

MANAGEMENT AND FINANCE POLICY COMMITTEE (M&F)

MEETING

TUESDAY, September 22, 2020 1:00 PM,

WebEx Meeting

Access information provided to Internal Staff

Public Participant Dialing Instructions

Dial Access Number: 1-877-820-7831

Enter Participant Code: 254610#

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 AUGUST 25, 2020 DRAFT MINUTES

2. CONSENT ITEMS

- **Sales Tax Chart**

Presenter: Greg Hays, Budget Officer (5 minutes)

3. PROPOSED CAMPAIGN FINANCE REFORM ORDINANCE

Presenter: Mayor Coffman (15 minutes)

4. PROPOSED BACKGROUND CHECK ORDINANCE

Presenter: Council Member Bergan (15 minutes)

5. IT CARES SPENDING

Presenter: Scott Newman, Chief Information & Strategy Officer (15 minutes)

6. EXTERNAL AUDITOR CONTRACT

Presenter: Nancy Wishmeyer, Controller (10 minutes)

7. COLORADO SALES AND USE TAX SIMPLIFICATION SYSTEM

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

8. PROPOSED ORDINANCE TO AMEND THE EXECUTIVE RETIREMENT PLAN

Presenter: Terri Velasquez, Finance Director (10 minutes)

9. UPDATE ON CITY CASH, INVESTMENTS, AND FINANCING

Presenter: Andrew Jamison, Debt and Financing Administrator (10 minutes)

10. MISCELLANEOUS MATTERS FOR CONSIDERATION

- Next meeting is on October 27th at 1:00 pm, WebEx Meeting

Total projected meeting time: 90 minutes

**THIS PAGE
INTENTIONALLY
LEFT BLANK**

**MANAGEMENT AND FINANCE POLICY COMMITTEE
WEBEX**

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

Others Present: Council Member Pro Tem Johnston, Council Member Coombs, Council Member Berzins, R. Venegas, N. Freed, T. Velasquez, G. Hays, D. Giordano, B. Fillinger, D. Lathers, T. Vaughn, V. Rachel, S. Barkman, A. Jamison, V. Irvin, S. Neumann, H. Hernandez, K. Stuart, J. Giddings, J. Schneebeck, B. Bell, E. Watson, G. Walls, S. Riggs, K. Hougen, and T. Hoyle

INTRODUCTIONS AND MINUTES

July 28, 2020 minutes were approved.

CONSENT ITEMS

July of 2020 was 10.9 percent higher than July of 2019. G. Hays noted the increase was from a \$1.7 million payment from a single base technology company.

Committee Discussion

CM (CM) Gruber: Was that from an e-commerce site?

G. Hays: It's a technology site and we think its software. It is not one that we typically see.

CM Marcano: How does this impact our projections for the rest of the year, this is very unexpected, and I was hoping that it was more a general uptick rather than a specific company, so I was hoping for some good news.

G. Hays: It's good news and we're checking on it but it's definitely one-time in nature and we're not going to get that next year.

Outcome

The Committee thanked staff.

Follow-up Action

No follow-up needed.

2021 SERVICE FEES

Summary of Issue and Discussion

As part of the annual budget process, departments review the City's service fees (previously referred to as administrative fees) to determine which fees may require adjustments or elimination. These fees are submitted to the City Manager for approval and inclusion in the annual budget. The proposed service fee changes are incorporated in the 2021 budget proposal and are consistent with department revenue expectations.

Committee Discussion

CM Gardner: The no show fee for Golf looks like that's a new fee and so I'm curious how that's going to be charged. What's considered a no show? Is it that you're not giving 24-hour notice, or you don't show up at all?

B. Bell. Parks and Recreation: The reservation system will be able to charge "no show" fee for miss reservation at the time the patron does not show up. All golf courses are experiencing "no shows" which often results in lost revenue if the tee time cannot be filled.

CM Gardner: Oh definitely. One of the things I've see with other municipalities as that they're taking away the privilege to reserve in advance for people that continually are a no show. I don't know if we do that or not, but that's something else I've seen.

CM Gardner: The second question is on fees for Fire. Chief Grey had sent Public Safety a list of some proposed fees and maybe that's kind of different, but I thought those were service fees related to recover some costs, but I don't see them on here.

G. Hays: No, you are absolutely right they're going to be part of the proposed budget. We haven't put them in yet we kind of wanted the Council discussion and then once they're approved all we have to do is put them back in the book but they're just not in there right now.

CM Marcano: I don't have any questions, but I just want to say that I appreciate all the work that went into simplifying and consolidating the fees. There's a lot of red in this packet and I appreciated all the explanations for all that as well, so thanks for the work.

CM Gruber: I appreciate all the work as well. The one concern that I have, and this is going to affect me and that's why I'm sensitive to it is the fee for water heater replacement. There's one thing that you know about a water heater today when you install it that it's going to wear out at some point in time and when it does it will be expensive. My concern is the \$240 that someone just could refuse not to pay it. And by this incentivizing the resident from calling the City out to take a look at it. We could be endangering their life with a gas leak. But at the same time if the resident has confidence in a plumber then they may not call. So, my concern is \$240 after paying a \$1,000 or maybe more for a water heater installation that's just another hit. I would prefer that we drop the \$200 and prefer to be \$100 and I understand that would be a cost to the City, but I think it's going to be made up by the fact that maybe somebody will call the City that wouldn't have received a call otherwise. I'm not sure who and which department to talk to about that but I like the thought on that.

E. Watson, Public Works: The new fee that you're seeing is actually a combo permit. So, if you're just replacing the water heater the permit fee is \$83.50 and that fee has always existed however, we created a couple combo permits where if you're doing numerous items then you would apply for the combo permit with one application. So, for example the \$242 is the furnace and water heater replacement which reflects the cost if you were to get two separate permits.

CM Gruber: I see, I misunderstood that it was the same fee applied to both and I didn't realize that was a double fee. I'm glad to hear that, thank you very much.

Outcome

The Committee recommended this item be moved forward to the Fall Budget Workshop.

Follow-up Action

Staff will forward this to the Fall Budget Workshop.

GREEN VALLEY RANCH EAST (GVRE) INFRASTRUCTURE FUNDING AGREEMENT

Summary of Issue and Discussion

Victor Rachael, Deputy Director Public Works Engineering gave a brief presentation on the agreement.

Staff has been conducting meetings with a team of developers, and their attorneys to discuss possible alternatives for the financing of transportation infrastructure. Council approved an agreement to establish the South Aurora Regional Improvement Authority to address infrastructure considered regional/sub-regional serving a large area of the city. The discussions with this team have included alternatives for funding infrastructure, including local infrastructure necessary to serve individual developments.

Current city policy requires transportation improvements to be completed prior to issuance of Certificate of Occupancy for adjacent development. This is a reasonable approach in many situations, such as for a single lot commercial or smaller residential development. However, when applied to a large master planned residential or mixed-use project, it may cause an undue financial burden for the developer or metro district as the infrastructure is constructed in advance of actual need and taxpayers to support the costs.

There is agreement that the obligation for infrastructure should remain a requirement of adjacency. However, an acceptable alternative approach to address the concerns raised is to identify triggers within the Public Improvement Plan of the master planned development. The triggers can be based on specific traffic impacts as the development is built out and the identification of when the infrastructure is actually needed, not by adjacency alone. This would also take into account phasing of lanes for some of the larger roads that may not be required of a development until full build-out. In order to assure funds are available for construction of the necessary infrastructure when the triggers are met, it has been determined that there must also be a financing plan documenting the reservation of funds for the individual improvements as part of the Public Improvement Plan approved by the city.

This same model was approved for the Adonea Residential development by the M&F Committee in August 2017 and City Council in December 2017.

The Green Valley Ranch East (GVRE) Infrastructure Funding Agreement utilizes the previously approved agreement for Adonea as the model. The GVRE project is located north of 38th Avenue and east of Picadilly. Design plans were approved in late 2019 and construction began on this project in early 2020. Demand for residential units remains strong and construction continues to advance. Clayton Properties Group II, Inc. (formerly Oakwood Homes) has plans for additional phases/filings within this development that are currently under review by the city and Clayton expects to begin construction soon in those areas.

The agreement is between the City, the Second Creek Metro District and Clayton Properties Group. The agreement ensures that the appropriate funding will be available at the time the required public improvements will need to be constructed by establishing an impact fee to be collected by the metro district from the builder at the time of building permit for each lot. The calculation of the impact fee is based on cost estimates of the actual public improvement work to be completed within each

segment divided by the number of lots. The monies collected will be deposited into an escrow account managed by the metro district, but available to the city if the developer/builder were to not perform in completing the public improvements as required.

Committee Discussion

CM Marcano: The impact fee cost is based on strictly by dividing the number of lots and he asked if there will be a difference in lot sizes and also has it been considered to adjust the formula, so that it's based on lot size which is a pretty good predictor for future cost of a home, so that its spread more equitably than strictly equally.

V. Rachael: This agreement was mirrored after the Adonea agreement which did not have adjustment for lot size. The northern part under current development of GVRE is a retirement community and the vast majority are single family homes but to your point the lot sizes do vary and it hasn't been taken into consideration but it's something certainly we're willing to discuss with the developer to see if that can be accommodated.

CM Marcano: If my colleagues are alright with that, I liked to see if that's a conversation you could have with the developer.

CM Gruber: I have a bit of an issue with that. What we're talking about is a transportation fee and once we are applying different amounts of money for different lot sizes it goes from a fee to a tax. I think we need to be careful to make sure that the fees apply equally and not distributed based on any type of economic analysis or any other type of economic situation. Otherwise, like I said, it will turn into a tax. So my recommendation would be not to do that, and we move forward with the way it is.

CM Gardner: I was actually going to ask the same question regarding a fee being charged differently for different homes. Is there a Tabor issue? And does it turn into a tax? Hans can you answer that? Or maybe that's something to study in the future, but I did have the same concern.

H. Hernandez: We have to be very careful with fees as necessary for a service that has been provided. There were several cases in the City of Fort Collins. Fort Collins was allowed a little bit of leeway when they said we'll have more property that faces the front of the road however you will need to pay a bit more because you use more of the road. But that was as far as they were authorizing the city to go because you're correct if you go beyond that it becomes a tax and it's based on something different. So if need be, we can take a look at the question but overall you're correct. Fees have to be set based on the impact or the service to be provided and if you change it instead of looking at other economic considerations it could be challenged as a tax and we don't want that.

CM Marcano: I would like to get a clearer direction as far as how we could potentially go.

H. Hernandez: I do have a memorandum with fees that I can send to you CM Marcano but the overall answer to your question will probably be no, because fees are very particular and they don't want us to think of using them because they turn into taxes and then it becomes subject to a challenge. However, let me send you the memorandum and if you have further questions from there, I then can address them.

Outcome

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

Follow-up Action

Staff will forward this item to Study Session.

PROPOSED CAMPAIGN FINANCE REFORM

Summary of Issue and Discussion

Council Member Marcano presented the reasons for the proposed changes for campaign finance reform and he gave a brief overview the proposed changes in the ordinance. Those reasons include the following:

- ensure transparency and accessibility
- allow the politically unconnected more equal footing
- curb influence of money

Committee Discussion

CM Gruber: Is there a City report on the impact to the Clerk and our City Attorney that would be involved in this City report.

R. Venegas: We do not. With the transition of City Clerk Ruger and now Interim, City Clerk Susan Barkman, we're just trying to do the analysis on fiscal impact and impact on the departments. CM Marcano mentioned a public match that's separate but that's not part of this analysis but we would need to get into a little bit more detail and have a little more time to be able to understand staff impact in terms of being able to track some of the changes. So, we do not have this at this Committee meeting, but our intention was to try to have something by the time when and if this moves to a Study Session.

CM Gardner: On the enforcement piece I would like to hear from staff, but it sounds like we're still in the process of deciding that. Because obviously enforcing this would take a significant amount of resources on behalf of the City. I went through and just started listing out areas that I questioned. How we would actually monitor or review or make sure we have compliance. There's just a significant number of those types of things and so I look forward to hearing from staff when they're done with their analysis. I would suspect frankly we probably would have to hire additional staff at least during election season to enforce this just because of the sheer volume of candidates and then the requirements that are in this, so that's one. My other, really has to do with the comment that was made earlier on one of the why's. The why on this was because right now outside interest have outside influence in our elections. I'm curious because in the draft in its current iteration does not allow contributions from businesses at all, that are located in Aurora, the employer of Aurora residents that contributes to our local economy every day. However, it still allows contributions from people all over the country. It's not very hard to go back and look at campaign finance reports from prior elections. Some of the Council Members previously got a significant amount of money from people that don't live in Aurora, so I'm just curious why. People that don't live here at all should be able to contribute and have a say in our election, but businesses that are here every day and employ our residents that contribute to our tax base have no ability to be involved in our election process. I don't know if anyone wants to answer that or it could just be a rhetorical question but that's a

significant concern for me and when I go through reports and I see all the money from all over the country that was been contributed it seems a little hypocritical frankly.

CM Marcano: I think that's really an interesting idea. I guess my question would be to staff and to legal, are you able to prohibit contributions on a geographic basis? Is there existing case law on this, I'm just curious.

Dave Lathers: I haven't actually looked at that question before. Certainly, citizens united in some other cases have suggested on that rule, that particular local issues if well-articulated, can be something that they would potentially support. They were talking about that in context as you know corporate giving, but they emphasized that there should be at least an allowance for significant local control if you can articulate a reason that it should be only local. Does that welcome the opportunity to try that? I suppose maybe it does. I will say that I know of no case that actually authorizes that. Although there might be some invitation to discuss that, but some invitation may be able to say that's allowing two different things.

CM Gruber: I think that without the staff study and without a legal review and the fact that this was brought to the Committee without knowing that this was even coming to the Committee other than staff telling me. I think that this is not ready for review by Management and Finance Committee. I recommend that it come back to Management and Finance Committee once those studies are done. I understand that Council Members have the ability to bring this to Council but there has not been proper staff analysis of this, and I recommend that we can have a vote now on bringing it back to Management and Finance Committee and then we'll have a vote on moving it forward.

Mayor Pro Tem Johnston: I wanted to give a little overview of what we've been working on and ask for this next step. We obviously feel it would have been ideal to have the staff study. There's been new software that's going to be implemented that previously the City Clerk was working on. But we really don't want to have that stop this going to that next discussion and we completely acknowledge that we need that information and need to have more conversation. CM Marcano and I are flexible for some changes. I respectfully ask, that we move this to Study Session with the assurances that we will have that staffing information and the fiscal impact from the time between now and that Study Session when we convene and are able to reach out to Council Members and their concerns about limits. I've talked to the election commission and they sent a letter. I did get a copy of that at least 4 or 5 times and I continue to do that. But I think having this in a broader discussion around the table with the entire Council with that information is most important. CM Marcano and I would love to have that, but I respectfully ask that this item be moved to Study Session with that additional information and a broader discussion.

CM Gruber: Thank you. I think it's important to say that the election commission voted against this in the letter they sent, and the letter will be included in the minutes. I think it's important though from a community perspective that the first thing we should do is vote on whether or not this should come back to Management and Finance Committee and regardless to that then we'll vote to move this item to Study Session. So as far as that, should this come back to the Management and Finance Committee?

CM Marcano: I'm fine with having the fiscal impact portion come back to the Committee.

CM Gruber: It doesn't work like that; the ordinance would have to come back.

CM Marcano: I guess with that context; I prefer it moves to Study Session.

CM Gardner: I guess my question would be before deciding would we be able to have that analysis from staff by the time it comes to Study Session?

R. Venegas: I'm assuming the Study Session that you are talking about is September 14.

Mayor Pro Tem Johnston: I would like to get CM Marcano feedback, but I know we both would like to have the information before Study Session for Council review. So, I don't want to be prescriptive with staff of the data. I know we have a couple meetings in September fortunately, but CM Marcano would you agree that the fiscal impact would be able to be provided a couple days before Study Session.

CM Marcano: Absolutely yes.

R. Venegas: Given that September 14th would be very aggressive for us to be able to provide that with the furloughs and holidays it might be a little challenging and maybe September 21st might be more realistic for us to be able to provide that, unless we know otherwise, but I'll shoot for the 21st if that's the will of the sponsors.

CM Gardner: With all that being said, I'm fine with moving it to Study Session if we have that information by then. Otherwise, I don't think we could really make an educated decision on it.

CM Gruber: My issue is that I want to make sure we're talking about a 21-page ordinance and the election commission sent us too and the review from City staff. I want to make sure that we actually have enough time to review the information as opposed to have City staff finish it on Thursday and then we vote on Monday, so that's my concern. Typically, we would have all of this information at the Committee level and then all of the information that we're talking about would be in a read ahead from the Committee discussion. So, what we're talking about is that it would come to Study Session the earliest on September 21st, however, will we have the information that's required based on City impact and legal impact at least a week in advanced and if we cannot it would then be postponed to even a later Study Session until the City staff does a thorough job in reviewing the 21 pages.

R. Venegas: I am working back in my mind to September 11th, which is a Friday to get the analysis done. I'm saying that right now in committee and I would like at least a day to make sure with the Clerk's Office that this timeline is realistic. If it is, I'll let you know in 24 hours. I feel that I need to make sure that's okay and we can provide the information a week in advance of September 21st. I wish I could say right now we can get all that done. I think we can, but I am anticipating exactly as you were mentioning that we will give you more than what we have usually done, which is a Thursday or Friday posting, but we would do a week prior to the actual Study Session instead on this particular backup. I would say 85% yes, but just let me make sure that we have the ability to get that analysis done and to you in a week in advance of September 21st.

Mayor Pro Tem Johnston: I want to add one clarifying point with the election commission that there was not a formal vote by the election commission on the position. There were several members who were against the current draft there were others supportive of the limits and disclosures. I will also offer myself and hopefully CM Marcano can join me in presenting a more finalized version with that

fiscal impact at the next election commission. To get a more updated position or more official position since there was not a vote.

CM Gruber: Again, my fundamental concern is that this is being written by an outside organization. I think Common Cause was the organization that was putting this together. It has been written outside the City and we don't have the City impact and we're asking for concurrence from this Committee. I don't think this Committee can adequately review this or adequately make the vote. I think that if we were to have a vote right now, I would vote no because the work is not done. We're voting while its in a state of flux however any Council Member has the authority to bypass the Committee and bring it to Study Session. But I just don't think its proper to say that Management and Finance Committee concurs with something that first off is not done and secondly not reviewed by the City.

CM Marcano: I just want to clarify that again, the initial draft that I read in my office in January was written by a Ward II resident from the beginning to end. It was quite the lengthy read and it looks a little different than today. It's been consolidated quite a bit. This actually originated in Aurora from folks that are very passionate about this topic. We just reached out to Common Cause and Democracy for the People, because they have such a successful track record instituting meaningful forms that are effective and generate the desire outcome. And with regards to the parts being in flux, I do agree it would have been nice to have the staff information. I think that the departure of Clerk Ruger threw a wrench in some of this stuff but I think it's important to have a discussion about the details that I alluded to with the rest of our colleagues and also discuss the fiscal impact in that context, but I respectfully support moving this forward. Thank you.

CM Gardner: I have one more question. Do the sponsors commit to not moving forward until we have the analysis from staff?

Mayor Pro Tem Johnston and CM Marcano: Unanimously said yes.

CM Gardner: I'm fine with it moving forward.

CM Gruber: I'm still not, and so we'll go forward with a vote of 2 to 1.

Election Commission Letter

Comments on the Draft Campaign Finance Reform Proposal
Carolyn Boller

At the request of Councilwoman Johnston, the Aurora Election Commission has spent a good deal of time reviewing the drafts of a proposed ordinance change on campaign finance and to provide feedback on the proposed changes. The commission does not have a consensus on the proposal at this time. The following are my remarks and not those of the commission.

There are several issues that need attention for a clear, concise, transparent document:

The length of the ordinance is too long (currently 31 pages) and is difficult to capture its content;
The layout of the document it is easy to lose track of the important points needed for accurate compliance;

Reporting requirements (Section 54-104)

The reporting periods currently proposed are too long before the election and should be shortened;

The due date of the first report is 275 days before the election (9 months) before the election and the petitions to be on the ballot are 90 days before the election; I would recommend starting at 180 days which is 6 months out and still a lengthy time from the election date.

The proposal recommends 9 reporting periods based on the 275 days and the date after the election which is too many and will only cause additional work for the City Clerk when it is not needed;

The dates of the closing of the reporting period and the date the report is due are not clearly defined (Section 54-104)

Contribution limits (Section 54-105)

The dollar amounts recommended are too low. These amounts were higher at one point but have since been lowered. It is suggested that higher contribution limits would be more effective and hopefully prevent limit the number of independent expenditures.

City Clerk Functions (Section 54-109)

The functions/timelines of the duties required of the City Clerk for enforcement of this proposal will require the hiring of a full-time person to assist in those functions. This is considering that the City Clerk has many other responsibilities in addition to election responsibilities including any special elections reporting requirements, petition requirements etc.

We will need a new reporting system before the next election. The current one is home grown and has served the purpose over the years but with a new campaign finance program, the system will require a major update whether or not any changes are made to campaign finance

With monitoring all campaign reports, including independent expenditures, and reporting them out, along with establishing hearing for complaints will need extra hands to do this job.

Sec 54-107 Complaints and hearings.

The timelines for filing complaints (proposed 120 days) is too long—this should be shortened to at least 30 days due to additional reports having to be filed and possible errors continuing thru one or more reports. 60 days to set a hearing date is too long. Combining the current times lines could take an error or problem out as far as 180 days or longer...which under the current proposal could leave an unresolved issues up to 30 days before the election.

Section 54-108 Sanctions

The proposal of \$50 per day is reasonable as it is under current State Campaign, but increasing to \$100 per day until the statement is filed and then if a campaign fails to report for 3 or more successive statements up to a \$1000 per day. \$50 per day can accrue rapidly without the need to increase to \$100 and is there a problem where someone has not filed for 3 successive days or are we creating a problem where one does not exist.

Other concerns:

There are some areas which are not enforceable...such as someone must cash a check within 10 days—who will monitor that? Is it necessary?

If a foreign company makes a donation, who gets the penalty? And how is that enforced with a foreign citizen or company? Who does the enforcement? If it is an IE, and the candidate is not permitted to coordinate—how is the money refunded? By whom?

Comments:

Overall this is a major undertaking to make changes to the Aurora Campaign Finance rules, and it depends on whether one is a supporter of campaign finance or not and what problem or issue the document is trying to address.

My biggest concern is the volume of work in this document...and how citizens/committees will read the document and understand its contents. I would be interested in comments from other City Council members and their concerns.

***Questions and Concerns of Draft Campaign Finance Reform
Bill McCartin for M&F committee***

I am deeply offended that after the elections commission was tasked with examining issues of the current Campaign Finance section of the election city code we have been presented with a draft ordinance created by the Democracy For The People Coalition a group of many non Aurora residents whose stated goal is according to their web site "Our campaign seeks to overturn the Citizens United decision" which was a decision of the U.S. Supreme Court 558U.S.310 (2010). This decision held in part that money is speech and protected by the first Amendment to the U.S. Constitution.

The Executive Summary starts with the statement that Aurora deserves a campaign Finance system that is transparent and fair and lays out five objectives of the new ordinance. What is missing is the identification of what problems the new system is attempting to correct and what in the old system caused or allowed the problems to arise. The new system expanded the campaign finance Article of the Municipal Code from six pages to 31. Does that expansion create more or less clarity?

These are the first two objectives of the new ordinance.

By making a limit on amounts of contributions from individuals and any contributions from business entities or labor unions the new proposed ordinance places a label on those contributions as bad or even evil. I think this is an unjustified opinion that is unfair and bias.

The third objective is to create small donor committees which is unnecessary since state statutes already has a mechanism for creating small donor and when they contribute to a candidate committee it will be recorded as any other contribution.

The prohibition on contributions from other committees and conduit contributions as per objective four are already prohibited in current ordinance Article IV Sec 54-101 (a) and (d).

Objective five indicates the limiting of cash donations in excess of \$20.00. The current ordinance limits them to \$100.00 in section 54-101 (c) this places an undue burden on small contributors by requiring the people to use either a check or credit card.

Section 54-101(c) prohibits campaign contributions from any company, union, association or tax exempt organization who have very legitimate interest in the elections. This violates the spirit of Citizens United.

Section 54-104 deals with the reporting of campaign contributions but it misses why these reports are due. There is no reason to know who has contributed to a campaign 275 days before the election. If someone opposes a candidates views on issues does anything change because that candidate receives contributions from a certain person or group of contributors? No it does not, having the first report due on the same day that petitions may be circulated is sufficient this is 90 days before the election.

Section 54-104 (b) (1) the language is not clear about the end of a reporting period and how long a committee has to file the report. On Tracer the report ending period is a set and the committee has a set date when are reports must be submitted. Is this what we hope to accomplish?

Section 54-104 (e) (3) what is the objective for the requirement of each donation verses the total of all donations during the time period?

Section 54-104(h) why must a candidate who is funding their own campaign be required to file where their expenditures are spent? If it is electioneering the material will have to have the candidates name and approval per section 54-104.5 (a). This section is an invasion of the candidates' right to spend their own money upon what they chose to spend it.

Section 54-104.5 (b) is only intended to make someone who may donate to an IEC appear to be bad or evil. It has no legitimate reason to be a requirement. This information would already be included In the IEC reporting.

Section 54-105 this section seeks to take away individual rights to freely use their own resources to support candidates or issues as they and only they see fit. It sets arbitrary limits on people freedom to express their views and opinions as they decide. Just because some cities and states set limits does not give rise to stifling freedom of expression. There should be no limit on how much anyone may contribute to any campaign since any contribution in excess of \$20.00 is reported.

Section 54-105.5 (b) (1) what is the reason for daily reports of expenditures why are the reports done on the scheduled basic not sufficient? This just causes additional workload for the City Clerk and staff?

Section 54-107(a) I would suggest to facilitate a process that does not drag out to make the reporting period within 45 days and give the clerk 15 days to set a hearing.

Section 54-108(h) does the fine for knowingly apply to the candidate, Donor, or both?

Section 54-109(a) (4) should indicate, "designate a hearing office" since 54-107(c) requires the clerk to appoint a hearing officer in all cases.

Outcome

2 Committee Members, CM Gardner and CM Marcano, voted yes to move the item forward to Study Session, and CM Gruber voted no.

Follow-up Action

Staff will forward this item to Study Session.

PROPOSED LOCAL MINIMUM WAGE ORDINANCE

Summary of Issue and Discussion

Council Member Coombs gave a presentation on the proposed ordinance. The purpose of the local minimum wage proposal is to ensure that workers in our city are able to afford the cost of living with one job. The proposal would have an incremental increase every year that would start in 2021.

The Basics: Proposed Wage and Timeline

- Incremental increases in the minimum wage every year on January 1.
- Initial 5% increase in 2021 to \$12.60/hour
- 5% Increase in 2022 to \$13.23/hr.
- 10% Increase in 2023 to \$14.55/hr.
- 10% increase in 2024 to \$16.00/hr.
- 10% increase in 2025 to \$17.60/hr.
- 10% increase in 2026 to \$19.36/hr.
- 3.3% increase in 2027 to \$20/hr.
- Annual increases based on CPI thereafter.

The Basics: Enforcement and Penalties

- Administrative Enforcement through the city's Finance Department, which may result in the following penalties:
 - Payment of unpaid wages, plus double the amount of unpaid wages as damages.
 - If an employer has further been found to have retaliated against an employee, additional damages may be payable based on the amount of unpaid wages. The minimum for such penalties is \$50, and the maximum is \$2650. Size of business and financial burden will be considered when levying penalties for retaliation.
 - Additional fines if up to \$1,000 per violation may be levied for failure to maintain records of wages or failure to post current minimum wage information in the workplace.
- Employers may appeal to the Finance Department and may appeal in court if not satisfied with the outcome of the administrative appeal.
- Employees may also file a civil suit for loss of wages and retaliation.

The Why: Who is Impacted?

- In 2021, more than 29,000 workers will be impacted, by 2021, that number rises to 34,000 in 2022, 44,000 in 2023. These numbers are out of 178,000 projected workers in the city of Aurora. (Bell Policy Center, American Community Survey, and Economic Policy Institute)
- 68% of these workers are Black, Indigenous, or People of Color.
- 51% are over the age of 25, and just under 10% are over 55.
- 58% are women
- Over 50% of Aurora are cost-burdened with respect to housing, and 29% are severely cost burdened (Aurora Places using 2017 data).
- Many employees report working 2 or more jobs to make ends meet.

The Why: Economic Impact

- Stimulates the local economy: Minimum wage increase create and increase in aggregate household spending, which boost sales tax revenues and increases local economic activity (Federal Reserve Bank of Chicago). Low-wage workers also spend more of their increased earnings when wages are raised and increases in prices are comparable to neighboring jurisdictions without minimum wage increases (Institute for Research on Labor and Employment).
- Benefits to businesses: Increased worker productivity, increased customer satisfaction, and reduced turnover (Institute for Research on Labor and Employment); similar growth in small businesses, and minor increases in small business growth in years with increased minimum wages. (Economic Policy Institute and Fiscal Policy Institute).
- Benefits to employees: raising the minimum wage pushes up the wage floor relative to the median wage. Affected workers are largely adults and disproportionately women and people of color. Minimum wage increases result in reductions in family poverty rates and enrollments in public assistance programs, such as food stamps. (Institute for Research on Labor and Employment).

The Why: Public Health Impacts

- A 2019 study examined the relationship between suicide rates and minimum wage rates. It found that a one dollar increase in the real minimum wage was associated on average with a 1.9% decrease in the annual state suicide rate in adjusted analyses. An annual decrease of 1.9% in the suicide rate during the study period would have resulted in roughly 8,000 fewer deaths by suicide.
- A 2011 study examined whether minimum wage policy is associated with access to medical care among low-skilled workers in the United States. It found that higher state-level minimum wage rates were associated with significantly reduced odds of reporting unmet medical need. Workers had more money and time to address their medical needs. (American Journal of Public Health)
- A 2017 study found that increasing the minimum wage leads to fewer child maltreatment reports, especially for neglect among young and school-aged children. (Children and Youth Services Review)

Finance and HR departments provided information and financial analysis related to the proposed ordinance.

- It is anticipated that there will be an impact to City wages, contracts, and enforcement requirements. Without going through all existing contracts and requesting salary details, Purchasing is unable to determine the potential cost impact to city contracts. A financial analysis of the impacts to the City's contracts/purchases requires a detailed audit of all professional service, hard service, and construction contracts.
- Since the minimum wage rates would be higher than the state of Colorado's minimum wage, monitoring and/or auditing of compliance (based on alleged violations) will fall to the City. Based on discussions with Denver, the Tax and Licensing Manager estimates the following annual enforcement costs.

Supervisor \$135,000
2 Staff Analysts \$190,000
Expenses and Training \$8,000
Total \$333,000

- In addition, the HR Director provided an estimated cost to city salaries. The overall cost to implement is approximately \$672,420 over a 7-year period and affects 489 employees based on base wages only. In addition, this is based on our current temporary and seasonal employees and we are currently operating with about a 1/3 of the normal pre-pandemic size, so the estimate will be greater. This does not include the impact to taxes or pension, as applicable, during the first few years. Nor do the estimated base wage rates factor in compression created between other jobs, for example, a Fire recruit's base pay rate is approximately \$20/hour.
- In addition, Colorado's state minimum wage rate currently at \$12/hour would continue to increase annually based on an amount corresponding to the prior year's increase, if any, in the Consumer Price Index (Urban Wage Earners and Clerical Workers, Denver-Aurora-Lakewood) or its successor index as published by the U.S. Department of Labor or its successor agency ("CPI") anticipated to be published towards the end of September 2020.

Business Advisory Board

Chair Gruber requested that the impact to local businesses be discussed by the Business Advisory Board (BAB) and by proponents. On August 18, 2020 the BAB met and took an official position and voted to not support the ordinance in its current format. However, the vote was not unanimous.

Committee Discussion

Council Member Gruber: I think one thing you missed in there is that third parties can sue on behalf of the employees so you could have class action suits or you can have suits that are brought by an outside organization. Is that true?

CM Coombs: And also by the state if the state finds a violation during any investigation that they may be doing but yes there can be third-party complaints made.

CM Gruber: But that's not specifically authorized. So, there are a couple issues that many of the facts that you stated as facts have been debunked in other studies. As specifically the city of Seattle they did an extensive study after implementing mandatory minimum wage in the city that identified things such as the jobs were lost because employers could no longer afford to pay. There was more work for experienced workers as they laid off unskilled workers. The employees that were making minimum wage were either converted to part-time or contractors, so they weren't retained and didn't have the experience. And again, I want to make sure all of these get into the minutes. But again, there may not be minds changed here but I want to make sure the record reflects the debate and the discussion that we're having. But that effect in Seattle was that the increasing minimum wage was more harmful to the unskilled labor and not helpful to them.

CM Marcano: I would like to follow up with a couple of the points that you brought up regarding the reduction in hours for unskilled laborer. What that most recent study in 2019 found was that there

actually was some reduction in hours for some businesses but the wages that those workers earned remained at parity. So, what a lot of those folks ended up doing is having more leisure time or time to actually pursue higher education without over stressing themselves and their family situation and that's something that is often left out of that comparison. The changes in Seattle did lead to some changes in business models but overall it actually found upward mobility and as I stated opportunities to pursue higher education for those that had hours reduced but their wages almost remained the same. So that's something that I wanted to add to the record.

CM Gruber: Your reading of the report and your imagination goes a lot further than what was written in the document.

CM Gardner: I think for me the biggest problem is we're not really talking about total compensation. You know the wage that's paid to an employee is only one part of what it costs to employ somebody. So people who have never had employees before or never made payroll probably aren't aware, but there's a lot of additional expenses on the employer beyond just their base rate of pay. Things such as social security taxes, FICA, Medicare and even beyond that you have benefits such as health insurance, 401k contribution, paid vacation and paid holidays, tuition reimbursement and so forth. There's a significant amount of additional costs that goes in to determining total compensation for an employee. So, I think when you make the argument about oh it's only \$.60/hour or oh it's only 5% or whatever this proposal is, I think what you do is you ignore the fact that you're not really helping somebody get ahead. Because in a lot of cases those other benefits are going to be reduced because at the end of the day business pays people commensurate with the revenue that they produce. That's just accounting and that's how the world works. You know you can't pay employees beyond the amount of revenue that your business generates, or else you wouldn't be in business. You wouldn't be able to pay your bills. I think that it's really important to talk about that when you take an employee and you make it all about their base rate of pay, you're really ignoring so many other factors that have to do with a) their total compensation b) ultimately the benefits and c) eventually the wealth that their family can build. For example paid holidays, I would suspect that there's a lot of people out there that would much rather get a paid holiday than they would a \$.15/hour extra in pay. Therefore, I think that we really need to have that conversation about how we make sure that our employees are justly compensated beyond just the rate of pay. So, I think that the minimum wage proposal is really a short-sighted look at how businesses have to compensate their employees.

D. Giordano: Basically what we looked at is the wage increase with the beginning in 2021-2027 with the incremental increases that are proposed. And I'll have to reiterate what CM Gardner indicated was this is just base wage rate. We didn't look at total compensation that has an impact across the entire compensation package. Non pensionable wages of holidays of sick leave that was recently instituted that will go in effect in 2021 for the temporary and seasonal employees and some other benefits that just impact how we pay the individuals. So, this is just base rate data that's been provided and were showing accumulative costs for employees through 2027 of approximately a \$2-million impact to the City on just base wage rate changes. The bulk of the employees that are affected by the increase will be those individuals that are in temporary and seasonal classifications which is approximately of about 484. And there's a couple of assumptions that we had to make that's using employees at this point in time that are here. employed with the City, and so this is the City impact for our employees on our current payroll. Currently we are operating about one-third compacity, so we're going to estimate, and we typically have about 1,200 – 1,400 temporary employees in normal years. This is not our normal year and so our compacity is much smaller than what we typically have had operating at this time, and so we are estimating it to be closer to about 1,200 employees impacted

with that \$2-million accumulative expense at base wage rate. And I think a couple other things that needs to be noted in that assumption is that we did not consider the impact in the total compensation structure and so we would imagine this is going to have an impact on other wages and wage ranges. Therefore, to give you an example our Fire department recruit strictly starts just above \$20.00/hour and so it going to have a compression effect in the value of jobs and other classifications. And so that does not take in consideration the effect of compression on other jobs that this is a base wage rate in those individuals that we currently identified that falls below the \$20.00/hour. And just other things that we factored in typically we include the costs of living increase across all pay classifications to include even our temporary and seasonal employees. There's also the Colorado state minimum wage and that's also raised annually by CPI as well, and so currently the forced \$12.00/hour in Colorado we expect that to change January 1, 2021. The information for the minimum wage rate in Colorado has not been published. It will not be published until the end of September or first part of October so will know more about that impact, but we certainly will comply with that piece as well. So just looking at the spread among all of the jobs that will have to be a factor that will include this estimate that's being provided. it's just based on those individuals currently impacted it does not look at the entire compensation expenditure.

CM Gruber: How will this impact the City's purchasing contracts.

T. Velasquez: In general we weren't really able to provide a financial impact because we would need to reach out to all of our contractors and vendors to provide their wage scales and basically do an audit of all the existing agreements in order to understand the full impact to City contracts. So that was the reason why we didn't include any data related to Purchasing existing contracts or project any impacts into the future because it would entail quite a bit of work.

CM Gardner: I would like to follow up to the HR Director and clarify, so the numbers that were included in the packet and I mean a rough estimate is about \$430,000 a year between the cost for enforcement plus the impact to our employees. But that does not account for the fact that we have roughly one-third of our typical employees that would be impacted by this. And it also doesn't account for the increased salary scales as well as potential impacts to increase FICA and other things that are based on percent of pay. And so, that \$430,000 a year impact to the City is kind of like a lowest possible and it sounds like based on all that the number would be significantly higher. So, I'm just curious and I don't know if this is a question for the HR Director or Budget. But how would the City pay for that? Would we lay off employees or would we increase service fees to our residents? That I don't know, but we have a \$25 million per year shortfall this year and I think it's \$31 million next year and were looking at a half a million or more impact to the City. And so that certainly is not money we have laying around. So I'm curious have we thought of any strategies for how the City would pay for this because you know just like any other businesses the City would have to pay for it.

T. Velasquez: At this point we have not looked at a strategy or approach to how we would fund the implementation of this and with that being said, as with any mandate, if it were approved we would have to prioritize and look at other areas that either would be reduced or look for other revenues just as we have been through this exercise for the \$25 million 2020 budget shortfall. We would have to figure out how we would fund this if that was the will of Council and we will follow what the policy makers decide and make it work within that, but currently there is not a plan for how we would implement this.

CM Coombs: Can I make a quick clarification. So, Council Member Gardner was saying that this is a half of million-dollar impact in 2021 and 2022 which are the years we're projecting the deficit. But in both of those years the actual wage amounts are fairly minimal so you're talking about just over \$300,000 of implementation cost so I just want to make sure that we're being clear about that. But that it's not in fact half of million dollars or more in those years that we're in a deficit.

CM Gardner: So the amount that's in the backup is \$333,000 just for enforcement. It's \$672,000 over a 7-year period and that also does not account for the fact that we have about one-third of the normal employees that would be impacted by this. That also doesn't account for the impact on the wage scale for other City employees so when I said \$500,000, I was actually being very conservative. I think it doesn't take much financial analysis to look at this and see the cost would actually balloon well over \$500,000 very quickly. But you're right the first year it probably would be about half a million dollars but in years beyond that it would quickly increase well pass the half of million dollars. I'm strictly just using the dollar amounts that were included in the backup.

CM Gruber: We have other testimonies to be heard but Trevor I have a question to you about the enforcement. There's the assumption of the number of bodies and the ability of the City to enforce this could you please address that briefly.

T. Vaughn: The estimates for enforcement were my best guess. I talked with Denver where it actually falls under the Auditor's office and they have five wage laws they enforce, and they have 22 personnel to do that. Estimating just with the single wage law which actually does percolate through Cities contracts and such, also was my best guess estimate to the impacts and the number of complaints that would need to be followed up on and the personnel required to do that.

CM Gruber: The Business Advisory Board (BAB), Colorado Restaurant Association and Aurora Chamber of Commerce were online and will speak.

Garrett Walls, Board Chairman: Thank you Council Member Gruber. You folks actually have exposed most of the testimony that the BAB and the Havana Business Improvement District have heard just in talking about the City as an employer. You raised a lot of concerns that we heard on both of those boards. The BAB has heard this issue now once in general and a second time in our meeting in August more specifically to this particularly drafted ordinance. The BAB heard between the two meetings testimony from around 20 business owners and two organizations. The Colorado Restaurant Association and the Aurora Chamber of Commerce. The result of both of those meetings and all the testimony was the BAB voted not to support moving this draft ordinance forward. The Havana Business Improvement District also took a vote and unanimously voted not to support this particular draft ordinance as well based upon testimony of business owners. A couple issues that rose to the top and I'll keep these brief and very high level that seem to be common themes of the first and primary focus of most business owners was why in the world is this being discussed right now. Most business owners just had their teeth knocked in with COVID and are enduring incredible hardship right now. Especially this particular time Quarter 3 and Quarter 4, specifically Quarter 3 is when most of the Paycheck Protection Program (PPP) terms for repayment. Those time periods will be ending or expiring so most business owners will be finishing up their PPP funds here within this quarter and some potentially in the beginning of Quarter 4. So, it's incredibly concerning when were talking about implementing a cost increase on business owners on the expense side when most of them are not even positive that they're going to make it, if their doors are going to be open on January 1st. That was the recurring theme of almost everyone that testified, that was the first thing they brought up. Some other issues and

discussions that were brought up were this is not the roll of local government to impose an artificial mechanism into a local economy. It's a bit of a different discussion when we're talking about state or federal minimum wage because those effect the economy more broadly. A few of the studies that were pointed out by CM Coombs and her research, they don't apply in a bubble to a local economy. They apply across a broader spectrum of an economy. So when you say that prices won't increase, there's a reason that they won't increase when Aurora raises its minimum wage outside of the metro area. And that's because shoppers can go to neighboring metro areas where the prices are still low. So employers have no choice. They're not able to increase those prices, because there's too much competition especially in a metro area such as the Denver metro area. People will choose where to shop based on the price of things and we heard direct testimony from a business owner in the Stanley Marketplace that suggested that exact point. She said I cannot raise prices on a greeting card because people will just shop somewhere else so that's driven by the market economy in general. Creating an artificial mechanism that directly effects the cost of a business owner throws that whole system out of whack and it ends up in closed doors, loss jobs and loss hours. We heard direct testimony of the people that are writing paychecks to their employees here in Aurora. And a lot of them said that their only response to this will be to cut jobs or cut hours or shift those hours to employees that don't require training that aren't in high turnover positions and that will be the direct result from those employers. A couple other things that have come up were specifically toward the last 6 pages of the ordinance. The concerns there were that were essentially creating a new municipal division where the director of finance now becomes the judge and jury, that is very concerning to the business community. This ordinance does allow third-party complaints and requires no consent of the employee to be able to bring a claim. And also, there's no definition of third-party in this ordinance and so that's incredibly concerning. And the director of finance under this ordinance will now have the active authority to investigate employers and whole industries of employers without a complaint presence. And so, we're shifting the role of the director of finance to an investigatory body, a prosecuting body and a judging body. This is a bizarre way to setup our local government.

Sonia Riggs, Colorado Restaurant Association: I would like to speak specifically to the restaurant industry regarding a minimum wage increase. While often times if more times than not, tipped employees are considered minimum wage workers. They actually tend to take home far more than minimum wage and in fact, they tend to be the highest paid individuals in a restaurant. And what really makes it difficult in a full-service restaurant is because they give forced increases under these types of proposals to the highest earners in the restaurant. They do it at the expense of who we call the backup house employees who are cooks and dishwashers who already tend to make more than minimum wage. In fact, we just recently did a study in an Aurora restaurant survey and the average hourly wage for backup house employees was \$15.20/hour, and the average take home pay for the front house folks like servers, bartenders those tip employees is currently \$21.00/hour in Aurora. However, I would like to speak to what we have historically seen in minimum wage increases. We have seen reduced staffing levels and increase pricing in this particular industry. We have seen most recently when the state implemented the 2016 minimum wage increase that increases every year to \$12.00/hour now with CPI. We saw that 50% of restaurants reduced their staffing levels, 14% reduced employees' benefits, 67% decided to limit future growth, and 90% increased menu prices. We did also, recently conduct a survey as I mentioned in Aurora specifically how a minimum wage increase right now would impact these businesses. And businesses said if the minimum wage would increase to \$20.00/hour 48% of Aurora restaurants said that they would reduce staffing levels by more than 20%. And 57% of restaurants said that they would consider closing permanently. I think it's important to know that a Good Times restaurant on an average make between 3% to 5% profit which is much lower than many other industries. And so especially now where they have been devastated by this 100-year pandemic. It's a

really difficult time in this industry to consider an increase just as this. I'll also add, 8 out of 10 restaurant owners started an entry level position and we have actually seen that those entry level positions are the first to go as restaurants are reducing their staff. We've seen actually from your own information that I got from the City of Aurora that this industry your seeing as considerable sales tax decline for the restaurant and retail sectors, 32% decline from eating and drinking places. I suspect that it's going to get worse this winter as outdoor seating is going to be more limited because of the winter and cold weather. But right now, 95% of restaurants have told us that their sales are down from this time last year, on an average their down 40%, but those that are hurt the most are your traditional full-service independent kind of favorite local neighbor place that we've seen upwards of a 90% decline in revenue during the pandemic. Traditionally restaurants employ 10% of the workforce in Colorado, and this is just the wrong time with this pandemic and the devastation it has caused to this industry. What we're seeing with jobs being lost we already see it and we're going to continue to see more. Restaurants are saying their staffing is only at 63% of what it was a year ago. This is really not the time for this increase. Thank you for your time.

Kevin Hougen, Aurora Chambers Commerce: Besides a couple things we already talked about cost pushes inflation. When you raise prices to recoup those costs it affects our neighborhood stores and businesses of course razor thin profits and they're forced to raise prices. I think the issue that was on the bottom also on one of the slides, that simple lawsuits would be able to be involved. This is nothing but a holiday for trial lawyers. I'm sure trial lawyers in Colorado will support this immediately when they see that ability to file civil lawsuits. With over 400,000 Coloradans receiving unemployment benefits since this pandemic started, 400,000 that's more people in the entire city of Aurora. I think what we found is the majority of those of course are in retail restaurant hotels, and the risk of them never being hired again that is there. You can talk to almost every retail restaurant or hotel that's affected by this. Things that are affected by it, if you talk to the Arapahoe Douglas Workforce Center, they won the title about three years ago being the best workforce center in the entire United States. Just talk to them how it will affect people in Medicaid, people that have received food stamps which I believe is called the SNAP program. Their benefits are at risk with higher wages and so they're estimating a lot of people would not even ask for this wage increase because it will affect all of those benefits. So those are a few ideas. Union contracts would have to be re-negotiated once minimum wage are set at such higher rates. The cost of this business community is really unintended, but it will happen. You can just begin to look at cities like Seattle that raised the minimum wages they have fewer hours their employees all received fewer hours. Talk about having to go get two or three jobs when your sometimes forced into split shifts. I guarantee you, companies even like McDonalds will talk about split shifts. They will have you come in and cover a breakfast shift take two or three hours off come in after a lunch shift and then an evening shift. I guarantee you that will happen. It's just not the time, and right now it is kicking our companies in the gut just even introducing it. A couple ideas that have come forward and some of the people that are involved in these studies. I can list literally 20 studies right now that shows it would result in job loss, result in hurt low unskilled workers and it would hurt and have actually have very little effect on reducing poverty. And it will result in higher prices for the consumers. Therefore, we have just as many studies predicating the four reasons not to raise minimum wage as those that we heard of. The other aspects are the people that are doing some of these analyses again are not from Aurora. I'm not sure if Common Cause or Democracy for the People or Colorado People Alliances are, and so I don't believe they're headquarter here in Aurora. Thank you for the opportunity.

CM Coombs: The Colorado People Alliances headquarters are in Aurora.

CM Gruber: Is the Committee ready to vote to move this forward?

CM Marcano: I have a quick clarifying point to make. I don't think Common Cause or Democracy for the People are involved in the minimum wage issue. That was for Campaign Finance Reform. Yes, my vote is to move this forward.

CM Gardner: You know typically I am fine in moving items forward from Committee because I think the full Council needs to weigh in, but in this case, I think I have fiduciary responsibility to taxpayers of Aurora and not move something forward that will have such a significant impact without a way to pay for it.

CM Gruber: And I also do not.

Outcome

2 Committee Members, CM Gardner and CM Gruber, voted no, and CM Marcano voted yes. The item will move forward to Study Session without the support of the Management and Finance Policy Committee based on CM Coombs ability to place the item on a Study Session.

Follow-up Action

Staff will forward this item to Study Session.

PAY RESOLUTION

Summary of Issue and Discussion

Each year, in concert with the annual budget process, Human Resources prepares an updated pay schedule and submits the schedule with a Resolution for Council's approval. As part of the 2021 budgetary process and to sustain the compensation and the classification system adopted by the City, the attached 2021 pay schedule is proposed for classifications including but not limited to, career service, civil service (will be amended post negotiations), Department Directors, Appointees, temporary, seasonal and part-time positions.

Does the M&F Committee support approval of the proposed resolution approving the 2021 Pay Schedule and Classifications, and sending it for full Council consideration at a regular meeting?

Committee Discussion

CM Gardner: For elected officials is our pay set by voters and can we lower that without going through voters?

D. Giordano: No, it's currently in the Code written with in its base. The increases are based on Consumer Price Index (CPI) increases, or the lesser of the pay increases for the general employee population. What is being proposed in 2021 is a 2% increase, currently the CPI is just a little over that so it would be the lower of the two. So, unless we change it in the Code, that would be how we could make that change going forward.

T. Velasquez: I can add to that. There also was a vote that did change the Mayoral pay amount as well as the Council Members pay. It's been a few years back, but that did set the base wage which then was adjusted for by the CPI and Council Members receive additional stipends and allowances.

CM Gardner: So, we couldn't go below the level the voters voted on a couple years ago without another vote of the people.]

T. Velasquez: Yes.

CM Marcano: I'm not mistaken but isn't that actually in the City's Charter and not in the city code?

D. Giordiana: That's correct.

CM Gardner: What's the average increase for Career Service from 2020 to 2021?

D. Giordiana: The average increase being proposed for 2020 is a 2% increase for Career Service employee.

T. Velasquez: I would like to add to that question as well. The net effect is at 0% in the 2021 Budget and the reason for that is because of our financial situation. Therefore, there's an offset to the 2% increase with some proposed furlough days to reduce to an effective 0% increase for Career Service.

CM Gardner: But that will help us not fall further behind pay relative to other municipalities, so I think that's probably a wise move. My last question is on Civil Service employees. It looks like this is the same level as last year and I understand the why from a perspective that we haven't gone through collective bargaining yet, but I guess I'm not really comfortable moving that portion forward because it kind of sets the tone where we're going to be at and I think we need to go through bargaining before we put it into writing what pay levels are going to be for Civil Service employees.

D. Giordiana: Typically what will occur CM Gardner is that in the resolution it's called out that we have not ratified any of the negotiations for Police and Fire and so what will occur is we'll amend it upon ratification so that's what published thereafter negotiations is going to be an accurate reflection for both Police and Fire.

CM Gardner: So, I guess my follow up to that is why we don't just not include Civil Service from the resolution and do a resolution once we settle on what those increases are going to be for next year.

D. Giordiana: That's certainly an option that we can consider.

CM Gruber: My concern also is on the Civil Service side. We're not furloughing any of the Civil Service but at the same time I think that we need to reflect that we're making some change and then let the Union negotiation catch up with that. It's certainly not the fault of either the City or the two unions that the delay occurred. It's a result of COVID, but I think it's important for the City's pay scale to show an increase. So, with having that said I would recommend keep it as proposed and move this forward but before I have that vote are there any more thoughts on that?

CM Marcano: Actually, to refer back to CM Gardner's comment, is there any harm that we would cause by removing Civil Service from the equation for the moment and then adding it back in when we have the negotiations?

D. Giordiana: There's no harm in that strategy. We would still leave the resolution as written so that it gives us the authority to amend it going forward. So once the agreement is ratified we could publish an accurate amended pay scale.

CM Gardner: My opinion would be that we hold off on the Civil Service until we get through bargaining and honestly, I think we should hold off on increases for City Council as well but that's just me.

CM Gruber: First off, Dianna by making that change it won't have an impact on your ability to execute the pay scale?

D. Giordiana: It will not have an effect.

CM Gruber: I recommend that we make that change and move this forward.

The Committee agreed and all were in favor to move it forward.

Outcome

The Committee recommended that this item be moved forward to the Budget Workshop and a Regular Council meeting with the recommended change.

Follow-up Action

Staff will forward this to the Budget Workshop and a Regular Council meeting with the recommended change.

CHANGE TO CITY CODE SEC. 2-667(F) DISQUALIFIED VENDOR OR CONTRACTOR

Summary of Issue and Discussion

Staff is following up on the item presented at the April 28, 2020 Management and Finance Committee regarding changes to City Code Sec. 2-667(f) Disqualified vendor or contractor. At this time, we are proposing the following changes to the ordinance:

Sec. 2-667(f) Disqualified vendor or contractor.

Vendors or contractors who have performed unsatisfactorily **under published rules or procedures of the Purchasing and Contracting Division as contained within the City's Purchasing Procedure Letters, who have** defaulted on terms of their bids/proposals, **or who have contacted City Council Members, City Management and City Staff other than in the Purchasing and Contracting Division about a pending contract award during the evaluative period between submittal of bids or proposals and the award, and against specific written direction in the requests for proposals** may be declared ~~excluded~~, **debarred or suspended** bidders/offerors and may be **precluded from participation in future contracting opportunities and** disqualified from receiving any business from the ~~city~~ **City** for a specified time period. No vendor or contractor shall be declared an ~~excluded~~ **debarred or suspended** bidder until an opinion regarding such has been obtained from the city attorney's **office**.

The specific procedures for implementing 2-667(f) are contained in the attached Purchasing Procedure Letter (PPL) 4-2, which sets forth the authority for making the determination and identifies

the specified periods of time. This PPL was established in February 2017 and the proposed changes are noted in track changes.

Committee Discussion

CM Gardner: Where it talks about the specified time period should we define that?

B. Fillinger: I believe we define it in the Purchasing Procedure Letter. The debarment is for three years and the suspension is for one year.

The Committee recommended that this item is moved forward unanimously.

Outcome

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

Follow-up Action

Staff will forward this item to Study Session

REVIEW OF OUTSTANDING MORAL OBLIGATIONS

Summary of Issue and Discussion

In the fall of 2010 and spring of 2011, the City studied, proposed, and adopted a Policy on Moral Obligations (“MO”).

An MO is a non-binding commitment of the City to provide financial support for a project that may need support, even though the project is intended to be self-supporting. According to the policy, projects that are unable to show they are viable and self-supporting should not be supported by an MO. MOs are typically used for projects that are considered important to achieving City goals and which would not otherwise occur or would be much more costly. The policy also states there be a shared balance of risk/reward among participants.

Over the years, the City has had very few moral obligations. At the present time the City has one related to the Hyatt Regency Hotel and Conference Center (“Hyatt”) and one related to the FRA BioScience III project. The other three, that no longer exist, were related to the Public Market Project (south of the Aurora Town Center), the Aurora Housing Authority related to a CHFA line of credit supporting the development of affordable housing, and the Gaylord Project.

One of the requirements in the City’s Moral Obligation Policy is to review outstanding MOs on an annual basis. The purpose of this item is to review the City's outstanding MOs: the Hyatt Conference Center and the BioScience III building on the Fitzsimons Campus.

As part of the Hyatt transaction, the City funded a \$2.1 million debt service reserve fund (DSRF) held at NBH Bank, which is available for debt service payments if needed. Should this DSRF be drawn upon the City will be obligated to replenish the DSRF – as required by the MO.

As Council members may recall, in 2014 NBH provided \$27.75 million in financing for the construction of the conference center and parking garage. The loan was interest-only until 2018 and principal payments commenced in 2019. In 2020, Principal and Interest due is slightly less than \$1.5 million. TIF revenues from the site (property, lodgers, and sales taxes) and net operational revenues are pledged to service the debt.

Since opening in 2016, the Hyatt hotel conference center experienced modest but promising growth in occupancy and event bookings. Unfortunately, the COVID-19 pandemic was devastating to the hospitality industry. Significant decreases in hotel occupancy have impacted TIF revenues, parking revenues have declined materially, and nearly all 2020 conferences were cancelled.

Based on the information summarized above, staff anticipates the conference center operation will require additional external capital or debt relief by the end of the year. Staff believes it is in the best interest of the City and this project to avoid draws under the debt service reserve fund or the moral obligation. Staff is currently exploring options such as a loan from AURA and a restructuring of the NBH loan in order to keep the conference center operating until the pandemic subsides.

The City has also provided a Moral Obligation in support of Biosciences III, a \$39 million state of the art facility constructed by the Fitzsimons Redevelopment Authority (FRA). The FRA has a debt service reserve fund of \$2.5 million, to which the MO supports. Just as with the NBH MO described above, the City has the obligation to replenish any used portion of the DSRF. The initial deposit of the DSRF is the responsibility of the FRA; the MO expires at the earliest of the repayment of the loan, declaration of default by the lender, or December 31, 2024.

Construction of the facility was completed in early 2020 and tenants have started using the building. Regrettably, the COVID-19 pandemic has impacted the FRA's ability to lease the space and collect rents. Luckily, the FRA is renegotiating the terms of its construction loan covenants and the FRA has ample liquidity to meet the debt service requirements. In conclusion, staff currently does not foresee a draw on this Moral Obligation but continues to monitor the situation closely.

Committee Discussion

CM Gruber: In order to do the modification at the debt instrument will that require Council action or does staff have the authority under existing ordinance?

T. Velasquez: It probably would require AURA board to approve any change to that outstanding debt and the same thing with regard to the loan that the AURA would provide to the cash flow or debt or operations of the Hyatt. So those particularly would come back to the AURA board for approval.

Outcome

The 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, September 22, 2020 at 1:00 PM (WebEx).

THESE MINUTES WERE APPROVED AS SUBMITTED

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

Date

**THIS PAGE
INTENTIONALLY
LEFT BLANK**



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 August sales tax performance chart. August of 2020 was 1.8 percent lower than August of 2019.

QUESTIONS FOR Committee

Information only

EXHIBITS ATTACHED:

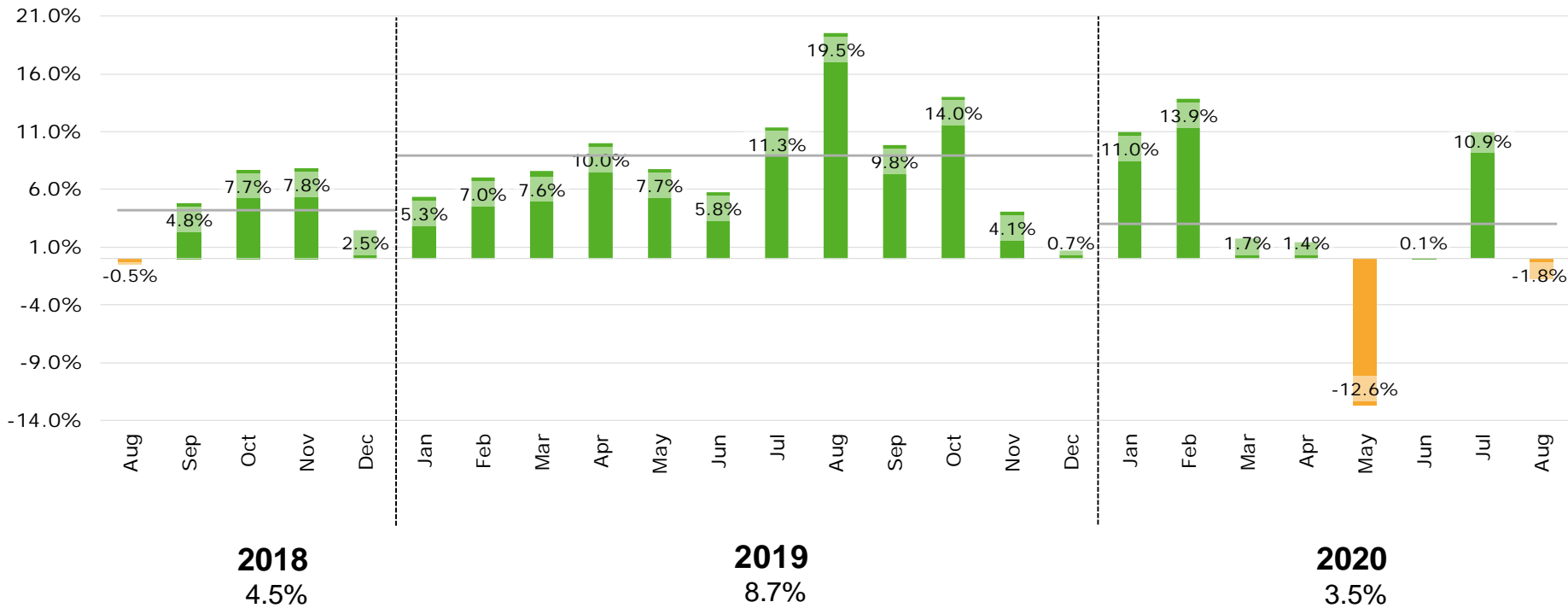
Sales Tax Chart_Aug (FINAL).pdf

August 2020 Sales Tax Performance



Percent Change from Prior Year By Month

August YTD Variance to
Projection: +\$9.7M (7.4%)
2019: \$4.7M (3.5%)



**THIS PAGE
INTENTIONALLY
LEFT BLANK**



Management and Finance Policy Committee Agenda Item Commentary

Item Title: Proposed Campaign Finance Reform Ordinance
Item Initiator: Terri Velasquez
Staff Source: Mayor Coffman
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.)*

The Mayor will be proposing a campaign finance reform ordinance.

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

The Mayor will provide an overview of his proposed campaign finance reform ordinance.

QUESTIONS FOR Committee

Does the Committee support moving forward the Mayor's proposed campaign finance reform ordinance to Study Session?

EXHIBITS ATTACHED:

Mayor Coffman's Campaign Finance Reform Ordinance.pdf

ORDINANCE NO. 2020- ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING SECTIONS 54-2, 54-6, 54-101, 54-103, 54-104, 54-105, 54-107, 54-108, & 54-109 OF THE CITY CODE PERTAINING TO ELECTIONS AND CAMPAIGN FINANCE

WHEREAS, effective representation by elected officials requires those officials to be free appearances of impropriety or political indebtedness to any constituent or group of constituents or actual indebtedness to constituent groups; and

WHEREAS, donations to a candidate from any one constituent may raise the suspicion that a candidate may be morally indebted to that donor when the donation is unusually generous thereby hampering that elected officer's legislative effectiveness; and

WHEREAS, an informed electorate is essential to a well-functioning representative democracy; and

WHEREAS, to be well informed, the electorate needs transparency and to know which people are contributing to a candidate and in what amounts; and

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

Section 1. The City Code of the City of Aurora, Colorado, is hereby amended by adding additional language to subsections (1), (j), (k) and (0) of Section 54-2 which section shall now read as follows:

Sec. 54-2. - Definitions.

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

- (a) *Active voter* means a person who has voted in the last general election.
- (b) *Ballot* means the list of candidates, ballot issues, and ballot questions an eligible elector can vote on at an election.
- (c) *Ballot issue* means a non-recall, citizen-initiated petition or legislatively-referred measure which concerns local government matters arising under section 20 of article X of the state Constitution, i.e., matters of taxes, debt, and other financial matters. Ballot issues can only be voted on at elections held each November.
- (d) *Ballot question* means any local government matter involving a citizen-initiated petition or legislatively-referred measure other than a ballot issue.

- (e) *Ballot title* means the official, short summary of a ballot measure that appears on the ballot.
- (f) *Candidate* means any person who seeks nomination or election to any public office of the city that is to be voted on at the regular municipal election or at any special municipal election. A person is a candidate for election if the person has publicly announced an intention to seek election to public office and thereafter has received a contribution in support of the candidacy. A person remains a candidate as long as the candidate maintains a registered candidate committee, whether the person is serving in office or not.
- (g) *Circulator* means a person who individually circulates a petition in an attempt to obtain signatures from qualified registered electors.
- (h) *City clerk* means the city clerk or his or her designated representative. ~~The city clerk may appoint a hearing officer who shall not be an officer, employee, or agent of the city, and shall not have any relationship with a complainant or defendant participating in the hearing.~~
- (i) *Committee* means the following, depending upon the context:
 - (1) *Candidate committee* means a person, including the candidate, or persons with the common purpose of receiving contributions and making expenditures under the authority of a candidate. A candidate shall have only one candidate committee.
 - a. An elected and serving municipal office holder may also maintain a candidate committee during such person's term of office and accept contributions, subject to the limitations set forth in article IV of this chapter.
 - b. Any candidate from a prior election shall re-register his candidate committee before running in a subsequent election.
 - (2) *Exploratory committee* means a committee which shall be formed by a potential candidate to receive contributions and make expenditures for the primary purpose of determining whether or not the potential candidate should seek election to any public office of the city. Such committee shall be closed not later than 70 days prior to the regular municipal election for the particular public office to which election is being sought, or upon establishing a candidate committee. At the time of closure, an exploratory committee shall file campaign reports in the same manner as candidate committees.
 - (3) *Issue committee* means two or more persons who are elected, appointed, or chosen, or have associated themselves, for the purpose of accepting contributions and making expenditures to support or oppose any ballot issue or ballot question of the city or to support or oppose the recall of an elected city official in a recall election.
 - (4) *Political committee* means two or more persons who are elected, appointed, or chosen, or have originally associated themselves, for the purpose of making contributions to municipal candidate committees, municipal issue committees, municipal exploratory committees, or for the purpose of making independent expenditures. "Political committee" does not include exploratory committees, issue committees, or candidate committees as otherwise defined in this section.
 - (5) *Independent expenditure committee* means one or more persons that make an independent expenditure in an aggregate amount in excess of \$1,000.00 or that collect in excess of \$1,000.00 from one or more persons for the purpose of making an independent expenditure to support or oppose a candidate.

- (6) For purposes of this subsection (i) only, "person" means any natural person. **It excludes** partnerships, committees, associations, corporations, labor organizations, political parties or other organizations or group of persons.
- (j) *Contribution* means:
- (1) The payment, loan, pledge, or advance of money, or guarantee of a loan, made to any candidate committee, issue committee, political committee, or exploratory committee;
 - (2) Any payment made to a third party for the benefit of any candidate committee, issue committee, political committee, or exploratory committee;
 - (3) Anything of value given, directly or indirectly, to a candidate for the purpose of promoting the candidate's nomination, retention, recall, or election;
 - (4) With regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services, or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration as determined by the candidate committee, issue committee, exploratory committee or political committee.
 - (5) "Contribution" does not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee, issue committee, political party, or independent expenditure committee.
- (k) *Contribution in kind* means:
- (1) The fair market value of any item of real or personal property, other than money, made to or for any candidate committee, issue committee, exploratory committee, or political committee for the purpose of influencing the passage or defeat of any issue or the nomination, retention, election, or defeat of any candidate. Personal services are a contribution in kind by the person paying compensation therefor. In determining the value to be placed on contributions in kind, a reasonable estimate or fair market value shall be used.
 - (2) "Contribution in kind" does not include an endorsement of a candidate or an issue by any person.
 - (3) "Contribution in kind" does not include the payment of compensation for legal and accounting services rendered to a candidate if the person paying for the services is the regular employer of the individual rendering the services and the services are solely for the purpose of ensuring compliance with the provisions of article IV of this chapter.
- (l) *Coordinated election* means an election where more than one political subdivision with overlapping boundaries or the same electors holds an election on the same day and the eligible electors are all registered electors, and the county clerk and recorder is the coordinated election official who conducts the election on behalf of the political subdivisions.
- (m) *Council member* means a duly elected member of the governing body. Council member shall also include the office of mayor, unless specifically noted otherwise.
- (n) *Designated election official* means the city clerk or other person contracting for or engaged in the performance of election duties as required by this Code.

- (o) *Expenditure* means the payment, distribution, loan, or advance of any money by any candidate committee, political committee, issue committee, or exploratory committee.
 - (1) "Expenditure" also includes the payment, distribution, loan, or advance of any money by a person for the benefit of a candidate committee, political committee, issue committee, or exploratory committee that is made with the prior knowledge and consent of an agent of the committee. An expenditure occurs when the actual payment is made or when there is a contractual agreement and the amount is determined
 - (2) For purposes of this subparagraph, the term "expenditure" does not include expenditures made by persons in the regular course and scope of their business or in connection with communications sent solely to their members. The term "expenditure" also does not include a contribution, as defined in subsection (j) of this section.
- (p) *Final determination of sufficiency* means a statement issued by the city clerk or designee following a protest hearing or the expiration of the time allowed for filing a protest, as to whether the petitioners have submitted a sufficient number of valid signatures on a petition.
- (q) *General election* means the statewide election held on the Tuesday following the first Monday of November of each even-numbered year.
- (r) *Independent expenditure* means an expenditure that is not controlled by or coordinated with any candidate or agent of such candidate.
- (s) *Initial determination of sufficiency* means a statement issued by the city clerk or designee as to whether the petitioners have submitted a sufficient number of valid signatures on a petition.
- (t) *Initiative* means the right of registered electors to originate legally permissible municipal legislation by obtaining signatures on a petition resulting in enactment of an ordinance by the city council or in a vote by the general electorate.
- (u) *Petition representative* means the person or persons representing the proponents on all matters affecting a petition.
- (v) *Petition section* means the stapled or otherwise bound package of documents containing the warning, proposed summary or statement, signature pages and affidavit of the circulator.
- (w) *Referendum* means the right of registered electors, within 30 days after final publication of an ordinance and by obtaining signatures on a petition, to require the city council to reconsider the ordinance or to submit it to the electorate for a vote.
- (x) *Referred measure* means a ballot issue or ballot question placed on the ballot by the city council for a vote by the eligible electors of the city.
- (y) *Registered elector* means a resident of the city who is qualified to vote under the constitution and the statutes of the state and who is registered to vote.
- (z) *Regular municipal election* means an election which shall be held on the first Tuesday in November in odd-numbered years.
- (aa) *Special municipal election* means an election which shall be held in conjunction with the statewide general election in November of even-numbered years, except as otherwise provided under section 4-2 of the Charter relating to recall petitions, as provided under section

6-2 of the Charter relating to initiative petitions, and as provided under sections 14-10 and 15-10 of the Charter relating to timeframes for collective bargaining issues.

(bb) *Unexpended campaign contributions* means the balance of funds on hand in any committee at the end of an election, less the amount of all unpaid monetary obligations incurred prior to the election.

(cc) *Volunteer* means any person who freely gives of his or her time on behalf of a candidate or candidate, issue, political, or exploratory committee for purposes of municipal election matters.

Section 2. The City Code of the City of Aurora, Colorado, is hereby amended by adding additional language to Section 54-6 which section shall now read as follows:

Sec. 54-6. - Election commission.

The election commission created by Charter section 2-2, article II, and whose powers and duties are set forth in Charter section 2-3, article II, shall have staggered membership terms. All five appointees shall be appointed to four-year terms. **The powers and duties of the election commission shall include, but are not limited to, conducting hearings on complaints originating under Article IV of this Chapter 54 of the City Code and making and enforcing written rulings thereon.**

Section 3. The City Code of the City of Aurora, Colorado, is hereby amended by adding additional language to Section 54-101 which section shall now read as follows:

Sec. 54-101. - Prohibited contributions **and contribution limits.**

- (a) No candidate committee shall make a contribution or contribution in kind to or accept a contribution or contribution in kind from a candidate committee of another candidate for municipal office.
- (b) No candidate committee, issue committee, political committee, or exploratory committee shall accept contributions from any natural person who is not a citizen of the United States, **or from a foreign government, or from any foreign corporation, partnership, business association, incorporated social association, labor organization or union.** ~~that does not have authority to transact business in this state pursuant to art. 115 of tit. 7, C.R.S.~~
- (c) No candidate committee, political committee, issue committee or exploratory committee shall accept a contribution, or make an expenditure, in currency or coin exceeding \$100.00.
- (d) No person shall make a contribution to a candidate committee, issue committee, political committee, or exploratory committee with the expectation that some or all of the amounts of such contribution will be reimbursed by another person.
- (e) **No person shall contribute more than one thousand dollars (\$1000) in the aggregate to any one mayoral candidate or any one at-large candidate during any election cycle nor shall any person contribute more than five hundred dollars (\$500) in the aggregate to any ward candidate during any election cycle. No person shall make a contribution without supplying that person's name and residential address to the candidate or to the committee to which the contribution was made.**

Section 4. The City Code of the City of Aurora, Colorado, is hereby amended by adding additional language to Section 54-103 which section shall now read as follows:

Sec. 54-103. - Requirements for registration and initial filings by candidate committees.

- (a) *Candidate affidavit.* When any individual becomes a candidate, such individual shall certify, by affidavit filed with the city clerk within ten days, that the candidate is familiar with the provisions of this section.
- (b) *Candidate, issue, political, exploratory, and independent expenditure committees.* All candidate committees, issue committees, political committees, exploratory committees, and independent expenditure committees shall register with the city clerk before accepting any contributions or contributions in kind, or before making any expenditures. Registration shall include a statement listing:
 - (1) The committee's full name;
 - (2) A natural person authorized to act as an agent;
 - (3) A street address and telephone number for the principal place of operations; and
 - (4) The purpose or nature of interest of the committee.

Section 5. The City Code of the City of Aurora, Colorado, is hereby amended by adding additional language to Section 54-104 which section shall now read as follows:

Sec. 54-104. - Requirements for reporting contributions and expenditures.

- (a) All contributions received by a candidate committee, issue committee, political committee, exploratory committee, or independent expenditure committee shall be deposited in a financial institution in a separate account whose title shall include the name of the committee.
- (b) All records pertaining to such accounts shall be maintained by the committee until the committee is affirmatively closed by the candidate and a termination report is filed with the city clerk. If a complaint is filed, such records shall be maintained until final disposition of the complaint and any consequent litigation. such records shall be subject to inspection at any hearing held pursuant to this article.
- (c) All candidate committees, issue committees, political committees, and exploratory committees shall report to the city clerk all contributions received, specifically including but not limited to in kind contributions, including the name and address of each person who has contributed \$20.00 or more; all expenditures made; and all obligations entered into by the committee.
- (d) For purposes of complying with the requirements of section 54-105, a political committee shall report only those contributions accepted, expenditures made, and obligations entered into for the purpose of supporting or opposing a municipal ballot issue or a municipal ballot question. Such political committee shall not be required to report donations, membership dues, or any other payments received unless such amounts are used or to be used for the purpose of supporting or opposing a municipal ballot issue or a municipal ballot question.

Section 6. The City Code of the City of Aurora, Colorado, is hereby amended by adding additional language to Section 54-105 which section shall now read as follows:

Sec. 54-105. - Requirements for filing campaign reports.

- (a) All candidate, issue, political, and exploratory committees must file reports on the 90th day, on the 60th day, on the 30th day, on the 14th day, on the Friday before, and 30 days after the municipal election.
- (b) In years following the election for which the committee was established, all candidate, issue, political, and exploratory committees shall file such reports annually, on the first day of the month in which the anniversary of the municipal election occurs.
- (c) The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total contributions received, whether monetary or in kind, the total of expenditures made during the reporting period, and the name and address of the financial institution used by the committee **and the names and addresses and contribution amount of each contributor whose contribution funds were aggregated for deposit at the financial institution.**
- (d) In addition to any report required to be filed with the city clerk under this section, all candidate committees, issue committees, political committees, and exploratory committees

shall file a report of any contribution or contribution in kind of more than \$1000.00 in the aggregate from any single contributor received at any time within 30 days preceding the date of a municipal election. This report shall be filed with the city clerk no later than five days after receipt of said contribution(s) or contribution(s) in kind. **Contributions from any individual contributor exceeding the limits set in Section 54-101 of this City Code shall be returned to the contribution with 72 hours and proof of that return shall be filed with this report.**

- (e) Any issue committee whose purpose is the recall of an elected official shall file a statement of organization with the city clerk within ten business days of receiving its first contribution, or contribution in kind. Reports of contributions and expenditures shall be filed with the city clerk within 15 days of the filing of the statement of organization and every 30 days thereafter until the date of the recall election has been set and then 14 days and seven days before the recall election and 30 days following the recall election.
- (f) Any issue committee supporting an incumbent in a recall election shall file reports of contributions, or contribution in kind, and expenditures with the city clerk 14 and seven days before the recall election and 30 days after the recall election.
- (g) A committee shall be considered open and active until such committee is affirmatively closed and a termination report is filed with the city clerk.

Section 7. The City Code of the City of Aurora, Colorado, is hereby amended by repealing and deleting certain language in Section 54-107 and replacing it with additional language and by adding other additional language to Section 54-107 which section shall now read as follows:

Sec. 54-107. - Hearing on campaign finance violations.

- (a) Any person who believes that a violation of this article has occurred may file a written complaint with the city clerk no later than 60 days after the date of the alleged violation. The city clerk shall determine if probable cause exists to take further action upon the complaint. If such a determination is made, the city clerk shall send notice to the affected party ("defendant"), **meaning the registered agent for the committee if they submit to the jurisdiction of the election commission or the candidate in those instances where the registered agent is beyond the jurisdiction of the City of Aurora**, and thereafter shall ~~appoint a hearing officer who shall not be an officer, employee, or agent of the city, and shall not have any relationship with the complainant or defendant.~~ **refer the matter within 5 days to the election commission.** The ~~city clerk~~ **election commission** shall fix a date for the hearing, which shall be concluded no later than 60 days from the date the written complaint was filed.
- (b) The defendant, **the complainant**, and the city shall present evidence to ~~such hearing officer~~ **the election commission** in the form of testimony, documents, rebuttal testimony, and opening and closing statements. There shall be no cross examination. The ~~hearing officer~~ **election commission** shall be entitled to examine any witness and request the submission of additional evidence and arguments. **The weight, relevance, and admissibility of the evidence shall be determined by the sound and sole discretion of the election commission.**

Section 8. The City Code of the City of Aurora, Colorado, is hereby amended by repealing and deleting certain language in Section 54-108 and replacing it with additional language and by adding other additional language to Section 54-108 which section shall now read as follows:

Sec. 54-108. - Sanctions.

- (a) In accordance with the process in section 54-107, ~~a hearing officer~~ **the election commission** shall determine by a preponderance of the evidence if a violation of this article has been committed. Upon a finding against a defendant, ~~the hearing officer~~ **election commission** shall then submit written findings of fact, and ~~recommendations for~~ **shall impose sanctions by order of the commission.** ~~to the mayor and city council. The city council shall then make a final determination as to any sanction that may be imposed.~~ **Sanctions may include a fine of fifty dollars (\$50) per day for each day a violation of this Code occurred or continued up until a finding of violation has been entered and then up to one hundred dollars (\$100) for each day thereafter until the violation is corrected though for good cause shown the election commission may grant a three day grace period before imposing additional fines after entry of their initial finding and order. Additionally, the election commission shall order return of any contribution amounts in excess of those allowed by this Code and may impose a fine of one hundred dollars (\$100) for each day the contribution in excess of allowed amounts is not returned following an order to return the excess contribution amount.**
- (b) The city clerk, after proper notification by accountable mail shall impose a penalty of \$50.00 per day for each day that a statement or other information required to be filed by this article is not filed by the close of business on the day due. If the penalty is not paid within 30 days of demand, the matter shall be handled in the procedure specified in section 54-107 and subsection (a) of this section.
- (c) Failure to comply with the provisions of this article shall have no effect on the validity of any election.
- (d) Any individual volunteering his or her time on behalf of a candidate or candidate committee shall be exempt from any liability for a penalty imposed pursuant to this section in any proceeding that is based on an act or omission of such volunteer if:
 - (1) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the candidate or candidate committee; and
 - (2) The violation was not caused by willful and intentional misconduct by such volunteer.

Section 9. The City Code of the City of Aurora, Colorado, is hereby amended by repealing and deleting certain language in Section 54-109 and replacing it with additional language which section shall now read as follows:

Sec. 54-109. - Duties of the city clerk—Enforcement.

- (a) The city clerk shall:
 - (1) Prepare forms and instructions to assist candidates and the public in complying with the reporting requirements of this section;

- (2) Maintain a filing and indexing system consistent with the purposes of this section;
- (3) Make the reports and statements filed with the city clerk's office available to the public for inspection and copying no later than the end of the next business day after the date of filing. The city clerk may charge a reasonable fee for providing copies of reports in compliance with city policy. No information copied from such reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose;
- (4) ~~Assist the election commission in conducting~~ **Assist the election commission in conducting** hearings, as provided in section 54-107;
- (5) Adopt procedures consistent with the purposes of this article;
- (6) Keep a copy of any report or statement required to be filed by this article in accordance with the municipal records retention schedule.

Section 10. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 4. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 5. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

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

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2020.

MIKE COFFMAN, Mayor

ATTEST:

SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

DAVID LATHERS, Senior Assistant City Attorney

**THIS PAGE
INTENTIONALLY
LEFT BLANK**



Management and Finance Policy Committee Agenda Item Commentary

Item Title: Proposed Background Check Ordinance
Item Initiator: Council Member Bergan
Staff Source: Terri Velasquez, Finance Director
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.)*

Council Member Bergan has proposed a background check ordinance for all Council Members.

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

Council Member Bergan states that the intent of this proposed ordinance is to ensure transparency to the voters in Aurora. Our voters should have confidence in knowing the candidate's background, specifically whether or not they have had criminal charges. This will help ensure that a candidate is eligible to be seated prior to being placed on the ballot. The candidate must provide the criminal background history, therefore there is no cost to taxpayers. Thank you for your consideration.

QUESTIONS FOR Committee

Does the Committee support moving the proposed ordinance to Study Session?

EXHIBITS ATTACHED:

Criminal History Verification Ordinance.pdf

ORDINANCE NO. 2020- ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA,
COLORADO, ADOPTING SECTION 54-9 OF THE CITY CODE PERTAINING TO
VERIFICATION OF ELIGIBILITY FOR SEATING

WHEREAS, Article 3-5 of the City Charter and Section 54-31 of the City Code set forth the eligibility requirements for serving in elected municipal office; and

WHEREAS, confirmation of such eligibility is central to transparency in governance:

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

Section 1. The City Code of the City of Aurora, Colorado, is hereby amended by adding a section, to be numbered 54-9 which section reads as follows:

Sec. 54-9 – Confirmation of eligibility to be seated

In all regular municipal election years, 10 days prior to the seating of Council Members at the first meeting in December of that year, all Council Members, whether serving terms to which they had been previously elected or newly elected at the regular election, shall submit to the City Clerk for examination and immediate return to the possession of the Council Member a copy of their own criminal history report obtained in the proceeding 30 days from the Colorado Bureau of Investigation so that the City Clerk may confirm their eligibility to serve in municipal office under Section 54-31 of the City Code. The City Clerk shall review the report, shall create and keep a separate report noting only whether eligibility is confirmed or not under the provisions of Section 54-31 of the City Code, and shall immediately return the submitted criminal history to the possession of the Council Member who submitted the Colorado Bureau of Investigation report. If the report documents ineligibility to hold municipal office the City Clerk shall forward for appropriate action a report of that finding to the City Manager prior to the seating of Council Members. Failure of a Council Member to submit a valid criminal history in a timely fashion shall subject the Council Member to discipline by City Council under their Rules of Order and Procedure.

Section 2. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

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

Section 4. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

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

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2020.

MIKE COFFMAN, Mayor

ATTEST:

SUSAN BARKMAN, Interim City Clerk

APPROVED AS TO FORM:

DAVID LATHERS, Senior Assistant City Attorney

**THIS PAGE
INTENTIONALLY
LEFT BLANK**



Management and Finance Policy Committee Agenda Item Commentary

Item Title: IT CARES Spending
Item Initiator: Scott Newman
Staff Source: Scott Newman, CIO
Deputy City Manager Signature: Roberto Venegas
Outside Speaker:
Council Goal: 2012: 6.1--Ensure the delivery of high quality services to residents in an efficient and cost effective manner

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.)*

Many city services are dependent on technology and with COVID-19 many services have been conducted remotely placing further reliance upon IT. CARES funding has provided an opportunity to enhance technology solutions to achieve continuity of services and connectivity improvements.

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

An overview of the technology solutions and items purchased with CARES funding will be reviewed with the Management and Finance Policy Committee.

QUESTIONS FOR Committee

EXHIBITS ATTACHED:

IT CARES Spend.pdf

Item Name	CARES FUNDED		Why?	Timeline	Compliance
	One Time \$	On Going \$			
Security					
Identity Access Management Assessment	\$60,000	\$0	Consulting Services to Identify Consolidated Identity and Access Approach	11/15/2020	BKD
Identity Access Management / Multi-Factor Authentication*	\$220,000	\$220,000	Centralized Administration of User Access to Applications and Platforms / Heightened Security to Validate User Identity	12/15/2020	BKD
Cisco Identity Services Engine	\$99,405	\$15,000	Centralized Network Device Administration / Network Access Control	12/1/2020	PCI
End Point Detection and Response	\$224,620	\$224,620	Hardened Security for Devices and Servers	Complete	
Secure File Sharing	\$7,875	\$7,875	Portal to Securely Share Data Between City Staff and External Partners / Community Members	Complete	CJIS / HIPAA / PCI / PII
Integrated Security Training & Support	\$21,630	\$21,630	New Platform for Annual Security Training / On-Demand and Targeted Training as Issues Arise	Complete	
Information Security Support	\$42,126	\$0	Support for Implementation of Security Tools	Complete	
Configuration and Patch Management*	\$120,000	\$120,000	Remote Devices Updates for Security, Stability, and Upgrades	11/30/2020	
Mobile Management Platform*	\$80,000	\$20,000	Improved Management of Portable Devices	12/15/2020	
Group Subtotal	\$875,657	\$629,125			
Remote Services & Access					
Laptop Replacements & Deployment	\$1,103,708	\$0	Resiliency - Portability and Flexibility in Light of COVID or Improved Capacity for Staff in City Buildings, Teleworking Staff, and Citizen Access through Guest WiFi	12/31/2020	COOP
Improved City Internet Capacity*	\$150,000	\$60,000		12/15/2020	
Network Switch Replacements	\$940,725	\$65,851	Network Devices Provide Connectivity to End Users, both Wired and Wirelessly. Devices will be Replaced to Improve Connectivity Inside City Buildings, for Teleworking Staff Accessing City Resources, and Citizen Access through the Guest WiFi Network	12/31/2020	
Wireless Network Replacements	\$360,000	\$25,200	Network Devices Provide Connectivity to End Users, both Wired and Wirelessly. Devices will be Replaced to Improve Connectivity Inside City Buildings, for Teleworking Staff Accessing City Resources, and Citizen Access through the Guest WiFi Network	12/31/2020	
WiFi Replacements*	\$100,000	\$7,000	Network Devices Provide Connectivity to End Users, both Wired and Wirelessly. Devices will be Replaced to Improve Connectivity Inside City Buildings, for Teleworking Staff Accessing City Resources, and Citizen Access through the Guest WiFi Network	12/31/2020	
Dedicated Public Safety Connection*	\$40,000	\$40,000	Dedicated Connection for Mobile Computers used by Public Safety - Offloads Traffic from Broader City Network	12/1/2020	
AMC Campus Fiber Upgrade	\$89,630	\$0	Improved Network Capacity Between Campus Buildings	11/30/2020	
VDI Storage / Licensing*	\$144,770	\$30,000	Expanded Virtual Desktop Environment for Telework	12/15/2020	
Load Balancers	\$5,867	\$2,500	Balances the Load of Virtual Workers Across Several Servers	Complete	
Remote Desktop Licensing	\$20,471	\$0	Additional Capacity for Teleworking Staff	Complete	
Server Memory Upgrade	\$9,988	\$0	Additional Capacity for Teleworking Staff	Complete	
Group Subtotal	\$2,965,159	\$230,551			
Improved Collaboration (Staff and Citizens)					

* Estimated Pricing

Pending CARES Approval

Phone System Upgrade / Virtual Phone Upgrade	\$188,772	\$0	Upgrade Phone System to Add Capacity for More Virtual Phones	11/30/2020	
Cisco WebEx and Collaboration Tools	\$270,047	\$223,047	Webex, Virtual Phone and Additional Remote Collaboration Tools	Complete	
Virtual Customer Assistant*	\$80,000	\$80,000	ChatBot that will Allow Citizens to Self-Serve for Information and Requests	12/31/2020	
Telstrat Call Recording	\$20,085	\$6,500	Expand the Existing Call Recording Capability of City Phones	9/30/2020	
Rec Center Firewalls	\$39,199	\$17,343	Firewalls with Increased Capacity for Student Use at Recreation Centers	12/1/2020	
Group Subtotal	\$598,103	\$326,890			
Improved Operations					
COOP Tool	\$40,450	\$35,000	Centralized Tool for Continuity of Operations Planning	12/31/2020	COOP
Fire Records Management System	\$167,441	\$122,159	Modern Records Management System for use by AFR - Integrates Directly with State Data Sources	12/31/2020	
Contract Services / Professional Services	\$400,000	\$0	Not to Exceed - Contract and Professional Services to Complete Implementations by CARES Deadline	12/31/2020	
Adobe Reader / Pro Subscription	TBD	TBD	Standardize Adobe Editions Used by Staff for Electronic Signatures	11/1/2020	
Group Subtotal	\$607,891	\$157,159			
Total Funding	\$5,046,810	\$1,343,725			

Item Name	CARES FUNDED		Why?	Timeline	Compliance
	One Time \$	On Going \$			
Identity Access Management Assessment	\$60,000	\$0	Consulting Services to Identify Consolidated Identity and Access Approach	11/15/2020	BKD
Identity Access Management / Multi-Factor Authentication*	\$220,000	\$220,000	Centralized Administration of User Access to Applications and Platforms / Heightened Security to Validate User Identity	12/15/2020	BKD
Group Subtotal	\$280,000	\$220,000			
Secure File Sharing	\$7,875	\$7,875	Portal to Securely Share Data Between City Staff and External Partners / Community Members	Complete	CJIS / HIPAA / PCI / PII
Group Subtotal	\$7,875	\$7,875			
Laptop Replacements & Deployment	\$1,103,708	\$0	Resiliency - Portability and Flexibility in Light of COVID or	12/31/2020	COOP
COOP Tool	\$40,450	\$35,000	Centralized Tool for Continuity of Operations Planning	12/31/2020	COOP
Group Subtotal	\$1,144,158	\$35,000			
Cisco Identity Services Engine	\$99,405	\$15,000	Centralized Network Device Administration / Network Access	12/1/2020	PCI
Group Subtotal	\$99,405	\$15,000			
End Point Detection and Response	\$224,620	\$224,620	Hardened Security for Devices and Servers	Complete	
Integrated Security Training & Support	\$21,630	\$21,630	New Platform for Annual Security Training / On-Demand and Targeted Training as Issues Arise	Complete	
Information Security Support	\$42,126	\$0	Support for Implementation of Security Tools	Complete	
Configuration and Patch Management*	\$120,000	\$120,000	Remote Devices Updates for Security, Stability, and Upgrades	11/30/2020	
Mobile Management Platform*	\$80,000	\$20,000	Improved Management of Portable Devices	12/15/2020	
Improved City Internet Capacity*	\$150,000	\$60,000	Improved Capacity for Staff in City Buildings, Teleworking Staff, and Citizen Access through Guest WiFi	12/15/2020	
Network Switch Replacements	\$940,725	\$65,851	Network Devices Provide Connectivity to End Users, both Wired and Wirelessly. Devices will be Replaced to Improve Connectivity Inside City Buildings, for Teleworking Staff Accessing City Resources, and Citizen Access through the Guest WiFi Network	12/31/2020	
Wireless Network Replacements	\$360,000	\$25,200	Network Devices Provide Connectivity to End Users, both Wired and Wirelessly. Devices will be Replaced to Improve Connectivity Inside City Buildings, for Teleworking Staff Accessing City Resources, and Citizen Access through the Guest WiFi Network	12/31/2020	
WiFi Replacements*	\$100,000	\$7,000	Network Devices Provide Connectivity to End Users, both Wired and Wirelessly. Devices will be Replaced to Improve Connectivity Inside City Buildings, for Teleworking Staff Accessing City Resources, and Citizen Access through the Guest WiFi Network	12/31/2020	
Dedicated Public Safety Connection*	\$40,000	\$40,000	Dedicated Connection for Mobile Computers used by Public Safety - Offloads Traffic from Broader City Network	12/1/2020	
AMC Campus Fiber Upgrade	\$89,630	\$0	Improved Network Capacity Between Campus Buildings	11/30/2020	
VDI Storage / Licensing*	\$144,770	\$30,000	Expanded Virtual Desktop Environment for Telework	12/15/2020	
Load Balancers	\$5,867	\$2,500	Balances the Load of Virtual Workers Across Several Servers	Complete	

* Estimated Pricing
Pending CARES Approval

Remote Desktop Licensing	\$20,471	\$0	Additional Capacity for Teleworking Staff	Complete	
Server Memory Upgrade	\$9,988	\$0	Additional Capacity for Teleworking Staff	Complete	
Phone System Upgrade / Virtual Phone Upgrade	\$188,772	\$0	Upgrade Phone System to Add Capacity for More Virtual Phones	11/30/2020	
Cisco WebEx and Collaboration Tools	\$270,047	\$223,047	Webex, Virtual Phone and Additional Remote Collaboration Tools	Complete	
Virtual Customer Assistant*	\$80,000	\$80,000	ChatBot that will Allow Citizens to Self-Serve for Information and Requests	12/31/2020	
Telstrat Call Recording	\$20,085	\$6,500	Expand the Existing Call Recording Capability of City Phones	9/30/2020	
Rec Center Firewalls	\$39,199	\$17,343	Firewalls with Increased Capacity for Student Use at Recreation Centers	12/1/2020	
Fire Records Management System	\$167,441	\$122,159	Modern Records Management System for use by AFR - Integrates Directly with State Data Sources	12/31/2020	
Contract Services / Professional Services	\$400,000	\$0	Not to Exceed - Contract and Professional Services to Complete Implementations by CARES Deadline	12/31/2020	
Adobe Reader / Pro Subscription	TBD	TBD	Standardize Adobe Editions Used by Staff for Electronic Signatures	11/1/2020	
Group Subtotal	\$3,515,372	\$1,065,850			
Total Funding	\$5,046,810	\$1,343,725			

**THIS PAGE
INTENTIONALLY
LEFT BLANK**



Management and Finance Policy Committee Agenda Item Commentary

Item Title: Consideration to Renew External Auditor Contract
Item Initiator: Nancy Wishmeyer
Staff Source: Nancy Wishmeyer, Controller
Deputy City Manager Signature: Roberto Venegas
Outside Speaker: n/a
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.)*

The city, through a competitive process, entered into an agreement with BKD, LLP in 2006 to perform annual financial statement audits for a period of five years: 2006 through 2010. The original contract was approved by City Council on September 19, 2006. In 2010, and again in 2015, the contract was renewed for three years with an option for an additional two years. With each contract renewal, BKD also agreed to a change in audit partner. Additionally, in 2015, a price comparison of area audit firms found the BKD contract to be competitively priced.

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

The city will need a new contract in place for the 2021 yearend audit (which will begin late fall 2021). BKD has provided the attached proposal for audit services for the next five years. In order to provide a new perspective to the audit, but still have staff continuity, BKD proposes a change in the concurring partner, the audit partner, and the audit manager. The proposal includes competitive and consistent pricing: the 2021 price remains the same as the 2020 price and 2% price increases for years 2022 – 2025.

There are a limited number of top tier firms performing governmental audits in the Denver metro area. BKD is one of the most prominent firms in the area, and in the nation, specializing in audits of governmental entities. Expertise in this specialized field is essential for a thorough and well executed governmental audit.

QUESTIONS FOR Committee

Does the Committee recommend BKD, LLP for external audit services for the next 3 years, 2021 - 2023, with an option to extend for 2 more years through 2025?

EXHIBITS ATTACHED:

BKD Proposal for City of Aurora Extension.pdf

August 25, 2020

Ms. Terri Velasquez
Finance Director
City of Aurora, Colorado
15151 East Alameda Parkway
Aurora, Colorado 80012

Dear Ms. Velasquez:

With a focus on providing exceptional public service that includes maintaining appealing parks and providing engaging community activities, the City of Aurora, Colorado (the City) is clearly committed to the people who live, work and raise families in your city. You recognize the City's residents rely on civic leaders to practice wise fiscal stewardship and transparency. However, operating in a dynamic environment characterized by everchanging regulations and a watchful public eye can be challenging. Therefore, you need the guidance and expertise of a trusted CPA and advisory firm to help you effectively navigate the complex issues you face. With our strong working relationship with the City, depth of resources experienced in assisting municipalities and commitment to providing **The BKD Experience: Unmatched Client Service**, we believe **BKD, LLP** is still the right choice.

As you may know, BKD National Public Sector Group works with approximately 500 governmental clients nationwide, including approximately 120 municipalities. In addition, according to data compiled by OMB via the Federal Audit Clearinghouse, BKD is the fourth-largest provider of Single Audits among CPA firms, performing approximately 495 annually. In Colorado we work with six of the ten largest cities in Colorado. This extensive industry experience, as well as our involvement with national and state associations, such as the American Institute of CPAs Governmental Audit Quality Center, Government Finance Officers Association, National League of Cities and Association of Government Accountants, allows us to not only understand the specific issues the public sector faces, but also enables us to work collaboratively with your management throughout the year and during the audit process to provide advice on complex accounting and compliance issues.

The City is an important client, and we place great value on extending our working relationship while maintaining our independence. We believe we have responded to your request with a proposal that will allow our experienced professionals to continue providing timely, efficient and objective services. Please let us know if you have any questions regarding this proposal. You may reach us at the phone numbers or by email as provided below.

Sincerely,



Jeff Ronsse, CPA
Managing Partner
303.837.2267
jronsse@bkd.com



Marcella D. Ardan, CPA
Managing Director
303.837.2280
mardan@bkd.com

Because you have knowledge of our firm, we have limited our discussion in this proposal to our proposed fee amounts for the years indicated above and our planned team rotation. We would be pleased to provide any additional details about our firm you might desire.

Your Investment

BKD knows our clients do not like fee surprises. Neither do we. Our goal is to be candid and timely, and we want to answer your questions about fees upfront. We determine our fees by evaluating a number of variables: the complexity of the work, the project’s scope, the time we will spend and the level of professional staff needed. As requested, we have provided below a fee quote for a three-year period (2021-2023 audits) with an additional two-year option (2024 and 2025).

Proposed Fees

City of Aurora, Colorado					
For the Years Ending December 31	2021	2022	2023	2024	2025
Financial Statement Audit in Accordance with <i>Government Auditing Standards</i> & the Uniform Guidance & SCFD Audit	\$188,065	\$191,825	\$195,660	\$199,575	\$203,565
457 Agreed-Upon Procedures	\$ 10,965	\$ 11,185	\$ 11,410	\$ 11,640	\$ 11,870
Post-Employment Health Plan (PEHP) Agreed-Upon Procedures	\$ 4,200	\$ 4,285	\$ 4,370	\$ 4,460	\$ 4,550
7/20 Memorial Fund Agreed-Upon Procedures	\$ 595	\$ 605	\$ 615	\$ 625	\$ 635
Total	\$203,825	\$207,900	\$212,055	\$216,300	\$220,620

The fees above include four major single audit programs with a per program fee of \$10,000. If additional major programs are required to be audited, we will charge an additional \$10,000 per program. The fees above also include the audits and agreed-upon procedures for the City to retain its SCFD funding (\$12,500).

Our fees may increase if our duties or responsibilities change because of new rules, regulations and accounting or auditing standards. We will consult with you should this happen.

Your BKD Engagement Team

The most critical factor in providing you with high-quality service is choosing your engagement team. We take team selection seriously and have the appropriate team of advisors to meet your needs. Due to the size of our practice, locally and on a firm-wide basis, we have several individuals available as needed to provide additional oversight and consultation to address various issues that may arise during the service period.

In addition, critical to our process is a review of the team’s work by our engagement executive, as well as a quality review by another executive (*i.e.*, concurring reviewer) who is independent from the detailed work. The quality review is designed to improve our deliverable by providing a fresh perspective and reinforcing quality.

Engagement Team Member Rotations To Receive A Fresh Look

Auditor independence and objectivity are critical elements to a successful audit. Rotating individual auditors can be beneficial in providing a fresh look at your financial statements without the frustration that can result from transitioning to a new audit firm. BKD appreciates the value of a new perspective and, because of our depth of resources, we are proposing a rotation at the engagement executive, concurring reviewer and audit manager level.

To provide the City with a fresh look, Managing Director Marcie Ardan will replace Chris Telli in the role of lead engagement executive. An engagement executive is responsible for overseeing the engagement and issuing the reports. (Please note at BKD a managing director is equivalent to and has the same level of authority as a partner). We will add Senior Manager Karmyn Jeffries to the engagement in the role of engagement manager. In addition, Partner Kevin Kemp from our Dallas Texas office will transition into the role of concurring reviewer. In-charge Joe Maroney will retain his current role as a member of your engagement team. That way, you can receive a fresh perspective while still maintaining your working relationship with advisors who are familiar with your operations and understand the challenges you face. We believe audit quality is maintained in long-term working relationships, and you can be confident independence will not be compromised.

Engagement Team Experience



Marcella D. Ardan, CPA
Managing Director
Engagement Role: Engagement Executive

Marcie has more than 15 years of governmental accounting and auditing experience and is a member of BKD National Public Sector Group. Marcie provides audit services to governmental agencies including cities and counties, library and school districts, colleges and universities, education foundations, utilities, state agencies, government investment pools and other tax-exempt organizations.

She is responsible for staff supervision, coordination with client personnel and timely completion of all audit phases. She also has significant experience with Single Audits of federal grant awards. In addition to overall audit and attest services, she provides other advisory services regarding Single Audit procedures for federal grant compliance including development of a grant manager training program. She has assisted clients with the implementation of new accounting pronouncements and is familiar with the requirements of the GASB and Government Finance Officers Association (GFOA) Certificate of Achievement in Financial Reporting Program.

Marcie serves on the BKD Public Sector Center of Excellence, an internal committee of leaders from across the firm who deliberate a variety of issues important to governments. In addition, Marcie has conducted presentations on new accounting standards and pronouncements, risk management, developing financial policies and procedures, and Single Audits for the American Institute of CPAs (AICPA), Colorado Government Finance Officers Association (CGFOA) and BKD's governmental seminars.

She participates in the AICPA's Enhanced Oversight Program for Single Audits. She also serves on various BKD internal inspection teams, and external peer review teams.

Marcie is a member of the AICPA, Colorado Society of CPAs, and CGFOA. She is a graduate of BKD's SKY Initiative that supports the development of women in the firm.

She is a 2004 *magna cum laude* graduate of University of Northern Colorado, Greeley, with a B.S. degree in business administration with an emphasis in accounting.



Kevin Kemp, CPA
 Partner
 Engagement Role: Concurring Reviewer

Kevin is a member of the BKD National Non-Profit, Higher Education & Public Sector Group and is the south region industry leader.

He has more than 20 years of experience providing audit and management consulting services to a client base that includes counties, municipalities and their component units, private colleges, utilities, state agencies and numerous service-related entities receiving government assistance. His team performs more than 75 Single Audits annually.

Kevin serves clients by assisting them in obtaining tax-exempt financing, analyzing expansion opportunities and improving internal controls. He has served as primary contact for numerous clients, provided review services for audits subject to OMB Circular A-133 and maintained contacts with regulatory agencies. In addition, he has staff recruitment and training responsibilities.

His professional affiliations include membership in the Government Finance Officers Association in Arkansas and Texas, American Institute of CPAs and Arkansas Society of Certified Public Accountants. He is a licensed CPA in Arkansas and Texas.

Kevin is a graduate of University of Central Arkansas, Conway, with a B.B.A. degree.



Karmyn D. Jeffries, CPA
 Senior Manager
 Engagement Role: Audit Manager

Karmyn has more than 15 years of governmental accounting and auditing experience, with most of her time spent in the public sector and not-for-profit industries. As a member of BKD National Public Sector Group and throughout her public accounting career, she has provided audit and attest services to a wide variety of governmental and not-for-profit clients, including municipalities, school districts, airports, colleges, universities and foundations.

She is responsible for overseeing and reviewing all audit phases, including planning, risk assessment and reporting. She has extensive knowledge in Single Audit compliance and helps clients navigate the complex requirements of federal guidelines under the Uniform Guidance.

Karmyn is a member of the American Institute of CPAs and Colorado Society of CPAs.

She is a *cum laude* graduate of Prairie View A&M University, Texas, with a B.A. degree in business with an emphasis in accounting.



Joe Maroney, CPA
 Senior Associate
 Engagement Role: Engagement In-charge

Joe is a member of the BKD Denver audit team. Joe specializes in serving Government, Not-For-Profit, and financial institutions. Primary clients include municipalities, state departments, a wide variety of non-profits, broker-dealers, non-banking financial lending organizations, and investment funds. Joe has experience in single audits, CAFR audits, SEC compliance, as well as employment benefit plans that are both ERISA and

non-ERISA compliant.

As an audit in-charge, Joe leads the client engagement process, including the supervision and training of the audit team, review of the audit workpapers and communication with the client, lead engagement executive and audit manager. In addition, he has conducted presentations for internal and external BKD seminars on a variety of accounting and auditing topics.

He is a member of Colorado Society of CPAs and received the Gold Key Award, and is also the recipient of the "All-American" award from Pi Kappa Delta national society. Joe graduated magna cum laude from Colorado Christian University, Lakewood, with a degree in business administration and accounting with an honors emphasis. Upon graduating, he received the Outstanding Senior Award from the School of Business and Leadership.

Our acceptance of this engagement is subject to completion of our normal client acceptance procedures. Upon acceptance, the actual terms of our engagement will be documented in a separate letter to be signed by you and us. All information contained within this proposal is proprietary and confidential. The information provided in this proposal is intended for informational purposes only and may not be copied, used or modified, in whole or in part, without BKD's prior written approval. All information in this proposal is as of May 31, 2019, unless otherwise noted.

**THIS PAGE
INTENTIONALLY
LEFT BLANK**



Management and Finance Policy Committee Agenda Item Commentary

Item Title: Colorado Sales and Use Tax Simplification System and Adoption of Economic Nexus
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 Cit

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.)*

Previously the committee was presented with information regarding simplification actions taking place prior to adoption of economic nexus. The State has activated the Sales and Use Tax Simplification System and has presented the city with an Intergovernmental Agreement for participation in that system. The Colorado Municipal League also worked with home rule cities in drafting model language for economic nexus.

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

With Colorado Senate Bill 19-006 the legislature directed the Department of Revenue to develop a sales and use tax simplification system. The system developer was selected through a request for proposal by the State. The sales and use tax simplification system (SUTS) will allow a business to file sales tax returns on a single site for all taxing jurisdictions in the state. The simplification measure will also allow the city to adopt a provision requiring vendors with economic nexus and not only physical nexus to collect sales tax. The adoption of economic nexus is much more likely to pass a court test under the ruling in Wayfair vs. South Dakota if simplification measures are in place. In July, the city adopted a marketplace facilitator ordinance but held off on adopting economic nexus until the SUTS system was operational. The State's vendor for the system, Munirevs has indicated they are ready to begin work on an integration with the city's tax software. This integration price was negotiated by the State and is \$17,500. It is believed that this cost will be more than offset by revenues from adopting economic nexus. The integration work can also start prior to signing of the IGA. An additional simplification measure as part of the SUTS system is a single address location system that is being developed by another state vendor and also includes a taxability matrix. This is an improvement over the current address location system vendors certified by the state. The

city currently has ordinance language regarding a hold harmless provision for vendors that currently rely on those systems for sourcing sales tax collection. This provision would need to be updated for the new system. While the figure is very difficult to estimate, the adoption of economic nexus may result up to one to two million dollars of additional revenue per year. Most of the internet retail space already remits sales tax to the city. Moving forward staff would recommend agreeing to the \$17,500 for the integration and starting work immediately on that project. Next a resolution would be brought forward for approval of the SUTS IGA and an ordinance for adoption of economic nexus with a hold harmless clause for the address locator and taxability matrix. Currently 29 home rule cities have approved the IGA.

QUESTIONS FOR Committee

1. Does the committee approve of sending the IGA for participation in the system for full council consideration?
2. Does the committee approve of drafting an ordinance incorporating the model economic nexus language and bringing this forward for full council consideration?
3. Does the committee approve of the \$17,500 expense offset by additional revenue for integration with the SUTS system?

EXHIBITS ATTACHED:

- 2020-5-29 CML Model Ordinance.final.docx
- 2020-SUTS-Resolution.pdf
- FINAL SUTS User Agreement CDOR_Local Jurisdiction _2_.pdf
- Tax Alert from CML.pdf

Ordinance No. _____

WHEREAS, the City of *[Insert city name here]*, Colorado, (the “City”[or the “Town”]), is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution, the right to enact, administer and enforce sales taxes is clearly within the constitutional grant of power to the City and is necessary to raise revenue with which to conduct the affairs and render the services performed by the City; and

WHEREAS, pursuant to such authority, the City has adopted and enacted a Sales Tax Code (the “Code”), under which City sales tax is levied on all sales and purchases of tangible personal property or taxable services at retail unless prohibited, as applicable to the provision of this Ordinance, under the Constitution or laws of the United States; and

WHEREAS, the United States Supreme Court in *South Dakota v. Wayfair*, 138 S.Ct. 2080 (2018), overturned prior precedent and held that a State is not prohibited by the Commerce Clause from requiring a retailer to collect sales tax based solely on the fact that such retailer does not have a physical presence in the State (“Remote Sales”); and

WHEREAS, based upon such decision, the retailer’s obligation to collect Remote Sales is no longer based on the retailer’s physical presence in the jurisdiction by the Constitution or law of the United States, and the City’s Sales and Use Tax Code needs to be amended to clearly reflect such obligation consistent with said decision; and

WHEREAS, the delivery of tangible personal property, products, or services into the City relies on and burdens local transportation systems, emergency and police services, waste disposal, utilities and other infrastructure and services; and

WHEREAS, the failure to tax remote sales creates incentives for businesses to avoid a physical presence in the State and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the State and its municipalities; and

WHEREAS, it is appropriate for Colorado municipalities to adopt uniform definitions within their sales tax codes to encompass marketplace facilitators, marketplace sellers, and multichannel

sellers that do not have a physical presence in the City, but that still have a taxable connection with the City;

WHEREAS, the goal of adopting this ordinance is to join in on the simplification efforts of all the self-collecting home rule municipalities in Colorado; and

WHEREAS, this ordinance provides a safe harbor to those who transact limited sales within the City; and

WHEREAS, absent such amendment, the continued failure of retailers to voluntarily apply and remit sales tax owed on remote sales exposes the municipality to unremitted taxes and permits an inequitable exception that prevents market participants from competing on an even playing field; and

WHEREAS, the City adopts this ordinance with the intent to address tax administration, and, in connection with, establish economic nexus for retailers or vendors without physical presence in the State and require the retailer or vendor to collect and remit sales tax for all sales made within the marketplace.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF *[Insert city name here]*, COLORADO:

Section 1: Section X of the Code is hereby amended as follows:

“Engaged in Business in the City” means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property, products, or services for storage, use or consumption, within the City. Engaged in Business in the City includes, but is not limited to, any one of the following activities by a person: (1) Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction; (2) Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons; (3) Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction; (4) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; ~~or~~ (5) retailer or vendor in the state of Colorado that makes more than one delivery into the taxing jurisdiction within a twelve month period; or (6) Makes retail sales sufficient to meet the definitional requirements of economic nexus as set forth in *[Drafters Note: Insert section of your Code]*.

[Drafter’s Note: Your municipality may have separate sales and use tax articles, with this definition only found in the use tax article. The U.S. Supreme Court has only considered economic nexus as applied to sales tax. It is suggested that you contact your municipal attorney to see how you can change your sales tax code to include something similar to the above.]

Section 2: Section X of the Code is hereby amended as follows:

[Drafter’s Note: put where in your code these are being added—into the definitions in your tax code]

“Retailer or Vendor” means any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. The terms “retailer” shall include, but is not limited to, any:

- (1) Auctioneer;
- (2) Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;
- (3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes;
- (4) Retailer-contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property;
- (5) Marketplace facilitator, marketplace seller, or multichannel seller.

[Drafter’s Note: if you have a separate section for the taxation of lodging, we also recommend referencing marketplace facilitator, marketplace seller, and multichannel seller engaged in business in the city to capture companies such as Airbnb and VRBO, if you do not already have an agreement with those companies. We added back in “or Vendor” here to address and municipalities who have the term vendor elsewhere in their taxing codes.]

Section 3: Section X of the Code is hereby amended to include the following new definitions:

[Drafter’s Note: put where in your code these are being added—into the definitions in your tax code]

“Economic Nexus” means the connection between the City and a person not having a physical nexus in the State of Colorado, which connection is established when the person or marketplace facilitator makes retail sales into the City, and:

(A) In the previous calendar year, the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-102(3)(c); or

(B) In the current calendar year, 90 days has passed following the month in which the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-102(3)(c).

This definition does not apply to any person who is doing business in this state but otherwise applies to any other person.

[Drafter’s Note: The above definitions are dependent on sales into the state. This is because we suggest adopting and enforcing this language if you are using the state portal system. Otherwise, we suggest continuing with voluntary collection. Please speak with your municipal attorney to weigh the pros and cons of adopting the above.]

“Marketplace” means a physical or electronic forum, including, but not limited to, a store, a booth, an internet website, a catalog, or a dedicated sales software application, where tangible personal property, taxable products, or taxable services are offered for sale.

“Marketplace Facilitator”

(A) Means a person who:

(1) Contracts with a marketplace seller or multichannel seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees from the transaction, the sale of the marketplace seller’s tangible personal property, products, or services through the person’s marketplace;

(2) Engages directly or indirectly, through one or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between a purchaser and the marketplace seller or multichannel seller; and

(3) Either directly or indirectly, through agreements or arrangements with third parties, collects payment from the purchaser on behalf of the seller.

(B) “Marketplace Facilitator” does not include a person that exclusively provides internet advertising services or lists products for sale, and that does not otherwise meet this definition.

“Marketplace Seller” means a person, regardless of whether or not the person is engaged in business in the city, which has an agreement with a marketplace facilitator and offers for sale tangible personal property, products, or services through a marketplace owned, operated, or controlled by a marketplace facilitator.

“Multichannel Seller” means a retailer that offers for sale tangible personal property, commodities, or services through a marketplace owned, operated, or controlled by a marketplace facilitator, and through other means.

Section 4: Section X of the Code is hereby amended by the addition of the following new subsection x:

“Marketplace Sales”

(A)

(1) A marketplace facilitator engaged in business in the city is required to collect and remit sales tax on all taxable sales made by the marketplace facilitator, or facilitated by it for marketplace sellers or multichannel sellers to customers in the city, whether or not the marketplace seller for whom sales are facilitated would have been required to collect sales tax had the sale not been facilitated by the marketplace facilitator.

(2) A marketplace facilitator shall assume all the duties, responsibilities, and liabilities of a vendor under [*Drafter’s Note: insert reference(s) to retailer or vendor definition*]. Marketplace facilitators shall be liable for the taxes collected from marketplace sellers or multichannel sellers. The City may recover any unpaid taxes, penalties, and interest from the marketplace facilitator that is responsible for collecting on behalf of marketplace sellers or multichannel sellers.

(3) The liabilities, obligations, and rights set forth under this article are in addition to any duties and responsibilities of the marketplace facilitator has under this article if it also offers for sale tangible personal property, products, or services through other means.

(4) A marketplace seller, with respect to sales of tangible personal property, products, or services made in or through a marketplace facilitator's marketplace, does not have the liabilities, obligations, or rights of a retailer under this article if the marketplace seller can show that such sale was facilitated by a marketplace facilitator:

- a. With whom the marketplace seller has a contract that explicitly provides that the marketplace facilitator will collect and remit sales tax on all sales subject to tax under this article; or
- b. From whom the marketplace seller requested and received in good faith a certification that the marketplace facilitator is registered to collect sales tax and will collect sales tax on all sales subject to tax under this article made in or through the marketplace facilitator's marketplace.

(5) A marketplace seller makes that is not facilitated by a licensed marketplace facilitator in a marketplace, the marketplace seller is subject to all of the same licensing, collection, remittance, filing and recordkeeping requirements as any other retailer.

(B) Auditing. With respect to any sale, the city shall solely audit the marketplace facilitator for sales made by marketplace sellers or multichannel sellers but facilitated by the marketplace. The city will not audit or otherwise assess tax against marketplace sellers or multichannel sellers for sales facilitated by a marketplace facilitator.

Section 5: No obligation to collect the sales and use tax required by this article may be applied retroactively. Responsibilities, duties and liabilities described in Section 4(A) of a marketplace facilitator, marketplace seller, or multichannel seller begin upon licensure or when the municipal sales taxes were first collected from taxable sales made to retail customers prior to licensure.

Section 6: If any provision of this ordinance, or the application of such provision to any person or circumstance, is held to be unconstitutional, then the remainder of this ordinance, and the application of the provisions of such to any person or circumstance, shall not be affected thereby.

Section 7: This ordinance shall become effective on the first day of the month that is at least thirty (30) days after date of its adoption.

RESOLUTION NO. R2020-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF AURORA, COLORADO, AND THE STATE OF COLORADO DEPARTMENT OF REVENUE, FOR THE USE FO THE STATE’S SALES AND USE TAX SIMPLIFICATION SOFTWARE SYSTEM

WHEREAS, Article XIV, Section 18 of the Colorado Constitution and Section 29-1-203, C.R.S., allow the state and its political subdivisions to contract with one another to provide any function, service, or facility lawfully authorized to each of the contracting units; and

WHEREAS, Colorado Senate Bill 19-006 the Department of Revenue (the “DOR”) was directed to develop a sales and use tax simplification system to facilitate the central collection of sales and use taxes, and after the “Sales and Use Tax Simplification System” (“SUTS”) is implemented, it will allow businesses to file sales tax return on a single site increasing the likelihood of remittance of taxes; and

WHEREAS, participation in this system would benefit the City of Aurora (the “City”) by increasing substantially the amount of taxes that can be collected to fund critical governmental functions; and

WHEREAS, the DOR and the City wish to enter into an Intergovernmental Agreement (the “Agreement”), for participation on the SUTS system to assist the City in collecting sales and use taxes through the SUTS system; and

WHEREAS, the City Council of the City finds and determines that such agreement is in the best interests of the City and its citizens; and

WHEREAS, Section 10-12 of the City Charter requires that the City Council adopt a resolution in order to authorize the execution and delivery of an intergovernmental agreement.

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

Section 1. The Intergovernmental Agreement attached to this resolution between the City of Aurora, Colorado, and the State of Colorado, for participation on the Sales and Use Tax Simplification Software System is hereby approved.

Section 2. The Mayor and City Clerk are hereby authorized to execute and deliver said Intergovernmental Agreement in substantially the form presented at this meeting, with such technical additions, deletions, and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

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

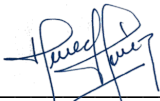
RESOLVED AND PASSED this _____ day of _____, 2020.

MIKE COFFMAN, Mayor

ATTEST:

SUSAN BARKMAN,
Interim City Clerk

APPROVED AS TO FORM:



HANOSKY HERNANDEZ,
Assistant City Attorney

AGREEMENT REGARDING DEPARTMENT OF REVENUE SALES AND USE TAX SOFTWARE (“SUTS SYSTEM”)

This agreement regarding the SUTS System (“**Agreement**”) is entered between the Colorado Department of Revenue (“**CDOR**”) and the undersigned home rule local taxing jurisdiction (“**Jurisdiction,**” collectively, “**the Parties**”) for the purposes of permitting access to the SUTS System and its related tax information look up tool as described in this Agreement. The SUTS System permits the acceptance of returns and processing of payments for the sales and use tax levied by the state and any local taxing jurisdictions in accord with the objectives of SB19-006. To further those objectives here, the Parties agree to the following:

AGREEMENT

CDOR grants Jurisdiction access to the SUTS System for Jurisdiction’s use in the collection and payment of Sales and Use tax under the terms set forth in this Agreement.

A. Purpose of Agreement

Pursuant to Senate Bill 19-006, CDOR has contracted with vendors, including at this time, MUNIREvs, Inc. and Transaction Tax Resources, Inc., Fast Enterprises, LLC, and others, which may change from time to time (collectively, “Vendors”) to provide a sales and use tax simplification system that allows taxpayers to look up and remit sales and use taxes through a single portal managed by Vendors and held in trust for the benefit of the Jurisdiction.

B. Definitions

- 1) “Confidential Information” means any information derived from the SUTS System, including but not limited to taxpayer information, return information, and “personally identifiable information,” as defined in section 24-73-101(4) (b), C.R.S.
- 2) A "Security Incident," has the meaning set forth in section 24-37.5-402(10), C.R.S., which is “an accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of communication and information resources. Security incidents include but are not limited to: a) detection of a virus, worm, malware, etc; b) unauthorized use of an information resource; c) unauthorized modification of an information resource; d) theft or diversion of an information resource; e) theft or diversion of property using an information resource, and f) vandalism or other damage to an information resource.”

- 3) “Taxpayer” means any individual or business required to remit sales or use taxes to a taxing jurisdiction.
- 4) “Sales and Use Tax” means sales and use tax collected by Taxpayers and remitted to a jurisdiction by Taxpayers. Sales and Use Tax does not include excise taxes or other taxes or fees that a jurisdiction requires taxpayers to pay.

C. Confidentiality.

- 1) CDOR agrees to continually maintain a secure place in which Confidential Information will be stored, regardless of whether Confidential Information is in physical or electronic form and will restrict access to Confidential Information to persons whose duties and responsibilities require such access. All third-party contractors who need such access for purposes consistent with this Agreement shall sign confidentiality agreements with CDOR or Jurisdiction no less restrictive than the confidentiality terms of this Agreement.
- 2) Except as may be ordered by a court of competent jurisdiction, no Confidential Information obtained pursuant to this Agreement shall be disclosed by CDOR or Jurisdiction to any person or entity not authorized to receive such information by the laws of the Jurisdiction or the State of Colorado.
- 3) If CDOR or Jurisdiction is served with a request for Confidential Information, CDOR or Jurisdiction shall use reasonable efforts to provide notice to the other Party within such time that CDOR or Jurisdiction may intervene and seek a protective order or other relief if it so chooses.
- 4) The information obtained pursuant to this Agreement shall be used only for the purpose of administration and enforcement of the sales and/or use tax laws of the Jurisdiction or the State of Colorado.
- 5) Nothing in this agreement shall prevent a Jurisdiction from contacting their Taxpayers for auditing or other purposes.
- 6) If either party becomes aware of any Security Incident, they shall notify the other immediately and cooperate with one another regarding recovery, remediation, and the necessity to involve law enforcement.

D. Payments of Taxes to Jurisdiction.

- 1) All funds deposited by a Taxpayer shall be and shall remain the property of Jurisdiction held in trust until transferred to Jurisdiction. Deposited remittances

shall be transferred to Jurisdiction as soon as the funds have settled with the SUTS bank following NACHA guidelines.

2) If any Taxpayer payment is returned via an ACH or credit card charge-back against the account past the settlement process above, that Jurisdiction will pay applicable amounts back to the SUTS System within five banking days of notification of return.

E. Data and Reports.

1) Jurisdiction will have access to all information from tax forms processed in the SUTS System that involve transactions within the Jurisdiction via CSV file downloads, PDF files or some other manner that is mutually acceptable.

2) The following reports will be available to Jurisdiction with the SUTS System:

- a) Assessment Report: This report shows all assessments, by business and includes several filters.
- b) Form Data Report: The form data report provides the ability to see all data for a taxpayer's form (e.g., gross sales through all deductions).
- c) Business Comparison Reports by Month: Allows review of trends over time for particular businesses, or an audience of businesses.
- d) Business Contact Report.
- e) Missing Account Number Report for validating Jurisdiction's Local Account Number for each registered account in the SUTS System.

F. Support.

CDOR will provide Taxpayer user support during regular, published State business hours. Support to Jurisdiction's administrative users for system questions is provided by Vendor specialists who will be available by email and phone Monday through Friday from 8:00 am to 5:00 pm Mountain Time, excluding Federal and State Holidays.

G. Retention of Data.

The SUTS System will retain, for a minimum of three years, all data, records, returns, and information: a) submitted by Taxpayers to the SUTS System, b) derived from Taxpayer submissions, and c) transferred to Jurisdiction.

H. System Failure.

If the SUTS System becomes disabled, CDOR will use good faith and reasonable

efforts to recover the system and all Jurisdiction data not already in the possession of Jurisdiction This recovery of the SUTS System and data will be conducted at no additional cost to Jurisdiction.

I. Reservation of Rights.

The software, workflow processes, user interface, designs, know-how and other services and technologies which are the sole property provided by Vendors as part of the SUTS System and CDOR's agreements with Vendors will remain with Vendors and Jurisdiction will not have any right, title or interest in or to such items, including all associated intellectual property rights.

J. Restrictions on Use of The SUTS System.

1) Jurisdiction *may not* a) sell, resell, rent or lease the SUTS System, b) use the SUTS System to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party rights, c) interfere with or disrupt the integrity or performance of the SUTS System, or d) attempt to gain unauthorized access to the SUTS System or its related systems or networks.

2) Jurisdiction may allow its third-party contractors to use the SUTS System solely on behalf of and for the benefit of Jurisdiction and only in compliance with the terms and conditions of this Agreement. Jurisdiction is responsible for compliance with the terms of this Agreement by its contractors.

K. Initial Setup.

Jurisdiction shall furnish the following items in order to use the SUTS System:

1) Jurisdiction Depository Information: Jurisdiction will provide bank deposit information (routing & account number) to CDOR's appropriate Vendors within 5 days of signing this Agreement. This information will be utilized for the deposits of taxes, penalties, and interest from the SUTS System. It is the responsibility of Jurisdiction to provide updated depository information should this account need to be changed at any point in time.

2) Initial Account Number Validation: Jurisdiction will upload their local account numbers for their Taxpayers to the SUTS System using the SUTS standard upload format (e.g. Excel, CSV) as soon as is reasonable after signing this Agreement. CDOR will use this information to validate account numbers for businesses registering on the SUTS System with actual account numbers for each jurisdiction for accurate account information on SUTS System tax returns.

3) The local account numbers will include the Taxpayer's account number, business name, dba, FEIN#, address and any other contact information or the SUTS System to validate and match the registered account to Jurisdiction's account number.

4) The SUTS System will not activate for Jurisdiction for tax receipts until the Existing Account Number Data File has been provided to CDOR, imported to the SUTS System and validated by Vendor.

5) It is the responsibility of Jurisdiction to update the account numbers that need to be added or edited in the SUTS System in order to display the local account number on future tax returns generated from the SUTS System.

L. Use Tax Purchase Details.

Taxpayers filing tax returns through the SUTS System are not required to include use tax purchase details. Purchase details are typically required on Schedule B to tax returns required by local jurisdictions. However, nothing in this Agreement prevents Jurisdiction from requesting these use tax details directly from the Taxpayer.

M. Business Licenses.

The SUTS System will not require any Taxpayer to obtain separate Jurisdiction business licenses or any other license. Jurisdiction may, at Jurisdiction's discretion, use the information provided by the Taxpayer in the SUTS System to reach out separately and independently to their Jurisdiction's Taxpayers for licenses or any other requirements from the Jurisdiction that is not included in the SUTS System.

N. Frequency of Tax Filings.

Taxpayers may file tax returns via the SUTS System at the frequency which is required of Taxpayer for State taxes under CDOR regulations; however, Jurisdiction may request from CDOR that the Taxpayer may be moved to a more frequent filing, which will not be unreasonably denied.

O. Jurisdiction New Account Review.

When a Taxpayer submits a new registration with the SUTS System and does not have a Colorado Account Number, the SUTS System will require that the Taxpayer submit an online Sales Tax License Application and pay the State of Colorado license fee. The application and fee shall be sent to the CDOR for license issuance and account number creation for the Colorado Account Number. It is the

responsibility of the Jurisdiction to use the SUTS reports to include any new businesses in their external system of record and to update their local account number in the SUTS System using the procedures set forth above.

P. Jurisdiction Rate Validation.

- 1) Jurisdiction will provide written confirmation to Vendors of its sales and use tax rates, rules, and boundaries. Jurisdiction will use due care and make best efforts to provide accurate rates, rules, and boundaries.
- 2) Jurisdiction agrees to specify to Vendors authorized Jurisdiction users who are allowed to propose changes within the SUTS System administrative tools.
- 3) Jurisdiction will use best efforts to email Vendors or use the SUTS System administrative tools to notify Vendors of any tax rates, rules, boundaries, or other needed data changes 30 days before they are effective for them to be updated in the system. All notifications must include details on the changes and the period for which changes are effective.

Q. Tax Data Integration.

This Agreement does not provide a direct interface or integration to Jurisdiction's system of record for sales and use tax. If a direct interface or custom format is desired by Jurisdiction to better integrate to Jurisdiction's system of record, Jurisdiction may contact Vendor to discuss custom options, which may entail programming fees to be paid directly to the Vendor by the Jurisdiction.

R. Licensed Documentation.

All SUTS System user guides, sample data, marketing, training and other items provided through the SUTS System or by Vendors ("Licensed Documentation") may be used and copied by Jurisdiction via a non-exclusive license for the duration of the Agreement for Jurisdiction's use solely with the SUTS System according to the terms of this Agreement.

S. Payment and Merchant Fees.

Taxpayer pays credit, debit or any other merchant processor or bank fee associated with Taxpayer's remittance payment, and the Jurisdiction agrees to pay the ACH Credit or Debit *transfer* fees from the SUTS System to Jurisdiction's bank account, which is currently one dollar (\$1) per banking day, or approximately twenty dollars (\$20) per month for a Jurisdiction that gets a payment every banking day. The Jurisdiction will Pre-pay an amount of two hundred and sixty dollars (\$260) during

the SUTS onboarding process as a credit towards the transfer fees. Jurisdiction will replenish any funds used, paying in advance of each CDOR fiscal year on or before July 1 after receiving a notice of account and balance due by June 1.

T. Additional Terms.

- 1) **Governing Law.** This Agreement is governed by Colorado law without regard to conflicts of law principles.
- 2) **Survival of Terms.** Any terms that by their nature survive termination or expiration of this Agreement, will survive.
- 3) **Entire Agreement and Changes.** This Agreement constitutes the entire agreement between the Parties, and supersedes all prior or contemporaneous negotiations, agreements and representations, whether oral or written, related to this subject matter. No modification or waiver of any term of this Agreement is effective unless in a written instrument signed by both Parties.
- 4) **No Assignment.** Neither Party may assign or transfer this Agreement to a third party.
- 5) **Enforceability:** If any term of this Agreement is determined to be invalid or unenforceable, the other terms remain in effect.
- 6) **Notices:** All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered (a) by hand with receipt required, (b) by certified or registered mail to such Party’s principal representative at the address set forth below or (c), as an email with read receipt requested addressed as given herein. This contact information may be changed by notice submitted in accordance with this section.

For CDOR:
Name: Scott McKimmy
Title: Director, Business Information Group
Email: Scott.McKimmy@state.co.us
Address: 1707 Cole Blvd., Lakewood, CO 80401
Phone: 720-793-8117

For Jurisdiction:
Name: _____
Title: _____
Email: _____
Address: _____
Phone: _____

7) **Counterparts, Facsimiles and E-Mail.** This Agreement may be signed in any number of counterparts, which together shall constitute one and the same instrument. Original signatures of the Parties on copies of this Agreement transmitted by facsimile or electronically/scanned and e-mailed copies shall be deemed originals for purposes of this Agreement, and such copies shall be binding on all Parties.

8) **Authority to Execute Agreement.** Each person executing this Agreement on behalf of each Party represents, warrants, assures, and guarantees that s/he has full legal authority to execute this Agreement on behalf of the Jurisdiction and CDOR, respectively, and to bind Jurisdiction and CDOR, to all the terms, conditions, provisions, and obligations of this Agreement.

9) **Termination of Agreement:** CDOR or Jurisdiction may terminate this Agreement for any reason on 90 days written notice to the other Party. In the event of a breach of contract, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach of contract, at its sole expense, within 30 days after the delivery of written notice, the Party may terminate the contract. Notwithstanding any provision of this Agreement to the contrary, both Parties retain any statutory rights they may have to immediately terminate this Agreement in whole or in part in order to protect the public interest of their citizens.

10) **Limited Financial Obligation.** Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of either party not performed during the current fiscal year is subject to annual appropriation, so the obligation shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

11) **Limitation of Liability for CDOR.** CDOR, its employees, agents, including Vendors and assignees shall not be liable for any costs, expenses, claims, damages, liabilities, court fees and other amounts (including attorneys' fees and related costs) including but not limited to cost of delay, loss of data or information, failure of the SUTS system, loss of moneys remitted to SUTS, direct losses, consequential, special, indirect, incidental, punitive or exemplary loss incurred by Jurisdiction in relation to any services, including database access in connection with this Agreement.

12) **Governmental Immunity.** Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions, committees, bureaus, offices, employees and officials, or of the Jurisdiction, its departments, boards, commissions, committees, bureaus, offices, employees and officials, shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this

Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

Jurisdiction Approval	
By	Title
*Signature	Date
Municipality or County of	Date
Jurisdiction Mailing Address	Appointee Phone Number
Appointee Name	Title
Appointee Signature	Appointee Email
Name of Chief Administrative Officer or Designee	Title
Chief Administrative Officer or Designee Signature	Chief Administrative Officer or Designee Email
* <input type="checkbox"/> By checking this box and signing above, I hereby represent, warrant, assure, and guarantee that I have full legal authority to execute this Agreement on behalf of the Jurisdiction and to bind Jurisdiction to all the terms, conditions, provisions, and obligations of this Agreement.	
Colorado Department of Revenue Approval	
By	Title
Signature	Date

August 2020

To Whom It May Concern:

We are writing to share a major step forward in collaborative efforts to simplify the manner in which businesses collect and remit sales taxes to Colorado municipalities while ensuring the home rule municipalities continue to retain local control of taxation matters of purely local concern.

The Colorado Municipal League (CML) has engaged in significant efforts with the business community over the years to assist businesses by simplifying collection and remittance of local sales taxes levied by self-collecting home rule municipalities. These efforts began with creating standard definitions and promoting their adoption – but most recently, following the *South Dakota v. Wayfair, Inc.* Supreme Court decision, have focused on marketplace facilitators and economic nexus ordinances.

Taxing jurisdictions throughout the country have already moved forward with these ordinances, and the State of Colorado and all state-collected municipalities also began collecting from remote sellers last year. Now, the 71 self-collecting home rule municipalities are moving forward with adopting a model Marketplace Facilitator and Economic Nexus ordinance (model ordinance). The model ordinance was crafted by CML, municipal finance directors, municipal attorneys, and members of the business community.

In an effort to comply with the guidelines identified in the *Wayfair* decision, CML emphasizes that self-collecting home rule municipalities work with the Colorado Department of Revenue (DOR) and other home rule municipalities in Colorado to provide a single point of filing and remittance through DOR's Sales and Use Tax Simplification (SUTS) software. Municipalities are asked to join the SUTS portal prior to adopting the model. If the municipality chooses not to utilize the SUTS portal, CML urges that municipality to continue with requesting voluntary compliance for collection and remittance of local sales taxes rather than adopting the model ordinance.

To obtain a list of which municipalities have joined the SUTS and have adopted the model ordinance, including effective date(s), please visit CML's website at <https://www.cml.org/modelordinance>. There you can also find a copy of the model ordinance and additional information on this project.

To file online through this portal, please go to <https://colorado.munirevs.com>. Use of the SUTS software is optional for businesses. All of the self-collecting home rule municipalities in Colorado will continue to accept filings and payment directly to the municipality. Please contact the municipality in question if you need clarity on how to file local sales tax returns.

Finally, municipalities may require additional licensing for remote sellers. Please contact individual municipalities for further information on licensing, local ordinances, or with question on how to file returns. Questions about the model ordinance can be addressed locally or by contacting Laurel Witt, CML associate counsel, at lwitt@cml.org or by calling (303) 831-6411.

Best regards,



Kevin Bommer
Executive Director



Laurel Witt
Associate Counsel

**THIS PAGE
INTENTIONALLY
LEFT BLANK**



Management and Finance Policy Committee Agenda Item Commentary

Item Title: Proposed Ordinance to Amend the Executive Retirement Plan
Item Initiator: Terri Velasquez
Staff Source: Terri Velasquez, Finance Director
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.)*

The Executive Retirement Plan was established to provide a defined contribution (401a) retirement plan option for executives.

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

The proposed ordinance allows the city manager or designee to enter into appropriate agreements, on behalf of the city, with any service provider qualified to offer retirement services. Currently only one vendor, the International City Managers' Association Retirement Corporation ("ICMA-RC"), is authorized to establish and maintain a retirement plan for executive personnel of the city that is qualified under Internal Revenue Code Section 401(A).

QUESTIONS FOR Committee

Does the Committee support moving the proposed ordinance forward to Study Session?

EXHIBITS ATTACHED:

2020-Ordinance-Executive-Retirement-Plan-Amendments.pdf

ORDINANCE NO. _____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA AMENDING CHAPTER 102 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, RELATING TO THE MONEY PURCHASE PLAN FOR EXECUTIVE PERSONNEL

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

Section 1. Section 102-322 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 102-322. Creation of Executive Money Purchase Plan.

The city manager **or designee** is directed to enter into appropriate agreements, on behalf of the city, with **any service provider qualified to offer retirement services** ~~the international city managers' association retirement corporation ("ICMA")~~ in order to establish a **and maintain a** retirement plan for executive personnel of the city that is qualified under Internal Revenue Code Section 401(A). The plan will be known as the executive personnel money purchase plan.

Section 2. Section 102-326 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 102-326. Loans.

Participants will be allowed to borrow from their plan accounts consistent with the established program for processing and administering such loans as implemented by **the retirement service provider ICMA** or any other successor entity as may in the future be substituted

Section 3. Section 102-328 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 102-328. Plan Administrator.

The retirement service provider selected by the City Manager or designee shall perform the duties of the Plan Administrator for this plan. The Plan Administrator shall be subject ~~The appointment of ICMA to perform any duties related to the plan is subject to change or and~~ replacement with another entity selected by a majority vote of the plan participants.

Section 4. That all ordinances or parts of ordinances of the City Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

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

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

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

MIKE COFFMAN, Mayor

ATTEST:

SUSAN BARKMAN,
Interim City Clerk

APPROVED AS TO FORM:



HANOSKY HERNANDEZ,
Assistant City Attorney

**THIS PAGE
INTENTIONALLY
LEFT BLANK**



Management and Finance Policy Committee Agenda Item Commentary

Item Title: Information Only -- update and review of City's operating cash flow, investment portfolio, and recent debt transactions
Item Initiator: Andrew Jamison
Staff Source: Andrew Jamison, Debt, Treasury, & Investments Acting Manager
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.)*

On a reoccurring basis, staff provides the M&F Committee informational updates on the status of the investment portfolio, an assessment of the City's cash position, and review of recent debt transactions. In light of the ongoing challenges stemming from the COVID-19 crisis, staff is providing these updates on more frequent basis.

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

Since the onset of the pandemic, staff has increased the portfolio cash & equivalent allocations target to 10-15% from 3-5% to provide additional operating flexibility. Over this period, the portfolio has grown slightly from \$585 million to \$613 million. The current yield on the portfolio is 1.79%; this will steadily decline as market interest rates have decreased dramatically. For example, bonds were purchased in July at a yield of 0.50% and yields on government money market funds are less than 0.10%.

The portfolio has not encountered any downgrades since the last update in April. However, ratings agencies have adopted negative outlooks on several sectors in the portfolio primarily due to increased fiscal challenges from the pandemic. The sectors include the US Government, US Agencies, Corporate Financials (US Bank, Wells Fargo), and several Municipal Issuers (New York, Denver). Staff and the investment advisor are monitoring these holdings and do not recommend selling any investments at this time.

The debt team is in the process of issuing Certificates of Participation to finance construction of the Southeast Recreation Center. On September first, S&P Global Ratings affirmed its 'AA' Appropriations rating on The City's COP debt. S&P's implied Aurora Issuer rating is 'AA+'. As illustrated in the attached report, S&P highlighted Aurora's strong financial management, economy, budgetary flexibility, and liquidity profile.

QUESTIONS FOR Committee
Information Only.

EXHIBITS ATTACHED:

1. Liquidity Overview 9-1-2020.pdf
2. Holdings Credit Review 08-31-2020.pdf
3. SP Rating Sep-01-2020.pdf

Aurora Liquidity Overview as of 9-1-2020		
Aurora Highly Liquid Investments		
Sector	Par/Shares	% Port
Cash & Equivalents	64,435,020	10.5%
Government Agencies	170,218,000	27.7%
Government Bonds	71,000,000	11.6%
Total	305,653,020	49.8%
Aurora Monthly Investment Maturities		
Month	Dollar Amount	Cumulative
Sep-20	13,000,000	13,000,000
Oct-20	24,500,000	37,500,000
Nov-20	14,500,000	52,000,000
Dec-20	15,000,000	67,000,000
Jan-21	14,000,000	81,000,000
Feb-21	11,000,000	92,000,000
Aurora Investment Maturities by Year		
Year	Par/Shares	% Total
2020 (incl Cash)	131,425,020	21.4%
2021 Total	158,877,000	25.9%
2022 Total	91,951,000	15.0%
2023 Total	147,253,000	24.0%
2024 Total	84,380,000	13.7%
Total	613,886,020	100.0%
Aurora Holdings by Sector		
Sector	Par/Shares	% Port
Cash & Equivalents	64,435,020	10.5%
Corporate Bonds	202,263,000	32.9%
Government Agencies	170,218,000	27.7%
Government Bonds	71,000,000	11.6%
Municipal/Provincial Bonds	105,980,000	17.3%
Total	613,896,020	100.0%

City of Aurora, Colorado
Operating Portfolio
Credit Review as of September 3, 2020
Holdings as of August 31, 2020
Policy Guidelines Dated July 10, 2017

CUSIP	Settlement Date	Description	Coupon/Rate	Maturity Date	Call Date	Expected Maturity	Par Value	Yield to Worst	% Portfolio	Final WAM	First Call WAM	Expected WAM	Moody's Rating	Moody's Outlook	S&P Rating	S&P Outlook	Fitch Rating	Fitch Outlook	Buy Hold Sell
-------	-----------------	-------------	-------------	---------------	-----------	-------------------	-----------	----------------	-------------	-----------	----------------	--------------	----------------	-----------------	------------	-------------	--------------	---------------	---------------

Cash and Cash Equivalents

Investments in local government investment pools and money market funds not to exceed 50% of portfolio, 10% maximum per fund.

		COLOTRUST Plus		09/01/20	-	09/01/20	15,042,271	0.30	2.42%	1	1	1			AAAm				
		Wells Fargo Bank Sweep MMA		09/01/20	-	09/01/20	56,146,821	0.02	9.05%	1	1	1	Aa2	NEG	A+	STABLE	AA-	NEG	
		Wells Fargo Bank Standard MMA		09/01/20	-	09/01/20	15,355	0.01	0.00%	1	1	1	Aa2	NEG	A+	STABLE	AA-	NEG	
Total							71,204,447	0.08	11.47%	1	1	1							

Treasury Securities

Investments in U.S. Treasury obligations not to exceed a 7 year final maturity.

912828A42	11/28/16	T-Note	2.000	11/30/20	-	11/30/20	5,000,000	1.70	0.81%	91	91	91	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
912828N48	07/31/17	T-Note	1.750	12/31/20	-	12/31/20	5,000,000	1.60	0.81%	122	122	122	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
9128283Q1	01/17/18	T-Note	2.000	01/15/21	-	01/15/21	10,000,000	2.12	1.61%	137	137	137	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
912828C57	07/11/17	T-Note	2.250	03/31/21	-	03/31/21	5,000,000	1.74	0.81%	212	212	212	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
912828QN3	08/30/18	T-Note	3.125	05/15/21	-	05/15/21	7,500,000	2.72	1.21%	257	257	257	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
912828Y20	08/20/18	T-Note	2.625	07/15/21	-	07/15/21	10,000,000	2.68	1.61%	318	318	318	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
9128286H8	03/15/19	T-Note	2.375	03/15/22	-	03/15/22	7,500,000	2.42	1.21%	561	561	561	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
912828XG0	02/21/19	T-Note	2.125	06/30/22	-	06/30/22	7,500,000	2.45	1.21%	668	668	668	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
912828UN8	07/30/19	T-Note	2.000	02/15/23	-	02/15/23	7,500,000	1.82	1.21%	898	898	898	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
912828Y61	08/30/19	T-Note	2.750	07/31/23	-	07/31/23	6,000,000	1.43	0.97%	1,064	1,064	1,064	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
Total							71,000,000	2.15	11.44%	436	436	436							

Federal Agency and Instrumentality Holdings

Investments in Federal Agency and Instrumentality obligations not to exceed 75% of the portfolio, 25% maximum per issuer, 7 year final maturity.

3136G35S0	09/09/16	FNMA	1.300	09/08/20	-	09/08/20	5,000,000	1.32	0.81%	8	8	8	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
3134GBSM5	06/22/17	FHLMC	1.700	09/22/20	-	09/22/20	8,000,000	1.70	1.29%	22	22	22	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
3130A3UQ5	12/08/17	FHLB	1.875	12/11/20	-	12/11/20	10,000,000	2.00	1.61%	102	102	102	Aaa	STABLE	AA+	STABLE			Buy
3135G0U27	04/27/18	FNMA	2.500	04/13/21	-	04/13/21	12,000,000	2.69	1.93%	225	225	225	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
313383ZU8	08/30/18	FHLB	3.000	09/10/21	-	09/10/21	7,500,000	2.80	1.21%	375	375	375	Aaa	STABLE	AA+	STABLE			Buy
313383WD9	02/21/19	FHLB	3.125	09/09/22	-	09/09/22	7,500,000	2.55	1.21%	739	739	739	Aaa	STABLE	AA+	STABLE			Buy
3135G0T78	04/03/19	FNMA	2.000	10/05/22	-	10/05/22	7,500,000	2.31	1.21%	765	765	765	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
3135G0T94	03/15/19	FNMA	2.375	01/19/23	-	01/19/23	7,500,000	2.48	1.21%	871	871	871	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
3130ADRG9	04/03/19	FHLB	2.750	03/10/23	-	03/10/23	7,500,000	2.32	1.21%	921	921	921	Aaa	STABLE	AA+	STABLE			Buy

City of Aurora, Colorado
 Operating Portfolio
 Credit Review as of September 3, 2020
 Holdings as of August 31, 2020
 Policy Guidelines Dated July 10, 2017

CUSIP	Settlement Date	Description	Coupon/Rate	Maturity Date	Call Date	Expected Maturity	Par Value	Yield to Worst	% Portfolio	Final WAM	First Call WAM	Expected WAM	Moody's Rating	Moody's Outlook	S&P Rating	S&P Outlook	Fitch Rating	Fitch Outlook	Buy Hold Sell
3135G04Q3	06/25/20	FNMA	0.250	05/22/23	-	05/22/23	8,000,000	0.31	1.29%	994	994	994	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
3130A3DL5	08/30/19	FHLB	2.375	09/08/23	-	09/08/23	6,000,000	1.46	0.97%	1,103	1,103	1,103	Aaa	STABLE	AA+	STABLE			Buy
3133EKVB9	07/30/19	FFCB	1.860	10/17/23	-	10/17/23	7,500,000	1.90	1.21%	1,142	1,142	1,142	Aaa	STABLE	AA+	STABLE	AAA		Buy
3133EJNB1	03/16/20	FFCB	2.980	11/02/23	-	11/02/23	7,500,000	0.77	1.21%	1,158	1,158	1,158	Aaa	STABLE	AA+	STABLE	AAA		Buy
3134GVD88	06/25/20	FHLMC-Call	0.500	12/04/23	12/04/20	12/04/20	7,718,000	0.51	1.24%	1,190	95	95	Aaa	STABLE			AAA	NEG	Buy
3130A3VC5	07/29/19	FHLB	2.250	12/08/23	-	12/08/23	9,000,000	1.91	1.45%	1,194	1,194	1,194	Aaa	STABLE	AA+	STABLE			Buy
3135G0V34	11/15/19	FNMA	2.500	02/05/24	-	02/05/24	7,000,000	1.78	1.13%	1,253	1,253	1,253	Aaa	STABLE	AA+	STABLE	AAA	NEG	Buy
3133EKMX1	07/30/19	FFCB	2.230	02/23/24	-	02/23/24	7,500,000	1.89	1.21%	1,271	1,271	1,271	Aaa	STABLE	AA+	STABLE	AAA		Buy
3130A7PH2	03/18/20	FHLB	1.188	03/08/24	-	03/08/24	7,500,000	0.78	1.21%	1,285	1,285	1,285	Aaa	STABLE	AA+	STABLE			Buy
3133ELG99	06/25/20	FFCB	0.375	06/10/24	-	06/10/24	8,000,000	0.39	1.29%	1,379	1,379	1,379	Aaa	STABLE	AA+	STABLE	AAA		Buy
3134GVV96	06/24/20	FHLMC-Call	0.500	06/24/24	06/24/22	06/24/22	10,000,000	0.50	1.61%	1,393	662	662	Aaa	STABLE			AAA	NEG	Buy
3134GV4S4	07/09/20	FHLMC-Call	0.450	07/08/24	07/08/22	07/08/22	5,000,000	0.46	0.81%	1,407	676	676	Aaa	STABLE			AAA	NEG	Buy
3130A2UW4	10/29/19	FHLB	2.875	09/13/24	-	09/13/24	7,000,000	1.73	1.13%	1,474	1,474	1,474	Aaa	STABLE	AA+	STABLE			Buy
Total							170,218,000	1.61	27.43%	902	788	788							

Domestic Corporate Securities

Investments in domestic corporate securities not to exceed 30% of the portfolio, 3% per issuer. Combined domestic corporate securities, foreign securities, commercial paper and bankers acceptances limited to 50% of the portfolio.

For domestic corporate securities and foreign securities, 30% of portfolio may be invested to AA- with a 5 year maturity; 10% may be invested to A+ with a 2 year maturity by two rating agencies.

Rated AA- or better, maximum 30% to 5 year maturity

594918AH7	07/13/17	Microsoft	3.000	10/01/20	-	10/01/20	5,000,000	1.83	0.81%	31	31	31	Aaa	STABLE	AAA	STABLE	AA+	STABLE	Hold
166764AY6	05/22/18	Chevron Corp	2.419	11/17/20	10/17/20	11/17/20	4,000,000	2.91	0.64%	78	47	78	Aa2	STABLE	AA	NEG			Hold
166764AY6	06/25/18	Chevron Corp	2.419	11/17/20	10/17/20	11/17/20	5,500,000	2.90	0.89%	78	47	78	Aa2	STABLE	AA	NEG			Hold
037833BS8	07/13/17	Apple	2.250	02/23/21	01/23/21	02/23/21	3,000,000	2.08	0.48%	176	145	176	Aa1	STABLE	AA+	STABLE			Hold
90331HNP4	04/04/19	US Bank	3.150	04/26/21	03/26/21	04/26/21	4,000,000	2.62	0.64%	238	207	238	A1	NEG	AA-	STABLE	AA-	NEG	Hold
742718EQ8	11/30/18	Procter & Gamble	1.700	11/03/21	-	11/03/21	5,954,000	3.10	0.96%	429	429	429	Aa3	STABLE	AA-	STABLE			Hold
90331HPC1	11/15/19	US Bank	2.650	05/23/22	04/23/22	05/23/22	5,000,000	1.97	0.81%	630	600	630	A1	NEG	AA-	STABLE	AA-	NEG	Hold
037833DC1	05/31/19	Apple	2.100	09/12/22	08/12/22	09/12/22	5,000,000	2.43	0.81%	742	711	742	Aa1	STABLE	AA+	STABLE			Hold
166764AB6	06/13/19	Chevron Corp	2.355	12/05/22	09/05/22	12/05/22	7,000,000	2.32	1.13%	826	735	826	Aa2	STABLE	AA	NEG			Hold
594918AT1	01/13/20	Microsoft	2.375	05/01/23	02/01/23	05/01/23	9,200,000	1.74	1.48%	973	884	973	Aaa	STABLE	AAA	STABLE	AA+	STABLE	Hold
931142EL3	07/31/20	Wal-Mart	2.850	07/08/24	06/08/24	07/08/24	5,000,000	0.49	0.81%	1,407	1,407	1,407	Aa2	STABLE	AA	STABLE	AA	STABLE	Hold
90331HNV1	12/24/19	US Bank	3.400	07/24/23	06/23/23	07/24/23	5,000,000	2.04	0.81%	1,057	1,026	1,057	A1	NEG	AA-	STABLE	AA-	NEG	Hold
931142DV2	07/08/20	Wal-Mart	2.650	12/15/24	10/15/24	12/15/24	9,000,000	0.66	1.45%	1,567	1,567	1,567	Aa2	STABLE	AA	STABLE	AA	STABLE	Hold
037833CG3	01/13/20	Apple	3.000	02/09/24	12/09/23	02/09/24	3,000,000	1.99	0.48%	1,257	1,195	1,257	Aa1	STABLE	AA+	STABLE			Hold
037833CG3	07/22/20	Apple	3.000	02/09/24	12/09/23	02/09/24	4,500,000	0.50	0.73%	1,257	1,195	1,257	Aa1	STABLE	AA+	STABLE			Hold

City of Aurora, Colorado
 Operating Portfolio
 Credit Review as of September 3, 2020
 Holdings as of August 31, 2020
 Policy Guidelines Dated July 10, 2017

CUSIP	Settlement Date	Description	Coupon/Rate	Maturity Date	Call Date	Expected Maturity	Par Value	Yield to Worst	% Portfolio	Final WAM	First Call WAM	Expected WAM	Moody's Rating	Moody's Outlook	S&P Rating	S&P Outlook	Fitch Rating	Fitch Outlook	Buy Hold Sell		
Total							80,154,000	1.91	12.91%	778	778	778									
<u>Rated A+, maximum 10% to 2 year maturity for combined Domestic and Foreign Securities</u>																					
89236TEU5	02/19/19	Toyota Motor Credit	2.950	04/13/21	-	04/13/21	5,000,000	2.81	0.81%	225	225	225	A1	NEG	A+	NEG	A+	NEG	Hold		
17325FAQ1	01/13/20	Citibank	3.400	07/23/21	06/23/21	07/23/21	3,000,000	1.95	0.48%	326	296	326	Aa3	STABLE	A+	STABLE	A+	NEG	Hold		
89236TDP7	03/16/20	Toyota Motor Credit	2.600	01/11/22	-	01/11/22	3,000,000	1.60	0.48%	498	498	498	A1	NEG	A+	NEG	A+	NEG	Hold		
89236TDK8	09/24/19	Toyota Motor Credit	2.250	10/18/23	-	10/18/23	7,000,000	2.06	1.13%	1,143	1,143	1,143	A1	NEG	A+	NEG	A+	NEG	Hold		
Total							18,000,000	2.17	2.90%	644	639	644									
Total Domestic Corporate Securities							98,154,000	1.96	15.81%	754	754	754									

Foreign Securities

Investments in foreign securities not to exceed 30% of the portfolio, 3% per issuer, 15% per country. Combined domestic corporate securities, foreign securities, commercial paper and bankers acceptances limited to 50% of the portfolio. For domestic corporate securities and foreign securities, 30% of portfolio may be invested to AA- with a 5 year maturity; 10% may be invested to A+ with a 2 year maturity by two rating agencies

Rated AA- or better, maximum 30% to 5 year maturity

136069VX6	09/28/18	Canadian Imperial Bank of Commerce	2.100	10/05/20	-	10/05/20	10,000,000	3.28	1.61%	35	35	35	Aa2	STABLE	A+	STABLE	AA	NEG	Hold
78013GKN4	01/16/18	Royal Bank of Canada	2.150	10/26/20	-	10/26/20	5,000,000	2.43	0.81%	56	56	56	Aa2	STABLE	AA-	STABLE	AA+	NEG	Hold
78012KJA6	08/21/18	Royal Bank of Canada	2.350	10/30/20	-	10/30/20	3,000,000	3.09	0.48%	60	60	60	Aa2	STABLE	AA-	STABLE	AA+	NEG	Hold
064159KT2	08/21/18	Bank of Nova Scotia	2.500	01/08/21	-	01/08/21	2,408,000	3.20	0.39%	130	130	130	Aa2	STABLE	A+	STABLE	AA	NEG	Hold
064159KT2	08/21/18	Bank of Nova Scotia	2.500	01/08/21	-	01/08/21	1,592,000	3.21	0.26%	130	130	130	Aa2	STABLE	A+	STABLE	AA	NEG	Hold
20271RAP5	04/24/19	Commonwealth Bank of Australia	2.550	03/15/21	-	03/15/21	4,213,000	2.76	0.68%	196	196	196	Aa3	STABLE	AA-	NEG	A+	NEG	Hold
064159LG9	08/01/18	Bank of Nova Scotia	3.125	04/20/21	-	04/20/21	5,000,000	3.34	0.81%	232	232	232	Aa2	STABLE	A+	STABLE	AA	NEG	Hold
05253JAM3	06/13/19	Australia & New Zealand Banking	2.300	06/01/21	-	06/01/21	5,000,000	2.48	0.81%	274	274	274	Aa3	STABLE	AA-	NEG	A+	NEG	Hold
63254AAR9	04/24/19	National Australia Bank	1.875	07/12/21	-	07/12/21	8,520,000	2.75	1.37%	315	315	315	Aa3	STABLE	AA-	NEG	A+*	NEG*	Hold
89114QBL1	02/22/19	Toronto-Dominion Bank	1.800	07/13/21	-	07/13/21	5,000,000	2.90	0.81%	316	316	316	Aa1	STABLE	AA-	STABLE	AA	NEG	Hold
05253JAQ4	06/14/19	Australia & New Zealand Banking	2.550	11/23/21	-	11/23/21	6,000,000	2.48	0.97%	449	449	449	Aa3	STABLE	AA-	NEG	A+*	NEG*	Hold
961214DG5	05/31/19	Westpac Banking	2.800	01/11/22	-	01/11/22	5,000,000	2.59	0.81%	498	498	498	Aa3	STABLE	AA-	NEG	A+	NEG	Hold
78012KZG5	04/15/19	Royal Bank of Canada	2.750	02/01/22	-	02/01/22	7,500,000	2.66	1.21%	519	519	519	Aa2	STABLE	AA-	STABLE	AA+	NEG	Hold
136069TY7	04/25/19	Canadian Imperial Bank of Commerce	2.550	06/16/22	-	06/16/22	5,000,000	2.78	0.81%	654	654	654	Aa2	STABLE	A+	STABLE	AA	NEG	Hold
06367TG38	12/06/19	Bank of Montreal	2.350	09/11/22	-	09/11/22	9,876,000	1.86	1.59%	741	741	741	Aa2	STABLE	A+	STABLE	AA	NEG	Hold
064159KD7	10/16/19	Bank of Nova Scotia	2.450	09/19/22	-	09/19/22	7,000,000	1.98	1.13%	749	749	749	Aa2	STABLE	A+	STABLE	AA	NEG	Hold
05253JAU5	11/21/19	Australia & New Zealand Banking	2.625	11/09/22	-	11/09/22	4,000,000	2.01	0.64%	800	800	800	Aa3	STABLE	AA-	NEG	A+	NEG	Hold
89114QC48	09/25/19	Toronto-Dominion Bank	3.500	07/19/23	-	07/19/23	10,000,000	1.98	1.61%	1,052	1,052	1,052	Aa1	STABLE	AA-	STABLE	AA	NEG	Hold

City of Aurora, Colorado
 Operating Portfolio
 Credit Review as of September 3, 2020
 Holdings as of August 31, 2020
 Policy Guidelines Dated July 10, 2017

CUSIP	Settlement Date	Description	Coupon/Rate	Maturity Date	Call Date	Expected Maturity	Par Value	Yield to Worst	% Portfolio	Final WAM	First Call WAM	Expected WAM	Moody's Rating	Moody's Outlook	S&P Rating	S&P Outlook	Fitch Rating	Fitch Outlook	Buy Hold Sell			
Total Foreign Securities							104,109,000	2.57	16.77%	457	457	457										
Total Domestic Corporate and Foreign Securities							202,263,000	2.27	32.59%	601	601	601										
Total Domestic Corporate, Foreign Securities, Commercial Paper and Bankers Acceptances							202,263,000	2.27	32.59%	601	601	601										
Municipal Bonds																						
Investments in general obligation and revenue bonds not to exceed 30% of the portfolio, 3% per issuer, 5 year final maturity. Colorado issuers must be rated A- and other issuers must be rated AA- by at least two rating agencies. 10% may be held in non-Colorado issuers within a two year maturity which are rated A- by at least two rating agencies.																						
882722J77	09/28/16	Texas State Public Fin Auth Taxable GO	3.534	10/01/20	-	10/01/20	1,500,000	1.30	0.24%	31	31	31	Aaa*		AAA	STABLE	AAA	STABLE	Hold			
373385BN2	07/18/17	Georgia State Taxable GO	2.500	02/01/21	-	02/01/21	8,000,000	1.87	1.29%	154	154	154	Aaa*		AAA	STABLE	AAA	STABLE	Hold			
574193PU6	03/21/18	Maryland State Taxable GO	2.480	03/15/21	-	03/15/21	11,785,000	2.48	1.90%	196	196	196	Aaa*		AAA	STABLE	AAA	STABLE	Hold			
650035J82	08/04/17	NY State Urban Dev Taxable REV	2.900	03/15/21	-	03/15/21	10,000,000	1.94	1.61%	196	196	196	Aa1*		AA+	STABLE	AA+	NEG	Hold			
24917DAF0	05/16/19	Denver City and County Taxable REV	2.368	08/01/21	-	08/01/21	1,300,000	2.31	0.21%	335	335	335	Aa3*		AA-	NEG	AA	NEG	Hold			
438687DZ5	09/05/18	Honolulu HI City & County Taxable GO	2.860	09/01/21	-	09/01/21	1,500,000	2.87	0.24%	366	366	366	Aa1*				AA+	STABLE	Hold			
882724GS0	09/11/18	Texas State Public Fin Auth Taxable GO	2.887	10/01/21	-	10/01/21	9,690,000	2.89	1.56%	396	396	396	Aaa*		AAA	STABLE			Hold			
605581GB7	03/06/19	Mississippi State Taxable GO	2.195	10/01/21	-	10/01/21	2,500,000	2.67	0.40%	396	396	396	Aa2*		AA	STABLE	AA	STABLE	Hold			
010411CN4	12/13/18	Alabama State Taxable GO	3.000	11/01/21	-	11/01/21	3,415,000	3.00	0.55%	427	427	427	Aa1*		AA	STABLE	AA+	STABLE	Hold			
68609BYF8	05/16/19	Oregon State Taxable GO	2.332	04/01/22	-	04/01/22	1,575,000	2.23	0.25%	578	578	578	Aa1*		AA+	STABLE	AA+	STABLE	Hold			
605581MB0	10/23/19	Mississippi State Taxable GO	1.809	10/01/22	-	10/01/22	2,000,000	1.81	0.32%	761	761	761	Aa2*		AA	STABLE	AA	STABLE	Hold			
4423315S9	09/10/19	City of Houston Taxable GO	1.820	03/01/23	-	03/01/23	12,000,000	1.82	1.93%	912	912	912	Aa3*		AA	STABLE			Hold			
977100CZ7	11/27/19	Wisconsin State Taxable REV	2.049	05/01/23	-	05/01/23	5,000,000	1.90	0.81%	973	973	973	Aa2*		AA-	STABLE	AA	STABLE	Hold			
59163PKF9	05/15/19	Metro Oregon Taxable GO	3.500	06/01/23	-	06/01/23	12,835,000	2.45	2.07%	1,004	1,004	1,004	Aaa*		AAA	STABLE			Hold			
64966QBZ2	09/12/19	New York City Taxable GO	2.080	08/01/23	-	08/01/23	5,000,000	1.75	0.81%	1,065	1,065	1,065	Aa1*		AA	STABLE	AA	NEG	Hold			
605581MC8	10/23/19	Mississippi State Taxable GO	1.850	10/01/23	-	10/01/23	2,000,000	1.85	0.32%	1,126	1,126	1,126	Aa2*		AA	STABLE	AA	STABLE	Hold			
64966QEF3	10/22/19	New York City Taxable GO	1.740	10/01/23	-	10/01/23	5,000,000	1.74	0.81%	1,126	1,126	1,126	Aa1*		AA	STABLE	AA	NEG	Hold			
576051VX1	11/01/19	Mass Water Resources Auth Taxable REV	1.862	08/01/24	-	08/01/24	2,880,000	1.86	0.46%	1,431	1,431	1,431	Aa1*		AA+	STABLE	AA+	STABLE	Hold			
574193TQ1	08/05/20	Maryland State Taxable GO	0.510	08/01/24	-	08/01/24	8,000,000	0.51	1.29%	1,431	1,431	1,431	Aaa*		AAA	STABLE	AAA	STABLE	Hold			
Total							105,980,000	2.06	17.08%	686	686	686										
GRAND TOTAL INVESTMENTS							620,665,447	1.79	100%	610	579	579										
										1.67 Yr	1.59 Yr	1.59 Yr										

*underlying rating

City of Aurora, Colorado
Operating Portfolio
Credit Review as of September 3, 2020
Holdings as of August 31, 2020
Policy Guidelines Dated July 10, 2017

CUSIP	Settlement Date	Description	Coupon/Rate	Maturity Date	Call Date	Expected Maturity	Par Value	Yield to Worst	% Portfolio	Final WAM	First Call WAM	Expected WAM	Moody's Rating	Moody's Outlook	S&P Rating	S&P Outlook	Fitch Rating	Fitch Outlook	Buy Hold Sell
-------	-----------------	-------------	-------------	---------------	-----------	-------------------	-----------	----------------	-------------	-----------	----------------	--------------	----------------	-----------------	------------	-------------	--------------	---------------	---------------

Rating Change Details

Wells Fargo Bank: On 09/02/20 Moody's moved to negative outlook from stable outlook

US Bank: On 08/05/20 Moody's moved to negative outlook from stable outlook

US Government Agencies: On 08/03/20 Fitch moved to negative outlook from stable outlook

US Government Bonds: On 07/31/20 Fitch moved to negative outlook from stable outlook

RatingsDirect®

Summary:

Aurora, Colorado; Appropriations

Primary Credit Analyst:

Michael Parker, Centennial + 1 (303) 721 4701; michael.parker@spglobal.com

Secondary Contact:

Savannah Gilmore, Centennial (1) 303-721-4656; savannah.gilmore@spglobal.com

Table Of Contents

Rating Action

Stable Outlook

Credit Opinion

Related Research

Summary:

Aurora, Colorado; Appropriations

Credit Profile

US\$31.195 mil certs of part ser 2020 due 12/01/2045

<i>Long Term Rating</i>	AA/Stable	New
Aurora APPROP		
<i>Long Term Rating</i>	AA/Stable	Affirmed

Rating Action

S&P Global Ratings assigned its 'AA' long-term rating to Aurora, Colo.'s series 2020 (estimated par amount: \$31.2 million) certificates of participation (COPs). At the same time, S&P Global Ratings affirmed its 'AA' long-term rating on the city's appropriation debt outstanding. The outlook is stable.

The city's series 2020 and existing appropriation obligations represent an interest in lease payments the city makes, as lessee, for the use of city facilities. Payments related to the series 2020 obligations will be for the use and possession of a recreation center that is under construction. Our rating is set one notch below our view of the city's creditworthiness, as obligor, to account for appropriation risk, but we do not consider construction risk material because lease payments are not subject to the project's completion. Lease payments are subject to annual appropriation, and the city does not have the right or obligation to abate lease payments in the event of nonuse of the facilities. Payments are not subject to set-off or counterclaim, and the city is responsible for maintenance, taxes, and utilities. Proceeds from the series 2020 COPs will be used to finance the construction of the new recreation center in the southeast portion of the city.

Credit overview

Despite the national recession brought about through the pandemic, the continued economic development and a strong financial position bolster Aurora's credit stability. The rating reflects the city's large and continually growing tax base in the Denver-Aurora-Lakewood metropolitan statistical area (MSA), as property wealth continues to increase through additional development and valuation increases. Citywide actual property values (market value) have grown an aggregate 117% since 2014. As a result of the growth in recent years, the city has benefitted from strong increases in sales taxes, which are the largest source of general fund revenue. Even with reduced economic activity related to the pandemic-related stay-at-home and social distancing directives, year-to-date sales tax collections in 2020 are up about 3% for the city. City officials made midyear budget adjustments to reflect uncertainty surrounding the pandemic, and in our view, the city currently has the budget flexibility to handle the near-term economic downturn impacts to revenue.

The city's operations have remained strong dating back several years, and general fund reserves have been maintained at a very strong level. Adding to the city's credit strength are management's very strong financial policies, including a broader managerial philosophy of conservative revenue projections even through previous years of economic growth. These budget practices support our belief that the city is in a strong position financially, and overall available reserves

should remain near current levels in the near term. Finally, the outlook reflects our view of the city's manageable and relatively low overall debt profile.

For more information on the coronavirus' effect in U.S. public finance, please see our reports titled "The U.S. Faces A Longer And Slower Climb From The Bottom" published June 25, 2020, and "U.S. Real-Time Economic Data Suggests Hopeful Signs Of A Recovery Could Be Short-Lived" published July 16, 2020, on RatingsDirect.

The rating further reflects our opinion of the city's:

- Strong economy, with access to a broad and diverse metropolitan statistical area (MSA);
- Very strong management, with strong financial policies and practices under our Financial Management Assessment (FMA) methodology;
- Adequate budgetary performance, with operating surpluses in the general fund and at the total governmental fund level in fiscal 2019;
- Very strong budgetary flexibility, with an available fund balance in fiscal 2019 of 37% of operating expenditures;
- Very strong liquidity, with total government available cash at 30.1% of total governmental fund expenditures and 7.6x governmental debt service, and access to external liquidity we consider strong;
- Very strong debt and contingent liability profile, with debt service carrying charges at 4.0% of expenditures and net direct debt that is 46.9% of total governmental fund revenue, as well as low overall net debt at less than 3% of market value; and
- Strong institutional framework score.

Environmental, social, and governance (ESG) factors

Our ratings consider the ESG risks relative to Aurora's economic indicators, financial position, and debt levels. The ratings incorporate our view regarding the health and safety risks posed by the pandemic. Overall, we consider the city's ESG risks to be in line with our view of the sector standard.

Stable Outlook

Downside scenario

If the city is unable to achieve operational balance for multiple years, resulting in a decline in overall reserves, we could lower the rating.

Upside scenario

If the city's key economic indicators continue to improve to levels comparable with those of higher-rated peers, and it is able to maintain a strong financial and debt profile through this period of economic uncertainty, we could raise the rating.

Credit Opinion

Strong economy

We consider Aurora's economy strong. The city serves a 160-square-mile area spanning the eastern area of the Denver metropolitan region and is just south of the Denver International Airport. With an estimated population of 381,000, Aurora is located in Adams, Arapahoe, and Douglas counties within the Denver-Aurora-Lakewood MSA, which we consider broad and diverse. The city has a projected per capita effective buying income of 93% of the national level and per capita market value of \$130,000. The city's actual property value grew by 22.8% over the past year to \$49.4 billion. The average unemployment rate of the counties was 2.7% in 2019, but the unemployment rate of the counties has increased in recent months, largely associated with the COVID-19 pandemic. The unemployment rate from April to June for Douglas, Adams, and Arapahoe counties averaged 9.0%, 11.7%, and 11.6%, respectively.

The city's market value fluctuated before and after the Great Recession, with the largest single-year decline being 10% (2010 collection year), but has grown at an average annual rate of 12.8% since 2014. The majority of the increases occurred in revaluation years, with assessed value (AV) rising by 21.3%, 17.9%, and 21.5% in fiscals 2016, 2018, and 2020, respectively. In addition to the revaluation of property, several large-scale residential, commercial, and industrial projects have come online in recent years. Although their facilities generally do not include taxable property, we believe that the city's economy benefits from the anchoring effect of the University of Colorado Anschutz Medical Campus (21,000 employees consisting of the university operations and those of other entities) and Buckley Air Force Base (approximately 12,000 airmen and staff). We understand that both facilities generate demand for ancillary services across the city. Moreover, the Rocky Mountain Regional Veterans Administration Medical Center opened in August 2018, and has already contributed to significant employment growth in its first two years of operation. Despite the recession, officials anticipate stable AV growth in the near term, given the continued development occurring throughout the city. Although preliminary 2021 AV is not currently available, management expects to see another year of good growth.

The city's property tax base is very diverse, in our view, with the 10 leading property taxpayers accounting for roughly 7.6% of total AV in 2020. Other major developments that have come online in recent years include a 1 million-square-foot Amazon.com distribution center, the Gaylord Rockies Resort and Convention Center complex including 485,000 square feet of meeting and exhibition space and an over 1,500-room hotel, and a new, 10.5-mile Regional Transportation District (RTD) light rail line with 10 stops in the city. The city has secured long-term water supply and conveyance and is positioned well to absorb regional housing, commercial, and industrial demand, with a large footprint of developable land and what management reports are significant infill opportunities. The city has significant transportation infrastructure in place to facilitate access to regional employment centers, including multiple interstate highways and RTD light rail and bus routes.

Very strong management

We view the city's management as very strong, with strong financial policies and practices under our FMA methodology, indicating financial practices are strong, well embedded, and likely sustainable.

Our assessment of the city's policies and practices reflects its:

- Analytic approach to revenue and cost trends, along with external economic forecasting sources, to build budget assumptions, which are transparently outlined in a comprehensive budget document;

- Quarterly budget-to-actual discussions with council and the production of detailed reports that include narratives explaining performance for each presented fund;
- Annual updates to five-year financial forecasts, which include transparent discussions of supportable assumptions and clear use of projections to inform current-year budget discussions;
- Annual updates to five-year capital plans, which are integrated into financial forecasts and clearly identify capital spending by year, although funding sources are not reported on a rolled-up basis;
- Formal internal investment policy with qualitative explanation and quantitative portfolio allocation guidelines, supported by quarterly reports on holdings and performance that include brief macroeconomic narratives;
- Debt policy that includes a clear conceptual framework, a detailed swap policy, and limited ratio constraints, although its annual "debtbook" provides strong transparency as to debt obligations, including private placement financings; and
- Two-pronged reserve policy that includes 1% to 3% of budgetary revenue as a cushion against unexpected events and 10% of budgetary operating expenditures (excluding certain transfers) to manage longer-term structural challenges such as economic downturns.

Adequate budgetary performance

Aurora's budgetary performance is adequate, in our opinion. The city had operating surpluses of 3.1% of expenditures in the general fund and of 3.1% across all governmental funds in fiscal 2019. General fund operating results of the city have been stable over the last three years, with a result of 3.8% in 2018 and a result of 2.6% in 2017.

Our calculation of the city's financial performance includes adjustments to treat recurring transfers in and out of the general fund as revenue and expenditures, respectively. The city's general fund performances have been strong in recent years, demonstrated by an operating surplus or essentially balanced operations (after net transfers) in every year within the last decade. Management attributes the positive general fund performances in recent years to conservative and comprehensive budgeting, along with robust sales tax revenue growth and cumulative sales and use tax receipt increases of 38% since 2014.

Overall general fund revenue growth followed a similar trend during that time, increasing an aggregate 32% in that five-year span. Sales and use taxes account for the majority of general fund revenue, at roughly 67% in fiscal 2019, followed by property taxes (10%) and charges for services (5%). We note that the city's sales and use tax revenues, along with city fees, have been "de-bruced" for several years, meaning that all revenue and spending restrictions under the Taxpayer Bill of Rights (TABOR) in Colorado are effectively removed; property tax collections are still subject to TABOR revenue limitations.

The city's general fund expenditures have increased approximately 5.4% a year since 2014, and according to management, the increases are largely associated with hiring additional police and fire department staff to handle the large amount of growth occurring within the city, including several new fire stations that have come online in the last four years. In addition, the city has increased employee compensation in recent years as part of an effort to maintain competitiveness in the employment market.

Despite the budgetary impacts related to the COVID-19 pandemic, the city currently anticipates ending fiscal 2020 with a surplus in the general fund, and ultimately adding to available reserves to help offset future budget reductions in

fiscal 2021. City officials made midyear budget reductions in 2020 to account for expected revenue declines, such as implementing furlough days, freezing vacant positions, and delaying certain capital projects. However, sales and use tax collections rebounded strongly following the state's stay-at-home order being lifted, which prevented officials from needing to undertake additional expenditure reductions. Year-to-date sales tax collections in 2020 are up about 3% for the city, and only 0.1% less than original budget projections. In our view, Aurora has the ability to create additional expenditure reductions should revenue begin to decline in the second half of the year.

To close the projected budget gap of \$33 million in fiscal 2021, the city has identified an additional \$22 million in expenditure reductions. For the remaining \$11 million deficit, the city intends to utilize Coronavirus Aid, Relief, and Economic Security (CARES) Act funds, and will use a portion of surplus reserves built up over the last several years. While the city expects the expenditure cuts and use of reserves to be enough to address the projected shortfall in fiscal 2021, we note that a prolonged economic recovery could result in the need for further spending cuts or the further use of reserves, which would weaken the city's financial position, in our view. Officials indicated that the city would undertake additional expenditure reductions in the coming months if sales tax collections fall short of projections.

Very strong budgetary flexibility

Aurora's budgetary flexibility is very strong, in our view, with an available fund balance in fiscal 2019 of 37% of operating expenditures, or \$112.6 million. We expect the available fund balance to remain above 30% of expenditures for the current and next fiscal years, which we view as a positive credit factor.

Our calculation of available fund balance combines assigned, unassigned, and portions of the city's committed portions of the general fund balance. The city's financial flexibility inclusive of our adjustments has been very stable in recent years, ranging from 33% to 37% of expenditures in 2016 to 2019. While the city is currently projecting a slight drawdown of reserves in fiscal 2021, management anticipates sustaining its fund balance position well above its minimum reserve policy.

Very strong liquidity

In our opinion, Aurora's liquidity is very strong, with total government available cash at 30.1% of total governmental fund expenditures and 7.6x governmental debt service in 2019. In our view, the city has strong access to external liquidity if necessary.

Our calculation of the city's liquidity consists of the city's legally available primary government cash and cash equivalents, as well as our estimate of its U.S. Treasuries and U.S. Agencies maturing in one year or less (pooled for both unrestricted and restricted uses). As of June 2019, the city's largest investments, including those restricted as to use, were U.S. Agency notes (24% of the portfolio), followed by municipal bonds (17%) and treasuries (16%). Our view of access to external liquidity reflects the city's issuance of multiple debt types over the past 20 years. According to fiscal 2020 estimates, the city held about \$97.7 million in readily available cash and cash equivalents.

Very strong debt and contingent liability profile

In our view, Aurora's debt and contingent liability profile is very strong. Total governmental fund debt service is 4.0% of total governmental fund expenditures, and net direct debt is 46.9% of total governmental fund revenue. Overall net debt is low at 1.7% of market value, which is in our view a positive credit factor.

We consider amortization slower than average, with officials planning to retire approximately 43% of principal for all debt during the next 10 years. Our view of the city's debt profile has strengthened in recent years as a result of several bond redemptions and refunding obligations, in addition to strong revenue growth having a positive impact on our net direct debt against total governmental fund revenue calculations. Management reports that the city has no official plans to issue general obligation debt or COPs in the next 12 to 18 months.

The city has been an active user of alternative financing in recent years, and management reports that the city uses a request-for-proposal process that lays out the city's proposed terms and conditions, which helps it to avoid considering transactions that include onerous contingent liquidity provisions. We have reviewed the terms and conditions and have not identified any provisions that present contingent liquidity concerns that we find can be associated with alternative financing, such as acceleration provisions, although we consider events of default for many of the city's alternative financing obligations to be nonremote.

Aurora's combined required pension and actual other postemployment benefit (OPEB) contributions totaled 3.8% of total governmental fund expenditures in 2019. The city made 100% of its annual required pension contribution in 2019.

We do not view pension and OPEB liabilities as an immediate source of credit pressure for Aurora, despite an above average discount rate used for pension liabilities which could add to contribution volatility in the long run. The city's required pension contribution is its actuarially determined contribution. The city offers a total of nine pension plans for employees and elected officials, including six defined benefit plans and three defined contribution plans. Of the six defined benefit plans, two are single employer, two agent multiple-employer defined benefit plans, and two are cost-sharing multiple employer. The city's OPEB liability is associated with an implicit subsidy consisting of the ability for retirees to participate in the city's health benefit plans after 19.5 years of service for public safety employees and 10 years for most other employees at age 50 or greater.

The city's four largest defined benefit plans by liability include the following:

- The General Employees' Retirement Plan: \$51.5 million in net pension liability, and 90% funded;
- Police Pension Plan: \$47.9 million in net pension liability, and 65% funded;
- Fire Pension Plan: \$34.7 million in net pension liability, and 67% funded; and
- Fire Statewide Defined Benefit Pension Plan: \$5.4 million in net pension liability, and 95% funded.

The OPEB unfunded actuarial accrued liability stood at \$18.7 million at the end of 2019, and the city takes a pay-as-you-go approach that, for 2019, resulted in a contribution that was slightly lower than the actuarially calculated annual required contribution.

Strong institutional framework

The institutional framework score for Colorado municipalities required to produce annual audits is strong.

Related Research

- Through The ESG Lens 2.0: A Deeper Dive Into U.S. Public Finance Credit Factors, April 28, 2020
- 2019 Update Of Institutional Framework For U.S. Local Governments

Ratings Detail (As Of September 1, 2020)		
Aurora certs of part		
<i>Long Term Rating</i>	AA/Stable	Affirmed
Aurora certs of part ser 2017B due 12/01/2037		
<i>Long Term Rating</i>	AA/Stable	Affirmed
Aurora rfdg and imp certs of part		
<i>Long Term Rating</i>	AA/Stable	Affirmed

Certain terms used in this report, particularly certain adjectives used to express our view on rating relevant factors, have specific meanings ascribed to them in our criteria, and should therefore be read in conjunction with such criteria. Please see Ratings Criteria at www.standardandpoors.com for further information. Complete ratings information is available to subscribers of RatingsDirect at www.capitaliq.com. All ratings affected by this rating action can be found on S&P Global Ratings' public website at www.standardandpoors.com. Use the Ratings search box located in the left column.

Copyright © 2020 by Standard & Poor's Financial Services LLC. All rights reserved.

No content (including ratings, credit-related analyses and data, valuations, model, software or other application or output therefrom) or any part thereof (Content) may be modified, reverse engineered, reproduced or distributed in any form by any means, or stored in a database or retrieval system, without the prior written permission of Standard & Poor's Financial Services LLC or its affiliates (collectively, S&P). The Content shall not be used for any unlawful or unauthorized purposes. S&P and any third-party providers, as well as their directors, officers, shareholders, employees or agents (collectively S&P Parties) do not guarantee the accuracy, completeness, timeliness or availability of the Content. S&P Parties are not responsible for any errors or omissions (negligent or otherwise), regardless of the cause, for the results obtained from the use of the Content, or for the security or maintenance of any data input by the user. The Content is provided on an "as is" basis. S&P PARTIES DISCLAIM ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, FREEDOM FROM BUGS, SOFTWARE ERRORS OR DEFECTS, THAT THE CONTENT'S FUNCTIONING WILL BE UNINTERRUPTED OR THAT THE CONTENT WILL OPERATE WITH ANY SOFTWARE OR HARDWARE CONFIGURATION. In no event shall S&P Parties be liable to any party for any direct, indirect, incidental, exemplary, compensatory, punitive, special or consequential damages, costs, expenses, legal fees, or losses (including, without limitation, lost income or lost profits and opportunity costs or losses caused by negligence) in connection with any use of the Content even if advised of the possibility of such damages.

Credit-related and other analyses, including ratings, and statements in the Content are statements of opinion as of the date they are expressed and not statements of fact. S&P's opinions, analyses and rating acknowledgment decisions (described below) are not recommendations to purchase, hold, or sell any securities or to make any investment decisions, and do not address the suitability of any security. S&P assumes no obligation to update the Content following publication in any form or format. The Content should not be relied on and is not a substitute for the skill, judgment and experience of the user, its management, employees, advisors and/or clients when making investment and other business decisions. S&P does not act as a fiduciary or an investment advisor except where registered as such. While S&P has obtained information from sources it believes to be reliable, S&P does not perform an audit and undertakes no duty of due diligence or independent verification of any information it receives. Rating-related publications may be published for a variety of reasons that are not necessarily dependent on action by rating committees, including, but not limited to, the publication of a periodic update on a credit rating and related analyses.

To the extent that regulatory authorities allow a rating agency to acknowledge in one jurisdiction a rating issued in another jurisdiction for certain regulatory purposes, S&P reserves the right to assign, withdraw or suspend such acknowledgment at any time and in its sole discretion. S&P Parties disclaim any duty whatsoever arising out of the assignment, withdrawal or suspension of an acknowledgment as well as any liability for any damage alleged to have been suffered on account thereof.

S&P keeps certain activities of its business units separate from each other in order to preserve the independence and objectivity of their respective activities. As a result, certain business units of S&P may have information that is not available to other S&P business units. S&P has established policies and procedures to maintain the confidentiality of certain non-public information received in connection with each analytical process.

S&P may receive compensation for its ratings and certain analyses, normally from issuers or underwriters of securities or from obligors. S&P reserves the right to disseminate its opinions and analyses. S&P's public ratings and analyses are made available on its Web sites, www.standardandpoors.com (free of charge), and www.ratingsdirect.com (subscription), and may be distributed through other means, including via S&P publications and third-party redistributors. Additional information about our ratings fees is available at www.standardandpoors.com/usratingsfees.

STANDARD & POOR'S, S&P and RATINGSDIRECT are registered trademarks of Standard & Poor's Financial Services LLC.