

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

TUESDAY, February 25, 2020

1:00 PM, PONDEROSA, Aurora Municipal Center

Council Member Gruber, Chair

Council Member Marcano, Vice Chair

Council Member Gardner

Deputy City Manager Roberto Venegas

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 JANUARY 28, 2020 DRAFT MINUTES

2. CONSENT ITEMS

- **Sales Tax Chart**

Presenter: Greg Hays, Budget Officer (5 minutes)

3. CITADEL METRO DISTRICT AND BID INCLUSION AREA CHANGES

Presenter: Vinessa Irvin (10 minutes)

4. SMALL BUSINESS ENTERPRISE PROGRAM OVERVIEW

Presenter: Bryn Fillinger, Manager of Purchasing & Contracts (20 minutes)

5. INFORMATION TECHNOLOGY UPDATE

Presenter: Aleta Jeffress, CIO (20 minutes)

6. MARKETPLACE FACILITATOR UPDATE

Presenter: Trevor Vaughn, Tax and Licensing Manager (20 minutes)

7. MISCELLANEOUS MATTERS FOR CONSIDERATION

- Next meeting is on March 24 at 1:00 pm, **Aurora Conference Room**

Total projected meeting time: 75 minutes

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MANAGEMENT AND FINANCE POLICY COMMITTEE

January 28, 2020

Members Present: Council Member David Gruber – Chair, Council Member Marcano – Vice Chair, and Council Member Gardner – Member

Others Present: R. Venegas, G. Hays, N. Wishmeyer, M. Shannon, H. Hernandez, W. Sommer, A. Jamison, C. Toth, M. Crawford, S. Van Buren, P. Klemme and T. Hoyle

MINUTES

December 3, 2019 minutes were approved.

CONSENT ITEMS

Members of the M&F Committee have asked for the monthly sales tax performance chart. This is \$2.0 million over the 2019 Projection. November of 2019 was 4.1 percent higher than November of 2018.

Outcome

The Committee thanked staff.

Follow-up Action

No follow-up needed.

2019 BKD AUDIT ENGAGEMENT LETTER

Summary of Issue and Discussion

The city's external auditors, BKD LLP, provide the city with an engagement letter prior to the performance of the annual audit. The engagement letter outlines the various audits and other procedures that will be performed in the coming year and the fees associated with each. The engagement letter also outlines the responsibilities of city management and those of the BKD auditors.

This year the BKD auditors will be performing audits of the city's 2019 financial statements, the Single Audit of federal grants, and the Scientific and Cultural Facilities District (SCFD) audit. Additionally, the auditors will perform agreed upon procedures for the 720 Memorial Foundation, the city's various Post Employment Health Plans (PEHPs), and the city's 457 Deferred Compensation Plan.

Council Member (CM) Gruber asked about SCFD and how equitable was the split. He felt the City doesn't get a fair return from SCFD. N. Wishmeyer mentioned the city is a tier-two recipient and must have an audit at that level.

CM Gardner asked how many years have you been using BKD? N. Wishmeyer replied we started with them back in 2006. It was a three year plus two option, consequently we're on our

third five-year with BKD. In the fall there will be another review that will be brought to you to determine whether we go another three years plus two or do we go out with an RFP.

Outcome

The Committee thanked staff.

Follow-up Action

No follow up is necessary as this item was informational only.

GRANTS PROCESS OVERVIEW

Summary of Issue and Discussion

N. Wishmeyer provided the Committee with an overview of the city's grants administration processes including a discussion of the grants research and management software functionality, city policy and procedures regarding grants administration, and audit oversight of grants.

CM Gruber stated he would like staff to perform a risk assessment on grants over a certain dollar threshold during grant application so that Council can be informed at the Budget Workshops on the risk of winning grants and the potential impact to the City.

R. Venegas said there have been internal discussions about the process and how Budget and Finance are impacted. He agreed a with a risk assessment threshold and noted the analysis would be a flag for policy makers.

Outcome

The Committee thanked staff.

Follow-up Action

No follow up is necessary as this item was informational only.

SOUTHEAST REC CENTER FINANCING ORDINANCE

Summary of Issue and Discussion

An update of the Southeast Recreation Center project was presented to the Parks, Public Works and Transportation Committee for informational purposes on both March 27 and November 22, 2019.

This project will be located on a 600-acre site that was acquired from the federal government in 1984 and designated for park and recreation use. Multiple community meetings were held in 2019 to solicit community input on the design and features of the new recreation center. Additional accomplishments include the selection of the design and CM/GC firms, selection of a building site, development of site concept documents, along with future meetings with the Parks Board, Planning Commission, and City Council.

Site development and road construction is anticipated to begin this fall with building construction expected to be completed by late 2022.

This ordinance will provide for the financing of the design, professional services, FF&E, and construction of the Southeast Recreation Center. To pay back this debt, \$2 million per year for approximately 25 years is being set aside in the Marijuana fund for debt service payments (principal and interest). Based on this, staff is projecting that the interest rate at the time of debt issuance will not exceed 5.0% which will generate proceeds of approximately \$30 million. If this debt can be issued at a lower interest rate, then the amount of proceeds will increase. For instance, if the debt is issued at a rate of 4.0% then the proceeds would be closer to \$32.5 million. Given the recent volatility in interest rates, predicting future rates has become even more challenging.

For the purposes of the financing ordinance and to provide flexibility in the parameters, the maximum debt issuance is in an amount up to \$35 million for a term not to exceed 30 years and at a rate not to exceed 5%. The expectation is the actual terms of this financing will be more favorable than the parameters identified above.

This will be a public issuance of debt and require the preparation of a Preliminary Official Statement along with ratings by Moody's and S&P. Also working on the transaction will be Kutak Rock as bond/disclosure counsel and Hilltop as the financial advisor. RBC will be the underwriter for the transaction.

Staff supports approval of this item.

Outcome

The Committee recommended that this item be forward to Study Session.

Follow-up Action

Staff will forward this item to Study Session, February 3, 2020.

DEBT MANUAL

M. Shannon reviewed and stated that each year the Management & Finance Policy Committee (M&F) is provided an overview of the City's outstanding debt. As part of the 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 Investor Page which is available to the public on the City of Aurora website: <https://www.auroragov.org/INVESTORS>. This review is part of the City's best practices for encouraging and providing transparency to investors and citizens of Aurora.

In a recent ratings report from Moody's for the AMC refinancing, the City's rating was increased to Aaa. This is the highest rating issued by Moody's. They also stated that the upgrade to Aaa "reflects the City's strong credit characteristics including its solid economy and large, growing tax base. The Aaa rating also considers the city's long history of strong fiscal management and maintenance of healthy reserve levels."

S&P also had positive comments on the same refinancing. "S&P revised its outlook to positive from stable... The revised outlook reflects the city's large and continually growing tax base, management's very strong financial policies, and manageable and relatively low overall debt profile."

CM Gruber asked about the Hyatt and the parking structure and if both were financially sound. M. Shannon said they are looking at refinancing the garage later this year. The hotel, conference center, and parking garage opened in 2016. There are multiple revenue streams supporting the debt service payments. As a reminder the hotel is in an urban renewal area and the financing relies on the pledged revenues. This TIF consists of the 8% lodging tax, sales tax, property tax, and the OPT tax. The second component is the operating results of the conference center and the garage. The TIF goes away after 20 years, however the garage and the conference center will continue to operate and generate revenue.

CM Marcano asked do we have anything in place for residents to get a better understanding of what this all means? M. Shannon replied there have not been many questions concerning the Hotel and Conference Center.

Outcome

Committee thanked staff.

Follow-up Action

No follow up is necessary as this item was informational only.

INTERNAL AUDIT 2019 ANNUAL REPORT

Wayne Sommer, Internal Audit Manager, presented highlights from the 2019 Report on Progress Against the Annual Audit Plan. Mr. Sommer noted that Internal Audit:

- Achieved our goal of 90% of engagements active or completed
- Completed a high of 13 engagements in 2019
- Completed or closed 73% of outstanding audit recommendations

Internal Audit believes that the outstanding recommendations of the greatest significance related to risk are:

- Disaster Preparedness
- Physical Security

These are costly and time intensive recommendations, but progress is being made in both areas.

W. Sommer further reported that:

- Audit staff completed their 40 hours of professional development in 2019
- Michelle Crawford obtained her Certification in Risk Management Assurance
- Internal Audit did not encounter any independence or professional ethics issues in 2019
- Internal Audit now has a webpage on auroragov.org where they have posted the executive summaries and full reports of recent engagements along with annual audit plans and progress reports

W. Sommer informed the Audit Committee of a modification to their 2020 annual audit plan.

- Regarding the 2020 external assessment, Internal Audit will:
- Perform a full internal assessment in accordance with ALGA guidelines in the fall as planned
- Will submit a budget request for funding for the external assessment in Spring/Summer 2021. Funding will require:
 - Labor costs are free in exchange for us providing labor to another community at a later date
 - Lodging, airfare, and per diem for three auditors from anywhere in the country

Internal Audit will bring to the Audit Committee in 2020 recommendations based upon best practices for Audit Committee activities. One example would be an Audit Committee charter.

Internal Audit will also be updating their disclosures to the Audit Committee in accordance with professional standards and best practices.

CM Marcano requested an audit engagement to review the economic financial incentives offered by the City through the Aurora Economic Development Council. The request was to review incentives going back 5 years. CM Gruber directed Mr. Sommer to prepare a proposal for such an audit for the Committee to review.

Outcome

Committee thanked staff.

Follow-up Action

No follow up is necessary as this item was informational only.

2020 MANAGEMENT AND FINANCE WORK PLAN

Review of the 2020 proposed work plan for the Management and Finance Policy Committee.

Committee recommended:

- CABC moved earlier in year and GERP come to M&F Committee to review annual priorities.
- Public Banking (memo by Legal)
- Financial Audit Incentives (Internal Audit)

Outcome

Committee thanked staff.

Follow-up Action

No follow up is necessary as this item was informational only.

MISCELLANEOUS MATTERS FOR CONSIDERATION

Summary of Issue and Discussion

- The next meeting is on Tuesday, February 25, 2020.

THESE MINUTES WERE APPROVED AS SUBMITTED

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

Date

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Management and Finance Policy Committee Agenda Item Commentary

Item Title: Sales Tax Chart
Item Initiator: Greg Hays
Staff Source: Greg Hays, Budget Officer
Deputy City Manager Signature: Roberto Venegas
Outside Speaker:
Council Goal: 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 M&F Committee have asked for the monthly sales tax performance chart.

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

Attached is the December sales tax performance chart. December of 2019 was 0.7 percent higher than December of 2018. This is \$2.3 million (1.2 percent) over the 2019 Projection.

QUESTIONS FOR Committee

Information only

EXHIBITS ATTACHED:

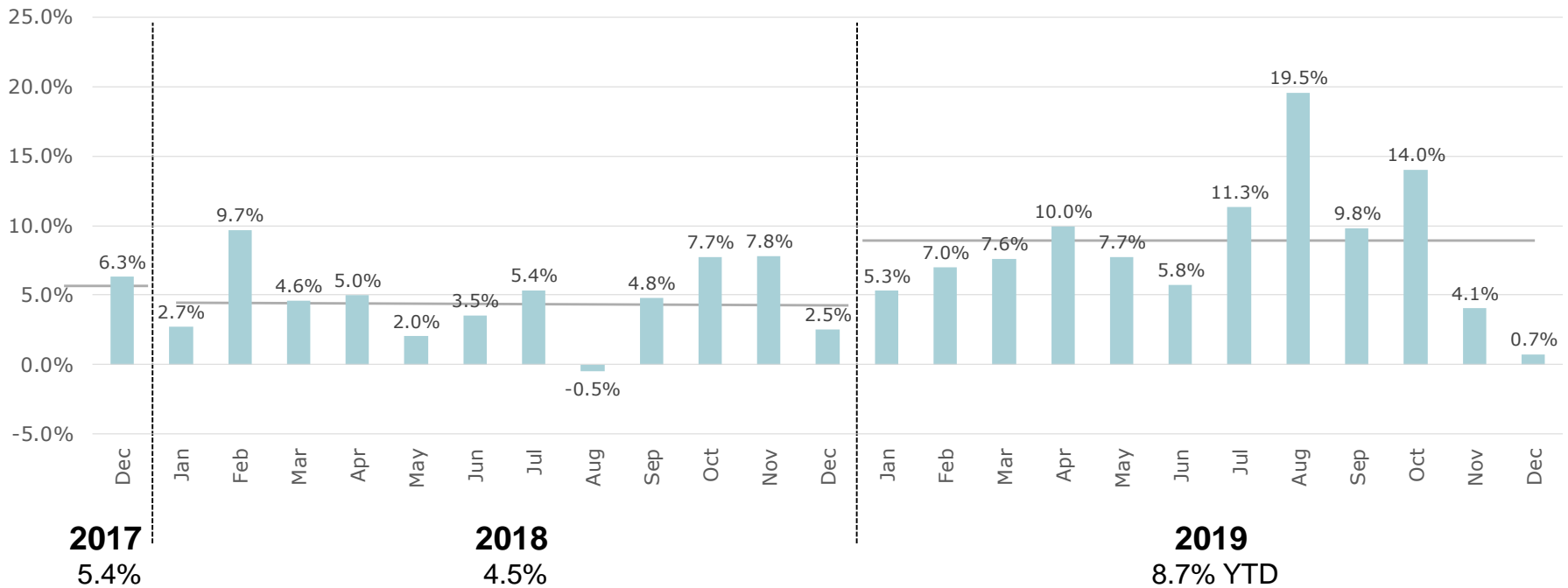
Sales Tax Chart_Dec19.pdf

December 2019 Sales Tax Performance



Percent Change from Prior Year By Month

Dec. 2019 Variance to:
 Projection - \$2.3m (1.2%)
 2018 - \$16.2m (8.7%)



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Management and Finance Policy Committee Agenda Item Commentary

Item Title: AN ORDINANCE INCLUDING CERTAIN PROPERTY INTO THE BOUNDARIES OF THE CITADEL ON COLFAX BUSINESS IMPROVEMENT DISTRICT.
Item Initiator: Cesarina Dancy
Staff Source: Cesarina Dancy, Development Project Manager, Office of Development Assistance
Deputy City Manager Signature: Jason Batchelor
Outside Speaker:
Council Goal: 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.)*

Pursuant to the provisions of the "Business Improvement District Act" of Colorado Revised Statutes, The Citadel on Colfax Business Improvement District (BID) was approved by City Council in 2017. Following the formation of the district, the developer and property owners modified development plans for the property and as such, need to modify the boundaries of the BID.

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

The petitions for the proposed Citadel on Colfax BID Inclusions are attached. There are two petitions reflecting two property owners. The petitions state that the owners are requesting inclusion of additional property into the BID due to the original development plan having been modified. Certain lots and tracts belonging in the commercial side of the development are currently in the Metro District instead of the BID. As a result, the BID must include those lots and tracts within its boundaries as described in the attached Petitions for Inclusion.

The property that will be included in the BID will in turn be excluded from the Colfax Sable Metropolitan District.

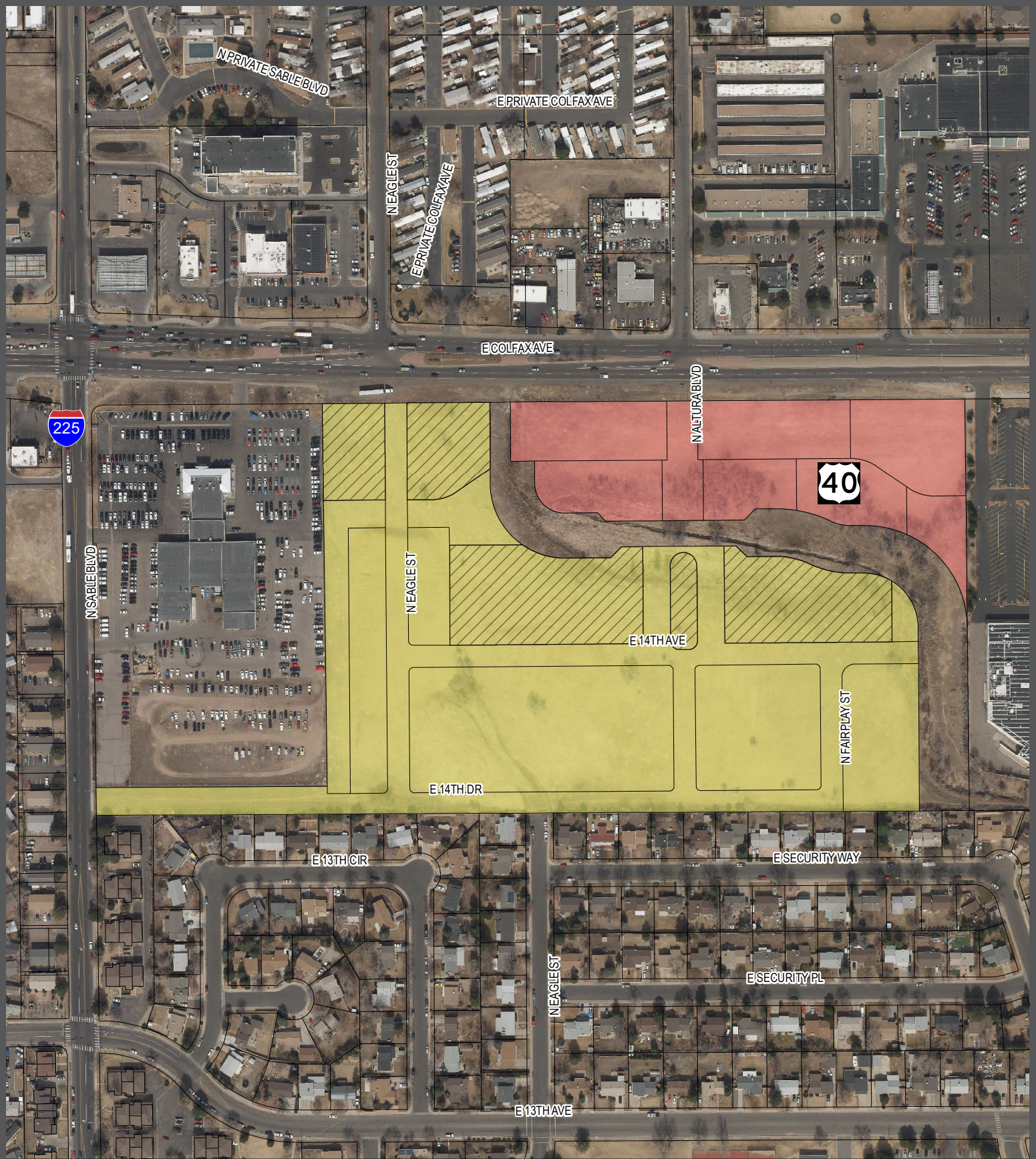
The BID will remain entirely commercial; residential property cannot be included in the BID.

QUESTIONS FOR Committee

Does the Committee wish to forward this item to City Council Study Session?

EXHIBITS ATTACHED:

- 2019 02 03 - Notice of Inclusion - Citadel on Colfax BID.docx
- 2020 02 14 - Updated Cover Letter - Citadel on Colfax BID.PDF
- 2020-Citadel-onColfax-BID-Inclusion-Ordinance.doc
- 3.d 2020-Citadel-onColfax-BID-Inclusion-Ordinance.doc
- Citadel BID Inclusion Vicinity Map.pdf
- Petition For Inclusion - Colfax and Sable LLC Property - Citadel on Colfax BID.pdf
- Petition for Inclusion - K. No property - Citadel on Colfax BID.pdf



Planning & Development Services

15151 E. Alameda Pkwy
 Aurora CO 80012 USA
www.auroragov.org
 303-739-7250
GIS@auroragov.org

City of Aurora, Colorado

Citadel on Colfax
 Business Improvement District

February 18, 2020

Aurora is Worth Discovering!



Legend

- Parcels
- Proposed BID Inclusion Area
- Colfax Sable Metro District
- Citadel on Colfax BID

Feet
 0 165 330

NICOLE FINCO, ESQ.
DIRECT DIAL: (303) 839-3715
nfinco@spencerfane.com

File No. 5028756.0009

February 14, 2020

VIA E-MAIL

City Attorney
Attn: Mr. Brian Rulla
City of Aurora
15151 E. Alameda Parkway
Aurora, CO 80012

**Re: Citadel on Colfax Business Improvement District
Petitions for Inclusion of Property**

Dear Mr. Rulla:

This office represents the Citadel on Colfax Business Improvement District (the "BID"). The BID is seeking to include certain property into its boundaries. The BID was formed in conjunction with Colfax Sable Metropolitan District (the "Metro District"), with the BID intended to facilitate the commercial development and the Metro District intended to facilitate the residential development for the project.

Following the Districts' formations, the developer for the project and owner of the property within the Districts' boundaries, Colfax and Sable, LLC, modified its development plan for the property located within the Districts' boundaries in accordance with the plat, Citadel on Colfax Subdivision Filing No. 1, filed with the City of Aurora and recorded in the Office of the County Clerk and Recorder of Arapahoe County. The Districts' current boundaries are now no longer aligned with the modified development plan. In other words, certain lots and tracts belonging in the commercial side of the development are currently in the Metro District instead of the BID. As a result, the BID must include those lots and tract within its boundaries as described in the enclosed Petitions for Inclusion.

In addition, as part of the development for this project, Colfax and Sable, LLC recently sold Lot 3, Block 2. The new property owner, Mr. Kennedy No, has agreed to include Lot 3, Block 2 into the BID to facilitate the project. Mr. No's Petition for Inclusion for Lot 3, Block 2 is included with this submittal.

Therefore, in accordance with Section 31-25-1220, C.R.S., the following documents are enclosed for consideration:

1. Copy of the executed Petition for Inclusion of Property into the Citadel on Colfax Business Improvement District by the property owner, Colfax and Sable, LLC;
2. Copy of the executed Petition for Inclusion of Property into the Citadel on Colfax Business Improvement District by the property owner, Kennedy No;
2. Proposed Notice of Inclusion for publication in the *Aurora Sentinel*, required to be coordinated by the City Clerk in accordance with Section 31-25-1220(1), C.R.S.;
3. Proposed Ordinance Including Certain Property into the Boundaries of the Citadel on Colfax Business Improvement District.

The District requests that the City Council approve the statutorily required inclusion as soon as possible in order to facilitate development within the project.

Please contact our office if you have any questions or concerns. Thank you.

Sincerely,

Spencer Fane LLP

A handwritten signature in blue ink, appearing to read "Nicole Finco".

Nicole Finco, Esq.

Enclosures

NOTICE OF INCLUSION

NOTICE IS HEREBY GIVEN that there has been filed with the City Council of the City of Aurora, petitions praying for the inclusion of certain lands into the Citadel on Colfax Business Improvement District.

1. The names and addresses of the petitioners and the description of the property mentioned in such petition are as follows:

Owner: Colfax and Sable, LLC
Address: 1999 Broadway, Suite 3500
Denver, CO 80202

Owner: Kennedy No
Address: P.O. Box 98
Dillon, CO 80435

Description: Generally located south of E. Colfax Avenue, east of N. Sable Boulevard, north of E. 13th Avenue, and west of N. Chambers Road in the City of Aurora, Arapahoe County, Colorado. A full legal description can be provided upon request.

2. The prayer of the petitions is that the above property be included into the Citadel on Colfax Business Improvement District.

Accordingly, notice is hereby given to all interested persons to appear at the public hearing before the City Council of the City of Aurora, to be held at 7:30 p.m. on Monday, the ____ day of _____, 2020, at the Aurora Municipal Center, 15151 E. Alameda Parkway, Aurora, Colorado, and show cause in writing, if any they have, why such petitions should not be granted. The failure of any person in the existing District to file a written objection shall be taken as an assent on their part to the inclusion of the area described in this notice.

CITY OF AURORA, COLORADO

By: /s/ Stephen Ruger
City Clerk

**PETITION FOR INCLUSION OF PROPERTY
INTO
CITADEL ON COLFAX BUSINESS IMPROVEMENT DISTRICT**

TO: City Council, City of Aurora, Colorado.

The undersigned, Colfax and Sable, LLC, a Colorado limited liability company, hereby 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 inclusion of the hereinafter described property into the Citadel on Colfax Business Improvement District.

The undersigned hereby requests that the property described in **Exhibit A**, attached hereto and incorporated herein (the "Property") be included in said District and that an Ordinance be adopted by the City Council including the Property into said District, and that from and after the effective date of such Ordinance, the Property shall be liable for assessments and other obligations of the District.

The undersigned represents to the City Council it is the owner of the Property and that no other persons, entity or entities own an interest therein except as beneficial holders of encumbrances.

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 consideration of the Petition.

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

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

This is a verified petition.

Petitioner: Colfax and Sable, LLC, a Colorado limited liability company

By: DSAA
Name: Donald J. Marcotte
Title: manager

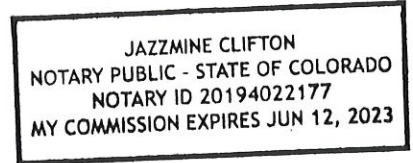
Petitioner's
Street Address: 1999 Broadway, Suite 3500
Denver, Colorado 80202

STATE OF Colorado)
) ss.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me this 13th day of November, 2019, by Donald Marcotte, as manager of Colfax and Sable, LLC, a Colorado limited liability company, Petitioner.

Witness my hand and official seal.

My Commission Expires: 6-12-2023



Jazzmine Clifton
Notary Public

EXHIBIT A

**Citadel on Colfax Business Improvement District
Petition for Inclusion**

LEGAL DESCRIPTION

LOT 1 OF BLOCK 1, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO;

LOT 1 OF BLOCK 2, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO;

LOT 1 OF BLOCK 4, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO;

LOTS 1 AND 2 OF BLOCK 7, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO; AND

TRACT C, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF ARAPAHOE, STATE OF COLORADO.

**PETITION FOR INCLUSION OF PROPERTY
INTO
CITADEL ON COLFAX BUSINESS IMPROVEMENT DISTRICT**

TO: City Council, City of Aurora, Colorado.

The undersigned, Kennedy No, an individual, hereby 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 inclusion of the hereinafter described property into the Citadel on Colfax Business Improvement District.

The undersigned hereby requests that the property described in **Exhibit A**, attached hereto and incorporated herein (the "Property") be included in said District and that an Ordinance be adopted by the City Council including the Property into said District, and that from and after the effective date of such Ordinance, the Property shall be liable for assessments and other obligations of the District.

The undersigned represents to the City Council it is the owner of the Property and that no other persons, entity or entities own an interest therein except as beneficial holders of encumbrances.

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 consideration of the Petition.

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

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

This is a verified petition.

Petitioner:	Kennedy No
Petitioner's Street Address:	P.O. Box 98 Dillon, CO 80435

EXHIBIT A

**Citadel on Colfax Business Improvement District
Petition for Inclusion**

LEGAL DESCRIPTION

**LOT 3 OF BLOCK 2, CITADEL ON COLFAX SUBDIVISION FILING NO. 1, COUNTY OF
ARAPAHOE, STATE OF COLORADO.**

ORDINANCE NO. 2020-_____

A BILL

FOR AN ORDINANCE OF THE CITY OF AURORA, COLORADO, INCLUDING CERTAIN PROPERTY INTO THE BOUNDARIES OF THE CITADEL ON COLFAX BUSINESS IMPROVEMENT DISTRICT AND OTHER RELATED MATTERS

WHEREAS, the City Council of the City of Aurora, Colorado (the “City Council”) authorized by Ordinance 2017-35 the organization of the Citadel on Colfax Business Improvement District; and

WHEREAS, after the district was formed the City Council received two petitions filed pursuant to Section 31-25-1220, C.R.S., by Colfax and Sable, LLC, and Mr. Kennedy No for the inclusion of certain property into the Citadel on Colfax Business Improvement District (“District”), which property is more particularly described in the Petitions for Inclusion of Property attached hereto as Exhibit A (the “Petitions”); and

WHEREAS, public notice of the Petitions has been given and published in the *Aurora Sentinel* in accordance with state law, calling for a public hearing on the request of said Petitions, proof of which is attached hereto as Exhibit B; and

WHEREAS, City Council has held and concluded such Public Hearing in accordance with state law, at which hearing all persons having objections to the inclusion of the property described in the Petitions were heard, and the City Council has determined that the allegations of the Petition are true; and

WHEREAS, the properties sought to be included into the District are located entirely within the City of Aurora, in Arapahoe 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 ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO THAT:

Section 1. Pursuant to its authority under Section 31-25-1207(5), C.R.S., the City Council, as the governing body of the City, hereby adjudicates all questions of jurisdiction to find that jurisdiction is vested in the City Council, and pursuant to Section 31-25-1220 the City council has authority to grant the petitioners request of inclusion into the Citadel on Colfax Business Improvement District the properties described in Exhibit A.

Section 2. The City Council hereby grants the petition of inclusion into the Citadel on Colfax Business Improvement District of the properties described in Exhibit A.

Section 3. The City Council, being fully informed, hereby finds and determines that the change in boundaries of the Citadel on Colfax Business Improvement District as proposed in the Petitions does not adversely affect such District nor does it affect its rights or privileges whatsoever.

Section 3. The City Clerk is hereby directed to file a certified copy of this Ordinance with the County Clerk and Recorder of Arapahoe County, Colorado, whereupon the Property shall be included into the Citadel on Colfax Business Improvement District.

Section 4. The actions of the City Clerk, petitioners, and designated election official in setting and providing public notice of the public hearing on the Petition are hereby ratified and confirmed.

Section 5. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance are hereby repealed, except that this section shall not be construed so as to revive any act, order, resolution, or ordinance, or part thereof previously repealed.

Section 6. Pursuant to Section 5-5 of the City Charter, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____ 2020.

PASSED AND ORDERED PUBLISHED BY REFERENCE this _____ day of _____ 2020.

MIKE COFFMAN, Mayor

ATTEST:

STEPHEN J. RUGER, City Clerk

APPROVED AS TO FORM:

HANOSKY HERNANDEZ,
Assistant City Attorney

ORDINANCE NO. 2020-_____

A BILL

FOR AN ORDINANCE OF THE CITY OF AURORA, COLORADO, INCLUDING CERTAIN PROPERTY INTO THE BOUNDARIES OF THE CITADEL ON COLFAX BUSINESS IMPROVEMENT DISTRICT AND OTHER RELATED MATTERS

WHEREAS, the City Council of the City of Aurora, Colorado (the “City Council”) authorized by Ordinance 2017-35 the organization of the Citadel on Colfax Business Improvement District; and

WHEREAS, after the district was formed the City Council received two petitions filed pursuant to Section 31-25-1220, C.R.S., by Colfax and Sable, LLC, and Mr. Kennedy No for the inclusion of certain property into the Citadel on Colfax Business Improvement District (“District”), which property is more particularly described in the Petitions for Inclusion of Property attached hereto as Exhibit A (the “Petitions”); and

WHEREAS, public notice of the Petitions has been given and published in the *Aurora Sentinel* in accordance with state law, calling for a public hearing on the request of said Petitions, proof of which is attached hereto as Exhibit B; and

WHEREAS, City Council has held and concluded such Public Hearing in accordance with state law, at which hearing all persons having objections to the inclusion of the property described in the Petitions were heard, and the City Council has determined that the allegations of the Petition are true; and

WHEREAS, the properties sought to be included into the District are located entirely within the City of Aurora, in Arapahoe 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 ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO THAT:

Section 1. Pursuant to its authority under Section 31-25-1207(5), C.R.S., the City Council, as the governing body of the City, hereby adjudicates all questions of jurisdiction to find that jurisdiction is vested in the City Council, and pursuant to Section 31-25-1220 the City council has authority to grant the petitioners request of inclusion into the Citadel on Colfax Business Improvement District the properties described in Exhibit A.

Section 2. The City Council hereby grants the petition of inclusion into the Citadel on Colfax Business Improvement District of the properties described in Exhibit A.

Section 3. The City Council, being fully informed, hereby finds and determines that the change in boundaries of the Citadel on Colfax Business Improvement District as proposed in the Petitions does not adversely affect such District nor does it affect its rights or privileges whatsoever.

Section 3. The City Clerk is hereby directed to file a certified copy of this Ordinance with the County Clerk and Recorder of Arapahoe County, Colorado, whereupon the Property shall be included into the Citadel on Colfax Business Improvement District.

Section 4. The actions of the City Clerk, petitioners, and designated election official in setting and providing public notice of the public hearing on the Petition are hereby ratified and confirmed.

Section 5. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance are hereby repealed, except that this section shall not be construed so as to revive any act, order, resolution, or ordinance, or part thereof previously repealed.

Section 6. Pursuant to Section 5-5 of the City Charter, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____ 2020.

PASSED AND ORDERED PUBLISHED BY REFERENCE this _____ day of _____ 2020.

MIKE COFFMAN, Mayor

ATTEST:

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

Item Title: Update to the City of Aurora's Small Business Enterprise Program.
Item Initiator: Bryn Fillinger, Manager of Purchasing Services
Staff Source: Bryn Fillinger, Manager of Purchasing Services
Deputy City Manager Signature: Roberto Venegas
Outside Speaker:
Council Goal: 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.)*

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

The City's Small Business Enterprise (SBE) Program was approved by Council in October 2007. The Program was implemented without appropriation of additional resources and current staffing levels were not adequate for tracking the awards made.

In 2019, funding was approved for a part-time intern in order track the awards made to small, minority and women-owned business in 2019. The funding has been extended through 2020. The results from 2019 will be discussed.

QUESTIONS FOR Committee

Information only.

EXHIBITS ATTACHED:

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Management and Finance Policy Committee Agenda Item Commentary

Item Title: IT Project Portfolio Overview
Item Initiator: Scott Newman
Staff Source: Casey Cox
Deputy City Manager Signature: Aleta Jeffress
Outside Speaker:
Council Goal: 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.)*

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

IT will provide an overview of projects recently completed, projects currently underway, and projects planned or expected to advance in 2020.

QUESTIONS FOR Committee

Information Only

EXHIBITS ATTACHED:

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Management and Finance Policy Committee Agenda Item Commentary

Item Title: Update on the evolving sales tax collection landscape in Colorado and how it applies to Aurora.
Item Initiator: Trevor Vaughn, Manager of Tax and Licensing
Staff Source: Trevor Vaughn, Manager of Tax and Licensing
Deputy City Manager Signature: Roberto Venegas
Outside Speaker:
Council Goal: 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 2018 the U.S. Supreme Court ruled in South Dakota v. Wayfair that opened the possibility of mandating sales tax collections by remote sellers for Aurora. However, not all issues were addressed and Aurora along with all other Colorado Home Rule municipalities is not mandating sales tax collections by remote sellers at this time.

This is a follow up to previous presentations to the committee including July 2018 regarding the decision of South Dakota v Wayfair, a follow up presentation in April 2019, and a presentation in September 2019 regarding internet peer to peer car sharing and marketplace facilitators.

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

This will be a presentation given at the meeting. A summary of the issues is outlined below.

The City of Aurora relies on Sales and Use Tax for nearly 70% of the General Fund revenues. Growth of ECommerce combined with the 1992 Quill v. North Dakota U.S. Supreme Court decision continued to erode the City's Sales Tax collections. The South Dakota v. Wayfair decision in June of 2018 reversed the Quill decision and recognized that significant sales could create nexus and allow for a government to impose collection responsibilities on a retailer with no physical presence. However, the decision included multiple statements that a system more complex than South Dakota's may still burden interstate commerce and be impermissible for imposing collection responsibilities. This presents a serious problem for Colorado Home Rule cities regarding complexity.

As a result, Aurora and other home rule cities in Colorado have not enforced economic nexus as this could invite a legal challenge. Instead home rule cities have pursued voluntary compliance. As the state of Colorado implemented economic nexus standards, first by rule in late 2018 and then through house bill 19-1240, the city received record numbers of license applications and accounts as remote sellers elected to register for the city and the state. We estimated that this improved revenue collections by approximately \$1.2 million annually.

Several efforts are ongoing to allow enough simplification that a legal challenge would be less likely and to allow cities to adopt economic nexus. These efforts include the State Simplification Task Force that was established by the legislature. That task force introduced Senate Bill 19-06 to create a centralized simplification system including remittance and address identification. A vendor has been selected and development is ongoing.

There is an area that the city may be able to significantly enhance collections prior to adopting economic nexus. Amazon, Walmart, Expedia and other vendors have physical nexus with Aurora. They also run third party marketplace websites. Amazon has indicated that more than half the goods sold by the company are through the third-party marketplace. State house bill 19-1240, required Marketplace Facilitators to collect state sales tax starting October 1, 2019. However, most of the marketplace operators are still not collecting city sales tax on their marketplace sales. Given that they have physical nexus, the tests contemplated under Wayfair should not be an issue and the city should be able to compel them to collect tax through their physical nexus.

Aurora has been pushing the marketplace facilitator issue at Colorado Municipal League sales tax simplification meetings as a separate issue from economic nexus. The goal is to create something uniform that can be adopted by home rule cities to ease the burden of implementation by the retailers.

QUESTIONS FOR Committee

Does the committee desire to evaluate a Marketplace Facilitator ordinance prior to the adoption of Economic Nexus?

EXHIBITS ATTACHED:

Colorado Model Local Ordinance Talking Points Final 24Oct2019.pdf



Colorado Retail Council
1580 Lincoln Street, Suite 970, Denver, CO 80203
Phone (303) 246-5753 cell

Why Should Home Rule Jurisdictions in Colorado Adopt a ‘Marketplace Model Ordinance’?

- **To Establish the Authority to Require Marketplace Collection and Remittance**
 - E-commerce sales tax collection laws for online retailers should be fair and equitable.
 - In *South Dakota v. Wayfair*, the U.S. Supreme Court cited “a single, state level tax administration [and] uniform definitions of products” as factors that support the constitutionality of South Dakota’s economic nexus law.
 - Colorado home rule localities should adopt a uniform marketplace sales tax collection ordinance that requires marketplace facilitators to collect and remit the local sales tax for sales made through the marketplace to customers in the municipality.
 - This year the Colorado legislature enacted HB 1240 which requires marketplace facilitators to collect and remit state and *state-administered* local sales tax for marketplace sales they facilitate.
 - The Colorado Retail Council encourages all home rule jurisdictions in Colorado to pass marketplace collection laws through statutory authority.
- **To Reduce Compliance Costs for Both Tax Administrators and Sellers**
 - Enacting a clear marketplace sales tax ordinance enforces compliance, which in turn, increases revenue for the home rule jurisdictions and captures revenue from small retailers who would not meet economic nexus thresholds.
 - Without a local marketplace ordinance, sellers will be required to collect and remit local sales taxes for sales made into home rule jurisdictions. Marketplace sellers do not have visibility into the payment processing system; therefore, the marketplace facilitator would have to configure their tax calculation and payment systems to support a bifurcated calculation and remittance process.
 - Passing a marketplace facilitator ordinance will significantly reduce the amount of returns the municipality will have to process.
 - Additionally, many sellers may not understand they have an obligation to collect and remit the local sales tax portion **for home rule jurisdictions** since the marketplace is collecting and remitting the state **and state-administered city** sales tax and compliance may be very low.

- Requiring marketplace facilitators to collect and remit Colorado’s locally-administered sales tax *without a uniform local ordinance* will make compliance much more difficult, leading to an increase in the possibility of collection errors.
- Furthermore, if a local marketplace facilitator ordinance is not enacted, sellers in home rule jurisdictions will be required to collect local sales tax and will bear the costs of compliance when they sell through a marketplace. This eliminates the efficiencies and cost savings for local businesses that would be created if the model local ordinance was enacted by each home rule jurisdiction.
- **To Achieve Greater Uniformity and Simplification**
 - Local adoption of the marketplace model ordinance will simplify sales tax collection and administration. Furthermore, it will **provide municipalities with one central point of audit/enforcement** as opposed to a disparate group of small sellers, many of whom have no in-state address.
 - The adoption of local ordinances that vary from the model ordinance will significantly increase the possibility of time-consuming and costly litigation.
 - Requiring marketplace facilitators to collect and remit local sales & use taxes simplifies the tax collection process for everyone – cities, sellers, and marketplace facilitators.

Background:

- Colorado imposes state sales & use taxes. Colorado municipalities also impose local sales & use taxes. Some local sales and use taxes are collected and enforced at the state level by the Colorado Department of Revenue and other local sales and use taxes in “Home Rule” localities are collected and enforced by the city itself. In these cases, sellers must register, file a return, and remit tax directly to the home rule localities. Sellers could potentially be subject to audit in all home rule localities simultaneously.
- Currently, there are 72 home rule cities & towns and two counties that administer their own sales and use taxes.¹ Approximately 68% of Colorado’s population resides in home rule localities that collect and enforce the local sales & use taxes locally.²
- In May 2019, Colorado enacted House Bill 19-1240, which requires marketplace facilitators to collect and remit state sales & use taxes and those local sales and use taxes that are administered by the state. It does not require marketplace facilitators to collect and remit home rule municipal sales & use taxes.
- In April 2019, Colorado enacted Senate Bill 19-006, which requires the State Department of Revenue to pursue an RFP to purchase software that will simplify the registration, collection, and remittance process for state and state-administered local taxes. The bill encourages, but does not require home rule localities to adopt the same new software.

Contact: Chris Howes, President
303.246.5753 cell

¹ Katherine Loughead, Tax Foundation, *Colorado Inches Forward on “Wayfair Checklist,” but Complexity and Legal Questions Remain* (Apr. 25, 2019) available at <https://taxfoundation.org/colorado-wayfair-complexity-legal/>.

² *Id.*