



PUBLIC NOTICE OF REGULAR MEETING

The Arvada Urban Renewal Authority (AURA) Board of Commissioners will hold its regular board meeting in a hybrid format that will allow for in-person attendance at 5601 Olde Wadsworth Blvd, Suite 210, Arvada, CO 80002, or virtual attendance via Zoom Webinar at **3:00 p.m.** on **Wednesday, July 7, 2021.**

Anyone wishing to attend virtually may register as follows:

Register in advance for this webinar:

https://zoom.us/webinar/register/WN_nrgnuzlPRRK3KJcvtOoIVA

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

If you need assistance with the virtual webinar process or have questions or comments for the AURA Board regarding the agenda items, please contact info@arvadaurbanrenewal.org prior to noon on July 7, 2021. A recording of the meeting will be posted on AURA's website following the webinar.

Agenda information is attached.

Carrie Briscoe

Carrie Briscoe
AURA Project Manager/Recording Secretary

POSTED: July 2, 2021



REGULAR MEETING OF THE AURA BOARD OF COMMISSIONERS
Hybrid Meeting: Zoom Webinar & In Person
5601 Olde Wadsworth Boulevard, Ste. 210, Arvada, Colorado
3:00 p.m., Wednesday, July 7, 2021

AGENDA

REGULAR MEETING – 3:00 P.M.

1. Call to Order
2. Moment of Reflection and Pledge of Allegiance
3. Roll Call of Members
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
 - A. Sales, Property & Lodging Tax Discussion
8. Old Business
 - A. Garrison St Paseo – Design Proposal
 - B. Sullivan Subdivision – Combined Partial Termination of Reciprocal Cross Access and Parking Easement, Termination of Plat Note, and Approval of New Reciprocal Cross Access and Parking Easement
9. New Business
10. Development Update
11. Public Comment – Five Minute Limit
12. Comments from Commissioners
13. Committee Reports
14. Staff Reports
15. Executive Session
16. Adjournment

**SUMMARY OF MINUTES OF REGULAR MEETING
ARVADA URBAN RENEWAL AUTHORITY BOARD OF COMMISSIONERS
WEDNESDAY, JUNE 2, 2021
5601 OLDE WADSWORTH BLVD., SUITE 210, ARVADA, CO 80002**

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REGULAR MEETING

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

2. Moment of Reflection and Pledge of Allegiance

3. Roll Call of Commissioners:

Those Present: Chair Alan Parker, Vice Chair Paul Bunyard
Commissioners Sue Dolan, Eli Feret, Tim Steinhaus, Marc Williams

Absent: Treasurer Tony Cline

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

Also present: Tim Masters, TJC, Ltd, Steve Sauer, Auditor of BKD, Lisa Yagi, Assistant Finance Director, City of Arvada and one guest.

4. Approval of the Summary of Minutes

The Summary of Minutes of the May 05, 2021 AURA Regular Board Meeting stand approved.

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

Nancy Young, Arvada resident, stated that in the recent Management's Discussion and Analysis (MDA) Report contained errors on the first and third paragraphs of Page 10 and need to be corrected.

6. Public Hearing

None

7. Study Session

None

8. Old Business

A. AR-21-09, A Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority approving the First Amendment to the Redevelopment Agreement Between the Authority and Edgemark Development, LLC.

Treasurer Cline arrived at 3:05 pm.

Maureen Phair, Executive Director, reviewed this resolution with the Board.

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Commissioner Williams moved that AR-21-09, a Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority approving the First Amendment to the Redevelopment Agreement Between the Authority and Edgemark Development, LLC, be approved.

The following votes were cast on the Motion:

Those voting yes: Bunyard, Cline, Dolan, Feret, Parker, Steinhaus, Williams

The Motion was approved.

- B. AR-21-10, A Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority Approving the First Amendment to the Third Amended and Restated Disposition and Development Agreement Between the Authority and TC Denver Development, Inc.

Maureen Phair, Executive Director, reviewed this resolution with the Board.

Commissioner Williams moved that AR-21-10, a Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority Approving the First Amendment to the Third Amended and Restated Disposition and Development Agreement Between the Authority and TC Denver Development, Inc. be approved.

The following votes were cast on the Motion:

Those voting yes: Bunyard, Cline, Dolan, Feret, Parker, Steinhaus, Williams

The Motion was approved

- C. 58th & Miller Development Concepts – Tim Masters, Principal of TJC, Limited

Maureen Phair, Executive Director provided a brief overview regarding 58th & Miller development based on comments from Board of Commissioners in previous Board meeting. Ms. Phair noted that discussion will be continued in Executive Session.

Tim Masters, Principal of TJC, Limited, provided concepts and renderings for the 58th and Miller development.

9. New Business

- A. 2020 Auditor Report and Financial Statements – Steve Sauer, Auditor of BKD and Lisa Yagi, Assistant Finance Director, City of Arvada

Maureen Phair, Executive Director, introduced Steve Sauer, Auditor of BKD. Ms. Phair stated that BKD has served as the Auditor for the City of Arvada and AURA for the past few years.

Steve Sauer, Auditor of BKD, reviewed the 2020 audit report and the financial statements and said there were no material deficiencies in the accounting of funds.

Maureen Phair, Executive Director and the Board of Commissioners thanked Mr. Sauer, Ms. Briscoe, and Ms. Yagi, Assistant Finance Director, City of Arvada for their hard work on the audit.

10. Development Update

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

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Arvada Gardens (affordable housing project) – George Thorn, President with Mile High Development, plans to apply for tax credits, August 2, 2021. Today is the neighborhood meeting. On June 8 is the Planning Commission Conditional Use Permit (CUP) public hearing and on June 28 is the City Council Conditional Use Permit (CUP) public hearing.

Berkeley Townhomes – On June 3rd the AURA staff, City staff, Xcel Energy and the developer will meet to discuss route options to run a line.

11. Public Comment – Five Minute Limit

None

12. Comments from Commissioners

Commissioner Williams – Thanked the Board of Commissioners for attending the State of the City event. He also expressed that it's great to be back in person.

Vice Chair Bunyard – Noted that it's great to be meeting in person.

Commissioner Steinhaus – Complimented the centerfold of the Arvada Report that displayed AURA's current projects. He also expressed concern about the City's challenges to maintain the fountains and allow them to remain functioning in the Olde Town Square.

Treasurer Cline – Stated that the AURA Board vision for the Olde Town Square was to afford a community center which included the fountain. The project included ingenious ideas for filtering, installing and maintaining the fountains. Overall, the purpose for the fountains was to attract people. Today the fountains have been an important part of the community.

Chair Parker – Thanked Maureen Phair for providing a great presentation to the City Council. He also thanked the City Council for sharing their positive comments about Ms. Phair's leadership and the success of AURA projects.

13. Committee Reports

Commissioner Steinhaus reported that he met with the Olde Town Business District (BID) committee. The next BID committee meeting will be held on June 6 at the Olde Town Square. He stated that the BID is pleased and optimistic with the Olde Town business activity.

14. Staff Reports

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

Ms. Phair thanked Carrie Briscoe for working with the IT staff to set up the new recording equipment for Board Meetings.

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

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Ms. Phair reported that she would like to organize a Tour of Olde Town and will send a doodle poll to the Board of Commissioners for available dates and times.

Ms. Phair thanked Alan and Char Parker for hosting Fred Jacobson's going away event.

Ms. Phair asked the Board of Commissioners if they would like to attend the Chamber Annual dinner held Friday June 25 at 6pm at the Arvada Center.

Ms. Phair announced the ULI Fall meeting will be held in Chicago, October 11 – 14, 2021 and emphasized the importance of early registration to receive the discount and make hotel reservations.

Corey Hoffmann, Legal Counsel, reported that he attended a meeting with Maureen Phair, Carrie Briscoe and the Jefferson County Assessor to review the calculation for AURA property.

15. Executive Session

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

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

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, Feret, Parker, Steinhaus, Williams

The Motion was Approved.

The AURA Board convened into the Executive Session at 4:35 p.m. and reconvened into the Regular Meeting at 5:03 pm

16. Adjournment

Chair Parker adjourned the meeting at 5:03 p.m.

Alan Parker, Chair

ATTEST:

Maureen Phair, Executive Director

Carrie Briscoe, Recording Secretary

ARVADA URBAN RENEWAL AUTHORITY

AGENDA INFORMATION SHEET

Agenda No.: Item 8A
Meeting Date: July 7, 2021
Title: Confluence Design Services Agreement
Garrison Street Paseo

ACTION PROPOSED: Approve

BACKGROUND: This project got its start during the November 2019 retreat when it was identified as a project of interest. Below is the timeline to date.

- March 2020 – AURA worked with Shears Adkins Rockmore (SAR) to issue a Request for Proposal for Landscape Architecture Services for the Garrison Street Pedestrian Walk. Four companies submitted proposals and StudioInsite was chosen (name subsequently changed to Confluence) based on experience, quality and price.
- July 2020 – Confluence presented to the Board rough concepts to gain their input. Board wanted to understand the purpose of the project, who will be served, how will it be used, who will benefit?
- August 2020 – Board presentation from three City departments to address the Board's questions
- September 2020 – Board presented with an updated plan that integrates with the community garden
- September 2020 – Staff attended the monthly meeting of the Community Gardeners and presented the draft plan
- October 2020 – Board discussion and decision on the water feature
- April 2021 – Neighborhood meeting
- May 2021 - Staff presentation to City Council on Paseo concept

INFORMATION ABOUT THE ITEM: With the concept plan approved, the next step is to design the project, we asked Confluence to submit a proposal. The proposal includes landscape architecture, civil engineering, electrical engineering, structural engineering, and site planning services for the development of the Paseo. The fee for these services is \$127,800, with construction observation and water feature hydraulic design billed separately for not-to-exceed costs of \$31,800 and \$10,400 respectively. These services might not be needed.

Darin Delay, Arvada Parks Manager, has reviewed and approved the proposal. Parks has agreed to bid and negotiate the project on behalf of AURA, and to provide construction contract administration services. Confluence will be available on an hourly basis to assist with any questions or clarification.

COMMUNITY BENEFIT: The Paseo will provide a safe path for pedestrians and bikers linking the neighborhood to the south of Ralston Creek to the amenities along Ralston Road including Ralston Central Park. This reimagined path will be well lit with a meandering route to soften the steep slope. It will be an interesting place to walk and linger with a small creek that works its way down the hill. The Paseo will collaborate with the Arvada Gardeners with the Gardeners planting demonstration gardens along the path for pedestrians to pick and enjoy. The project will take advantage of the hillside to introduce a viewing platform where visitors can enjoy views of the mountains, community garden and fireworks. The project will also improve the look and functionality of the Community Garden fence and entrance.

FINANCIAL IMPACT: The base contract is \$127,800; the funds will come from Ralston Fields where there are adequate funds. Every phase in Confluence's scope of work includes an estimate of probable construction costs. AURA's rough estimate is around \$2.5 million, this number will change as the project is designed and bid.

STAFF RECOMMENDATION: Staff recommends approval

SUGGESTED MOTION: I move that the AURA Board approve the Garrison Street Paseo Design Services Agreement with Confluence

May 14, 2021

Maureen Phair, Executive Director
Arvada Urban Renewal Authority (AURA)
5601 Olde Wadsworth Blvd, Suite 210
Arvada, Colorado 80002
mphair@arvada.org

GARRISON ST PASEO | DESIGN SERVICES AGREEMENT

Confluence is pleased to submit this proposal to provide landscape architecture design services for the Garrison St Paseo. Subject to the approval and acceptance of this agreement by Arvada Urban Renewal Authority (hereinafter referred to as the Owner), Confluence agrees to provide Professional Services as set forth below:

Project

This project includes Landscape Architecture, Civil Engineering, Electrical Engineering, Structural Engineering, and site planning services for the development of Garrison St between Ralston Rd and W 57th Avenue. Confluence has developed a Concept Plan that has been well received by both local officials and neighboring communities. We are excited to be partnering with AURA and the City of Arvada.

Article 1: Landscape Architectural Services

- 1.1 Scope of Services. The Scope of Landscape Architectural Services to be provided under this agreement are detailed in "Exhibit B".
- 1.2 Supplemental Services. Supplemental Services are detailed in "Exhibit B" – Supplemental Services are beyond the basic Scope of Services, and when requested in writing by the Client, shall entitle the Landscape Architect to additional compensation (either on the hourly basis stated in "Exhibit C" or the basis of a negotiated sum) beyond the Compensation stated in Article 4 Landscape Architect Compensation.
- 1.3 Standard of Care. The Landscape Architectural Services shall be performed with care and diligence in accordance with the professional standards applicable at the time and in the location of the Project and appropriate for a project of the nature and scope of this Project.
- 1.4 Coordination. The Landscape Architect shall coordinate the Services of its consultants and shall cooperate with the Client's representatives and separate consultants in the best interest of the Project. The following is a list of Client consultants and representatives, this is not an exhaustive list: CDPHE (State of Colorado Air Pollution Control), Arvada Gardeners, Swadley

Ditch, Arvada Place Apartments, Ralston Gardens Apartments, KFC/Taco Bell, and neighbors (as needed)

- 1.5 Representations. The Landscape Architect represents that it and its consultants have and shall maintain through the performance of the Landscape Architectural Services under this agreement the requisite licenses, registrations, and/or certifications required for the performance of these Services in the jurisdiction in which the Project is located.
- 1.6 Approval of Services/Changes to Approved Services. The Landscape Architect shall proceed with a phase or design package of the Landscape Architecture Services only after receiving the Client's approval of the Services and deliverables provided in the previous phase and authorization to proceed into the next phase. Revisions to drawings or other documents shall constitute Supplemental Services made necessary because of Client-requested changes to previously approved drawings or other documents, or because of Client changes to previous Project budget parameters or Project requirements.
- 1.7 Opinions of Probable Construction Costs. Opinions of probable construction costs provided by the Landscape Architect are based on the Landscape Architects familiarity with the landscape construction industry and are provided only to assist the Client's budget planning; such opinions shall not be construed to provide a guarantee or warranty that the actual construction costs will be within the Project budget parameters at the time construction bids are solicited or construction contracts negotiated. Unless expressly agreed to in writing and signed by the parties, no fixed limit of construction costs is established as a condition of this Agreement by the furnishing of opinions of probable construction costs.
- 1.8 Certifications. The Client shall not request certifications which would require legal opinions or knowledge or serviced beyond the scope of the Agreement. All such certifications shall be limited to professional opinions rendered in accordance with generally accepted standards of professional practice.
- 1.9 Construction Safety. The presence of the Landscape Architect, its employee's, or consultants at the Project site shall not be deemed an assumption by the Landscape Architect of any obligations, duties, or responsibilities for safety, including but not limited to construction means, methods, sequences techniques, or procedures necessary for performing, superintending, or coordinating the work of the Project in accordance with the Construction Documents or regulatory health or safety requirements, if any. The Landscape Architect, its employees, and consultants have no authority to exercise any control over any construction contractor, its employees, or subcontractors in connection with their work or health and safety programs and procedures.

Article 2: Client's Responsibilities

- 2.1 Program. The Client shall provide the detailed Project description and budget parameters designated "Exhibit A" and attached hereto.
- 2.2 Information

- 2.2.1 The Client shall provide site surveys and legal information, including as applicable: written legal description of site, a land survey by a professional land surveyor who is licensed or registered under the law of the jurisdiction in which the property is located, rights-of-way, easements, encroachments, zoning, covenants, and deed or other restrictions, if any.
 - 2.2.2 The Client shall provide for the Landscape Architect's right to enter from time to time, property owned by the Client or others so the Landscape Architect may perform the Landscape Architectural Services.
 - 2.2.3 The Client shall be responsible for all legal, accounting, and insurance Services the Client may require or deem necessary in the interest of the Project.
- 2.3 Independent Testing. The Client shall provide independent testing Services when deemed necessary to determine site conditions such as soil and subsoil conditions, water, pollution, and hazardous waste presence and characteristics.
- 2.4 Reliance. The Landscape Architect shall be entitled to rely on the accuracy and completeness of the information, test results, and work provided by the Client and the Client's consultants. The Landscape Architect shall not be responsible for calculations, specifications, or designs based on erroneous, inaccurate, or incomplete information provided by the Client, provided that the Landscape Architect has acted in accordance with the standard of care described in section 1.1 above.
- 2.5 Client's Representative. The Client shall designate a representative with authority to act on the Client's behalf with regard to the Project. If for any reason the Client's designated representative is replaced during the progress of the Project, the Landscape Architect shall be notified of the change in a timely manner.
- 2.6 Approvals. Client's decisions, approvals, reviews, and responses shall be communicated to the Landscape Architect in a timely manner so as not to delay the performance of the Landscape Architectural Services. Comments from the Client's Representative shall be a consolidation of all comments of interested user groups or entities to provide clear direction of the Landscape Architect and to avoid delays.
- 2.7 Notice of Nonconformance. If the Client observes or becomes aware of any errors or omissions or inconsistencies in any documents provided by the Landscape Architect or any fault or defect in the Project, the Client shall promptly give written notice thereof to the Landscape Architect.
- 2.8 Project Permit and Review Fees. The Client shall pay all fees required to secure jurisdictional approvals for the Project.

Article 3: Ownership of Documents

- 3.1 The Landscape Architect shall be deemed the author and owner of all deliverables provided to the Client, including but not limited to plans, drawings, specifications, Construction Documents, displays, graphic art, photographs, and other images and devices in any medium,

including electronic data or files, which are developed, created, or derived pursuant to this Agreement by the Landscape Architect (collectively, the "Design Materials").

- 3.2 Subject to payment by the Client of all Compensation and Reimbursable Expenses owed to the Landscape Architect, the Landscape Architect grants to the Client an irrevocable, non-exclusive license to reproduce the Design Materials solely for the construction of the Project and for information and reference with respect to the use of the Project. Termination of the Agreement prior to the completion of the Project shall terminate this license; all Design Materials and copies thereof in the Client's possession or control shall be returned to the Landscape Architect within 21 days of the notice of termination.
- 3.3 In the event this Agreement is terminated prior to the completion of the Project, the Landscape Architect shall have no liability to the Client or anyone claiming through the Client for any claims, liabilities, or damages resulting from the use, misuse, or modification of the Design Materials without the Landscape Architect's approval.

Article 4: Landscape Architect Compensation

- 4.1 Compensation for the Scope of Services described in section 1.1 of "Exhibit B" under this agreement shall be the Stipulated Sum \$127,800.00 plus Reimbursable Expenses as defined below, Supplemental Services described in Section 1.2 of "Exhibit B", when requested in writing by the Client, shall be compensated on an hourly basis at the rates provided in "Exhibit C" or on the basis of a negotiated fee provided in an amendment to this Agreement. The Compensation breaks out as follows:

| Task | Lump Sum Fee |
|---|--------------|
| Task 1.1.1 – Schematic Design | \$ 20,100 |
| Task 1.1.2 – Design Development..... | \$ 32,000 |
| Task 1.1.3 – COA Site Plan Review | \$ 35,400 |
| Task 1.1.4 – Construction Documents | \$ 40,300 |

Total Fee\$ 127,800

Task 1.1.5 – Construction Observation\$ 31,800 *

(*billed hourly not to exceed)

ADD ALT for Water Feature Hydraulic Design.....\$ 10,400

- 4.2 Reimbursable Expenses are expenditures as made by the Landscape Architect, it's employees, and consultants in the interest of the Project plus an administrative fee of 15%. Reimbursable Expenses include but are not limited to the following:
- 4.2.1 travel expenses in connection with the Project, living expenses in connection with out-of-town travel, long distance communications.
- 4.2.2 costs of reproductions, faxes, postage and handling of documents messenger and overnight delivery Services;
- 4.2.3 costs of renderings photographs, models, and mock-ups requested by the Client;

- 4.2.4 expense of professional liability insurance dedicated exclusively to the Project, or additional insurance coverage of limits requested by the Client in excess of that normally carried by the Landscape Architect and its consultants;
- 4.2.5 costs of printing and delivering bid packages;
- 4.2.6 services of professional consultants which cannot be quantified at the time of contracting; and
- 4.2.7 other, similar direct Project-related expenditures.

4.3 Payments

- 4.3.1 Monthly payments to the Landscape Architect shall be based on (1) the percentage of Scope of Services completed in accordance with the Schedule of Services provided in "Exhibit D" herein and shall include payments for (2) Supplemental Services performed, and (3) Reimbursable Expenses incurred.
- 4.3.2 If the Client disputes, in good faith, all or any portion of any statement from the Landscape Architect for Landscape Architectural Services or Reimbursable Expenses, the Client shall notify the Landscape Architect in writing within seven (7) days of receipt of the disputed statement, describing the nature of the dispute and including a reasonable detailed explanation of the reason for the dispute.
- 4.3.3 Payments are due and payable 45 days from the date of the Landscape Architect's invoice. Invoiced amounts unpaid 60 days after the invoice date shall be determined overdue and shall accrue 1.5% simple interest per month. In the event any portion or all of an account remains unpaid 120 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees. Pursuant to section 7.2, herein, at the Landscape Architect's option, overdue payments may be grounds for termination or suspension of Services.

- 4.4 Extended Services. If through no fault of the Landscape Architect, the Scope of Services described in section 1.4 of "Exhibit B" have not been completed within the term indicated in the Schedule of Services provided in "Exhibit D", the compensation for Services rendered after that time shall be renegotiated or shall be the basis of the hourly rates provided in "Exhibit C".

Article 5: Insurance, Indemnification, Consequential Damages & Limitation of Liability

- 5.1 Insurance. The Landscape Architect shall secure and maintain insurance coverages indicated as follows:

| | |
|-------------------------------------|---|
| <u>Coverage:</u> | <u>Liability Limits:</u> |
| Professional Liability: | \$2,000,000 per claim/\$4,000,000 aggregate |
| Commercial General Liability: | \$1,000,000 per claim/\$2,000,000 aggregate |
| Comprehensive Automobile Liability: | \$1,000,000 combined single limit |
| Umbrella Liability: | \$3,000,000 each occurrence/\$3,000,000 aggregate |
| Drone Aviation Liability: | \$1,000,000 per claim |
| Workers Compensation: | \$2,000,000 per claim/\$2,000,000 policy limit |

5.2 Indemnification

5.2.1 Landscape Architect agrees to indemnify and hold harmless Client, and its respective officers, employees, and representatives, from and against liability for losses, damages, and expenses, including reasonable attorney's fees, to the extent such losses, damages or expenses are caused by the Landscape Architect's negligent acts, errors, or omissions.

5.3 Consequential Damages. The Landscape Architect and the Client waive consequential damages for claims, disputes, or other matters in question which arise of or are related to this Agreement, including but not limited to consequential damages due to the termination of this Agreement by either party in accordance with the provisions of Article 7 thereof.

5.4 Waiver of Subrogation. To the extent damages are covered and paid by property insurance during construction, the Client and the Landscape Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages. The Client and the Landscape Architect, respectively, shall require their contractors, consultants, agents and employees' similar waivers in favor of the parties enumerated herein.

5.5 Hazardous Material Waiver. Unless otherwise provided in the Agreement, the Landscape Architect and the Landscape Architect's consultants shall have no responsibility for the discovery, presence, handling, removal, or disposal of or exposure of persons to hazardous materials in any form at the Project site including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

Article 6: Dispute Resolution

6.1 If a dispute arises out of or relates to this agreement, the parties shall endeavor to resolve their differences first through direct discussions between the parties or their representatives who shall have authority to settle the dispute. If the dispute has not been settled within 14 days of the initial discussions, the parties shall submit the dispute to mediation in accordance with section 6.2.

6.2 If the dispute is not settled pursuant to section 6.1, before recourse to any other dispute resolution procedure, the parties shall endeavor to settle the dispute by mediation under the current Construction Industry Mediation Rules of the American Arbitration Association. The location of the mediation shall be the location of the Project unless the parties agree otherwise. A request for mediation may be filed with the American Arbitration Association or any other mediation service acceptable to both parties. The parties agree to conclude the mediation within 60 days of filing the request. Unless otherwise agreed the cost of mediation shall be shared equally by both parties.

6.3 For any claim subject to, but not resolved by, mediation pursuant to 6.2, the method of binding dispute resolution shall be as follows:

☐ Arbitration pursuant to section 6.4 of this Agreement

☒ Litigation in a court of competent jurisdiction

- 6.4 If the parties have selected arbitration in section 6.3, claims, disputes, and other matters in question between the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association then in effect. All arbitration hearings shall be conducted at the location of the mediation shall be the location of the Project unless the parties agree otherwise. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. Notice of the demand for arbitration shall be filed in writing with the other party to the Agreement and with the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute or tother matter in question would be barred by the applicable statue of limitations. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction thereof.
- 6.5 Unless otherwise agreed in writing, the Landscape Architect agrees to continue to perform its Services during ant dispute resolution proceedings. If the Landscape Architect continues to perform, the Client shall continue to make payments in accordance with this Agreement for amounts not in dispute.
- 6.6 Appropriate provisions for consolidation shall be included in other contracts relating to the Project so that all parties necessary to resolving a claim can be made parties to the same dispute resolution proceeding.
- 6.7 Nothing in these provisions shall limit rights or remedies not expressly waived under applicable lien laws.

Article 7: Suspension/Termination

- 7.1 This agreement may be terminated by either party on seven (7) days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination, provided the defaulting party has not cured or in good faith diligently commenced to cure the breach during the 7-day notice period.
- 7.2 The Client's failure to make payments to the Landscape Architect in accordance with the provisions of this agreement shall be deemed a substantial failure to perform and a cause for termination; however, in this circumstance the Landscape Architect, at its options, may elect to suspend its Services on seven (7) days written notice to the Client. The Landscape Architect shall have no liability to the Client for any delays caused by a suspension under this provision.
- 7.3 If the Client suspends the Landscape Architect's Services for any reason, the Landscape Architect shall be compensated for all Landscape Architectural Services performed to that date, and the Landscape Architect shall have no liability to the Client for any delays caused by the Client's decision to suspend the Services.
- 7.4 When suspended Services are resumed, the Landscape Architect shall be compensated for expenses incurred due to the interruption and resumption of the Landscape Architectural Services, and the Compensation and the Schedule of Services for the Services remaining to be performed shall be equitably adjusted.

- 7.5 A suspension of Services by either party for more than thirty (30) days may, at the Landscape Architect's option, be deemed grounds for termination of the Agreement.
- 7.6 If termination is not due to the fault of the Landscape Architect, the Client shall pay, in addition to Compensation and Reimbursable Expenses due at the time of termination, all actual costs and expenses reasonable incurred by the Landscape Architect in connection with such termination. In addition, the Client shall comply and cooperate in accordance with the provisions of Article 3, Ownership of Documents.
- 7.7 The Client may terminate this Agreement for convenience and without cause with seven (7) days written notice to the Landscape Architect providing, in addition to the Compensation, Reimbursable Expenses, and compliance with the Ownership of the Documents provisions indicated in section 7.6, above.

Article 8: Other Terms & Conditions

- 8.1 Promotional Materials & Images. The Landscape Architect shall have the right to include photographic or artistic representations of the design of the Project among the Landscape Architect's promotional and professional materials. The Landscape Architect shall be given reasonable access to the completed Project to make such representations. However, the Landscape Architect's materials shall not include the Client's confidential or proprietary information if the Client has previously advised the Landscape Architect in writing of the specific information considered by the Client to be confidential or proprietary. The Client shall provide professional credit for the Landscape Architect in the Client's promotional materials for the Project.
- 8.2 Force Majeure. Either party. As applicable, shall be relieved of its obligations hereunder in the event and to the extent that performance hereunder is delayed or prevented by any cause beyond its control and not caused by the party claiming relief hereunder, including, without limitation, acts of God, public enemies, war, insurrection, acts or orders of governmental authorities, fire, flood, explosion, or the recovery from such cause ("Force Majeure"). The parties agree to make all reasonable efforts to mitigate the delays and damages of Force Majeure.
- 8.3 Notices. Notices required pursuant to this Agreement shall be sufficient if delivered personally or by registered mail, return receipt requested at the addresses indicated on the first page of this Agreement.
- 8.4 Assignment. Neither party shall assign their interest in this Agreement without the expressed written consent of the other, except as to the assignment of the proceeds.
- 8.5 Third Party Relationships. Nothing in this Agreement shall create a contractual relationship with, an obligation to, or a cause of action in favor of, any third party against either the Client or the Landscape Architect.

- 8.6 Severability. If any term or provision of the Agreement shall be found to be invalid or unenforceable, the remaining provisions shall, to the fullest extent permitted by law, remain in full force and effect.
- 8.7 Captions. Captions of articles, sections, paragraphs, or subparagraphs of this agreement are for convenience and reference only.
- 8.8 Governing Law. The laws of the State of Colorado shall govern this agreement.
- 8.9 Complete Agreement. This Agreement represents the entire understanding between the Client and Landscape Architect and supersedes all prior negotiations, representations, or agreements, whether written or oral with respect to its subject matter. The person(s) signing this Agreement on behalf of the parties hereby individually warrant that they have full legal power to execute this Agreement on behalf of the respective parties and to bind and obligate the parties with respect to all provisions contained herein. This Agreement may be amended only in writing signed by both the Client and Landscape Architect.
- 8.10 Limitations Period. As between the parties to the Agreement: as to all acts or failures to act by either party to the Agreement, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the completion of Services under the Agreement.

Article 9: Exclusions

- 9.1 The water feature is a critical part of this project but there are obstacles that still need to be addressed. It is possible that this feature would be a good design build candidate. While the design and detailing of the water feature is included in our scope, the hydraulic design is included as an Add Alternate.

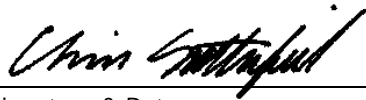
Exhibits

The following Exhibits are incorporated in and made part of this Agreement:

- "A" Client's Program
- "B" Scope of Services and Supplemental Services
- "C" Landscape Architect's Hourly Compensation Rates & Reimbursable Expenses Schedule
- "D" Landscape Architect's Schedule of Services

Offered by:

Confluence, Inc.



05-14-21

Signature & Date

Chris Sutterfield | Principal

Printed Name & Title

Confluence
3457 Ringsby CT, Unit 223
Denver, CO 80216

Accepted By:

Arvada Urban Renewal Authority

Signature & Date

Printed Name & Title

Exhibit "A": Client's Program

This project focuses on a section of Garrison St between West 57th Ave and Ralston Road in Arvada, Colorado. Converting an overlooked section of sidewalk into a vibrant pedestrian experience connecting neighborhoods to the south to Ralston Central Park and other up and coming developments to the north. The project includes stone terraces and walls, sculptural play elements and a steel shade structure. It's adjacency and integration with the Arvada Community Gardens is essential and celebrated in the planting palette and other site elements. Plantings are meant to provide educational opportunities centered around the agricultural heritage of the Arvada Community.



Total construction budget has not been determined at this time.

End of Exhibit "A"

Exhibit "B": Scope of Services and Supplemental Services

1.1 Scope of Services

- 1.1.1 Schematic Design Phase. Based on the Site Analysis Phase findings, the Landscape Architect shall explore design options and develop a schematic design through the following:
- (a.) Based on the preferred concept, prepare a schematic design plan (at appropriate scale) illustrating the form and configuration of the proposed improvements on the site.
 - (b.) Preliminarily select key materials or material systems and prepare preliminary designs for key construction details.
 - (c.) Prepare an opinion of probable construction costs for the schematic design plan, including a recommended contingency.
 - (d.) Submit the plan(s), details, cost opinion, and other deliverables as appropriate comprising the Schematic Design submittal to the Client for review and approval.
- 1.1.2 Design Development Phase. Based on the Schematic Design approved by the Client, the Landscape Architect shall refine and sufficiently detail the proposed form of the improvements to comprehensively convey the design intent through the following:
- (a.) Revise and refine the Schematic Design plan to define the location of the proposed improvements in relation to both the existing site features and the other proposed improvements.
 - (b.) Prepare design detail sketches illustrating the proposed forms, materials, colors, and textures of the proposed improvements.
 - (c.) Prepare supplemental drawings as required to illustrate the design intent (*check all that apply*):
 - (i) ☒ Site preparation/demolition plan
 - (ii) ☒ Layout plan(s)
 - (iii) ☒ Grading and drainage plan
 - (iv) ☒ Furnishings & amenities plan
 - (v) ☒ Lighting and Photometric Plan
 - (vi) ☒ Planting plan
 - (vii) ☒ Irrigation plan
 - (viii) ☒ Signage plan (if req'd)
 - (d.) Prepare outline specifications for applicable work areas
 - (e.) Update opinion of probable costs of the proposed improvements, indicating when appropriate the assumptions on which the opinion is based.
 - (f.) Submit the plans, details, cost opinion, and other deliverables as appropriate comprising the Design Development submittal to the Client for review and approval.
 - (g.) Attendance at the following meetings/hearings (*check all that apply*):
 - (i) ☒ Public coordination & design review meeting
 - (ii) ☒ Jurisdictional review/approval hearing

1.1.3 Site Plan Review. Confluence will assist the Civil Engineer in preparing, coordinating, and assembling the Site Plan submittal package to the City of Arvada. Per City of Arvada's submittal requirements, Confluence's plan will include:

- (ix) ☒ Site preparation/demolition plan
- (x) ☒ Civil Site Plan
- (xi) ☒ Stormwater Management Plans
- (xii) ☒ Layout plan(s)
- (xiii) ☒ Grading and drainage plan
- (xiv) ☒ Furnishings & amenities plan
- (xv) ☒ Lighting and Photometric Plan
- (xvi) ☒ Planting plan
- (xvii) ☒ Irrigation plan

(g.) Prepare outline specifications for applicable work areas

(h.) Update opinion of probable costs of the proposed improvements, indicating when appropriate the assumptions on which the opinion is based.

(i.) Submit the plans, details, cost opinion, and other deliverables as appropriate comprising the Site Plan submittal to the City of Arvada for review and approval.

(f.) Attendance at the following meetings/hearings (*check all that apply*):

1.1.4 Construction Document Phase. Based on the Design Development phase submission approved by the Client, the Landscape Architect shall prepare Construction Documents suitable for bidding or contract negotiations and for construction of the Project. The Landscape Architect shall:

(a.) Prepare construction plans including (*check all that apply*):

- (i) ☒ Site preparation/demolition plan
- (ii) ☒ Layout plan(s)
- (iii) ☒ Grading and drainage plan
- (iv) ☒ Furnishings & amenities plan
- (v) ☒ Lighting and Photometric plan
- (vi) ☒ Planting plan
- (vii) ☒ Irrigation plan
- (viii) ☒ Signage plan

(b.) Prepare construction details to describe the materials, spatial relationships, connections, and finished suitable for constructing the proposed improvements.

(c.) Prepare construction specifications for the proposed improvements.

(d.) Coordinate the drawings and specifications prepared by the Landscape Architect's consultants, when appropriate, the Client's other consultants.

(e.) Update opinion of probable costs of the proposed improvements.

(f.) Prepare documents suitable for review for compliance with applicable governmental requirements and assist the Client in the submission to governmental agencies.

(g.) Address timely and applicable review comments received from agencies and revise Construction Documents for compliance when required.

(h.) Submit a final opinion of probable costs.

(i.) Submit one electronic pdf set of the Construction Documents. Printed copies will be Reimbursable Expense as provided in Article 4.

(g.) Attendance at the following meetings/hearings (*check all that apply*):

- (i) ☒ Public coordination & design review meeting Arvada Gardeners and stakeholders
- (ii) ☒ Jurisdictional review/approval hearing

1.1.5 Construction Contract Administration Services. The Landscape Architect shall provide Contract Administration Services on an as needed basis as requested by the City.

1.2 Supplemental Services

1.2.1 Pre-design Services. The following pre-design Services shall be considered Supplemental Services:

- (a.) Assist the Client with Programming.
- (b.) Inventory and documentation of existing conditions affecting the Project, including identification and location of utility connections (water, sanitary sewer, gas, electrical and storm sewer).
- (c.) Assisting the Client with marketing and/or feasibility studies.
- (d.) Master planning.
- (e.) Detailed Project scheduling (critical path, milestone completion dates, or other methods).
- (f.) Representing the Client at zoning hearings and/or community meetings or design review meetings.

1.2.2 Design Phase Supplemental Services. Unless otherwise agreed to, the following are Supplemental Services:

- (a.) Scale models.
- (b.) 3D perspective images and/or "Birds-eye" views of the Project.
- (c.) Jurisdictional & Permitting Services beyond those listed described in Section 1.1.
- (d.) Life cycle costs.
- (e.) Long-distance travel to inspect materials and equipment of potential suppliers.
- (f.) Expert witness testimony.
- (g.) Attendance at litigation or arbitration proceedings when the Landscape Architect is not a party.

1.2.3 Construction Contract Administration Supplemental Services. The Landscape Architect shall provide the following administration Services associated with the construction of the Project as Supplemental Services. When requested, the Landscape Architect shall:

- (a.) Prepare Client initiated Change orders.
- (b.) On behalf of the Client, revise and forward to the Client written guarantees, warranties, release of liens, and related documents required from the contractor.
- (c.) Review the Contractor's marked-up "As-built" Drawings.
- (d.) Determine consent of surety if any, to issuance of final certificate of payment.

1.2.4 Post-Construction Services. The following post-construction Services shall be considered Supplemental Services. When requested by the Client, the Landscape Architect shall:

- (a.) Prepare record drawings of the actual construction based on marked-up drawings and other data furnished by the contractor.

- (b.) Provide observations of work and/or warranty items at appropriate times.
- (c.) Perform post-construction evaluation of functional and operational performance of the Project.

End of Exhibit "B"

Exhibit "C": Landscape Architect's Standard Hourly Rates & Reimbursable Expenses

STANDARD HOURLY RATES

| | |
|---|------------------------------|
| Senior Principal..... | \$160.00 - \$230.00 per hour |
| Principal | \$140.00 - \$195.00 per hour |
| Associate Principal | \$130.00 - \$170.00 per hour |
| Associate..... | \$110.00 - \$160.00 per hour |
| Senior Project Manager | \$100.00 - \$150.00 per hour |
| Project Manager | \$90.00 - \$120.00 per hour |
| Senior Landscape Architect | \$90.00 - \$120.00 per hour |
| Landscape Architect..... | \$80.00 - \$110.00 per hour |
| Senior Project Planner | \$90.00 - \$120.00 per hour |
| Planner II | \$80.00 - \$110.00 per hour |
| Planner I..... | \$70.00 - \$100.00 per hour |
| Landscape Architect-In-Training..... | \$70.00 - \$100.00 per hour |
| Landscape Architect Intern / Landscape Designer | \$60.00 - \$85.00 per hour |
| Draftsperson | \$50.00 - \$85.00 per hour |
| Graphic Designer..... | \$70.00 - \$100.00 per hour |
| Clerical / System Staff | \$42.00 - \$80.00 per hour |

REIMBURSABLE EXPENSES

| | |
|---|----------------|
| Social Pinpoint Public Engagement Tool..... | \$1,500.00 |
| Filing Fees | 1.15 x cost |
| Materials and Supplies | 1.15 x cost |
| Meals and Lodging | 1.15 x cost |
| Mileage | \$.56 per mile |
| Postage | 1.15 x cost |
| Printing by Vendor | 1.15 x cost |
| B/W Photocopies/Prints 8½ x 11 | \$.05 each |
| B/W Photocopies/Prints 11x17..... | \$.09 each |
| Color Photocopies/Prints 8½ x 11 | \$.65 each |
| Color Photocopies/Prints 11x17..... | \$1.50 each |
| Large Format Plotting – Bond | \$2.50/SF |
| Large Format Plotting - Mylar | \$4.50/SF |
| Large Format Plotting - Photo | \$5.00/SF |
| Flash Drives | \$10.00 each |
| Booklet Binding (cover, coil, back) | \$4.50 each |
| Foam Core | \$8.00 each |
| Easel Pads | \$32.75 each |
| Electronic Files | \$50.00 Each |
| Online Meeting Service..... | \$35.00 Each |

Effective 1/1/2021

End of Exhibit "C"

Exhibit "D": Schedule of Services

The Landscape Architect shall begin providing Landscape Architectural Services on the Project promptly upon written notice to proceed and shall perform its Services as expeditiously as is consistent with the standard of care described in section 1 of the Agreement. All time frames are subject to the Client's cooperation in accordance with the provisions in sections 1 and 2.

| Service: | Days from Approval of Previous Phase: | % Compensation: |
|---|---------------------------------------|-----------------|
| Schematic Design | 30 Days | 12% |
| Design Development | 45 Days | 20% |
| Site Plan Review (concurrent with CD phase) | 90 Days | |
| Construction Documents (concurrent with Site Plan | 120 Days | 45% |
| Bidding & Contract Negotiation Phase | 14 Days | 3% |
| Construction Contract Administration Services | 120 Days | 20% |

End of Exhibit "D"

ARVADA URBAN RENEWAL AUTHORITY
AGENDA INFORMATION SHEET

Agenda No.: Item 8B
Meeting Date: July 7, 2021
Title: Combined Partial Termination of Reciprocal Cross Access and Parking Easement, Termination of Plat Note, and Approval of New Reciprocal Cross Access and Parking Easement

ACTION PROPOSED: Approve

INFORMATION ABOUT THE ITEM: Prior to Trammell Crow closing on the property AURA owns at 5580 Vance Street, a title issue needs to be resolved. There is an existing cross access and cross parking agreement between the movie theater, Texas Road House and the parking lot located on the northeast corner of 56th and Vance St. AURA purchased this parking lot in 2013; the parking lot was constructed as overflow parking for the theater but was not used nor needed. An easement was created at the time of development to allow cross access and parking between the parcels. The purpose of this document is to remove the parking lot from the cross access and parking easement while keeping it in place between the movie theater and the restaurant.

FINANCIAL IMPACT: There is no financial impact to AURA

STAFF RECOMMENDATION: Staff recommends approval

SUGGESTED MOTION: I move that the AURA Board approve the Combined Partial Termination of Reciprocal Cross Access and Parking Easement, Termination of Plat Note, and Approval of New Reciprocal Cross Access and Parking Easement

**COMBINED PARTIAL TERMINATION OF RECIPROCAL CROSS ACCESS AND
PARKING EASEMENT, TERMINATION OF PLAT NOTE, AND APPROVAL OF NEW
RECIPROCAL CROSS ACCESS AND PARKING EASEMENT**

This Combined Partial Termination of Reciprocal Cross Access and Parking Easement, Termination of Plat Note, and Approval of New Reciprocal Cross Access and Parking Easement (the “**Combined Release and Access/Parking Easement**” or “**Agreement**”)) is made this ____ day of _____, 2021 by the Arvada Urban Renewal Authority, a body corporate and politic of the State of Colorado (“**AURA**”), the City of Arvada, a Colorado home rule municipality (the “**City**”), Harkins [Need Property Owner’s Name] (“**Harkins**”), and J Nazzaro Partnership, a ____ Partnership (“**Nazzaro**”), as set forth below:

RECITALS

A. WHEREAS, AURA is the owner in fee simple absolute of the property described as Lot 1, Block 2, Minor Plat Sullivan Subdivision, Filing No. 1, County of Jefferson, State of Colorado, per plat recorded at Reception No. F0226948 with the Jefferson County Clerk and Recorder (the “**Property**”);

B. WHEREAS, the Property is subject to certain easements, notes, covenants, restrictions and rights-of-way as shown on the Minor Plat Sullivan Subdivision, Filing No. 1, County of Jefferson, State of Colorado, recorded at Reception No. F0226948 (the “**Plat**”), a copy of which is attached hereto and incorporated herein as **Exhibit 1**;

C. WHEREAS, Note 2 on the Plat provides cross access and cross parking over and across all lots and tracts within the subdivision for the benefit of all parties, successor, assigns, invitees, customers, tenants and guests;

D. WHEREAS, in addition to Note 2 on the Plat, AURA previously approved that Declaration of Reciprocal Easements and Agreements, dated May 1, 1996 (the “**Declaration**”), which also provides cross access and cross parking over and across all lots and tracts within the subdivision for the benefit of all parties, successor, assigns, invitees, customers, tenants and guests; and

E. WHEREAS, AURA wishes to terminate and release Note 2 of the Plat, and the parties to this Combined Release and Access/Parking Easement desire to both release Note 2 and release the rights set forth in the Declaration, in consideration for the granting of a new Reciprocal Parking Easement for the benefit of the property more particularly described in **Exhibit 2**, attached hereto and incorporated herein by this reference (the “**New Reciprocal Easement Property**”), in order to encourage and facilitate redevelopment of the New Reciprocal Easement property as a whole.

NOW THEREFORE, In consideration of the following promises, covenants, agreements and other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged and confessed, the parties hereto agree as follows:

TERMINATION AND RELEASE

1. Termination and Release.

A. Note 2 on the Minor Plat Sullivan Subdivision, Filing No. 1: AURA hereby terminates and releases Note 2 on the Minor Plat Sullivan Subdivision, Filing No. 1, County of Jefferson, State of Colorado, recorded at Reception No. F0226948, with the Jefferson County Clerk and Recorder, as shown on Exhibit 1, and relinquishes any and all right, title and interest in cross access and cross parking over and across all lots and tracts shown on the Plat; and

B. Declaration dated May 1 1996: The Parties hereto hereby individually terminate and release, and consent to the mutual termination and release of the Declaration of Reciprocal Easements and Agreements, dated May 1, 1996 to the extent it has not otherwise been extinguished and relinquish any cross access and cross parking rights over and across all lots and tracts for the benefit of all parties, successor, assigns, invitees, customers, tenants and guests as more particularly described in the Declaration and within the above referenced Note 2.

2. Binding Effect. The provisions hereof shall be binding upon and shall inure to the benefit or burden of the Parties hereto, and their respective successors and assigns.

CROSS ACCESS/PARKING EASEMENT

ARTICLE I DEFINITIONS

1.1 "Lot(s)". Each of the Lots

1.2 "Occupant". Any Person from time to time entitled to the use and occupancy of any Lot as owner thereof, or under any lease, sublease, license or concessions agreement, or other similar agreement.

1.3 "Parking Area(s)". All parking areas and driveways and other areas within the exterior boundaries of the New Reciprocal Easement Property commonly used for parking, passage, ingress, or egress by vehicles; provided, however, that Parking Areas shall not include any area covered by buildings or landscaping, whether completed or under construction, nor shall Parking Areas include any drive-up or similar facilities (including drive-thru lanes).

ARTICLE II EASEMENTS

2.1 Each Lot within the New Reciprocal Easement Property is granted and conveyed and each Lot is burdened with a non-exclusive easement for the ingress, egress, passage, and parking of vehicles and for the ingress, egress, passage and accommodation of pedestrians over and across the Parking Area(s) of the New Reciprocal Easement Property, as may, from time to time, be constructed and maintained for such uses. Such easements are for the use of the Parties

and for the use of the parties' Permittees, in common with others entitled to use the same. No fence or other barrier which would in any way prevent or obstruct the passage of pedestrian or vehicular traffic shall be erected or permitted within or across the Parking Area(s) provided, however, the foregoing provisions shall not prohibit barricades erected and reasonably necessary in connection with the construction or repair and maintenance of improvements (all such work to be conducted in the most expeditious manner reasonably possible to minimize the interference with the use of the Parking Area(s), and such work shall be diligently prosecuted to completion), or the erection or construction of curbing and other forms of traffic controls within the Property. Furthermore, it is understood and agreed that the fact that a portion of any Lot may at one time be paved and used as a Parking Area shall not prohibit subsequent construction of a building or other improvements on such area.

2.2 Each Party is hereby granted and conveyed the right to temporarily close off the portion of the Parking Area(s) within any Lot owned by that Party for such reasonable period as may be legally necessary to prevent the acquisition of prescriptive rights by anyone; provided however that prior to closing off any portion of the Parking Area(s) as herein provided such Party shall give written notice to each other Party of the contention to do so and shall coordinate this closing with the other Party so that no unreasonable interference in the operation of the Property shall occur.

ARTICLE III MAINTENANCE AND REPAIR

3.1 Parking Area.

(A) Each Party covenants and agrees to maintain and repair or to cause the maintenance and repair of all Parking Areas located on such Party's Lot at its cost and expense. The Parking Areas shall be kept in good condition and repair and in compliance with all laws, regulations and ordinances of governmental agencies exercising jurisdiction thereover and with the provisions and standards of this Agreement.

(B) The standard of maintenance of the Parking Areas to be followed by each Party shall be comparable to the standards of maintenance followed in other first class retail real estate developments of comparable size in the area where the New Reciprocal Easement Property is located. The maintenance and repair obligations in any event shall include but not be limited to the following:

1. Maintaining all paved surfaces of the Parking Areas in a smooth and evenly covered condition which maintenance shall include without limitation, cleaning, sweeping, restriping, repairing, and resurfacing.

2. Removal of all papers, debris, filth, refuse, ice, and snow and sweeping the Parking Areas to the extent necessary to keep the Parking Areas in a clean and orderly condition.

3. Placing, keeping in repair, and replacing any identity and directional signs, markers, and lines.

4. Operating, keeping and repair and replacing, when necessary, such parking lot lighting facilities as may be reasonably required.

5. Maintaining sidewalks and all landscaped areas (including those adjacent to buildings), repairing, maintaining, and replacing sprinkler systems and making replacement of shrubs and other landscaping, as necessary.

6. Maintaining and cleaning service areas and utilities, grease traps for restaurant operations, and the areas allocated to storage of trash.

7. Collection and disposal of trash in such a manner as to maintain the Parking Areas in a clean and attractive condition.

3.2 Building Improvements.

(A) Each Party covenants and agrees to maintain and keep the building improvements located on its Lot in a clean, sightly, and first-class condition and state of repair and, in compliance with all laws, rules and regulations, orders and ordinances of the governmental agencies exercising jurisdiction thereover, and the provisions of this Agreement.

(B) In the event any or all portions of any building located on a Lot is damaged or destroyed and the Party owning the same may elect not to restore, the land on which the damaged or destroyed building (or portion thereof) is located, shall be cleared.

ARTICLE IV MISCELLANEOUS

4.1 Estoppel Certificate. Each Party covenants that within thirty (30) days following written request from time to time from another Party, it will issue to such other Party an Estoppel Certificate stating whether the Party to whom the request has been directed knows of any default under this Agreement (and if there are any defaults specifying the nature thereof) whether to its knowledge this Agreement has been assigned, modified or amended in any way (and if it has, stating the nature thereof) and whether to such Party's knowledge this Agreement, as of such date, is in full force and effect.

5.2 Notices. All notices, demands, statements, or other correspondence required or permitted to be given under this REA must be in writing or given by personal delivery, by U.S. Mail, registered or certified, postage prepaid, or by overnight delivery (such as Federal Express) to the Parties at their respective addresses set forth below. At such time as a Party may transfer any Lot so as to create a new Party, the transferor or transferee shall send notice to the other Party of the name and address of the new Party. Until such time as a Party sends such notice, the

transferor Party shall be deemed to be the agent for such new Party for purposes of service of notices.

If to AURA: Maureen Phair, Executive Director
Arvada Urban Renewal Authority
5601 Olde Wadsworth Blvd., Suite 210
Arvada, CO 80002

With a copy to: Corey Y. Hoffmann, General Counsel
Hoffmann, Parker, Wilson & Carberry, P.C.
511 16th Street, Suite 610
Denver, CO 80202

If to City:

With a copy to:

If to Harkins:

With a copy to:

If to Nazzaro:

With a copy to:

Any Party shall have the right from time to time, and at any time upon at least ten (10) days prior written notice thereof, in accordance with the provisions of this Section, to change its respective address, and to specify any other address within the United States of America for service of notice.

5.3 Binding Effect. This Agreement and all easements, licenses, covenants, conditions, restrictions, and other provisions hereof, shall run with and be appurtenant to the land affected and all such terms inure to the benefit of and be binding upon the Parties and respective successors and assigns who become owners of any portion of the New Reciprocal Easement Property.

5.4 Singular and Plural. Whenever required by the context of this REA, the singular shall include the plural and visa versa, and the masculine shall include the feminine and neuter genders and vice versa.

5.5 Counterparts. This REA may be executed in several counterparts, each of which shall be deemed an original.

5.6 Negotiation of Partnership. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. This Agreement is not intended, nor shall be construed, to create any third-party beneficiary rights to any person who is not a party hereto, unless expressly otherwise provided.

5.7 Not a Public Dedication. Nothing herein contained shall it be deemed to be a gift or dedication of any portion of the New Reciprocal Easement Property or of any Lot or portion thereof to the general public or for the general public of any public use whatsoever; it being the intention and understanding of the Parties hereto that this agreement shall be strictly limited to, and for the purposes herein expressed, solely for the benefit of the Parties hereto.

5.8 Excusable Delays. Whenever performance is required of any Party hereunder, that Party shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, unavailability of labor or materials, damage to work in progress .by reason of fire or other casualty, or other causes beyond the reasonable control of a Party. then the time for performance as herein specified shall be appropriately extended by the amount of the delay so caused. Financial inability or limitations of a Party shall not be regarded as outside of the control of such Party.

5.9 Severability. Invalidation of any of the provisions contained in this Agreement or the application thereof to any person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person and the same shall remain in full force and effect.

5.10 Entire Agreement. This Agreement and any exhibits attached hereto, contain all of the covenants and the entire agreement between the Parties hereto, with respect to the subject matter hereof.

5.11 Captions. The captions proceeding the text of any Section or Subsection hereof are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement.

5.12 Governing Laws. This Agreement shall be construed and interpreted in accordance with the laws of the State of Colorado.

5.13 Non-Merger. In the event any easements, covenants, restrictions or other provisions under this Agreement which burden any portion of the New Reciprocal Easement Property ever inure to the benefit of a Party who also owns the title to the burdened New Reciprocal Easement Property, such commonality of interest shall not result in or be construed as a merger of the pertinent provisions of this Agreement with the title to the burdened New

Reciprocal Easement Property; all easements, rights, benefits, covenants, conditions, restrictions and provisions under this Agreement shall be and remain in full force and effect until such time, if ever, as the same are terminated or modified in accordance with the provisions of Section 5.14 herein. This Agreement shall provide mutual and reciprocal rights to, between and among the Lots and the Parties to the same extent as if this instrument were executed by all subsequent owners of all Lots.

5.14 Termination or Amendment. This Agreement may be terminated or amended only by written agreement recorded in the Records and duly executed by all Parties. In the event that there shall exist any mortgagee encumbering the Lot of any Party whose signature is necessary for the termination or amendment hereof, then no such termination or amendment shall be effective without the signature of the mortgagee.

5.15 Waivers. No delay or omission by a Party in exercising any right or power accruing upon default, noncompliance, or failure of performance of any of the provisions of this Agreement shall constitute or give rise to a waiver of such event or any such subsequent or similar event. No express waiver of any default shall affect any other default or pertain to any other period of time, except as specified in such express waiver. The consent or approval by any Party to or of any acts or requests by any other Party shall not be deemed to waive or render unnecessary the consent or approval to any subsequent acts or requests.

5.16 Default and Remedies. This Agreement may be enforced against any person violating or attempting or threatening to violate any provision of the same which enforcement shall occur by self-help or by legal proceedings to restrain or enjoin any such violation or to compel specific performance of any obligation hereunder. In the event any Party shall institute any action or proceeding against another Party to enforce the provisions of this Agreement, then and in such event, the unsuccessful litigant in such action or proceeding agrees to reimburse a successful litigant therein for the reasonable expenses of attorney's fees, expert witnesses and disbursements incurred therein by the successful litigant.

5.17 Term. The terms, covenants and conditions of this Agreement shall be effective as of the date first set forth above and shall continue in full force and effect perpetually, except to the extent modified, amended, or terminated in accordance with the provisions hereof.

IN WITNESS WHEREOF, the Parties have caused this Combined Release and Access/Parking Easement to be executed effective as of the day and year first above written.

THE ARVADA URBAN RENEWAL AUTHORITY
A body corporate and politic of the State of Colorado

By: _____
Alan Parker, Chair

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this _____, by Alan Parker in his capacity as the Chair of the Arvada Urban Renewal Authority, a body corporate and politic of the State of Colorado.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

CITY OF ARVADA,
a Colorado home rule municipality

By: _____

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this _____, by
_____ as the _____ of the City of Arvada a Colorado home rule municipality.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

HARKINS

By: _____

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this _____, by
_____ as the _____ of Harkins.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

J Nazzaro Partnership, a ____ Partnership

By: _____

STATE OF COLORADO)
) ss.

COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this _____, by
_____ as the _____ of J Nazzaro Partnership, a _____.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT 1

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO DECLARATION

Lots 1, 2 and 3, Block 1, and Lot 1, Block 2, Sullivan Subdivision Filing No, 1 Jefferson County, Colorado.

EXHIBIT 2

LEGAL DESCRIPTION OF NEW RECIPROCAL EASEMENT PROPERTY

AURA Flash Report

Balances as of May 31, 2021

FOR DISCUSSION PURPOSES ONLY
UNOFFICIAL & UNAUDITED

CASH & INVESTMENTS

Wells Fargo Bank

| | Account Balance | Hold | Net to AURA |
|-------------------------------------|-----------------|-------------|-------------|
| General - Checking (0193) | 1,571,573 | - | 1,571,573 |
| Ralston Fields - Checking (4061) | 3,195,606 | - | 3,195,606 |
| Ralston Fields Investments (9353) | 358,234 | - | 358,234 |
| Olde Town Station - Checking (0895) | 1,885,426 | (1,085,000) | 800,426 |
| Village Commons - Checking (0887) | 909,925 | - | 909,925 |

First Bank of Arvada

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

CSIP

| | | | |
|----------------------------|-----------|---------|-----------|
| Ralston Fields Fund (9003) | 1,055,852 | 0.0032% | 1,055,852 |
|----------------------------|-----------|---------|-----------|

NET CASH AVAILABLE TO AURA **8,225,150**

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 |
| 2020 | City Stores | 5790 Garrison St | 10 | 0 | 10 |
| 2021 | IRG Outparcel | 9250 W 58th Ave | 1,000,000 | 0 | 1,000,000 |

NET VALUE OF REAL ESTATE OWNED **1,000,051**

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 | 1,178,323 | 3,821,677 |
| Brooklyn's | January 1, 2016 / January 1, 2030 | 2,745,000 | 1,099,642 | 1,645,358 |
| 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 **\$7,967,035**

GROSS INCOME & EXPENSES BY FUND As of May 31, 2021

| | 2021 BUDGET | | Actual Revenues | Actual Expenses |
|-------------------|-------------|------------|-----------------|-----------------|
| | Revenue | Expenses | YTD | YTD |
| Ralston Fields | 4,393,000 | 3,056,000 | 4,001,153 | 983,422 |
| Olde Town Station | 1,180,000 | 1,430,000 | 522,447 | 8,483 |
| Jefferson Center | 12,106,000 | 12,106,000 | 1,137,960 | 7,536,390 |
| Northwest Arvada | 11,000,000 | 11,000,000 | 8,061,124 | 120,917 |
| Village Commons | 606,000 | 253,346 | 241,744 | 91,843 |

TOTALS **29,285,000** **27,845,346** **\$13,964,428** **\$8,741,055**

GENERAL FUND EXPENSES As of May 31, 2021

| | 2021 Budget | Expended YTD |
|-----------------------|------------------|------------------|
| Operating Expenses | 585,565 | 200,758 |
| TOTAL EXPENSES | \$585,565 | \$200,758 |