aurora, Colorado; the term "finance director" shall include such person's designee.

*Licensee* means a person licensed to sell alcohol beverages at retail within the city.

*Licensing authority or local licensing authority or authority* means the alcoholic beverage local licensing authority of the city.

*Liquor special events permits code* means article ~~48~~ 5 of title ~~12~~ 44 of the Colorado Revised Statutes, as amended.

*Person* means a natural person, partnership, association, company, corporation, or organization, or a director, officer, shareholder, partner, manager, agent, servant, or employee thereof.

Section 2. That section 6-67 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-67. - Application and investigation fees.

(a) In addition to any application fees required to be paid to the state department of revenue, each person, upon filing an application with the local licensing authority for an alcohol beverage license, shall pay to the local licensing authority an application fee to defray all actual and necessary expenses incurred by the city in its investigation of, processing of and hearing upon the following applications:

- (1) New license application.
- (2) Concurrent review of a new license application by the state licensing authority.
- (3) Application for transfer of location.
- (4) Application for transfer of ownership.
- (5) Application for renewal of license.
- (6) Application for renewal of expired license.
- (7) Temporary permit application.

Such fees shall be established by the finance director in accordance with the provisions of section 2-587, subject to the limitations set forth in C.R.S. § ~~12-47-505(4)~~ **44-3-505(4)**, as amended.

(b) In addition to any investigation fees required to be paid to the state department of revenue, each licensee that is a corporation or limited liability company shall pay to the local licensing authority an investigation fee for each fingerprint analysis and background investigation undertaken to qualify new officers, directors, stockholders, or members of currently licensed corporations and limited liability companies pursuant to C.R.S. § ~~12-47-307(1)~~ **44-3-307**, as amended. Such fee shall be established by the finance director in accordance with the provisions of section 2-587, subject to the limitations set forth in C.R.S. § ~~12-47-505(4)~~ **44-3-505(4)**, as amended.

Section 3. That subsection (b) of section 6-68 of the City Code of the City of Aurora, Colorado is hereby amended to read as follows:

Sec. 6-68. - Public notice.

(b) It shall be the responsibility of the applicant to provide notice of the public hearing to the following persons at least ~~30~~ **10** days prior to the date of the hearing:

- (1) The president or representative of any and all neighborhood organizations registered with the planning department which exist within any part of the relevant neighborhood to be considered by the local licensing authority.
- (2) The principal or representative of any school located in the relevant neighborhood.

Section 4. That section 6-70 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-70. - Schedule of license and special events permit fees.

(a) In addition to any license fees required to be paid to the state department of revenue, each licensee shall pay to the local licensing authority an annual local license fee. The schedule of local license fees for each license issued under this division shall be established by the finance director in accordance with the provisions of section 2-587, subject to the limitations set forth in C.R.S. §§ ~~12-47-505(1)~~ **44-3-505(4)** and ~~12-46-107(2)~~ **44-4-107(2)**, as amended.

(b) Eighty-five percent of the local license fees set forth in subsection (a) of this section shall be paid to the state department of revenue, as provided for in C.R.S. § ~~12-47-505(3)~~ **44-3-505(3)**, as amended.

(c) In addition to any fees required to be paid to the state department of revenue, each applicant shall pay to the local licensing authority a fee for the investigation and issuance of a special events permit. The fee schedule for special events permits issued under this division shall be established by the finance director in accordance with the provisions of section 2-587, subject to the limitations set forth in C.R.S. §§ ~~12-48-107(2)~~ § **44-5-107(2)**, as amended.

Section 5. That section 6-71 of the City Code of the City of Aurora, Colorado, is hereby amended to add a new subsection, to be numbered (d), which subsection shall read as follows:

Sec. 6-71. - Location of premises.

(d) **The distance restriction set forth in subsection (a) shall not apply to lodging and entertainment, limited winery, vintner's restaurant, brew pub, or distillery pub licenses.**

Section 6. That section 6-72 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-72. - Conditions on every new, transferred and renewed liquor license.

(a) For purposes of enforcing the requirements of Colorado Regulation 1 C.C.R. 203-2, Liquor Code, Regulation 47-900(A), it shall be a condition for the issuance and renewal of every alcoholic beverage license and permit issued by the city for the licensee to comply with the provisions of city Code section 94-111. The licensee, manager, agent(s), and employee(s) thereof shall immediately notify the police department of any disturbance, any act of disorderly conduct, or any other criminal activity occurring on or within the licensed premises, **upon any adjoining grounds or property under the control or management of the licensee, upon any parking area(s) under the control or management of the licensee or any parking area(s) used by licensee's patrons.** Failure to comply with city Code section 94-111 may result in the suspension or revocation of the alcoholic beverage license.

(b) No new liquor license shall be issued, no liquor license shall be transferred, and no liquor license shall be renewed until such time as all fees, fines, costs, taxes, penalties and interest due and owing to the city by the licensee or applicant are paid in full.

(c) It shall be a condition on every alcohol beverage license, permit, or special event permit issued or renewed by the city the licensee, and every employee or agent of the licensee, shall conduct business in a decent, orderly and respectable manner. The following is strictly prohibited from occurring in or on the licensed premises, upon any adjoining grounds or property under the control or management of the licensee, upon any parking area(s) under the control or management of the licensee, or upon any parking area(s) used by licensee's patrons:

- (1) Knowingly permit the loitering of a known habitual drunkard or any person displaying any visible signs of intoxication without an acceptable purpose;
- (2) Knowingly permit any activity or acts of disorderly conduct as defined by state statute or City Code;
- (3) Knowingly permit any criminal act;
- (4) Knowingly permit any activity or acts of rowdiness, undue noise, or other disturbances;
- (5) Knowingly permit activity offensive to the senses of the average citizen or the residents of the neighborhood in which the licensed establishment is located; or

(d) It shall be a condition on every alcohol beverage license, permit or special event permit issued or renewed by the city the licensee shall timely file and pay local taxes as required by chapter 130 of the City Code.

Section 7. That Chapter 6 of the City Code of the City of Aurora, Colorado, is hereby amended to add a new subsection, to be numbered 6-73, which section shall read as follows:

**Sec. 6-73. – Unlawful acts.**

**It shall be unlawful for:**

- (a) Any person licensed pursuant to article 3, article 4, or article 5 of title 44, C.R.S., or any employee or agent of such licensee, to violate any provision, section, or subsection of C.R.S. § 44-3-901, as amended;
- (b) Any person to manufacture, sell, or possess for sale, any alcohol beverage unless licensed to do so pursuant to article 3, article 4, or article 5 of title 44, C.R.S. and this article; or
- (c) Any person engaged in business as defined by City Code to permit the consumption of alcohol beverage(s) within their business when the business is not licensed for the consumption of alcohol beverages on

**the premises pursuant to article 3, article 4, or article 5 of title 44, C.R.S. and this article.**

Section 8. That subsection (b) of section 6-106 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-106. - Liquor occupation tax.

(b) There is hereby levied and assessed an annual occupation tax upon the business of selling fermented malt beverages, or malt, vinous, and spirituous liquors at retail in the city in accordance with the following schedule:

- (1) For all licensees who possess a hotel and restaurant, vintner's restaurant, tavern, **lodging and entertainment, limited winery brew pub, distillery pub, racetrack, or optional premises license or who sell liquor under a lodging facility contract approved pursuant to C.R.S. § 12-47-119(2)(e)** ..... \$650.00
- (2) For all licensees who possess a beer and wine or beer and wine (resort hotel) license ..... 450.00
- (3) For all licensees who possess a retail liquor store license ..... 400.00
- (4) For all licensees who possess a liquor-licensed drugstore license ..... 300.00
- (5) For all licensees who possess a club or arts license ..... 275.00
- (6) For all licensees who possess a fermented malt beverage (on-premises consumption) license ..... 500.00
- (7) For all licensees who possess a fermented malt beverage (off-premises consumption) license ..... 275.00
- (8) ~~For all licensees who possess a fermented malt beverage (on/off premises consumption) license ..... 800.00~~

Section 9. That section 6-108 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-108. - Effect of delinquency.

No delinquency in payment of the tax provided for in this division shall be grounds for suspension or revocation of any license granted to any licensee by the licensing authority pursuant to the state statutes. In performance of any duties imposed upon the authority by such statutes, the licensing authority shall exclude from consideration any delinquency in payment of the tax provided for in this division, except as set forth in subsection ~~6-66(e)(1)~~ **6-66(d)**.

Section 10. That section 6-136 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-136. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means any person who is applying for, but has not yet received, ~~either a class A or class B~~ cabaret license pursuant to this division.

~~Class A cabaret~~ **Cabaret** means a location licensed for the sale of intoxicating liquors for consumption on the premises wherein entertainment may be either live or recorded vocal or instrumental music and no other entertainment shall be permitted and where dancing by the customers is permitted.

~~Class B cabaret~~ means a location licensed for the sale of fermented malt beverage for consumption on the premises wherein entertainment may be either live or recorded vocal or instrumental music and no other entertainment shall be permitted and where dancing by the customers is permitted.

Section 11. That section 6-138 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-138. - Violations.

**Any violation of this division may result in the suspension, the imposition of a fine in lieu of a suspension, or revocation of the cabaret license. A cabaret license may be summarily suspended for a period not to exceed fifteen days, without notice pending prosecution and public hearing, when reasonable grounds exist a licensee committed a deliberate and willful violation of any provision of this division. In addition to the possibility of revocation or suspension of the license, or the imposition of a fine in lieu of such suspension, ~~all as provided for in section 6-77(e)~~, any person who violates any of the provisions of this division or who fails to perform any act required by this division and who is convicted thereof, shall be subject to the penalties set forth in section 1-13.**

Section 12. That section 6-140 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-140. - Hours permitted for entertainment.

**No entertainment shall be offered or provided in a ~~class A or class B~~ cabaret prior to 12:00 noon or later than 2:00 a.m. the succeeding day in locations permitted by the zoning code to remain open until 2:00 a.m., or no later than 12:00 midnight in locations required by the zoning code to close at 12:00 midnight.**

Section 13. That section 6-141 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-141. - Entry of minors.

(a) It shall be unlawful for any person to permit anyone under 21 years of age to patronize a ~~class A or class B~~ cabaret or for any person under 21 years of age to gain entry or attempt to gain entry into such an establishment unless accompanied by a parent or legal guardian; provided, however, that this prohibition shall not preclude a person under 21 years of age from patronizing a bona fide restaurant habitually and continuously

serving meals to guests **at all times minors are permitted**; that is, if the establishment whose principal purpose is the preparation of food and serving of meals to guests, which food service represents 50 percent or more of the business revenues of the establishment **in total and at all times that minors are permitted.**

~~(b) Any person of the age of 16 years through 20 years shall be allowed to patronize a class B cabaret or to gain entry into a class B cabaret during the hours that fermented malt beverages are neither being served nor being consumed by anyone on the licensed premises if all provisions of this Code pertaining to teen club licenses have been complied with. During the hours that fermented malt beverages are not being served, all such beverages and their dispensers shall be secured, covered, and kept out of public view. Once the premises have been converted to a nonalcohol status, there shall be no reconversion to alcohol beverage service during the next succeeding 12 hour period.~~

Section 14. That section 6-144 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

**Sec. 6-144. - Report of disorderly conduct.**

Any licensee under this division or, in such licensee's absence, any manager or employee thereof, shall immediately report to the Aurora Police Department any unlawful or disorderly conduct or criminal activity committed, or occurring, at the location, on the premises, or within the licensed premises set forth on the license of the license holder. For the purposes of this section the terms "location", "premises", and "licensed premises" ~~shall have that meaning and definition set forth in Section 12-47-103 of the Colorado Revised Statutes~~ **include any adjoining grounds or property under the control or management of the licensee, upon any parking area(s) under the control or management of the licensee, or any parking area(s) used by licensee's patrons.**

For purposes of this section "report" shall mean to either: (1) immediately, verbally, and directly in person, notify any onsite uniformed Aurora Police Officer whether on duty or working secondary employment; or (2) place and complete a phone call to the non-emergency dispatch telephone number for the Aurora Police Department; or (3) place and complete a telephone call to the emergency \*911 operator. Contacting individual officers out of uniform or not directly on the licensed premises shall not suffice as a report or reporting within the meaning of this section.

Section 15. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-145, which section shall read as follows:

**Sec. 6-145. – Conduct of Establishment.**

**The licensee, and every employee or agent of the licensee, shall conduct business in a decent, orderly and respectable manner. The following is strictly prohibited from occurring in or on the licensed premises, upon any adjoining grounds or property under the control or management of the licensee, upon any parking area(s) under the control or management of the licensee, or upon any parking area(s) used by licensee's patrons:**

- (a) **Knowingly permit the loitering of a known habitual drunkard or any person displaying any visible signs of intoxication without an acceptable purpose;**
- (b) **Knowingly permit any activity or acts of disorderly conduct as defined by state statute or City Code;**
- (c) **Knowingly permit any criminal act;**
- (d) **Knowingly permit any activity or acts of rowdiness, undue noise, or other disturbances; or**
- (e) **Knowingly permit activity offensive to the senses of the average citizen or the residents of the neighborhood in which the licensed establishment is located.**

Section 16. That section 6-171 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-171. - Required.

**It is unlawful to ~~No person shall~~ operate any establishment or business as a ~~class A or B~~ cabaret without having first obtained a valid license to do so as provided in this division. No person shall offer or provide any entertainment other than that permitted under the ~~class~~ license issued. ~~All class B cabaret licenses so issued shall remain in full effect, notwithstanding the fact that fermented malt beverages are not being served on the licensed premises during a teen night.~~**

Section 17. That section 6-172 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-172. - Application.

**Application for a ~~class A or B~~ cabaret license shall be made to the finance director or his or her designee upon forms to be provided by him or her for that purpose, which forms shall contain the following information:**

- (1) **Name and address of the applicant and manager of the establishment or business if they are not one and the same person.**
- (2) **Name and address of the establishment or business for which application is made.**
- (3) **Type and class of license applied for.**
- (4) **Type of entertainment to be offered or provided.**
- (5) **Floor space and seating capacity of the establishment for which application is being made.**



- (6) Such other information or evidence as reasonably may be required to establish to the satisfaction of the licensing authority that the character and reputation of the applicant is such so as to warrant the confidence of the licensing authority that the establishment or business will be lawfully operated and that the health, welfare and morals of the community will not be adversely affected should the license issue.
- (7) No person shall apply for a ~~class A or B~~ cabaret license for the same location more frequently than once every two years.

Section 18. That subsection (b) of section 6-174 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-174. - Hearing; notice.

(b) In addition to the notice requirements contained within subsection (a) of this section, a change of ownership or modification of premises, which will affect and/or change the current use of the premises for which the current license was issued, shall be required to notify the president or representative of any and all neighborhood organizations registered with the department of planning and the principal or representative of any and all schools which are located within any part of the relevant neighborhood to be considered by the authority. The licensing authority shall always hold a public hearing in the event of such an application. The applicant has the burden of proving that notification to the neighborhood organizations and schools occurred not less than ten days prior to the public hearing. The notification form and the transmittal affidavit shall be available in the office of the licensing administrator. For the definition of "relevant neighborhood," see section ~~6-71(a)~~ 6-69(a).

Section 19. That section 6-237 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-237. - Application.

(a) In addition to the requirements of the Colorado Liquor Code (C.R.S. § ~~12-47-101~~ 44-3-101 et seq.) and the provisions of this division, the applicant for an optional premises license shall submit the following information:

- (1) A detailed map of the optional premises on which is shown:
  - a. The service area of the outdoor sports and recreational facility;
  - b. The location of all proposed ancillary facilities;
  - c. Seating, if any;
  - d. Restroom facilities, if any;
  - e. Restrictions to access to the optional premises, if any; and
  - f. The location of all secured areas used to store malt, vinous and spirituous liquors for use in the optional premises.
- (2) Such other information as may be reasonably required to satisfy the licensing authority that the control of the optional premises will be ensured and that the health, safety, and welfare of the surrounding neighborhood will not be adversely affected should the optional premises be licensed.
- (3) Golf courses do not require fencing around the perimeter.

(b) If the applicant for the optional premises license does not own the premises, the applicant shall submit to the licensing authority written authorization for the license from the owner of the optional premises.

(c) Prior to licensing the optional premises, the applicant shall provide to the licensing authority proof that the state has approved the optional premises, as well as the locations proposed for the optional premises and the storage areas for malt, vinous and spirituous liquors for use thereon, as required by C.R.S. § ~~12-47-135(6) and (7)~~. **44-3-310.**

Section 20. That section 6-242 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-242. - Authorization.

The city hereby authorizes tastings to be conducted in the city in accordance with and pursuant to C.R.S. § ~~12-47-301(10)~~, **44-3-301(10)**, as amended.

Section 21. That section 6-260 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-260. - Purpose.

It is the purpose of this division for the City of Aurora, Colorado, to exercise its local option to allow common consumption areas in the city by establishing an entertainment district as provided in C.R.S. § ~~12-47-301(11)~~, **44-3-301(11)**, as amended. The requirements in this division shall be considered in addition to all the requirements set forth in the Colorado Liquor Code to allow common consumption areas in the city.

Section 22. That subsection (b) of section 6-261 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-261. - Authority.

(b) The local licensing authority shall have the authority to impose reasonable conditions on the licensing of common consumption areas, the certification of promotional associations, and the attachment of licensed premises to common consumption areas, not inconsistent with C.R.S. §§ ~~12-47-301(11) and 12-47-909~~ **44-3-301(11) and 44-3-910.**

Section 23. That subsection (b) of section 6-262 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-262. - Application for certifying a promotional association.

(b) *Attachments.* In addition to the requirements of C.R.S. § ~~12-47-301(11)~~, **44-3-301(11)**, the promotional association seeking certification by the local licensing authority shall be required to submit:

- (1) A detailed map showing the boundaries of the common consumption area including the location of physical barriers, entrances, and exits on the perimeter of the common consumption area;

- (2) A detailed description of the security arrangements, the approximate number of security personnel and the approximate location of security personnel within the common consumption area;
- (3) Documentation showing permission to use all portions of the common consumption area;
- (4) An insurance certificate of general liability and liquor liability insurance naming the city as an additional insured in a minimum amount of \$1,000,000.00 or as may be increase by the director of finance; and
- (5) In addition to any fee required to be paid to the state department of revenue, each promotional association seeking certification by the local licensing authority shall pay to the local licensing authority an application fee. The schedule of the application fee shall be established by the director of finance in accordance with the provisions of section 2-587 of the City Code subject to any limitations set forth in the Colorado Liquor Code.

Section 24. That section 6-265 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-265. - Application for attachment to a common consumption area.

(a) *Obtaining forms.* A certified promotional association may operate a common consumption area within an entertainment district and authorize the attachment of a licensed premises to the common consumption area, subject to approval by the local licensing authority. Application for attachment of a licensed premises to the common consumption area shall be made in a manner consistent with the provisions of C.R.S. § ~~12-47-301(11)~~; **44-3-301(11)**. Application forms shall be available at the office of the local licensing authority or through the internet. No application will be considered by the local licensing authority which is not complete, with such additional information as the local licensing authority deems necessary to facilitate the proper administration of this division.

(b) *Attachments.* In addition to the requirements of C.R.S. § ~~12-47-301(11)~~; **44-3-301(11)**, the license premises seeking attachment to the common consumption area shall be required to submit:

- (1) Authorization for attachment from the certified promotional association;
- (2) Name of the representative from the licensed premises proposed for attachment who would serve as an additional director on the board of the certified promotional association;
- (3) A detailed map of the boundaries of the common consumption area including the location of currently attached licensed premises of the promotional association, identification of the location of the proposed authorized licensed premises, and identification of licensed premises that are adjacent but not to be attached to the common consumption area;
- (4) A detailed description of the security arrangements, the approximate number of security personnel and the approximate location of security personnel within the common consumption area;

- (5) The location of physical barriers, entrances, and exits on the perimeter of the common consumption area;
- (6) Documentation showing permission to use all portions of the common consumption area; and
- (7) In addition to any fee required to be paid to the state department of revenue, each licensee seeking to attach to a common consumption area shall pay to the local licensing authority an application fee. The schedule of the application fee shall be established by the director of finance in accordance with the provisions of section 2-587 of the City Code subject to any limitations set forth in the Colorado Liquor Code.

(c) *Terms and conditions.* No person shall make an application nor shall an application for the attachment of a licensed premises be received by the local licensing authority until such time as all fees, fines, costs, taxes, penalties and interest due and owing to the city by the licensed premises seeking to be authorized as part of the promotional association are paid in full.

Section 25. That section 6-266 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-266. - Hours of operation.

The common consumption area and their attached licensed premises may serve alcohol beverages and the customers may consume alcohol beverages up to 24 hours a day as permitted by C.R.S. § ~~12-47-311(f)~~ **44-3-301(11)(f)** and subject to approved by the local licensing authority.

Section 26. That section 6-267 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 6-267. - Creation of entertainment district.

(a) In order to exercise the city's local option to allow common consumption areas in the city and to effectuate the purposes and intent of C.R.S. § ~~12-47-301(11)~~, **44-3-301(11)**, as amended, there is hereby established and designated the Westerly Creek Entertainment District whose boundaries include all land, inclusive of rights-of-way, located in the area described in exhibit A, attached to the ordinance from which this division is derived and incorporated herein by this reference. Properties may be included or excluded from the Westerly Creek Entertainment District by resolution of the city council. By establishing the Westerly Creek Entertainment District, the city authorizes the licensing of designated common consumption areas in which alcohol beverages may be sold and consumed subject to the requirements of this division, the City Code, and the Colorado Liquor Code.

(b) Additional entertainment districts may be created, deleted or modified by resolution of the city council.

Section 27: All ordinance or parts of ordinance of the City Code of the city of Aurora, Colorado, in conflict herewith are expressly repealed.

Section 28. Pursuant to Section 5-5 of the Charter of the city of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
BOB LEGARE, Mayor

ATTEST:

\_\_\_\_\_  
STEPHEN J. RUGER, City Clerk

APPROVED AS TO FORM:



TIM JOYCE, Assistant City Attorney

F:/Dept/City Attorney/CA/Tim/Ordinance/2019 Alcohol Beverage code update/Ordinance 2019 Alcohol Beverage code update

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## Management and Finance Policy Committee Agenda Item Commentary

<b>Item</b> FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, AMENDING ARTICLE IV OF SECTION 130
<b>Item Initiator:</b> Trevor Vaughn, Manager of Tax and Licensing
<b>Staff Source:</b> Trevor Vaughn, Manager of Tax and Licensing
<b>Deputy City Manager Signature:</b> Michelle Wolfe
<b>Outside Speaker:</b>
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

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

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

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

Technical adjustment to Article IV of the City's tax code for lodger's tax removing obsolete filing provisions and clarifying application of collection and enforcement provisions.

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

This ordinance is technical in nature to clarify administration of the City's Lodger's Tax and remove an outdated reference to the vendor's collection allowance. As of January 1, 2018 ordinance 2017-52 eliminated the 0.5% vendors fee for sales and use taxes. Lodging taxes are considered a sales tax and are in practice collected using the same collection and enforcement provisions that are used for sales taxes. In 1983 the lodger's tax was placed in a separate article from sales tax in the city's code when the rate was modified to be higher than the city's sales tax rate. However, it was intended the provisions for enforcement and collection for sales tax would still apply to lodger's tax. While most of the collection provisions were not placed in the new article, filing requirements were placed in the new article which has lead to a conflict after the vendor's fee was repealed. The duplicate language in the lodger's tax was not identified. However, in practice vendor's have not been allowed to claim the allowance after January 1, 2018. This ordinance deletes the duplicative filing requirements language in the lodger's tax article.

Additionally this ordinance adds a provision to clarify that the collection and enforcement provisions in Article II – Sales and Use Tax also apply to this article.

### **QUESTIONS FOR Committee**

Is the committee in favor of forwarding this ordinance to study session?

### **EXHIBITS ATTACHED:**

2019-Lodger's-Tax-technical-correction.doc

ORDINANCE NO. 2019-\_\_\_\_\_

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, AMENDING ARTICLE IV OF SECTION 130

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

WHEREAS, under Article XX Section 6 the Colorado Constitution, the City has authority over local taxation matters; and

WHEREAS, the City believes that this change will streamline the tax code and make it more simple for taxpayers to understand, and for staff to enforce, and make this section consistent with the rest of the Code to include the elimination of the vendor’s fee; and

WHEREAS, Council finds and determines that it is reasonable and appropriate to authorize the changes contained in this ordinance since they improve to the overall understanding of the tax code.

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

Section 1. The content of Article IV, of Section 130 is hereby amended as follows.

Sec. 130-366. - ~~Vendor responsible for payment of tax~~ **Filing of return.**

(a) *Amount.* Every vendor shall be liable and responsible to the city for the monthly payment of an amount equivalent to eight percent of all of such vendor's gross taxable sales, plus any tax collected by such vendor in excess of this amount; ~~provided, however, that every vendor shall retain one-half of one percent of all tax due and owing to the city to cover expenses incurred by the vendor in collecting and remitting such tax.~~

(b) *Returns.* ~~Prior to the 20th day of each month, every vendor shall make a return to the finance director of the preceding calendar month and shall remit to the finance director simultaneously therewith the total amount of tax due and owing to the city as provided by subsection (a) of this section. Each monthly return shall be made in such manner and upon such forms as the finance director may prescribe.~~

(c) *Accounting practice.* ~~If the accounting methods regularly employed by the vendor are such that monthly returns will impose an unnecessary hardship upon such vendor, the finance director may, upon written request of the vendor, accept returns at intervals which, in the director's opinion, are more convenient for the vendor and which do not jeopardize collection of the tax; provided, however, that the finance director may, by rule, permit a vendor who collects less than \$300.00~~



~~tax per month to make returns and pay tax at intervals not greater than three months.~~

**Sec. 130-370. – Applicability of other provisions.**

**The provisions set forth in article II of this chapter which govern the retail sales and use tax shall apply to the lodger’s tax unless and except to the extent they conflict with the provisions of this article.**

Section 2. All ordinances or parts of ordinances of the City Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the city clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
BOB LEGARE, Mayor

ATTEST:

\_\_\_\_\_  
STEPHEN J. RUGER, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
HANOSKY HERNANDEZ,  
Assistant City Attorney

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## Management and Finance Policy Committee Agenda Item Commentary

<b>Item Title:</b> Informational update regarding collection of sales taxes from non physical premise retailers (online businesses)
<b>Item Initiator:</b> Trevor Vaughn, Manager of Tax and Licensing
<b>Staff Source:</b> Trevor Vaughn, Manager of Tax and Licensing
<b>Deputy City Manager Signature:</b> Michelle Wolfe
<b>Outside Speaker:</b>
<b>Council Goal:</b> 2012: 6.0--Provide a well-managed and financially strong City

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

- Approve Item and Move Forward to Study Session
- Approve Item and Move Forward to Regular Meeting
- Information Only

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

At the July 27th, 2018 Management and Finance Committee, staff presented an informational item regarding the June 2018 Supreme Court decision regarding the tests to determine when states can require retailers to collect sales tax.

The Supreme Court did not rule on what is an undue burden to retailers under the commerce clause. South Dakota and Wayfair settled the dispute and therefor there is still the potential of a test case.

The committee elected to pursue voluntary collection at the time and to evaluate what actions the courts and legislature would take.

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

This is an informational item regarding online sales tax collections after the South Dakota v Wayfair. Previous to that ruling, states could only compel collection of sales tax by a retailer that had physical presence in the state, the ruling changed the test to include economic nexus as a factor.

In Colorado, the home rule cities have taken a wait and see approach allowing online retailers to voluntarily comply with sales tax collection. It is believed that if a home rule city begins mandating collections that lawsuits may be filed against the city and the state to determine what is an undue burden on retailers. The Supreme Court indicated the South Dakota model appeared reasonable but did not expressly rule what

would and would not create an undue burden under the commerce clause. South Dakota has state centralized collections and a uniform tax base. Colorado is much more complicated.

The Colorado Department of Revenue released new emergency rules as part of the implementation of the Wayfair ruling. These rules impacted both in state and out of state retailers. The state now requires all in state retailers to collect sales tax for all state collected jurisdictions that they sell into. This rule was effective December 1, 2018 but has a compliance grace period until May 31, 2019. Additionally, the state is requiring out of state retailers to collect sales tax if they have more than \$100,000 in gross sales or 200 or more transactions of tangible personal property into the state. While the change in the rules do not technically affect home rule cities, many businesses either do not understand the difference or have elected to collect for home rule cities for simplicity and to ensure that they do not have liability under the Wayfair ruling. The city registered record numbers of new business license applications in January and February. Additionally, the city will allow non-physical premise retailers the ability to activate a tax account to remit tax without obtaining a business license.

The state legislature passed Senate Bill 19-006. This bill directs the Department of Revenue to issue a request for proposal for a simplified sales tax system. This system if successfully implemented could allow the city to voluntarily accept sales tax returns through the system. Additionally the bill includes other simplification measures including a single address locator and taxability matrix. The system may provide a path to mandated collections.

Several other bills have been introduced this session to address the in state on out of state impacts on retailers with implementation of the new rules. Senate Bill 19-130 and Senate Bill 19-131 were bills that did not make it out of committee. House Bill 19-1240 is still under consideration. The bill would codify destination sourcing rules for the state. The bill also adds language to address sales tax collections by marketplace facilitators that process orders on behalf of others. Home rule cities are excluding from the destination rules.

The city has worked with the Sales Tax Committee at the Colorado Municipal League. Currently all home rule cities are in agreement to take a cautious approach and to not mandate sales tax collections by non-physical premise retailers at this time. This is to allow for any test cases at the courts and the State to set up the additional infrastructure as authorized in Senate Bill 19-006. Voluntary compliance that is also occurring will help to demonstrate that the system will not overly burden retailers.

### **QUESTIONS FOR Committee**

Informational Only

### **EXHIBITS ATTACHED:**

2019a\_006\_enr.pdf

General Business License chart for MF 4-23-19.docx

Pages from 2018-11-23-CML-Newsletter.pdf

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 19-006

BY SENATOR(S) Williams A., Bridges, Cooke, Crowder, Donovan, Fenberg, Gardner, Ginal, Gonzales, Hill, Lee, Lundeen, Marble, Moreno, Priola, Rankin, Rodriguez, Scott, Smallwood, Sonnenberg, Story, Tate, Todd, Winter, Woodward, Garcia;  
also REPRESENTATIVE(S) Kraft-Tharp and Van Winkle, Arndt, Baisley, Beckman, Bockenfeld, Buckner, Buentello, Cutter, Esgar, Garnett, Gray, Hansen, Herod, Hooton, Kennedy, Kipp, Landgraf, Lontine, McCluskie, McLachlan, Michaelson Jenet, Mullica, Roberts, Sandridge, Snyder, Soper, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Williams D., Becker.

CONCERNING AN ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM, AND, IN CONNECTION THEREWITH, REQUIRING THE OFFICE OF INFORMATION TECHNOLOGY TO CONDUCT A SOURCING METHOD FOR THE DEVELOPMENT OF THE SYSTEM AND REQUIRING THE DEPARTMENT OF REVENUE TO ESTABLISH THE IMPLEMENTATION OF THE SYSTEM FOR THE ACCEPTANCE OF RETURNS AND PROCESSING OF PAYMENTS FOR THE SALES AND USE TAX LEVIED BY THE STATE AND ANY LOCAL TAXING JURISDICTIONS, AND MAKING AN APPROPRIATION.

*Be it enacted by the General Assembly of the State of Colorado:*

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) The sales and use tax simplification task force (task force) has met several times in the interim between the 2018 and 2019 legislative sessions and has again heard testimony from both businesses and local governments about the complex nature of our state and local sales and use tax system;

(b) In enacting this act, the task force's objective is to take the next step toward the development and implementation of an electronic sales and use tax simplification system to be used by the state and local taxing jurisdictions for the acceptance of returns and processing of payments for the sales and use tax levied by the state and any local taxing jurisdictions;

(c) It is the task force's intent that the electronic sales and use tax simplification system allow for various payment options, including contributions by the state, local taxing jurisdictions, or retailers;

(d) It is the task force's intent to move forward with simplifying certain administrative details of the state and local sales and use tax system for the state and local taxing jurisdictions, but on an elective basis for any municipality with a home rule charter in order to protect the important legal authority of such entities as set forth in section 6 of article XX of the state constitution; and

(e) It is the task force's intent that the cost of the initial funding and ongoing maintenance of the electronic sales and use tax simplification system be paid for from the additional sales tax revenues that are deposited in the general fund and that the state is receiving as a result of the United States Supreme Court's decision in *South Dakota v. Wayfair, Inc., et al.*, which allowed states to require retailers without physical presence in the state to collect sales tax on purchases made by in-state customers so long as the sales tax system in the state is not too burdensome for the out-of-state retailer.

**SECTION 2.** In Colorado Revised Statutes, **add** 39-26-802.7 as follows:

**39-26-802.7. Electronic sales and use tax simplification system**

**- sourcing method - implementation - legislative intent - definitions.**

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

(b) "LOCAL TAXING JURISDICTION" MEANS A CITY, TOWN, MUNICIPALITY, COUNTY, SPECIAL DISTRICT, OR AUTHORITY AUTHORIZED TO LEVY A SALES OR USE TAX PURSUANT TO TITLE 24, 25, 29, 30, 31, 32, 37, 42, OR 43, AND ANY COUNTY, CITY AND COUNTY, OR MUNICIPALITY GOVERNED BY A HOME RULE CHARTER.

(c) "OFFICE OF INFORMATION TECHNOLOGY" OR "OFFICE" MEANS THE OFFICE OF INFORMATION TECHNOLOGY CREATED IN SECTION 24-37.5-103.

(d) "SALES AND USE TAX SIMPLIFICATION TASK FORCE" OR "TASK FORCE" MEANS THE SALES AND USE TAX SIMPLIFICATION TASK FORCE CREATED IN SECTION 39-26-802.

(2) (a) THE OFFICE OF INFORMATION TECHNOLOGY, ON BEHALF OF THE DEPARTMENT, WITHIN EXISTING RESOURCES, SHALL CONDUCT A SOURCING METHOD IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, AND ANY APPLICABLE RULES, FOR THE DEVELOPMENT OF AN ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM. THE OFFICE AND THE DEPARTMENT SHALL INVOLVE STAKEHOLDERS TO DEVELOP THE SCOPE OF WORK.

(b) ON AND AFTER THE DATE THE ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM IS ONLINE, AND NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE DEPARTMENT SHALL ACCEPT ANY RETURNS AND PAYMENTS PROCESSED THROUGH THE SYSTEM FOR STATE SALES AND USE TAX AND FOR ANY SALES AND USE TAXES THAT ARE COLLECTED BY THE DEPARTMENT ON BEHALF OF ANY LOCAL TAXING JURISDICTION.

(c) (I) ON AND AFTER THE DATE THE ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM IS ONLINE, IT IS THE GENERAL ASSEMBLY'S INTENT THAT AT LEAST THREE LOCAL GOVERNMENTS GOVERNED BY A HOME RULE CHARTER VOLUNTARILY USE THE SYSTEM FOR ACCEPTING RETURNS AND PROCESSING PAYMENTS OF ANY LOCAL SALES AND USE TAX.

(II) IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE VOLUNTARY

USE OF THE SYSTEM INCREASE EVERY YEAR SO THAT NO LATER THAN THREE YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION ALL LOCAL GOVERNMENTS GOVERNED BY A HOME RULE CHARTER ARE VOLUNTARILY USING THE SYSTEM.

(3) FOR THE 2020-21 STATE FISCAL YEAR, THE GENERAL ASSEMBLY SHALL APPROPRIATE EIGHT MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS TO THE OFFICE OF THE GOVERNOR FOR USE BY THE OFFICE OF INFORMATION TECHNOLOGY FOR THE INITIAL FUNDING AND ONGOING MAINTENANCE OF THE ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM. ANY CONTRACT ENTERED INTO FOR THE SYSTEM MUST PROVIDE THAT INITIAL FUNDING PAYMENTS TO THE VENDOR ARE MADE ON A QUARTERLY BASIS.

(4) IN THE INTERIM BETWEEN THE 2019 AND 2020 LEGISLATIVE SESSIONS, THE OFFICE AND THE DEPARTMENT SHALL REGULARLY PROVIDE THE SALES AND USE TAX SIMPLIFICATION TASK FORCE WITH ANY SUCH DETAILED INFORMATION REGARDING THE SOURCING METHOD PROGRESS AS IS ALLOWED UNDER THE PROCUREMENT CODE.

**SECTION 3. Appropriation.** (1) For the 2019-20 state fiscal year, \$9,183,000 is appropriated to the Office of the Governor for use by the Office of Information Technology. This appropriation is from the general fund. To implement this act, the office of information technology may use this appropriation for the initial funding of the electronic sales and use tax simplification system.

(2) (a) For the 2019-20 state fiscal year, \$817,000 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this appropriation for the purchase of information technology services, specifically a global information system (GIS) database to maintain jurisdictional boundaries of sales tax districts and to calculate appropriate sales and use tax rates for individual addresses.

(b) For the 2019-20 state fiscal year, \$817,000 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of revenue under subsection (2)(a) of this section. To implement this act, the



office may use this appropriation to provide information technology services for the department of revenue as specified in subsection (2)(a) of this section.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

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KC Becker  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

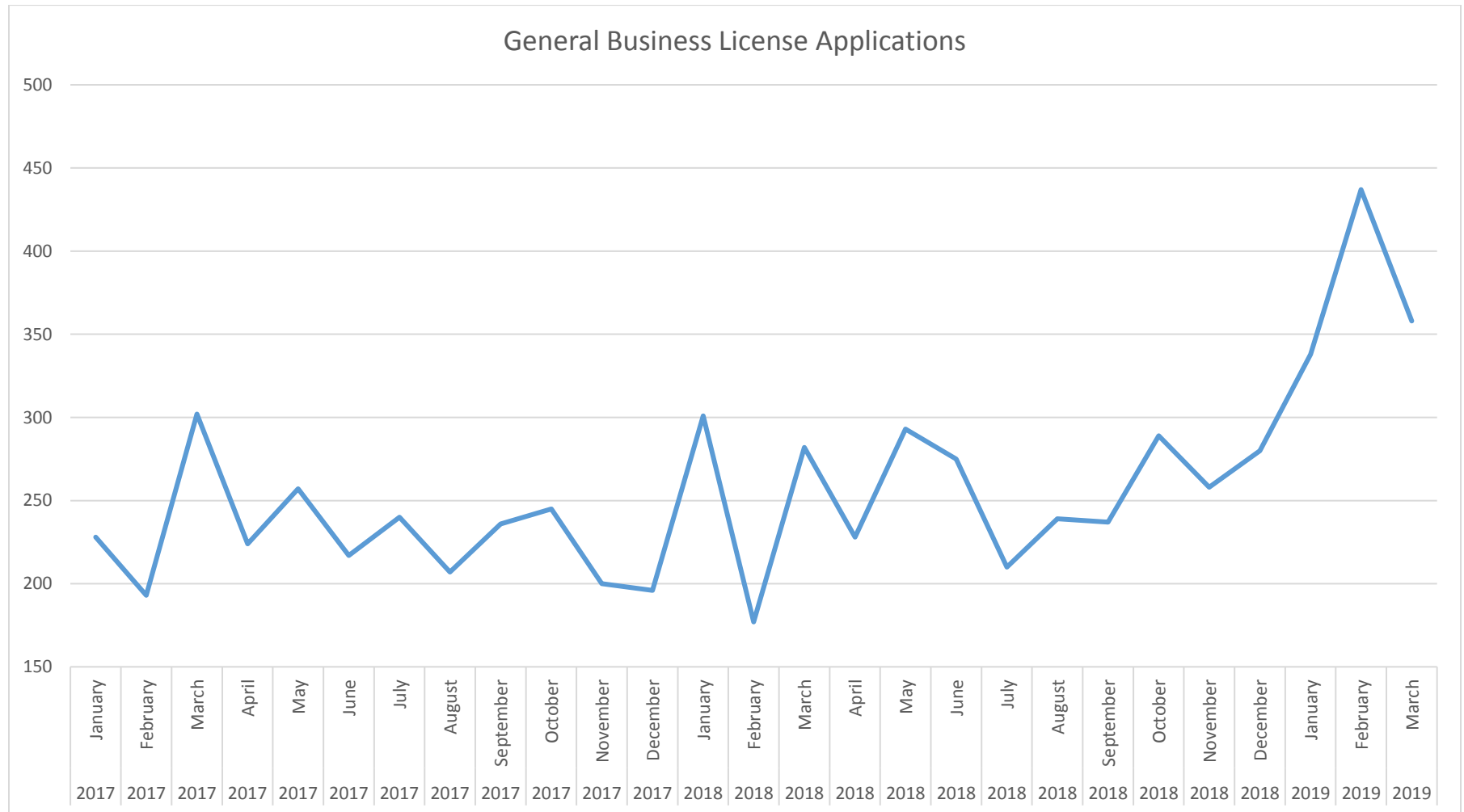
APPROVED \_\_\_\_\_  
(Date and Time)

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Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO

# Management and Finance Committee – April 23, 2019

## General Business Licenses Applications by Month January 2017 – March 2019



## FALL 2018 MUNICIPAL ELECTION RESULTS

By Melissa Mata, CML municipal research analyst

VOTERS IN MORE THAN 80 CITIES AND towns across Colorado spoke out on a combined total of more than 150 municipal tax issues and other questions. Nearly 20 of these municipalities also had candidate elections. The following results are unofficial and subject to change.

### Governance

Castle Pines voters took a step toward increased local control by approving the formation of a home rule charter commission. Green Mountain Falls voters selected to reduce the number of trustees from six to four, and Fort Morgan voters decided to amend the charter to designate the chief of police as an appointed official reporting directly to the city council. Voters in Victor declined to make the office of the city clerk appointed rather than elected.

### Broadband

Eight municipalities requested and received permission to provide or partner to provide broadband services: Aurora, Blue River, Cañon City, Erie, Florence, Fountain, Las Animas, and Wheat Ridge. This election brings the total of cities and towns that have received voter authorization to 101.

### Marijuana

Aurora voters approved medical marijuana cultivation and manufacturing, and rejected a tax on medical marijuana sales. Delta's voters split the four questions on their ballots: medical marijuana sales and related establishments were approved, while retail marijuana sales and related establishments were rejected.

In Palmer Lake, a question to allow retail marijuana sales was denied, though a marijuana sales tax was approved should sales be approved in the future. Similarly, Bayfield voters said no to both medical and retail establishments while also approving a

tax on retail sales. Las Animas voters approved medical and retail marijuana sales, cultivation, manufacturing, and testing facilities, but did not approve a marijuana sales tax. Hudson voters said no to retail marijuana sales and a retail marijuana sales tax, while Saguache voters rejected both retail and medical marijuana establishments as well as a special marijuana tax.

Marijuana taxes were approved in Moffat, Northglenn, and Snowmass Village, while voters in Nunn agreed to amend the town's marijuana tax code to conform to state statute.

### Revenue Retention

Hot Sulphur Springs voters agreed to exempt the town from the statutory 5.5-percent limitation on property tax, though the same question failed in Lochbuie. Olathe voters chose to exempt the town from all revenue limitations, and Rockvale's voters approved a similar measure expiring in 2027.

*"Fall 2018 municipal election results" continued on page 3*

## CML AND MEMBERS TAKING DELIBERATIVE APPROACH TO WAYFAIR

By Kevin Bommer, CML deputy director

IN JUNE, THE U.S. SUPREME COURT opened the door to sales tax collections from remote sellers by siding with South Dakota in *South Dakota vs. Wayfair*. However, Colorado has more work to do before the state and self-collecting home rule municipalities can walk through it with minimal fear of litigation.

In Colorado, the state collects sales tax on behalf of itself, statutory municipalities and counties with sales taxes, a handful of special districts with sales tax authority, and 24 home rule municipalities that do not self-collect. In addition, there are 71 home rule municipalities choosing to self-collect. This creates some additional, yet not insurmountable, hurdles as it relates to collection of local sales taxes from remote sellers in such a way that does not violate the basic tenets of *Wayfair*.

Discussions have been ongoing since June within and among Colorado's 71 self-collecting home rule municipalities. More recently, CML's Sales Tax Simplification Committee — which is made up of a large number of finance directors, tax administrators, and revenue managers — has been meeting to discuss how to move forward. There is consensus that self-collecting home rule municipalities will likely have to have a uniform approach to collections from remote sellers, with the exception of those remote sellers that choose or are convinced to voluntarily obtain a local sales tax license.

Outside of Colorado, there appears to be some who believe that the decentralized system here all but ensures Colorado will be the first to be sued by remote sellers, saying the state's scheme does not comport with the

parameters established by *Wayfair*. They surmise a lawsuit against Colorado will help to clarify the limits of taxing authority for other states. Self-collecting home rule municipalities are aware of the issues and are taking steps to prevent Colorado from being a test case.

The CML committee will be meeting again in December and as needed. The committee will look at 2013 legislation that would have been implemented had the Marketplace Fairness Act ever passed and determine if it can be a template for current discussions. The committee also will examine other possible approaches and continue to collaborate with the Colorado Department of Revenue heading into the 2019 legislative session. More details and background can be found on the "CML Legislative Matters" blog at [legislativematters.wordpress.com](http://legislativematters.wordpress.com).