



## PUBLIC NOTICE OF REGULAR MEETING

The Arvada Urban Renewal Authority (AURA) Board of Commissioners will hold its regular board meeting online utilizing Zoom webinar technology at **3:00 p.m.** on **Wednesday, May 5, 2021.**

The public can register for the Zoom meeting as follows:

Register in advance for this webinar:

[https://zoom.us/webinar/register/WN\\_GFCOTM6yT8OBspHa-MSbRQ](https://zoom.us/webinar/register/WN_GFCOTM6yT8OBspHa-MSbRQ)

After registering, you will receive a confirmation email containing information about joining the webinar.

If you need assistance with the virtual conference process or have questions or comments for the AURA Board regarding the agenda items, please contact [info@arvadaurbanrenewal.org](mailto:info@arvadaurbanrenewal.org) prior to noon on May 5, 2021. A recording of the meeting will be posted on AURA's website following the video conference call.

Agenda information is attached.

**Carrie Briscoe**

Carrie Briscoe  
AURA Project Manager/Recording Secretary

POSTED: April 30, 2021



**REGULAR MEETING OF THE AURA BOARD OF COMMISSIONERS**  
**Via Zoom Webinar**  
**3:00 p.m., Wednesday, May 5, 2021**

**AGENDA**

**REGULAR MEETING – 3 P.M.**

1. Call to Order
2. Moment of Reflection and Pledge of Allegiance
3. Roll Call of Members
  - A. Oath of Office for Commissioner Eli Feret
  - B. Election of Officers
  - C. Oath of Office for Elected Officers
4. Approval of the Summary of Minutes
5. Public Comment of Issues not scheduled for Public Hearing – Three Minute Limit
6. Public Hearing – None
7. Study Session – None
8. Old Business
  - A. The Cottages at Ralston Fields  
Tim Master - TJC, Ltd and David Sinkey - Boulder Creek Neighborhoods
  - B. AR-21-06: A Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority Approving the Termination of the Reciprocal Access Easement
  - C. AR-21-07: A Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority Approving the Tenth Amendment to the Executive Director's Employment Agreement
  - D. AR-21-08: A Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority Approving the Redevelopment Agreement with Garrison 57, LLC
9. New Business – None
10. Development Update
11. Public Comment – Five Minute Limit
12. Comments from Commissioners

13. Committee Reports

14. Staff Reports

15. Executive Session

A. Instructions to Negotiators, Pursuant to CRS 24-6-402(4)(e) Relating to Potential Projects

16. Adjournment

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**SUMMARY OF MINUTES OF REGULAR MEETING  
ARVADA URBAN RENEWAL AUTHORITY BOARD OF COMMISSIONERS  
WEDNESDAY, APRIL 7, 2021  
5601 OLDE WADSWORTH BLVD., SUITE 210, ARVADA, CO 80002**

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**REGULAR MEETING**

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**1. Call to Order** – Chair Alan Parker called the meeting to order at 3:00 p.m.

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**2. Moment of Reflection and Pledge of Allegiance**

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**3. Roll Call of Commissioners**

Those Present: Chair Alan Parker, Vice Chair Sue Dolan, Treasurer Tony Cline,  
Commissioners Paul Bunyard, Tim Steinhaus, Marc Williams

Absent: Commissioner Jacobsen

AURA staff present: Maureen Phair, Executive Director; Carrie Briscoe, Project Manager;  
Corey Hoffmann, Legal Counsel; Peggy Salazar, Administrative Specialist

Also present: Lisa Yagi, Assistant Finance Director, Ryan Stachelski, Director of Community  
and Economic Development, Jesse Truman, Principal of 57<sup>th</sup> Apartments, LLC, Cody Bohall,  
Property Owner and CEO/President of Studio 8.18 Engineering and one guest.

Chair Parker requested to adjust the Regular Meeting agenda to add Personnel Matters,  
Pursuant to CRS 24-6-402(4)(f) to Executive Session.

Commissioner Williams moved to adjust the agenda.

The following votes were cast on the Motion:

Voting yes: Bunyard, Cline, Dolan, Parker, Steinhaus, Williams

Absent: Jacobsen

**The Motion was approved.**

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**4. Approval of the Summary of Minutes**

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The Summary of Minutes of the March 03, 2021 AURA Regular Board Meeting and March 10,  
2021 AURA Special Meeting stand approved.

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**5. Public Comment on Issues Not Scheduled for Public Hearing – Three Minute Limit**

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None

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**6. Public Hearing**

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A. Resolution AR-21-03 - A Resolution Amending the Arvada Urban Renewal Authority Budget  
for Fiscal Year 2020.

Commissioner Jacobsen joined the meeting.

Maureen Phair, Executive Director reviewed Resolution AR-21-03.

Lisa Yagi, City of Arvada Assistant Finance Director stated that she agreed with Ms. Phair's  
purpose for Resolution AR-21-03.

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Chair Parker sought public comments. No one wishing to speak for or against, the public comments were closed.

Commissioner Steinhaus asked about the status of the NW bonds. Lisa Yagi, City of Arvada Assistant Finance Director, stated that due to several refinancing there is no indication of paying off the bonds at this time.

Commissioner Williams moved that Resolution AR-21-03, A Resolution Amending the Arvada Urban Renewal Authority Budget for Fiscal Year 2020, be approved.

The following votes were cast on the Motion:

Voting yes: Bunyard, Cline, Dolan, Jacobsen, Parker, Steinhaus, Williams

**The Motion was approved.**

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**7. Study Session**

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A. Olde Town Street Closures                      Ryan Stachelski, City of Arvada  
Director of Community and Economic Development

Ryan Stachelski, Director of Community and Economic Development, provided a brief overview of the projected plan for Olde Town Street Closures, to enhance the configuration, structure, design and esthetics as well as to accommodate the Olde Town businesses. He also stated there are measurement tools in place to periodically assess success with the projected plan.

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**8. Old Business**

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A. Resolution AR-21-04 - A Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority Approving the Ninth Amendment to Ralston Creek North Disposition and Development Agreement and Approving the Amended and Restated Disposition and Development Agreement between the Authority and Ralston Creek North, LLC.

Maureen Phair, Executive Director, stated that Resolution AR-21-04, was reviewed at previous Special Meeting. Ms. Phair offered the Board of Commissioners a brief synopsis for Resolution AR-21-04, otherwise proceed to vote.

Commissioner Williams moved that Resolution AR-21-03, A Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority Approving the Ninth Amendment to Ralston Creek North Disposition and Development Agreement and Approving the Amended and Restated Disposition and Development Agreement between the Authority and Ralston Creek North, LLC, be approved.

The following votes were cast on the Motion:

Voting yes: Bunyard, Cline, Dolan, Jacobsen, Parker, Steinhaus, Williams

**The Motion was approved.**

B. Resolution AR-21-05 - A Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority Approving an Intergovernmental Agreement by and between the City of Arvada and the Arvada Urban Renewal Authority to Complete the #.04 Denver Tramway Streetcar Site Development Project.

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Maureen Phair, Executive Director reviewed the agreement to finance the Trolley park and structure for \$465,000. Ms. Phair stated the park is anticipated to break ground this summer.

Commissioner Jacobsen moved that Resolution AR-21-05, A Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority Approving an Intergovernmental Agreement by and between the City of Arvada and the Arvada Urban Renewal Authority to Complete the #.04 Denver Tramway Streetcar Site Development Project, be approved.

The following votes were cast on the Motion:

Voting yes: Bunyard, Dolan, Jacobsen, Parker, Steinhaus, Williams

**The Motion was approved.**

**Voting no:** Cline

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**9. New Business**

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- A. Arvada Place Apartments                      Jesse Truman, 57<sup>th</sup> Apartments, LLC

Jesse Truman, Principal of 57<sup>th</sup> Apartments, LLC, presented a proposed project, Arvada Place Apartments, near the Garrison Street Paseo project. Mr. Truman stated there are challenges with the project so he is asking for financial assistance.

- B. 7611 Grandview Avenue                      Cody Bohall, Property Owner and  
CEO/President of Studio 8.18 Engineering

Cody Bohall, CEO/President of Studio 8.18 Engineer, and property owner of 7611 Grandview provided a brief overview of the proposed plan of the existing building and landscape improvements. Mr. Bohall asked the Board of Commissioners for financial assistance.

Maureen Phair noted that both these projects will be discussed in Executive Session.

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**10. Development Update**

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Maureen Phair, Executive Director, provided the following development updates:

City Stores – The asbestos remediation contractor has begun constructing a containment that will encompass the entire building in order to remediate the asbestos in the CMU block. The remediation should take about a month, and demolition will begin shortly thereafter.

Loftus Development – Went before the Planning Commission on April 6 for a Conditional Use Permit (CUP) and will be heard by the City Council on May 3, 2021.

Trammell Crow – A Conditional Use Permit (CUP) for the Olde Town Residences project located on the southwest corner of Wadsworth Bypass at 56<sup>th</sup> Avenue was approved and the ground breaking is planned for June, 2021.

Ralston Creek Village (development of former Safeway site) – No update on Berkeley Homes.

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**11. Public Comment – Five Minute Limit**

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None

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**12. Comments from Commissioners**

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Commissioner Jacobsen - Noted that this was his last Board meeting. He stated it's been a privilege to work with the AURA Board for the past 10 years. He said that he's excited about what's happening with the Arvada Urban Renewal Authority.

Treasurer Cline – Thanked Commissioner Jacobsen for his personal and professional contributions. Treasurer Cline also thanked Commissioner Jacobsen for his service and the impact he made with the City and the AURA Board. He noted that he learned a lot from Commissioner Jacobsen and it was a great opportunity to have worked with him on the AURA Board. Treasurer Cline emphasized that Commissioner Jacobsen has become a great friend.

Commissioner Steinhaus – Noted that he has grown to appreciate Commissioner Jacobsen's leadership and insight on the AURA Board. He said that Commissioner Jacobsen will be greatly missed.

Commissioner Bunyard – Thanked Commissioner Jacobsen for his leadership. He noted that he looks forward to saying good bye in the right way.

Vice Chair Dolan – Thanked Commissioner Jacobsen for his leadership and contribution to the Arvada Community. Vice Chair Dolan stated that Commissioner Jacobsen will be terribly missed. She noted that she will remain in touch.

Commissioner Williams – Thanked Commissioner Jacobsen for an exemplary job with the Arvada community that is well before being appointed to the AURA Board. He stated that Commissioner Jacobsen has been a great leader on the AURA Board as well as provided thoughtful insight. He stated that Commissioner Jacobsen will be greatly missed.

Chair Parker – Thanked Commissioner Jacobsen for his leadership with the AURA Board.

Maureen Phair, Executive Director - Thanked Commissioner Jacobsen for his leadership and mentorship. She noted that there will be a planned event for Commissioner Jacobsen when he feels better to show appreciation and gratitude for his contribution to the AURA Board.

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**13. Committee Reports**

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Commissioner Bunyard stated that he attended an Arvada Economic Development Association (AEDA) Board meeting this month. At the meeting there was an update on the Business Grant Program.

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**14. Staff Reports**

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Maureen Phair, Executive Director, provided the following staff report updates:

Ms. Phair stated the Flash Report is in the Board packet.

Ms. Phair reported the June Board Meeting will be held in the AURA conference room and the public will join virtually.

Ms. Phair noted that for the May Board Meeting the Board will appoint the new AURA Commissioner Eli Feret and the placement of Treasure, Chair and Vice Chair.

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Corey Hoffmann, Legal Counsel, had nothing to report.

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**15. Executive Session**

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- A. Instructions to Negotiators, Pursuant to CRS 24-6-402(4)(e) Relating to Potential Projects and Personnel Matters, Pursuant to CRS 24-6-402(4)(f).

Corey Hoffmann, Legal Counsel, stated the need for an Executive Session for Instructions to Negotiators, Pursuant to CRS 24-6-402(4)(e) Relating to Potential Projects and Personnel Matters, Pursuant to CRS 24-6-402(4)(f).

Commissioner Williams moved to go into Executive Session for the reasons stated by Legal Counsel.

The following votes were cast on the Motion:

Those voting Yes: Bunyard, Cline, Dolan, Jacobsen, Parker, Steinhaus, Williams

**The Motion was Approved.**

The AURA Board convened into the Executive Session at 4:23 p.m. and reconvened into the Regular Meeting at 5:28 pm

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**16. Adjournment**

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Chair Parker adjourned the meeting at 5:28 p.m.

\_\_\_\_\_  
Alan Parker, Chair

ATTEST:

\_\_\_\_\_  
Maureen Phair, Executive Director

\_\_\_\_\_  
Carrie Briscoe, Recording Secretary



**RESOLUTION AR-21-06**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN  
RENEWAL AUTHORITY APPROVING THE TERMINATION OF RECIPROCAL  
ACCESS EASEMENT**

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF  
COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY, THAT:**

Section 1. The Termination of Reciprocal Access Easement by the Arvada Urban  
Renewal Authority, attached hereto as **Exhibit A**, is hereby approved, and the Chairman is  
authorized to execute it on behalf of the Authority.

DATED this \_\_\_\_ day of May, 2021.

\_\_\_\_\_  
Alan Parker, Chair

\_\_\_\_\_  
Recording Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
Corey Y. Hoffmann, Legal Counsel

RECORDING REQUESTED BY:

Brigette M. Paige, Esq.  
Packard and Dierking, LLC  
2595 Canyon Blvd., Suite 200  
Boulder, Colorado 80302

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(Above space for Recorder's use only)

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## **TERMINATION OF RECIPROCAL ACCESS EASEMENT**

This Termination of Reciprocal Access Easement (“***Termination***”) is made this \_\_\_\_ day of \_\_\_\_\_, 2021 by **ARVADA URBAN RENEWAL AUTHORITY**, a body corporate and politic of the State of Colorado (“***AURA***”), as set forth below:

### **RECITALS**

A. WHEREAS, AURA and Aidan, Inc., a Colorado corporation (“***Aidan***”) executed that certain Termination and Release of Prior Reciprocal Access Easement and Replacement With New Access Easement dated October 7, 2018 and recorded in the records of the clerk and recorder of Jefferson County, Colorado on November 16, 2018 at Reception No. 2018104362 (the “***Agreement***”);

B. WHEREAS, AURA is the current owner of the property described on Exhibit A attached hereto (“***Arvada Square***”);

C. WHEREAS, AURA (as successor-in-interest to Aidan) is now also the current owner of the property described on Exhibit B attached hereto (the “***Gas Station Property***”); and

D. WHEREAS, with AURA owning both affected properties, the Agreement is no longer useful or necessary, and AURA desires to terminate it, relinquishing all right, title and interest in the Agreement for the benefit of both Arvada Square and the Gas Station Property.

### **TERMINATION**

1. TERMINATION AND RELINQUISHMENT. AURA hereby terminates the easements, rights-of-way and other benefits granted in the Agreement described of record and as actually located and used, for the benefit of Arvada Square and the Gas Station Property including any right or title through adverse possession, and relinquishes any and all right, title and interest in said easements and in the use thereof.

2. BINDING EFFECT. The provisions hereof shall be binding upon and shall inure to the benefit or burden of AURA, its successors and assigns.

IN WITNESS WHEREOF, AURA has executed this Termination on the date first set forth above.

**ARVADA URBAN RENEWAL AUTHORITY**, a  
body corporate and politic of the State of  
Colorado

By: \_\_\_\_\_  
Alan Parker, Chairman

ATTEST:

\_\_\_\_\_  
Maureen C. Phair  
Secretary/Executive Director

**EXHIBIT A**

**ARVADA SQUARE**

LOTS 1 AND 2, THE SHOPS AT RALSTON CREEK II MINOR SUBDIVISION,  
ACCORDING TO THE PLAT THEREOF RECORDED JULY 18, 2019 UNDER RECEPTION  
NO. 2019061076, COUNTY OF JEFFERSON, STATE OF COLORADO.

## **EXHIBIT B**

### **GAS STATION PROPERTY**

A PARCEL OF LAND LYING IN THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, AND BEING A PORTION OF BLOCK 5, ARVADA SQUARE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 60.5 FEET NORTH AND 30 FEET WEST OF THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 10, TOWNSHIP 3 SOUTH, RANGE 69 WEST, THENCE WEST PARALLEL TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 10 A DISTANCE OF 175 FEET TO A POINT; THENCE NORTH PARALLEL TO THE EAST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 10 A DISTANCE OF 175 FEET TO A POINT; THENCE EAST PARALLEL TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 10 A DISTANCE OF 175 FEET TO A POINT; THENCE SOUTH PARALLEL TO THE EAST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 10 A DISTANCE OF 175 FEET TO THE POINT OF BEGINNING, COUNTY OF JEFFERSON, STATE OF COLORADO.

**RESOLUTION AR-21-07**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY APPROVING THE TENTH AMENDMENT TO THE EXECUTIVE DIRECTOR'S EMPLOYMENT AGREEMENT**

WHEREAS, the Arvada Urban Renewal Authority ("AURA") and Maureen C. Phair ("Employee") have previously entered into an employment agreement with an effective date of July 6, 2011 (the "Original Agreement") whereby, among other matters, the pay and benefits of Executive Director are set;

WHEREAS, AURA and Employee have previously amended the Original Agreement by entering into a First Amendment to an Employment Agreement dated September 5, 2012; a Second Amendment to an Employment Agreement dated August 7, 2013; a Third Amendment to an Employment Agreement dated August 6, 2014; a Fourth Amendment to an Employment Agreement dated February 3, 2016; a Fifth Amendment to an Employment Agreement dated November 7, 2016; a Sixth Amendment to an Employment Agreement dated April 4, 2018; a Seventh Amendment to an Employment Agreement dated March 6, 2019; an Eighth Amendment to an Employment Agreement dated May 6, 2020, and a Ninth Amendment to Employment Agreement dated March 3, 2021; and

WHEREAS, AURA and Employee desire to further amend the Original Agreement by this Tenth Amendment to an Employment Agreement as more fully set forth below.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY, THAT:**

Section 1. Subject to City Council approval, and pursuant to Section 3.4 of the Original Agreement, the attached Tenth Amendment to an Employment Agreement is hereby approved,

DATED this \_\_\_\_ of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Alan Parker, Chair

\_\_\_\_\_  
Recording Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
Corey Y. Hoffmann, Legal Counsel

**TENTH AMENDMENT TO AN EMPLOYMENT AGREEMENT BY AND  
BETWEEN THE ARVADA URBAN RENEWAL AUTHORITY AND MAUREEN C.  
PHAIR AS SECRETARY AND EXECUTIVE DIRECTOR**

WHEREAS, the Arvada Urban Renewal Authority ("AURA") and Maureen C. Phair ("Employee") have previously entered into an employment agreement with an effective date of July 6, 2011 (the "Original Agreement") whereby, among other matters, the pay and benefits of Executive Director are set;

WHEREAS, AURA and Employee have previously agreed to amend the Original Agreement by entering into a First Amendment to an Employment Agreement dated September 5, 2012; a Second Amendment to an Employment Agreement dated August 7, 2013; a Third Amendment to an Employment Agreement dated August 6, 2014; a Fourth Amendment to an Employment Agreement dated February 3, 2016; a Fifth Amendment to an Employment Agreement dated November 7, 2016; a Sixth Amendment to an Employment Agreement dated April 4, 2018; a Seventh Amendment to an Employment Agreement dated March 6, 2019; an Eighth Amendment to an Employment Agreement dated May 6, 2020, and a Ninth Amendment to an Employment Agreement dated March 3, 2021; and

WHEREAS, AURA and Employee desire to further amend the Original Agreement by this Tenth Amendment to an Employment Agreement as more fully set forth below.

IT IS THEREFORE AGREED by the parties as follows:

1 Subject to City Council approval, retroactive to January 1, 2021, section 3.4 of the Original Agreement is amended to provide an annual salary of \$159,196.80 for the Executive Director.

2. The remaining terms and conditions of the Original Agreement, except as amended hereby, shall remain the same, and are ratified and affirmed.

Agreed to this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Maureen C. Phair, Employee

\_\_\_\_\_  
Alan Parker, AURA Chairman

## ARVADA URBAN RENEWAL AUTHORITY

### AGENDA INFORMATION SHEET

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**Agenda No.:** Item 8. D.  
**Meeting Date:** May 5, 2021  
**Title:** Development Agreement between Garrison 57 LLC and AURA

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**ACTION PROPOSED:** Approve the Development Agreement between AURA and Garrison 57 LLC.

**BACKGROUND:** Garrison 57 LLC has proposed developing 36 apartment homes on 1.6 acres on the northwest corner of Garrison and 57<sup>th</sup> Ave. The site lies within the Ralston Fields Urban Renewal Project Area and currently contains one single family house.

The property was rezoned last year when the City updated the Land Development Code. The property went from low density residential RN-6 to medium to high density residential – R24.

**INFORMATION ABOUT ITEM:** The developer intends to construct a small apartment project as a long term investment and has spent the last year getting the property entitled and should receive building permits in May. With the construction documents complete, the developer was able to obtain hard bids for the project. Construction costs have risen dramatically in the past year, lumber alone has increased by 70%. Due to a variety of factors, construction costs may continue to escalate and may result in higher construction costs at actual time of construction. These costs have outpaced any increases in rents and have made the project unfeasible. The developer approached AURA as the project cannot go forward without assistance.

In addition to the increase in construction costs, the project has been impacted by the requirement to dedicate 25 feet along the eastern edge of the property to the City to correct a decades old recording error. The site is further constrained by a 20% slope that renders approximately a quarter of the property as undevelopable.

**Developer Ask:**

- \$150,529 For 25' ROW
- \$236,828 Reimburse Park Fees
- \$295,761 Present value of future property tax TIF (\$408,530 nominal value)
- \$683,118 Total Ask

**Project Analysis:** EPS was contracted to complete an evaluation of the developer's request for financial assistance and to evaluate key project assumptions, such as construction costs and sales revenues, as well as overall project feasibility. The purpose of the analysis is to evaluate the project's financial performance to help the Board determine if the request for assistance is financially justified and would not create an excessive windfall for the developer.



Here is a brief summary of their findings (the full report is attached):

- Rental Rates – slightly lower than recently reviewed surrounding properties but reasonable given the location and lack of on-site amenities
- Land Cost – within range
- Hard Costs – upper end as construction costs have increased considerably in 12 months
- Soft Costs – low end, developer was able to find cost efficiencies

Project Returns – Gap:

- Unlevered IRR = 8.34%, typical market IRR 9.50% = gap of \$865,700
- Yield of Cost = 4.91%, typical market YOC 5.25% = gap of \$753,600
- EPS' estimated gap for this project = \$810,000

Developer Ask	\$683,118
EPS Estimated Gap	<u>\$810,000</u>
Amount of Gap not covered	(127,000)

The agreement provides for the following responsibilities:

Garrison 57 LLC Responsibility:

- Dedicate 25 feet of ROW along the eastern edge of the property to the City of Arvada
- Secure approximately \$12 million in debt and equity financing
- Construct a 3-story residential building with 36 units of one and two bedrooms
- Hold two units as affordable for ten years with rents no higher than 80% of AMI or available for Section 8 vouchers. Developer to provide written confirmation annually that the units have remained affordable
- Parking to consist of both underground and surface
- Construct a rooftop deck with elevator and stair access
- Seven of the ground level units will have private fenced yards
- Mid-century exterior style and details complimenting the neighborhood, façade will be brick and siding

AURA's Responsibility:

- Purchase the 25' ROW for \$150,529 and combine it with the existing Garrison Street ROW to enable the development of the Garrison Street Paseo.
- Reimburse the Park Fees paid of approximately \$236,828 after the developer has broken ground.
- Rebate 100% of the property tax increment received by the development until the Ralston Fields URA TIF district expires in 2028. Estimated value of TIF is approximately \$408,530.

Threshold Agreement: The parties understand that Developer may sell the multifamily residential development prior to the end of the plan area term, which is set to expire on October 31, 2028. As a result, AURA desires to protect its financial investment if the Developer's sale results in a "windfall" return. AURA will contract with EPS to analyze the proposed sale including all project cash flows to determine the levered IRR. Under the windfall scenario, the following will occur:

A levered IRR below 25% allows the developer to continue to receive the TIF revenues according to the agreement and allows the developer to assign the right to future TIF to a buyer. If the levered

IRR is equal to or above 25%, AURA shall have the right to receive the future property tax generated by the project.

Schedule of Performance:

Commencement of Construction	June 1, 2021
Completion of Construction	June 1, 2023

**PROJECT COMPLIANCE WITH AURA AND CITY PLANS:** The project complies with both AURA and City goals by redeveloping and promoting infill development while providing diverse and accessible housing of different tenure types to accommodate diverse incomes and all ages and abilities.

Complies with the Ralston Fields Urban Renewal Plan:

- The plan identifies this parcel as “potential for multi-family residential to support retail”

Complies with the following City of Arvada Goals and Policies:

- GOAL L-2: Plan for a balanced mix of commercial and residential land uses in Arvada
  - POLICY L-2.1: Complete Community. The City will provide for a balanced mix of land uses by promoting redevelopment and continuing to reserve lands for future commercial and industrial development as well as a variety of housing choices as shown on Figure 2-8 (see also Land Use Plan).
- GOAL L-5: Designate and promote redevelopment and infill to generate economic revitalization, improve physical conditions, and provide an appropriate mix of quality housing choices.
  - POLICY L-5.1: Targeted Redevelopment Areas. The City will continue to plan for and promote redevelopment in targeted redevelopment areas including the following areas:
    - Modified Jefferson Center
    - Northwest Arvada
    - Olde Town Station
    - Ralston Fields
    - Village Commons
  - POLICY L-5.3: Regulatory Climate to Encourage Redevelopment and Infill. The City will continue providing incentives, as appropriate and a positive regulatory climate in order to encourage infill redevelopment and redevelopment.
  - POLICY L-5.4: Funding for Redevelopment. The City will actively seek funding from the private and public sector to encourage investment in redevelopment areas.
- GOAL N-1: Plan for a range of neighborhoods and accessible housing of different tenure types to accommodate diverse incomes and all ages and abilities.
  - POLICY N-1.1: Range of Residential Categories. The Land Use Plan will include a mix of residential land use categories and minimum densities ranging from low density single-family homes to multi-family housing of different tenure types in mixed-use activity centers, in order to encourage varied housing needs.
  - POLICY N-1.2: Site Planning to Promote Variety. The City will encourage new neighborhoods that incorporate a mix of lot sizes, development densities, and housing types and styles.
- GOAL N-3: Maintain and improve the quality of the existing housing stock in Arvada and revitalize the physical and social fabric of neighborhoods that are in decline.

**COMMUNITY BENEFIT:** This project will replace a single family residence with 36 apartment homes, two which will be affordable. This density is conveniently located in an urban area within walking distance to transit, groceries, and other key services. The development allows AURA to obtain the 25 feet of ROW critical to the successful development of the Garrison Street Paseo which will provide much needed improvements to the pedestrian connection between the neighborhood to the south and Ralston Central Park and the services located along Ralston Road.

**FINANCIAL IMPACT:** AURA will purchase the 25' ROW for \$150,529; the property will be included in the Garrison Street Paseo. AURA will also reimburse the Developer for the park fees paid to the City of approximately \$236,828; the City will allocate these funds to the construction of the Garrison Street Paseo. These monies will be paid from the Ralston Fields account where there are adequate funds.

The estimated rebate of \$402,881 in future property tax increment does not exist today, rather the money is generated by the project and therefore it will not affect AURA's cash.

**STAFF RECOMMENDATION:** Approval

**SUGGESTED MOTION:** I move that Resolution AR-21-08, A Resolution of the Board of Commissioner of the Arvada Urban Renewal Authority Approving the Development Agreement between AURA and Garrison 57 LLC

**RESOLUTION AR-21-08**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN  
RENEWAL AUTHORITY APPROVING THE REDEVELOPMENT AGREEMENT  
WITH GARRISON 57, LLC**

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF  
COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY, THAT:**

Section 1. The Redevelopment Agreement between the Arvada Urban Renewal Authority and Garrison 57, LLC is hereby approved, and the Chair is authorized to execute the Agreement on behalf of the Authority.

DATED this \_\_\_\_ of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Alan Parker, Chair

\_\_\_\_\_  
Recording Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
Corey Y. Hoffmann, Legal Counsel

## **REDEVELOPMENT AGREEMENT**

THIS REDEVELOPMENT AGREEMENT (this "**Agreement**") dated as of \_\_\_\_\_, 2021, is made by and between ARVADA URBAN RENEWAL AUTHORITY, an urban renewal authority and a body corporate and politic of the State of Colorado (the "**Authority**"), and GARRISON 57, LLC, a Colorado limited liability company ("**Developer**"). The Authority and Developer are sometimes collectively called the "**Parties**," and individually, a "**Party**."

### **RECITALS**

All capitalized terms used, but not defined, in these Recitals, have the meanings ascribed to them in this Agreement. The Recitals are incorporated to this Agreement as though fully set forth in the body of this Agreement.

**WHEREAS**, Developer seeks to redevelop the property located at 9255 West 57<sup>th</sup> Avenue, Arvada, CO, as more particularly described on **Exhibit A** attached hereto (the "**Redevelopment Property**"), and to construct certain Eligible Improvements (hereinafter defined) within the Redevelopment Property (the "**Project**");

**WHEREAS**, the Authority has determined that the Project is necessary in order to remediate blight, and is consistent with and in furtherance of the purposes of the Authority and the Ralston Fields Urban Renewal Plan;

**WHEREAS**, in order to facilitate the acquisition, construction and installation of the Project, the Authority seeks to reimburse Developer up to a maximum aggregate amount of Eight Hundred Thousand Dollars (\$800,000.00) (as further defined below, the "**Authority Contribution**") as set forth in this Agreement through: (a) payment by the Authority to Developer for the acquisition of certain right-of-way, (b) a cash contribution by the Authority to reimburse the payment by Developer to the City of Arvada of certain park fees; upon commencement of construction of the Project, and (c) reimbursement of property tax increment generated by the Redevelopment Property through the year 2028;

**WHEREAS**, pursuant to the Colorado Urban Renewal Law , C.R.S. § 31-25-101, *et seq.*, and the Urban Renewal Plan, the Authority may finance undertakings pursuant to the Plan by any method authorized under the Act or any other applicable law, including, without limitation, issuance of notes, bonds, and other obligations in an amount sufficient to finance all or part of the Plan; borrowing of funds and creation of indebtedness; advancement of reimbursement agreements; agreements with public or private entities; and loans, advances and grants from any other available sources; and the Plan authorizes the Authority to pay the principal and interest on any such indebtedness from property and sales tax increments, or any other funds, revenues, assets or properties legally available to the Authority;

**WHEREAS**, the Parties have agreed to enter into this Agreement for the redevelopment of the Redevelopment Property in accordance with the Urban Renewal Plan and the Act.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises of the Parties contained in this Agreement, and other valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree to the terms and conditions in this Agreement.

## **AGREEMENT**

1. **DEFINITIONS.** In this Agreement, unless a different meaning clearly appears from the context, capitalized terms mean:

**"Act"** means the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31 of the Colorado Revised Statutes, as amended.

**"Agreement"** means this Redevelopment Agreement, as it may be amended or supplemented in writing. References to Sections or Exhibits are to this Agreement unless otherwise qualified. All exhibits attached to and referenced in this Agreement are hereby incorporated into this Agreement.

**"Authority"** means Arvada Urban Renewal Authority, an urban renewal authority and a body corporate and politic of the State of Colorado which has been duly created, organized, established and authorized by the City to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Act, and its successors and assigns.

**"Authority Contribution"** means the amount not to exceed Eight Hundred Thousand Dollars (\$800,000.00) consisting collectively of the following: (a) payment by the Authority to Developer for the acquisition of certain right-of-way in the amount of One Hundred Fifty Thousand, Five Hundred Twenty Nine Dollars (\$150,529.00), (b) a cash contribution by the Authority to reimburse the payment by Developer to the City of Arvada of certain park fees in the amount of Two Hundred Thirty-Six Thousand, Eight Hundred Twenty Eight Dollars (\$236,828.00) upon commencement of construction of the Project, and (c) reimbursement of property tax increment generated by the Redevelopment Property through the year 2028;

**"City"** means the City of Arvada, Colorado, a home rule municipality and political subdivision of the State of Colorado organized and existing under a home rule charter pursuant to Article XX of the Constitution of the State of Colorado.

**"Commencement of Construction"** means the commencement by Developer of actual physical work on the Project, pursuant to a permit issued by the City.

**"Default"** or **"Event of Default"** means any of the events described in Section 15; provided, however, that such events will not give rise to any remedy until effect has been given to all grace periods, cure periods, and periods of enforced delay provided for in this Agreement.

**"Developer"** means Garrison 57, LLC, a Colorado limited liability company, and any successors and assigns approved in accordance with this Agreement.

**"Effective Date"** means the date of this Agreement.

**"Executive Director"** means the Executive Director of the Authority.

"Party" or "Parties" means one or both of the parties to this Agreement.

"Pledged Revenues" means the total aggregate principal amount of the Authority Contribution as defined in this Agreement, including specifically one hundred percent (100%) of the Property tax increment generated by the Redevelopment Property during the term of this Agreement.

"Project" means the redevelopment of the Redevelopment Property.

"Redevelopment Property" means the real property, located at 9255 West 57<sup>th</sup> Avenue, Arvada, CO, as more particularly described in **Exhibit A** attached hereto.

"Urban Renewal Plan" or "Plan" means the Ralston Fields Urban Renewal Plan.

## 2. FINANCING AND CONSTRUCTION OF PROJECT.

2.1 Construction of Project. As set forth in Section 4, if Developer proceeds with the Project, then Developer shall be responsible for acquiring, constructing, and installing the Project, and shall be responsible for compliance in all respects with the requirements of the City of Arvada, as imposed pursuant to the governmental approvals obtained from the City by Developer with respect to the Project.

2.2 Financing the Eligible Improvements. Developer shall be responsible for initially financing the costs and expenses in connection with the acquisition, construction and installation of the Project which financing may be provided by a financial institution or investor loaning the funds to the Developer and securing such loan with a deed of trust encumbering the Redevelopment Property.

## 3. CONDITIONS PRECEDENT TO AUTHORITY CONTRIBUTION.

3.1 Conditions Precedent. Unless waived in writing by the Executive Director, the following conditions precedent shall be satisfied prior to Developer receiving the Authority Contribution for the Project pursuant to the terms and provisions of this Agreement:

a. Developer shall have obtained final plat approval for the Project from the City, which final plat shall include the conveyance of a twenty-five (25) foot easement to the City as more particularly described in **Exhibit B**, attached hereto and incorporated herein by this reference (the "Easement Property"), the cost of which shall be paid by the Authority as set forth in Section 5 below in the amount of One Hundred Fifty Thousand, Five Hundred Twenty Nine Dollars (\$150,529.00);

b. Developer shall have obtained the first building permit for vertical construction of the Project, and shall have commenced such vertical construction on or before June 1, 2021 in order to be entitled to the reimbursement by the Authority in the amount of Two Hundred Thirty-Six Thousand, Eight Hundred Twenty-Eight Dollars (\$236,828.00) in park fees paid to the City as set forth in Section 5 below;

c. Developer shall have completed construction of the Project by June 1, 2023 in order to be entitled to reimbursement of property tax increment generated by the Redevelopment Property through the year 2028; and

d. No Events of Default by Developer shall have occurred and be continuing under this Agreement, after expiration of all applicable grace, notice, and cure periods.

4. DEVELOPER.

4.1 Acquisition, Construction, and Installation of Project. This Agreement shall not obligate Developer to proceed with the Project. If Developer proceeds with the Project, Developer shall be responsible for the financing, design, acquisition, construction, and installation of the Project.

The design and construction of the Project shall comply in all material respects with all applicable codes and regulations of entities having jurisdiction, including any City requirements. In addition, the Project shall comply with the following minimum requirement:

a. Developer shall set aside two (2) units within the thirty-six (36) unit apartment project as affordable or attainable housing for a period of ten (10) years, which can be accomplished as follows:

i. Set rents no higher than 80% or less of the area median income (AMI) through, or

ii. Acceptance of "Section 8" vouchers

b. Developer shall accomplish compliance with this Section 4.1, by providing the Authority with a letter annually for ten years no later than December 31 of each year, in a form acceptable to the Authority, certifying that the two (2) units have remained affordable confirming the eligibility of lessors, and assuring compliance with all applicable rules and restrictions.

The Parties further agree that if Commencement of Construction by Developer of the Project has not occurred by June 1, 2021, this shall not constitute an Event of Default hereunder, but that the Authority shall have the right to terminate this Agreement as set forth in Section 17 prior to the date Commencement of Construction occurs.

4.2 Notification of Sale of Property. Developer shall provide written notice to the Authority of the sale, conveyance or assignment of all or any portion of the Redevelopment Property by Developer during the term of this Agreement.



5. THE AUTHORITY.

5.1 Payment of Authority Contribution. Upon compliance by the Developer with the condition's precedent set forth in Section 3.1, the Authority shall contribute to the Project as follows:

a. Upon final plat approval by the City of the Development Property, the Authority shall pay to Developer within ten (10) business days the amount of One Hundred Fifty Thousand, Five Hundred Twenty-Nine Dollars (\$150,529.00) as consideration for the conveyance of the Easement Property as more particularly described in **Exhibit B**, attached hereto and incorporated herein by this reference;

b. Within ten (10) business days after Developer has obtained the first building permit for vertical construction of the Project, and Developer has commenced such vertical construction on or before June 1, 2021, the Authority shall reimburse the Developer the amount of Two Hundred Thirty-Six Thousand, Eight Hundred Twenty-Eight Dollars (\$236,828.00) in Park Fees paid to the City; and

c. The Authority shall reimburse one hundred percent (100%) of the property tax increment produced by the Project on a monthly basis in an amount up to Four Hundred Fifty Thousand Dollars (\$450,000.00), commencing upon the first Certificate of Occupancy issued for the Project, and terminating upon the receipt by Developer of the amount of Four Hundred Fifty Thousand Dollars (\$450,000.00), or the date of October 31, 2028, whichever first occurs.

5.2 Threshold Agreement. The parties understand that Developer may sell the multifamily residential development prior to the end of the plan area term, which is set to expire on October 31, 2028. As a result, the Authority desires to protect its financial investment if the Developer's sale results or will result in a "windfall" return to Developer.

a. For purposes of this section, the following terms shall have the following meanings:

i. "Bona Fide Sale" means the first and only the first sale of the multifamily development from the Developer or any successor or assign of Developer (as such successor or assign may be approved by the Authority or considered a successor or assign pursuant to Section 19 to an "Unaffiliated Buyer," as defined below. Bona Fide Sale shall not include a transfer of a partnership interest to a third party not currently a partner, or a transfer of a majority of the membership interest in Developer by its shareholders, if applicable, or by a parent corporation, regardless of whether the Authority has approved such transfer under Section 19. Bona Fide Sale shall not include any sale after the first sale of the Apartments and any such subsequent sale shall not be subject to the provisions of this Section.

- ii. "Unaffiliated Buyer" means a bona fide buyer of the Apartments for market value in an arm's length transaction with the Developer in which the buyer is not a legal entity related to the Developer, or a Developer-controlled entity. For purposes of the preceding sentence, the term "control" shall mean the possession, direct or indirect, of the power to direct, or cause the direction of, the management and policies of an entity through voting securities, management ownership, contract or otherwise. The foregoing includes a tenancy-in-common regime so long as at least one of the tenant-in-common owners is a permitted transferee. Additionally, a third party who receives a partnership interest in Developer, or who receives a transfer of a majority of the membership interest in Developer by its shareholders, if applicable, or by a parent corporation, regardless of whether the Authority has approved such transfer under Section 19, below, shall not be considered an Unaffiliated Buyer.
  - iii. "Leveraged IRR" means Developer's compounded rate of return on funds invested in, from January 1, 2019, forward, and received solely for the development of the Apartments; reflects Developer's use of debt to finance the multifamily development; and accounts for Developer's cash flows after accounting for loan proceeds, debt service obligations, and mortgage payoffs associated with developing, owning, and selling the multifamily development. The Leveraged IRR shall be calculated using Microsoft Excel's XIRR function, or comparable spreadsheet software.
  - iv. "Leveraged IRR Calculation Trigger Event" means the event described in Section 5.2(b)(i) below.
  - v. "Leveraged IRR Threshold" means 25.00%.
  - vi. "TIF Retention Amount" means the amount, if any, of TIF Revenues that the Authority will retain annually after the Bona Fide Sale pursuant to Section 5.2(b) below. At time of Bona Fide Sale, the present value of future TIF Revenues will be calculated using a 5.00% discount rate. This present value amount will be included in the calculation of the Developer's Leveraged IRR and will be accounted for at date of sale.
  - vii. "Third Party Consultant" (TPC) means the independent consultant retained by the Authority to determine the amount of TIF the Redeveloper is entitled to in the event of a Bona Fide Sale to an Unaffiliated Buyer in excess of the Leveraged IRR Threshold.
- b. Calculation of Leveraged IRR; Treatment of TIF Revenues.

- i. If the Developer sells the project before October 31, 2028, the evaluation of leveraged Developer returns shall be completed upon the receipt of an offer from an Unaffiliated Buyer for a Bona Fide Sale of the multifamily development (the "Leveraged IRR Calculation Trigger Event"). At this time, the Developer shall provide the TPC with the information necessary to calculate the Leveraged IRR and the TPC will calculate the project's financial performance, using annual cash flow data starting from the lease-up phase following the completion of construction to the date of sale. TPC will calculate the Leveraged IRR, accounting for the present value of future TIF revenues based on the remaining years of TIF revenue. The value of future TIF Project Revenues will be incorporated into this analysis by using a 5.00% discount rate to estimate the present value of future TIF Project Revenues. If the project is sold after October 31, 2028, there will not be a Leveraged IRR Calculation Trigger Event and a lookback will not be completed.
- ii. If the Leveraged IRR does not exceed the Leveraged IRR Threshold, Developer or Developer's Buyer shall continue to have the right to receive the TIF Project Revenues in accordance with this Agreement subsequent to the Bona Fide Sale with no TIF Project Revenues being retained by the Authority. In addition, Developer may assign the right to receive future TIF Revenues to Developer's buyer at the Bona Fide Sale or any future buyer, and upon notice from Developer of such assignment, the Authority shall rebate Property Tax Increment in accordance with Section 5.1 above to such buyer.
- iii. If the Leveraged IRR equals or exceeds the Leveraged IRR Threshold, THE AUTHORITY shall have the right to receive on an annual basis, the amount of future Property Tax Increment generated by the multifamily development that result in a Leveraged IRR that is greater than the Leveraged IRR Threshold.
- iv. The present value of TIF payments shall not exceed the maximum TIF amount of \$450,000, as defined in Section 5.1.
- v. The TPC shall submit its calculation of the Leveraged IRR and the TIF Retention Amount (if any) to the Authority and the Developer within ten (10) business days after the Leveraged IRR Calculation Trigger Event. The Parties shall meet within seven (7) business days following the TPC's submission of its calculation to confirm that the final calculation of Leveraged IRR and TIF Retention Amount is consistent with the methodology defined in this 5.2.

c. This Section 5.2 shall no longer apply upon the earlier of (i) five (5) years after the date the Redeveloper has received a Certificate of Occupancy for this Project, or (ii) October 31, 2028.

5.3. Approval of Site Plan and Elevations. The Authority shall review and approve the site plan and elevations prior to Developer submitting the same to the City to assure that the Project is consistent with the provisions of this Agreement.

5.4 No Election Required. The Parties acknowledge that according to the decision of the Colorado Court of Appeals in *Olson v. City of Golden*, 53 P.3d 747 (2002), an urban renewal authority is not a local government and therefore is not subject to the provisions of Article X, Section 20 of the Colorado Constitution. Accordingly, the Authority may enter into this Agreement with Developer, and agree to remit the Pledged Revenues to Developer to reimburse Developer for Eligible Costs in accordance with the provisions of this Agreement without electoral authorization, and such obligations are not subject to annual appropriation.

5.5 No Impairment. The Authority will not enter into any agreement or transaction that impairs the rights of the Parties, including without limitation, the right to receive and apply the Pledged Revenue in accordance with the terms and provisions of this Agreement.

6. INSURANCE. On or prior to the Commencement of Construction, Developer will provide the Authority with certificates of insurance showing that Developer is carrying, or causing prime contractors to carry, at a minimum, the following insurance: General Liability, with a general aggregate of Two Million Dollars (\$2,000,000); fire damage of One Hundred Thousand Dollars (\$100,000); medical expense of Five Thousand Dollars (\$5,000); products/completed operations aggregate of Two Million Dollars (\$2,000,000); personal injury of One Million, Dollars (\$1,000,000) with each occurrence up to One Million, Dollars (\$1,000,000), with deductible of Ten Thousand Dollars (\$10,000) per claim. Excess liability shall be covered in an amount equal to Two Million Dollars (\$2,000,000) per occurrence, Five Million Dollars (\$5,000,000) aggregate.

7. INDEMNIFICATION. From Commencement of Construction of the Project through Completion of Construction of the Project, and for any action arising during that time period, Developer agrees to indemnify, defend and hold harmless the Authority, its officers, agents, and employees, from and against all liability, claims, demands, and expenses, including fines imposed by any applicable state or federal regulatory agency, court costs and reasonable attorneys' fees, on account of any injury, loss, or damage to the extent arising out of any of the work to be performed by Developer, any subcontractor of Developer, or any officer, employee, agent, successor or assign of Developer under this Agreement, but only to the extent such injury, loss, or damage is caused by the negligent act or omission, error, professional error, mistake, accident, or other fault of Developer, any subcontractor of Developer, or any officer, employee, agent, successor or assign of Developer, but excluding any injuries, losses or damages which are due to the gross negligence, breach of contract or willful misconduct of the Authority, or any arising by, through, or under the Authority.

8. REPRESENTATIONS AND WARRANTIES.

8.1 Representations and Warranties by the Authority. The Authority represents and warrants as follows:

a. The Authority is a body corporate and politic of the State of Colorado, duly organized under the Act, and has the power to enter into and has taken all actions to date required to authorize this Agreement and to carry out its obligations.

b. The Authority knows of no litigation, proceeding, initiative, referendum, investigation, or threat of any of the same contesting the powers of the Authority or its officials with respect to this Agreement that has not been disclosed in writing to Developer.

c. The execution and delivery of this Agreement and the documents required and the consummation of the transactions contemplated by this Agreement will not: (i) conflict with or contravene any law, order, rule or regulation applicable to the Authority or to its governing documents; (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the Authority is a Party or by which it may be bound or affected; or (iii) permit any Party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of the Authority.

d. The Authority Contribution is from available funds of the Authority, and is not subject to any other or prior pledge or encumbrance, and the Authority will not encumber the funds necessary to pay the Authority Contribution prior to full payment to Developer, except that the Pledged Revenues to pay one hundred percent (100%) of the property tax increment derived from the Redevelopment Property are contingent upon such funds being remitted to the special fund of the Authority by the Jefferson County assessor.

e. This Agreement constitutes a valid and binding obligation of the Authority, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

8.2 Representations and Warranties by Developer. Developer represents and warrants as follows:

a. Developer is a Colorado limited liability company in good standing and authorized to do business in the State of Colorado and has the power and the authority to enter into and perform in a timely manner its obligations under this Agreement.

b. The execution and delivery of this Agreement has been duly and validly authorized by all necessary action on its part to make this Agreement valid and binding upon Developer.

c. The execution and delivery of this Agreement will not: (i) conflict with or contravene any law, order, rule or regulation applicable to Developer or to Developer's governing documents; (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which Developer is a Party or by which it may be bound or affected; or (iii) permit any Party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of Developer.

d. Developer knows of no litigation, proceeding, initiative, referendum, or investigation or threat of any of the same contesting the powers of Developer or any of its principals or officials with respect to this Agreement that has not been disclosed in writing to the Authority.

e. This Agreement constitutes a valid and binding obligation of Developer, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

9. TERM. The term of this Agreement is the period commencing on the Effective Date and terminating on the date that the Authority Contribution is paid in full by the Authority from the Pledged Revenues; or October 31, 2028, whichever first occurs; provided that the following provisions shall continue beyond the term of this Agreement: (i) any rights and remedies that a Party has for an Event of Default hereunder; and (ii) the indemnification provisions set forth in Section 7.

10. CONFLICTS OF INTEREST. None of the following will have any personal interest, direct or indirect, in this Agreement: a member of the governing body of the Authority or the City, an employee of the Authority or of the City who exercises responsibility concerning the Urban Renewal Plan, or an individual or firm retained by the City or the Authority who has performed consulting services to the Authority or the City in connection with the Urban Renewal Plan or this Agreement. None of the above persons or entities will participate in any decision relating to the Agreement that affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

11. ANTI-DISCRIMINATION. Developer, for itself and its successors, and assigns, agrees that in the construction use, and occupancy of the Redevelopment Property, Developer will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual orientation, disability, marital status, ancestry, or national origin.

12. NOTICES. Any notice required or permitted by this Agreement will be in writing and will be deemed to have been sufficiently given for all purposes if delivered in person, by prepaid overnight express mail, or overnight courier service (in which case, such notice shall be deemed received on the next business day), by certified mail or registered mail, postage prepaid return-receipt requested (in which case, such notice shall be deemed received five (5) business days after being deposited in the U.S. Mail), by electronic or facsimile delivery (in which case, such notice will be deemed received on the same day if sent prior to 5:00 p.m. on a business day, or, otherwise, on the next business day), addressed to the Party to whom such notice is to be given

(and such Party's additional persons to copy) at the address(es) set forth below or at such other or additional addresses as may be furnished in writing to the other Parties. The Parties may also agree on a different means of providing written notice hereunder.

To THE AUTHORITY: Arvada Urban Renewal Authority  
5601 Olde Wadsworth Boulevard, Suite 210  
Arvada, Colorado 80002  
Attention: Maureen Phair, Executive Director  
Email: [mphair@arvada.org](mailto:mphair@arvada.org)  
Fax: 720-898-7061

With a Copy To: Authority Counsel  
Corey Y. Hoffmann  
Hoffmann, Parker, Wilson & Carberry, P.C.  
511 16<sup>th</sup> Street, Suite 610  
Denver, Colorado 80202  
Email: [cyh@hpwclaw.com](mailto:cyh@hpwclaw.com)  
Fax: \_\_\_\_\_

To the Developer: Garrison 57 LLC  
9255 West 57<sup>th</sup> Avenue  
Arvada, Colorado 80002  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_

With a Copy To:

13. DELAYS; FORCE MAJEURE. Subject to the following provisions, time is of the essence. Any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, earthquakes, strikes, labor disputes, regulation, or order of civil or military authorities, or other causes, similar or dissimilar, which are beyond the control of such Party.

14. EVENTS OF DEFAULT. The following events shall constitute an Event of Default under this Agreement:

a. Any representation or warranty made by any Party in this Agreement proves to have been untrue or incomplete in any material respect when made and which untruth or incompleteness has a material adverse effect upon the other Party.

b. So long as the Authority Contribution has not been paid in full prior to October 31, 2028, the Authority fails to remit the Pledged Revenues to Developer in accordance with the terms of this Agreement.

c. Except as otherwise provided in this Agreement, any Party fails in the performance of any other covenant in this Agreement and such default continues for thirty (30) days after written notice specifying such default and requiring the same to be remedied is given by a non-defaulting Party to the defaulting Party. If such default is not of a type which can be cured within a 30-day period and the defaulting Party gives written notice to the non-defaulting Party or Parties within such 30-day period that it is actively and diligently pursuing such cure, the defaulting Party shall have a reasonable period of time given the nature of the default following the end of such 30-day period to cure such default; provided that such defaulting Party is at all times within such additional time period actively and diligently pursuing such cure in good faith.

15. REMEDIES. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party's remedies will be limited to the right to enforce the defaulting Party's obligations by an action for injunction, specific performance, or other appropriate equitable remedy or for mandamus, or by an action to collect and enforce payment of sums owing hereunder, and no other remedy, and no Party will be entitled to or claim damages for an Event of Default by the defaulting Party, including, without limitation, lost profits, economic damages, or actual, direct, incidental, consequential, punitive or exemplary damages. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions of this Agreement, the prevailing Party in such litigation or other proceeding shall receive, as part of its judgment or award, its reasonable attorneys' fees and costs.

16. TERMINATION. This Agreement may be terminated by Developer at any time prior to the Commencement of Construction of the Project. In the event that Commencement of Construction of the Project by Developer has not occurred on or prior to June 1, 2021, then the Authority shall have the option to terminate this Agreement at any time prior to such Commencement of Construction.

In order to terminate this Agreement, a Party shall provide written notice of such termination to the other Party. Such termination shall be effective thirty (30) days after the date of such notice, without any further action by the Parties, unless prior to such time, the Parties are able to negotiate in good faith to reach an agreement to avoid such termination; provided, however, that, in the event of termination by the Authority due to Commencement of Construction not occurring on or before June 1, 2021, if Commencement of Construction occurs prior to expiration of said 30-day notice period, such termination notice shall be void and this Agreement shall continue in full force and effect. Upon such termination, this Agreement shall be null and void and of no effect, and no action, claim or demand may be based on any term or provision of this Agreement, except as otherwise expressly set forth herein. In addition, the Parties agree to execute a mutual release or other instruments reasonably required to effectuate and give notice of such termination.

17. PAYMENT OF FEES AND EXPENSES. Each Party agrees to pay for its own fees, costs and expenses incurred by such Party in connection with the execution and delivery of this Agreement and related agreements and documents.



18. NONLIABILITY OF OFFICIALS, AGENTS, MEMBERS, AND EMPLOYEES. Except for willful or wanton actions or gross negligence, no trustee, board member, commissioner, official, employee, consultant, manager, member, shareholder, attorney or agent of any Party, nor any lender to any Party or to the Project, will be personally liable under the Agreement or in the event of any default or for any amount that may become due to any Party.

19. ASSIGNMENT. Except for an assignment to the Acquisition Party and a Future Conveyance, this Agreement shall not be assigned in whole or in part by any Party without the prior written consent of the other Party, and such assignment shall be subject to the provisions of Section 14 of this Agreement.

20. SECTION CAPTIONS. The captions of the Sections are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

21. ADDITIONAL DOCUMENTS OR ACTION.

21.1 The Parties agree to execute any additional documents or take any additional action, including, without limitation, estoppel documents requested or required by third parties, including, without limitation, lenders, tenants, or potential purchasers, that is necessary to carry out this Agreement or is reasonably requested by any Party to confirm or clarify the intent of the provisions of this Agreement and to effectuate the agreements and the intent. Notwithstanding the foregoing, however, no Party shall be obligated to execute any additional document or take any additional action unless such document or action is reasonably acceptable to such Party.

21.2 If all or any portion of this Agreement, or other agreements approved in connection with this Agreement are asserted or determined to be invalid, illegal or are otherwise precluded, the Parties, within the scope of their powers and duties, will cooperate in the joint defense of such documents and, if such defense is unsuccessful, the Parties will use reasonable, diligent good faith efforts to amend, reform or replace such precluded items to assure, to the extent legally permissible, that each Party substantially receives the benefits that it would have received under this Agreement.

21.3 The Executive Director shall have the authority to act on behalf of the Authority under this Agreement.

22. AMENDMENT. This Agreement may be amended only by an instrument in writing signed and delivered by the Parties.

23. WAIVER OF BREACH. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement must be in writing and will not operate or be construed as a waiver of any subsequent breach by any Party.

24. GOVERNING LAW. The laws of the State of Colorado govern this Agreement.

25. BINDING EFFECT. This Agreement will inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns, provided that

nothing in this paragraph permits the assignment of this Agreement except as set forth in Sections 6 and 20.

26. EXECUTION IN COUNTERPARTS. This Agreement may be executed in several counterparts, each of which will be deemed an original and all of which will constitute but one and the same instrument.

27. LIMITED THIRD-PARTY BENEFICIARIES. Except as hereinafter provided, this Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party to this Agreement; provided, however, that the City shall be deemed to be a third-party beneficiary under this Agreement to the extent that Developer or Authority have agreed to undertake certain actions for the benefit of the City.

28. NO PRESUMPTION. The Parties and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement will be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

29. SEVERABILITY. If any provision of this Agreement as applied to any Party or to any circumstance is adjudged by a court to be void or unenforceable, the same will in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

30. DAYS. If the day for any performance or event provided for herein is a Saturday, Sunday, or a day on which national banks are not open for the regular transactions of business, or a legal holiday pursuant to Section 24-11-101(1), C.R.S., such day will be extended until the next day on which such banks and state offices are open for the transaction of business.

31. GOOD FAITH OF PARTIES. In the performance of this Agreement or in considering any requested approval, consent, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

32. PARTIES NOT PARTNERS. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties will not be deemed to be partners or joint venturers, and no Party is responsible for any debt or liability of any other Party.

33. NO WAIVER OF IMMUNITY. Nothing contained in this Agreement constitutes a waiver of sovereign immunity or governmental immunity by the Authority under applicable state law.

IN WITNESS WHEREOF, this Agreement is executed by the Parties as of \_\_\_\_\_, 2021.

ARVADA URBAN RENEWAL AUTHORITY

\_\_\_\_\_  
Alan Parker, Chairperson

ATTEST:

\_\_\_\_\_  
Maureen Phair, Recording Secretary

DEVELOPER

GARRISON 57 LLC, a Colorado limited liability company

By: \_\_\_\_\_  
Manager

**EXHIBIT A**  
**LEGAL DESCRIPTION**

County of Jefferson, State of Colorado

**EXHIBIT B**  
**EASEMENT PROPERTY**

# AURA Flash Report

Balances as of March 31, 2021

FOR DISCUSSION PURPOSES ONLY  
UNOFFICIAL & UNAUDITED

## CASH & INVESTMENTS

### Wells Fargo Bank

	Account Balance	Hold	Net to AURA
General - Checking (0193)	1,538,182	-	1,538,182
Ralston Fields - Checking (4061)	2,668,902	-	2,668,902
Ralston Fields Investments (9353)	358,225	-	358,225
Olde Town Station - Checking (0895)	1,742,200	-	1,742,200
Village Commons - Checking (0887)	948,026	-	948,026

### First Bank of Arvada

1.50% CD Maturity 10/11/2022 (4548)	333,534	% change from prior period 0.00%	333,534
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### CSIP

Ralston Fields Fund (9003)	1,055,782	0.0038%	1,055,782
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**NET CASH AVAILABLE TO AURA** **8,644,851**

## REAL ESTATE OWNED

Date Acq.	Name	Address	Purchase Price	Debt/Discount	Net Value
2013	TOD Parcel	5580 Vance Street	660,000	659,990	10
2016	Arvada Square	9465 Ralston Road	4,963,065	4,963,064	1
2017	TOD Parcel - Gun Club		10	0	10
2019	TOD Parcel - RTD		10	0	10
2020	Gas Station	9205 W 58th Ave	3,000,000	2,999,990	10
2021	IRG Outparcel	9250 W 58th Ave	1,000,000	0	1,000,000

**NET VALUE OF REAL ESTATE OWNED** **1,000,041**

## LONG TERM RECEIVABLES

### Borrower

	Current Loan Balance	Credit	Net Receivable
Loftus Development (Ralston Rd Café Demo)	300,000	300,000	0

**NET LONG TERM RECEIVABLES** **\$0**

## LONG TERM PAYABLES

Loan	Loan Start Date / Term Date	Original Loan Balance	Payments	Current Loan Balance
Arvada Square	June 1, 2016 / June 1, 2028	5,000,000	707,110	4,292,890
Brooklyn's	January 1, 2016 / January 1, 2030	2,745,000	1,076,171	1,668,829
City of Arvada (Ralston Rd Streetscape)	2020	3,500,000	1,750,000	1,750,000
Tabernacle - Underground Utilities	2021	350,000	0	350,000
Wheat Ridge	2006/2024	1,800,000	1,400,000	400,000

**NET LONG TERM PAYABLES** **\$8,461,719**

## GROSS INCOME & EXPENSES BY FUND As of March 31, 2021

	2021 BUDGET		Actual Revenues	Actual Expenses
	Revenue	Expenses	YTD	YTD
Ralston Fields	4,393,000	3,056,000	2,637,497	179,539
Olde Town Station	1,180,000	1,430,000	376,702	5,963
Jefferson Center	12,106,000	12,106,000	1,135,469	1,135,469
Northwest Arvada	11,000,000	11,000,000	1,867,686	1,700,078
Village Commons	606,000	253,346	226,545	10,022

**TOTALS** **29,285,000** **27,845,346** **\$6,243,899** **\$3,031,071**

## GENERAL FUND EXPENSES As of March 31, 2021

	2021 Budget	Expended YTD
Operating Expenses	585,565	116,670
<b>TOTAL EXPENSES</b>	<b>\$585,565</b>	<b>\$116,670</b>