

AGENDA
REGULAR MEETING OF THE CITY COUNCIL
480 S. ALLISON PARKWAY
CITY OF LAKEWOOD, COLORADO
HYBRID MEETING
AUGUST 26, 2024
7:00 PM

To watch the Council meeting live, please use either one of the following links:
City of Lakewood Website: [Lakewood.org/CouncilVideos](https://lakewood.org/CouncilVideos)
Lakewood Speaks: Lakewoodspeaks.org

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In accordance with City Council Policy 5.1(A), all virtual meeting participants are advised that technological issues, whether caused by the City's equipment or the user's equipment, shall not be grounds for canceling a public meeting.

How to Connect to Provide Public Comment: Online participants may post written comments of any length to LakewoodSpeaks.org, an online forum for public comments.

ITEM 1 – CALL TO ORDER

ITEM 2 – ROLL CALL

ITEM 3 – PLEDGE OF ALLEGIANCE

ITEM 4 – STATEMENT OF CONFLICT OF INTEREST

**CONSENT AGENDA
ORDINANCES ON FIRST READING**

ITEM 5 – RESOLUTION 2024-40 – AMENDING CERTAIN ALCOHOL BEVERAGE FEES FOR THE CITY OF LAKEWOOD

ITEM 6 – RESOLUTION 2024-41 – APPROVING AN INTERGOVERNMENTAL AGREEMENT TO ESTABLISH A CONSORTIUM TO ACCESS AND ALLOCATE FUNDS FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE HOME INVESTMENT PARTNERSHIPS PROGRAM

- ITEM 7 – RESOLUTION 2024-42 – APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE COLORADO DEPARTMENT OF TRANSPORTATION TO DIVIDE AND DELINEATE OPERATION AND MAINTENANCE RESPONSIBILITIES FOR THE 12TH AND WADSWORTH WATER QUALITY POND AND ASSOCIATED PERMANENT WATER QUALITY FACILITIES**
- ITEM 8 – RESOLUTION 2024-43 – APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT REGARDING FINAL DESIGN SERVICES FOR DRAINAGE AND FLOOD CONTROL IMPROVEMENTS IN DRY GULCH FROM VANCE STREET TO TELLER STREET AND SIDEWALK IMPROVEMENTS ON W 10TH AVENUE FROM WADSWORTH BOULEVARD TO SAULSBURY STREET**
- ITEM 9 – RESOLUTION 2024-44 – APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT TO UPDATE THE CITY OF LAKEWOOD STORM DRAINAGE AND TECHNICAL CRITERIA MANUAL**
- ITEM 10 – RESOLUTION 2024-45 – AUTHORIZING THE PURCHASE OF REAL PROPERTY FOR PARK PURPOSES INCLUDING ACCEPTANCE OF A DEED THEREFOR**
- ITEM 11 – ORDINANCE O-2024-21 – AN ORDINANCE AMENDING ORDINANCE 2023-39 REGARDING THE ACCEPTANCE OF THE DEVOLUTION OF CERTAIN PROPERTY FROM THE COLORADO DEPARTMENT OF TRANSPORTATION TO THE CITY OF LAKEWOOD AND APPROVING AN INTERGOVERNMENTAL AGREEMENT THERETO TO CORRECT THE LEGAL DESCRIPTION**
- ITEM 12 – ORDINANCE O-2024-22 – AMENDING CHAPTER 14.02 OF TITLE 14 OF THE LAKEWOOD MUNICIPAL CODE TO ALLOW SLEEPING UNITS THAT ARE PART OF A CITY APPROVED TRANSITIONAL HOUSING PROGRAM TO BE CONSIDERED TEMPORARY SHELTERS THAT ARE EXEMPT FROM STRICT COMPLIANCE WITH THE REQUIREMENTS OF THE INTERNATIONAL BUILDING CODE**
- ITEM 13 – APPROVING MINUTES OF THE CITY COUNCIL MEETINGS**
- A. DRAFT CITY COUNCIL REGULAR MINUTES 07-22-2024

END OF CONSENT AGENDA

ORDINANCES ON SECOND READING

AND PUBLIC HEARINGS

ITEM 14 – ORDINANCE O-2024-20 – AMENDING CHAPTER 14.06 OF TITLE 14 OF THE LAKEWOOD MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2023 NATIONAL ELECTRICAL CODE AS ADOPTED BY THE STATE OF COLORADO BY AND THROUGH THE STATE ELECTRICAL BOARD

ITEM 15 – PUBLIC COMMENT

Anyone who would like to address the Council on any matter other than an agenda item will be given the opportunity. Speakers should limit their comments to three minutes.

ITEM 16 – GENERAL BUSINESS

ITEM 17 – EXECUTIVE REPORT

A. CITY MANAGER

ITEM 18 – MAYOR AND CITY COUNCIL REPORTS

A. COUNCIL MEMBERS BY WARD

B. MAYOR

ITEM 19 – ADJOURNMENT

STAFF MEMO

DATE OF MEETING: AUGUST 26, 2024 / AGENDA ITEM NO. 5

To: Mayor and City Council
From: Jay Robb, City Clerk
Subject: **AMENDING CERTAIN ALCOHOL BEVERAGE FEES**

SUMMARY STATEMENT: The State recently amended liquor license categories and some fees charged to cover the administrative costs of liquor licenses. Processing liquor licenses applications and renewals involves application reviews, background investigations, legal publication requirements, required postings on premises, and public hearings. Accordingly, the City Clerk's staff is seeking City Council approval to amend the City's local liquor licensing fee schedule to account for the administrative costs of liquor licensing and comply with recent fee changes and license categories from the State.

BACKGROUND INFORMATION: Alcohol beverage licensing is a process handled jointly by both the State of Colorado and local governments. As part of this joint administrative process, the State sets the fees that both the State and municipalities may charge to cover licensing costs. The State recently amended liquor license categories and fees charged to cover the administrative costs of liquor licensing.

The City Clerk's Office currently oversees the administration of approximately 350 liquor licenses. Legal and administrative staff have been aware that the administrative costs of alcoholic beverage licensure have continued to increase since the last fee adjustment was adopted by the City in 2017. Increased employee hours and training have been necessary to keep pace with the increasing number of alcoholic beverage license applications filed with the City. Different types of liquor licenses or license renewals have various requirements, which can include opening a new business, adding alcohol sales to an existing business, transferring a liquor license between individuals buying or selling a business, and permits for special events where alcohol will be served. Each application must be individually reviewed, background investigations must be conducted on all associated owners, legal publication of notice to interested parties, posting of premises, and public hearings before the liquor authority.

Resolution 2024-40 amends the City's local liquor licensing fee schedule to account for the administrative costs of liquor licensing and to comply with recent fee changes and license categories from the State.

BUDGETARY IMPACTS: This would increase the revenue the City Clerk's office generates to cover the administrative costs of providing alcoholic beverage licensure services.

STAFF RECOMMENDATIONS: Staff would recommend passing Resolution 2024-40 to amend the City's local liquor licensing fee schedule to account for the administrative costs of liquor licensing and comply with recent licensing fees and category changes from the State.

ALTERNATIVES: The City Council may decide not to amend the liquor licensing fees to cover the administrative costs of providing alcoholic beverage licensure services.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: Liquor license fees will be updated 30 days after the approval of the Resolution.

ATTACHMENTS: 1. Resolution 2024-40
2. Exhibit A - 2024 Proposed Lakewood Liquor Licensing Fee Schedule
3. 2024 Proposed Lakewood Liquor Licensing Fee Schedule_Redline

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

2024-40

A RESOLUTION

AMENDING CERTAIN ALCOHOL BEVERAGE LICENSURE FEES FOR THE CITY OF LAKEWOOD

WHEREAS, Section 5.38.140 of the Lakewood Municipal Code directs the City Council to establish by resolution certain fees to defray the cost of processing documentation surrounding the licensure, renewal, transfer, and other acts related to the licensing of establishments which serve alcoholic beverages in the City of Lakewood;

WHEREAS, fees charged by the City to cover the administrative costs of providing alcoholic beverage licensure services have remained unchanged since 2017;

WHEREAS, the State of Colorado, Department of Revenue, Liquor Enforcement Division has recognized that the costs to the State and to the localities that administrate alcoholic beverage licenses have increased, thereby necessitating an increase in the fees allowed to be charged for such licensure by both the State and local governments; and

WHEREAS, the City of Lakewood has incurred increased costs in processing the applications, performing the background checks, publishing the notices, and administrating all other alcoholic beverage licensing paperwork for establishments which serve alcoholic beverages.

BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The fees set forth on Exhibit A, attached hereto and incorporated herein, are hereby adopted by the City of Lakewood to defray the cost of administrating the alcoholic beverage licensing program of the City, including, but not limited to, processing documentation surrounding the licensure, renewal, transfer and other acts related to licensing establishments which serve alcoholic beverages in the City of Lakewood.

SECTION 2. The implementation of the amended fees shall occur thirty (30) days after approval of this Resolution.

INTRODUCED, READ, AND ADOPTED by a vote of ____ for and ____ against at a hybrid regular meeting of the City Council on August 26, 2024, at 7 o'clock p.m. at the Lakewood Civic Center, 480 South Allison Parkway, Lakewood, Colorado.

Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

EXHIBIT A
LOCAL LIQUOR LICENSING FEE SCHEDULE

License Type	Application Fee	Occupation Fee	License Fee	Total Local Fees
Arts				
New	\$1,000.00	\$1,000.00	\$41.25	\$2,041.25
Transfer	\$750.00	\$1,000.00	\$41.25	\$1,791.25
Renewal	\$100.00	\$1,000.00	\$41.25	\$1,141.25
Beer & Wine				
New	\$1,000.00	\$1,000.00	\$48.75	\$2,048.75
Transfer	\$750.00	\$1,000.00	\$48.75	\$1,798.75
Renewal	\$100.00	\$1,000.00	\$48.75	\$1,148.75
Brew Pub				
New	\$1,000.00	\$1,000.00	\$75.00	\$2,075.00
Transfer	\$750.00	\$1,000.00	\$75.00	\$1,825.00
Renewal	\$100.00	\$1,000.00	\$75.00	\$1,175.00
Club				
New	\$1,000.00	\$1,000.00	\$41.25	\$2,041.25
Transfer	\$750.00	\$1,000.00	\$41.25	\$1,791.25
Renewal	\$100.00	\$1,000.00	\$41.25	\$1,141.25
Hotel & Restaurant				
New	\$1,000.00	\$1,000.00	\$75.00	\$2,075.00
Transfer	\$750.00	\$1,000.00	\$75.00	\$1,825.00
Renewal	\$100.00	\$1,000.00	\$75.00	\$1,175.00
Liquor-Licensed Drugstore				
New	\$1,000.00	\$1,000.00	\$22.50	\$2,022.50
Transfer	\$750.00	\$1,000.00	\$22.50	\$1,722.50
Renewal	\$100.00	\$1,000.00	\$22.50	\$1,122.50
Lodging Facilities or Entertainment Facilities				
New	\$1,000.00	\$1,000.00	\$75.00	\$2,075.00
Transfer	\$750.00	\$1,000.00	\$75.00	\$1,825.00
Renewal	\$100.00	\$1,000.00	\$75.00	\$1,175.00
Retail Liquor Store				
New	\$1,000.00	\$1,000.00	\$22.50	\$2,022.50
Transfer	\$750.00	\$1,000.00	\$22.50	\$1,722.50
Renewal	\$100.00	\$1,000.00	\$22.50	\$1,122.50
Tavern				
New	\$1,000.00	\$1,000.00	\$75.00	\$2,075.00
Transfer	\$750.00	\$1,000.00	\$75.00	\$1,825.00
Renewal	\$100.00	\$1,000.00	\$75.00	\$1,175.00
Fermented Malt Beverage & Wine (Off-Premises)				
New	\$1,000.00	\$1,000.00	\$3.75	\$2,003.75
Transfer	\$750.00	\$1,000.00	\$3.75	\$1,753.75
Renewal	\$100.00	\$1,000.00	\$3.75	\$1,103.75

Permit Type	Application Fee	Occupation Fee	Permit Fee	Total Local Fees
Art Gallery Permit				
New	\$100.00	N/A	3.75	103.75
Renewal	\$100.00	N/A	3.75	103.75
Special Event Permit (Liquor)				
	N/A	N/A	100.00	100.00
Special Event Permit (Beer)				
	N/A	N/A	100.00	100.00

Additional Fees	
Service	Local Fee
Fingerprinting	\$38.50
Concurrent Review	N/A
Modification of Premises	N/A
Change in Location	\$750.00
Hotel Optional Premise	N/A
Temporary Permit	N/A
Manager Registration*	\$30.00
Corp. / LLC Changes***	\$100.00
Late Renewal Fee	\$500.00
Late Reissue Fee	\$500.00
Late Reissue Fine	\$25 per day (past 90-day expiration)
Liquor License Drugstore Manager Permit Registration	N/A

N/A: Per Liquor Enforcement Division the City is prohibited, by state statute, from charging a fee for the listed services.

*Tavern, Hotel & Restaurant, Lodging Facility, Entertainment Facility, Club, and Arts License managers

***Per officer, member, or stockholder pay either local authority or state authority, not both

Late Renewals: applications received between 1 and 90 days after the expiration date of the license.

Late Reissue: applications received between 91 and 180 days after the expiration date of the license.

Delinquent licenses: 181+ days past the late expiration date **must** apply for a new license.

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Special Event Permit (Beer)				
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Additional Fees	
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STAFF MEMO

DATE OF MEETING: AUGUST 26, 2024 / AGENDA ITEM NO. 6

To: Mayor and City Council
From: Travis Parker, Chief of the Sustainability & Community Development Branch
Subject: **IGA TO ESTABLISH HOME CONSORTIUM WITH HUD**

SUMMARY STATEMENT: This IGA updates the existing agreement with Jefferson County that establishes a consortium to access and allocate HUD HOME program funds.

BACKGROUND INFORMATION: The Home Investment Partnership Program of the Federal Dept. of Housing and Urban Development is accessed locally through a Consortium partnership between Jefferson County and Lakewood. This resolution will update the existing agreement to include City of Arvada in the Consortium and set forth processes to assist the Consortium's allocation of awarded funds to local projects.

BUDGETARY IMPACTS: None

STAFF RECOMMENDATIONS: Staff recommends approving the update to the HOME Consortium Agreement as provided herein.

ALTERNATIVES: If the agreement is not approved the existing partnership between Jefferson County and Lakewood, excluding Arvada, would renew automatically.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: If approved, city staff would move forward to execute the agreement to meet HUD's hard deadline of August 30.

ATTACHMENTS: 1. Resolution 2024-41

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

A RESOLUTION

APPROVING AN INTERGOVERNMENTAL AGREEMENT TO ESTABLISH A CONSORTIUM TO ACCESS AND ALLOCATE FUNDS FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE HOME INVESTMENT PARTNERSHIPS PROGRAM

WHEREAS, pursuant to C.R.S. § 29-1-203 and §29-1-203.5 as amended, the City of Lakewood (the “City”), has the authority to enter into intergovernmental agreements (IGAs) with other governmental entities;

WHEREAS, in 2012 the Jefferson County (the “County”) qualified as an “urban county” and formed a consortium (the “Jefferson County HOME Consortium” or “Consortium”) to access and allocate funds from the United States Department of Housing and Urban Development (HUD) for the Home Investment Partnerships Program (HOME);

WHEREAS, these funds are used to support a wide range of local housing and community development activities and programs;

WHEREAS, the City wished to participate in the Consortium and the City and County entered into an Intergovernmental Joint Cooperation Agreement in June of 2013;

WHEREAS, the City of Arvada now wishes to join the Consortium;

WHEREAS, to effectuate the foregoing, the City and other Consortium members must enter into a new IGA, attached hereto as Exhibit A, and commence a new term beginning October 1, 2024, and ending September 30, 2026, after which any future renewals of the IGA will be for a three-year period; and

WHEREAS, the City Council hereby finds and determines that entering into the aforementioned IGA is in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Approval. The City Council hereby finds and determines that authorizing the IGA is in the best interests of the residents of the City and is hereby approved.

SECTION 2. Execution. The City Council hereby authorizes the City Manager or designee to execute said IGA on behalf of the City.

SECTION 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

INTRODUCED, READ AND ADOPTED by a vote of ____ for and ____ against at a hybrid regular meeting of the City Council on August 26, 2024, at 7 o'clock p.m., at the Lakewood Civic Center, 480 South Allison Parkway, Lakewood, Colorado.

Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

Exhibit A

INTERGOVERNMENTAL JOINT COOPERATION AGREEMENT
AND HOME CONSORTIUM AGREEMENT
BETWEEN
JEFFERSON COUNTY, COLORADO,
THE CITY OF LAKEWOOD, COLORADO
AND
THE CITY OF ARVADA, COLORADO

THIS AGREEMENT (the "Agreement") is entered into by and between Jefferson County, Colorado, a body corporate and politic of the State of Colorado (the "County"), the City of Lakewood, a home rule municipal corporation located in Jefferson County, Colorado ("Lakewood"), and the City of Arvada, a home rule municipality located in Jefferson County, Colorado ("Arvada"), and is effective October 1, 2024. Lakewood and Arvada may be referred to herein individually as the "City" and collectively as the "Cities," and the County, Lakewood and Arvada may be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

- A. In 1974 the U.S. Congress enacted the Housing and Community Development Act of 1974, as since amended (42 U.S.C. 5301 et seq.) ("HCDA"), permitting and providing for the participation of the United States government in a wide range of local housing and community development activities and programs under Title I of HCDA which activities and programs are administered by the U.S. Department of Housing and Urban Development ("HUD"); and the Home Investment Partnerships Program ("HOME") was enacted under Title II (42 U.S.C. 12701-12839) of the Cranston-Gonzalez National Affordable Housing Act ("NAHA") which activities and programs are administered by HUD;
- B. The primary objective of Title I of HCDA is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income, and the primary objective of the HOME program is to expand the supply of decent, safe, sanitary and affordable housing for low and moderate income Americans. These objectives are to be accomplished by the federal government providing financial assistance pursuant to HCDA and NAHA in the form of Community Development Block Grant ("CDBG") funds and HOME funds to the state and local governments to be used in the conduct and administration of housing and community development activities and projects as contemplated by the primary objectives of the HOME program;

- C. To implement the policies, objectives and other provision of HCDA and NAHA, HUD has issued rules and regulations governing the conduct of HOME program, published in 24 Code of Federal Regulations (C.F.R.), Part 92 (the “Regulations”), which provide that a county that qualifies as an urban county may form a consortium with one or more geographically contiguous units of local government, as outlined in Section 92.101, and that a metropolitan city that qualifies for a separate entitlement grant may be included as a part of the HOME consortium by entering into a HOME consortium agreement with the urban county in accordance with the requirements of the Regulations;
- D. In 2012, the County qualified as an “urban county” and formed a HOME consortium (the “Jefferson County HOME Consortium” or the “Consortium”). Pursuant to an Intergovernmental Joint Cooperation Agreement and HOME Consortium Agreement between the County and Lakewood (the “Original Consortium Agreement”), which became effective on June 1, 2013, Lakewood elected to participate in the Jefferson County HOME Consortium. The City of Wheat Ridge, the City of Golden, the City of Edgewater, the Town of Lakeside and the Town of Morrison comprise the other members of the Jefferson County HOME Consortium through their participation in the Jefferson County urban county;
- E. Arvada wishes to join the Jefferson County HOME Consortium beginning with its ensuing qualification period;
- F. The County also desires to modify the Jefferson County HOME Consortium’s qualification period to synchronize with the federal fiscal year and the County CDBG program’s qualification period. To effectuate the foregoing, the initial term of this Agreement will be an abbreviated term beginning October 1, 2024, and ending September 30, 2026, after which any future renewals of the Agreement will be for a full three-year qualification period;
- G. Upon execution of this Agreement by all parties, an executed copy thereof will be included in the documentation for the Jefferson County HOME Consortium’s ensuing qualification period and, if the County re-qualifies as a HOME consortium, the Cities will be included as a part of the Jefferson County HOME Consortium and be eligible to participate in the County’s HOME program. As metropolitan cities, Lakewood and Arvada will continue to receive their respective annual entitlement CDBG funds from HUD;
- H. The County recognizes and understands that it does not have independent legal authority to conduct community development and housing assistance activities within the boundaries of the Cities and therefore, its ability to conduct the HOME program in the Cities is limited by the requirement that it must obtain permission from the Cities to perform activities therein, and accordingly, in order for the Cities to be considered a part of the Jefferson

County HOME Consortium and be included in the County's annual request to HUD for HOME funds, it is required by the Regulations that the Cities and the County enter into a cooperation agreement whereby the Cities authorize the County to undertake or to assist in undertaking essential community development and housing assistance activities within the Cities as may be specified in the "Consolidated Plan" to be submitted to HUD annually by the County to receive its annual HOME entitlement grant;

- I. Under general provisions of Colorado law governing contracting between governmental entities and by virtue of specific authority granted in Part 2 of Article 1 of Title 29, C.R.S., any two or more political subdivisions of the state may enter into agreements with one another for joint cooperative action and any one or more political subdivisions may contract with another or with a legal or administrative entity created pursuant to that act to perform any governmental service, activity or undertaking which each political subdivision entering into the contract is authorized by law to perform, and
- J. Accordingly, the Parties have determined that it will be mutually beneficial and in the public interest of all Parties to enter into this intergovernmental agreement regarding the conduct of the County's HOME program.

THEREFORE, in consideration of the premises and cooperative actions contemplated hereunder, the Parties agree as follows:

1. The initial qualification period for the Jefferson County HOME Consortium under this Agreement is from Federal fiscal year 2025 to Federal fiscal year 2026. The initial term of this Agreement shall encompass this same time period, beginning October 1, 2024, and ending September 30, 2026. The initial term of this Agreement is intended to cover activities carried out with HOME consortium grant funds from federal fiscal year 2025 and 2026 appropriations and from any Program Income (as that term is defined in the Regulations) generated from the expenditures of those funds, and will remain in effect, at a minimum, until such funds are expended on eligible activities or returned to HUD.
2. Upon expiration of the initial term of this Agreement, this Agreement will be automatically renewed for the Jefferson County HOME Consortium's participation in successive qualification periods of three federal fiscal years each. No later than the date specified by HUD's consortia designation notice or HOME consortia web page, the County, as lead entity for the Consortium, shall (a) notify each Consortium member in writing of its right to decide not to participate in the Consortium for the next qualification period and (b) send a copy of each notification to the HUD Field Office.

If a member of the Jefferson County HOME Consortium decides not to participate in the Consortium for the next qualification period, the Consortium member shall notify the County, and the County shall notify the HUD Field Office, before the beginning of the

new qualification period.

Before the beginning of each new qualification period, the County shall submit to the HUD Field Office a statement of whether or not any amendments have been made to this Agreement, a copy of each amendment to this Agreement, and, if the Consortium's membership has changed, the state certificate required under 24 C.F.R. § 92.101(a)(2)(i). The Consortium shall adopt any amendments to this Agreement that are necessary to meet HUD requirements for consortium agreements in successive qualification periods.

The automatic renewal of this Agreement will be void if the County fails to (a) notify a Consortium member as required under this automatic renewal provision, or (b) submit a copy of each amendment to this Agreement as required under this automatic renewal provision.

If the Jefferson County urban county fails to re-qualify as an urban county for the CDBG program during the qualification period included in this Agreement, the Agreement shall terminate following the last fiscal year for which the urban county qualified for the CDBG program.

At a minimum, this Agreement will remain in effect until the HOME funds received by the Consortium during each federal fiscal year of the Agreement's initial qualification period, and each successive qualification period for which the Agreement is renewed, are expended on eligible activities or returned to HUD.

3. By entering into this Agreement with the County, the Cities shall be included as a part of Jefferson County HOME Consortium for qualification and grant calculation purposes, upon the re-qualification by HUD of the Jefferson County HOME Consortium.
4. The County shall submit a fully executed copy of this Agreement, together with the authorizing resolutions of each Party, to HUD as part of its qualification documentation.
5. The Jefferson County HOME Consortium's program year shall begin on June 1st each year and end on May 31st of the following year.
6. The Cities agree to, and shall cooperate in, the preparation of detailed HOME program activities and projects to be conducted or performed in their respective jurisdiction during each qualification period covered by this Agreement, and these activities and projects will be included in the Consortium's Consolidated Plan and requests for funds for those periods. The Cities understand and agree, however, that the County shall have final responsibility for selecting the program activities and projects to be included in each annual grant request and project grant request and for filing the Consolidated Plan with HUD on an annual basis.

7. The Parties agree that the County will serve as the lead entity for the Jefferson County HOME Consortium. The County, as lead entity, is authorized to act in a representative capacity for all members of the Jefferson County HOME Consortium for the purposes of administering the HOME program. As the lead entity for the Consortium, the County agrees to assume overall responsibility for ensuring that the Jefferson County HOME Consortium's HOME program is carried out in compliance with all applicable requirements, including requirements concerning the Consortium's Consolidated Plan. Further, the County, as lead entity, will to the extent required by HUD, be the responsible entity under all HOME program fund grant agreements received from HUD, including for projects and activities conducted within the Cities' jurisdictions. Accordingly, the Cities agree that, as to all projects and activities performed or conducted in their jurisdictions under any HOME grant agreement, the County shall have the ultimate supervisory and administrative control and compliance responsibility. The County will accept project recommendations from all Jefferson County HOME Consortium members but reserves the right to make final funding decisions based upon the recommended projects.
8. The Parties agree to cooperate to undertake or to assist in undertaking housing assistance activities for the HOME program. The Cities shall cooperate fully with the County in all HOME program efforts planned and performed hereunder and allow and permit the County to undertake or assist in undertaking essential community development and housing assistance activities within the Cities' jurisdictions, as may be approved and authorized in the County's agreements, including the Consolidated Plan. The Parties also agree to cooperate to undertake, or assist in undertaking, community development housing assistance activities for the HOME program, as they may be planned and specified in the Consortium's Consolidated Plan submitted annually to HUD for the qualification periods specified herein and for such additional time as may be required for the expenditure HOME funds granted by the County for such activities.
9. The County will identify and review projects through the Consortium's online application portal. Projects will be selected based on funding availability, timing, compatibility with the goals identified in the Consortium's current Consolidated Plan, and other appropriate criteria. In the event that the Consortium has insufficient funding to support competing projects located within the boundaries of the Urban County, Lakewood and/or Arvada, the County agrees to select projects in reference to the Parties' respective HOME funding allocations identified by HUD's Consortia Builder Tool, available here: <https://www.hudexchange.info/resource/2450/home-consortia-builder-a-tool-to-estimate-funding>.
10. HOME program funds may be accessed by the Cities in two ways: (a) each City may approve a project or activity, carried out by a third entity, as appropriate for the needs of such City, and endorse the application; or (b) each City may originate a grant or loan request on its own behalf for an eligible project or

activity. If a City applies for HOME funds itself, then the provisions in Paragraph 11 shall apply. For example, if a City opts to create an eligible homeowner rehabilitation program, such City would be subject to the same requirements as a subrecipient, including a written agreement. If a City approves or endorses a third-party application, then such City's continuing participation in the project or activity is not required.

11. Pursuant to 24 C.F.R. 92.504, if the Cities receive HOME program funds, the Cities shall be subject to the same requirements applicable to all subrecipients. The Cities understand and agree that, pursuant to Section 92.504 of the Regulations, the Cities will need to enter into separate written agreements or sub-grants with the County with respect to the actual conduct of the projects and activities approved for performance by such City and that the funds designated in the Consortium's Consolidated Plan for those projects and activities will also be funded to such City under those separate project agreements or sub-grants. Subject to the provisions of Paragraph 7 above, the Cities will administer and control the performance of the projects and activities specified in those separate project agreements and will be responsible for the expenditure of the funds allocated for each such project or activity and will conduct and perform the projects and activities in compliance with the Regulations and all other applicable federal laws and requirements relating to the HOME program.
12. All HOME program funds that are approved by HUD for expenditure under the County's grant agreements, including those that are identified for projects and activities in the Cities, will be budgeted and allocated to the specific projects and activities described and listed in the Consortium's Consolidated Plan and One Year Action Plan to the Consolidated Plan submitted annually to HUD, and those allocated funds shall be used and expended only for the projects or activities to which the funds are identified. No project or activity, nor the amount allocated therefore, may be changed, modified, substituted or eliminated by the Cities without the prior written approval of the County and the approval of HUD, if required by the Regulations.
13. During the term of this Agreement, each City shall:
 - (a) Inform the County of any income generated by the expenditure of HOME program funds received by such City;
 - (b) Pay over to the County any Program Income received by such City, or retain and use that Program Income subject to, and in accordance with, the requirements and provisions of the applicable separate HOME project agreement;
 - (c) Use any Program Income such City is authorized by

the County to retain only for eligible activities in accordance with all HOME program requirements as may then apply and the terms of all applicable project agreements;

- (d) Keep appropriate records regarding the receipt of, use of, or disposition of all Program Income by such City and make reports therein to the County as will be required under the separate project agreements; and
- (e) Pay over to the County any Program Income that may be on hand in the event of close-out or change in status of such City or that may be received subsequent to the close-out or change in status as provided for in the separate project agreement.

14. The separate project agreements or sub-grant agreements that will be entered into between the County and the Cities for the conduct of the HOME program shall include provisions setting forth the standards which shall apply to any real property acquired or improved by the Cities, in whole or in part, using HOME program funds. These standards will require the Cities to:

- (a) Notify the County in a timely manner of any modification or change in the use of that property from that which was planned at the time of acquisition or improvement and this notice requirement shall include any disposition of such property;
- (b) Reimburse the County in an amount equal to the current fair market value of property acquired or improved with HOME funds (less any portion thereof attributable to expenditures of non-HOME funds) that is sold or transferred for a use which does not qualify under the Regulations; and
- (c) Pay over to the County any Program Income that is generated from the disposition or transfer of property either prior to, or subsequent to, any close-out, change of status or termination of this Agreement.

15. The Cities understand and agree that they may not participate in a HOME consortium except the Jefferson County HOME Consortium, regardless of whether the Jefferson County HOME Consortium receives a HOME formula allocation. The Cities may, however, apply for State HOME funds. As metropolitan cities, the Cities may also continue to receive their respective annual entitlement CDBG funds from HUD.

16. The County shall, in accordance with the applicable requirements of 24 C.F.R. Part 92, collect an administrative fee for the performance of its duties administering the HOME program, pursuant to this Agreement. In no event shall the administrative fee exceed ten percent (10%) of the overall annual HOME allocation. The County can elect to enter into an annual agreement with a City if the County and City mutually agree that the City will perform administrative functions relating to the HOME program. In this occurrence the City would be subject to the same requirements as a subrecipient, including execution of a written agreement and adherence to all Regulations.
17. Each Party agrees that it will affirmatively further fair housing.
18. Pursuant to the provisions of 24 C.F.R. § 91.225, each Party affirms that it has adopted and is enforcing the following policies:
 - (a) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
 - (b) A policy enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction.
19. The Cities authorize the County to amend this Agreement on behalf of the entire Consortium to add new members of the Consortium or for other reasons approved by HUD. With the exception of the foregoing, any changes and modifications to this Agreement shall be made in writing and shall be executed by all Parties and be approved by HUD, if necessary to comply with the Regulations.
20. The Parties agree not to veto or otherwise obstruct the implementation of the Consortium's approved Consolidated Plan during the applicable three-year qualification period and for such additional time as may be required for the expenditure of funds granted for that period.
21. The Parties agree to maintain a complete set of books and records that account for the HOME monies and the supervision and administration of the HOME program. The Parties agree that they will provide access to these books and records to each other and to HUD, as necessary or requested, to confirm compliance with Federal laws and regulations.
22. The Parties agree that no Consortium member may withdraw from nor be removed from inclusion in the Jefferson County HOME Consortium during any

qualification period.

23. This Agreement and the rights and duties of the Parties shall be interpreted in accordance with the laws of the State of Colorado applicable to contracts made and to be performed entirely within the state.
24. The courts of the State of Colorado shall have sole and exclusive jurisdiction of any disputes or litigation arising hereunder.
25. Venue for any and all legal actions arising hereunder shall lie in the District Court in and for the County of Jefferson, State of Colorado.
26. No City or County employees, commissioners, city council members or other elected officials shall receive any share or part of this Agreement or any benefit that may arise therefrom.
27. The Cities hereby give the County the authority to carry out and administer HOME program activities and projects using Program Income paid over to the County from a City prior to such City joining the Jefferson County HOME Consortium. With respect to the rental housing project located at 500 South Reed Street, Lakewood, CO 80226 (the "Cityscape Project"), Lakewood grants the County the authority to continue providing oversight and monitoring as required by the Regulations and the applicable contracts between Lakewood and the County and the Lakewood Housing Authority d/b/a Metro West Housing Solutions ("MWHS"). The County will thereby be able to provide the monitoring and oversight for the overall Cityscape Project, which was funded by both Jefferson County HOME Consortium funds and Lakewood HOME funds. Lakewood shall remain responsible for the enforcement of its contract with MWHS and for preparation and filing of any required reports for Lakewood's portion of the HOME funding for the Cityscape Project. The County's monitoring of the Cityscape Project may include monitoring compliance with the occupancy requirements, HOME rent limits, inspections for construction progress and suitability for occupancy, and any other monitoring deemed necessary by the County.
28. Upon execution of this Agreement by all Parties, this Agreement shall supersede and replace the Original Consortium Agreement, which shall be deemed to have been terminated by mutual agreement of Lakewood and the County. Notwithstanding the foregoing, the terms and conditions of the Original Consortium Agreement shall remain in effect for funding received by the Consortium during the 2022-2024 qualification period.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly authorized and executed by each on the date specified as follows:

JEFFERSON COUNTY, COLORADO

By: _____
Lesley Dahlkemper, Chair
Board of County Commissioners

Approved as to form:

By _____
Jean R. Biondi
Assistant County Attorney

CITY OF LAKEWOOD, COLORADO

CITY OF LAKEWOOD

Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

Attestation Date

Approved as to form:

Lauren Stanek, Senior Assistant City
Attorney

Recommended and approved as to content:

Travis Parker, Chief of Sustainability and Community Development

CITY OF ARVADA, COLORADO

By: _____
Lauren Simpson, Mayor

Approved as to form:

By _____
City Attorney

STAFF MEMO

DATE OF MEETING: AUGUST 26, 2024 / AGENDA ITEM NO. 7

To: Mayor and City Council
From: Max Kirschbaum, Director of Public Works
Subject: **IGA with CDOT - Water Quality Pond at 12th Ave and Wadsworth Blvd**

SUMMARY STATEMENT: This resolution would authorize the City Manager to enter into an intergovernmental agreement (IGA) with the Colorado Department of Transportation (CDOT) to divide and delineate their respective operation and maintenance responsibilities for the Water Quality Pond and Facilities that CDOT is constructing at the southeast corner of 12th Avenue and Wadsworth Boulevard.

BACKGROUND INFORMATION: Roadway improvements associated with CDOT's US 6 and Wadsworth Boulevard (SH-121) Project require stormwater quality treatment. CDOT will be constructing a water quality pond at the southeast corner of 12th Avenue and Wadsworth Boulevard as part of Phase 5 of the project. Stormwater quality ponds are designed to capture and treat runoff before it enters natural waterways. They help remove pollutants such as sediments, nutrients (like nitrogen and phosphorus), heavy metals, and oils that are often carried by stormwater. This leads to improved water quality in local rivers, lakes, and streams. This facility and others like it, are a strategy to meeting the environmental standards required by the United States Environmental Protection Agency (EPA) and the Colorado Department of Public Health and Environment (CDPHE) in the City's Municipal Separate Storm Sewer System (MS4) Permit. Colorado Revised Statutes (C.R.S. § 43-2-135) require the City of Lakewood to maintain the storm drainage system under and beyond the state highway.

For the benefits that this water quality pond will provide and to maintain compliance with our MS4 permit and to comply with State Law, it is in the best interest of the City of Lakewood to take on operation and maintenance responsibilities for the new water quality pond at 12th Avenue and Wadsworth Boulevard.

BUDGETARY IMPACTS: Adequate funds are available in the Stormwater Enterprise Fund to complete the scope of work described in the IGA.

STAFF RECOMMENDATIONS: Approval of the resolution.

ALTERNATIVES: City Council could choose to not approve the resolution, which would result in the City not taking on operation and maintenance responsibilities of the water quality pond. In this case, the water quality pond will likely not be maintained, and the benefits of the facility will be minimized.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: If the resolution is approved, the IGA will be executed, and the City will take on operation and maintenance responsibilities after the water quality pond construction is complete (anticipated fall 2024).

ATTACHMENTS:

1. Resolution 2024-42
2. Exhibit
3. Draft IGA

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

A RESOLUTION

APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE COLORADO DEPARTMENT OF TRANSPORTATION TO DIVIDE AND DELINEATE OPERATION AND MAINTENANCE RESPONSIBILITIES FOR THE 12TH AND WADSWORTH WATER QUALITY POND AND ASSOCIATED PERMANENT WATER QUALITY FACILITIES

WHEREAS, pursuant to C.R.S. § 29-1-203 and § 29-1-203.5 as amended, the City and the Colorado Department of Transportation (“CDOT”) have the authority to enter into Intergovernmental Agreements;

WHEREAS, CDOT has designed and constructed improvements for the 12th and Wadsworth Water Quality Pond (the “Pond”), which is located in the City of Lakewood;

WHEREAS, CDOT has also constructed several Permanent Water Quality Facilities and elements (the “Facilities”) to prevent stormwater pollution into and around the Pond, and the Facilities are located in the City of Lakewood;

WHEREAS, because the Pond and Facilities are located in Lakewood, the City desires to operate and maintain portions of each;

WHEREAS, the City and CDOT desire to enter into an Intergovernmental Agreement (IGA) to divide and delineate their respective operation and maintenance responsibilities for the Pond and Facilities; and

WHEREAS, the IGA dividing and delineating the parties’ responsibilities does not require a commitment of any City funds and will only require City staff to carry out the City’s operation and maintenance responsibilities identified in the IGA.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood:

SECTION 1. The City Council hereby finds and determines that authorizing the Intergovernmental Agreement (IGA) to divide and delineate operation and maintenance responsibilities for the 12th and Wadsworth Water Quality Pond and associated Permanent Water Quality Facilities is in the best interest of the residents of the City;

SECTION 2. The IGA is hereby approved, and the City Manager is hereby authorized to execute said agreement on behalf of the City.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

INTRODUCED, READ, AND ADOPTED by a vote of ____ for and ____ against at a hybrid regular meeting of the City Council on August 26, 2024, at 7 o'clock p.m. at the Lakewood Civic Center, 480 South Allison Parkway, Lakewood, Colorado.

Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney



**CITY OF LAKEWOOD LOCATION MAP
WATER QUALITY POND AT SE CORNER OF
12TH AVENUE AND WADSWORTH BOULEVARD**

AUGUST 26, 2024

AGREEMENT

This Agreement, is entered into by and between the State of Colorado for the use and benefit of the COLORADO DEPARTMENT OF TRANSPORTATION (the “State” or “CDOT”), and the CITY OF LAKEWOOD (the “Local Agency”); CDOT and the Local Agency individually shall be referred to as a “Party”, and together shall be referred to as the “Parties.” This Agreement shall not be valid or enforceable until the Effective Date as shown on the Signature and Cover Page of this Agreement.

RECITALS

CDOT has designed and constructed improvements for the 12TH AND WADSWORTH WATER QUALITY POND in Lakewood, Colorado, (“Project”) and CDOT has constructed several Permanent Water Quality (“PWQ”) facilities and related elements for preventing stormwater pollution (“Facilities”); and

The Parties recognize the importance and benefit to their respective systems by the Local Agencies’ operation and maintenance of a portion of the Project and/or Facilities; and

The Parties recognize that PWQ maintenance and operations is specific to the kind of Facility constructed. The Operation & Maintenance Plan Guidance (“O & M Guidance”) is used to create the final Operations & Maintenance Plan (“O & M Plan”). The URL for the O & M Guidance is in **Exhibit C**; and

The Parties desire to agree upon the division of responsibility for their respective maintenance and operation obligations (the “Work”) on the Project and on the Facilities, both shown in **Exhibit A** pursuant to §43-2-135, C.R.S.; and

The Local Agency is adequately staffed and suitably equipped to undertake and satisfactorily carry out its operations and maintenance responsibilities under this Agreement; and

Required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

This Agreement is executed by the State under authority of §§43-1-106, 43-1-110, 43-1-201, et seq., 43-2-102, and 43-2-144, C.R.S., as amended; and

The Local Agency agrees by its execution hereof that it is duly authorized to enter into this Agreement. Authorization may be evidenced by an appropriate ordinance/resolution or authority letter. A copy of any such ordinance/resolution or authority letter may be attached as **Exhibit B**. The provision by the Local Agency to CDOT of such ordinance/resolution or authority letter is at the Local Agency’s discretion; and

These recitals are hereby incorporated into the terms of this Agreement.

NOW, THEREFORE, it is hereby agreed that:

I. **Scope of Work**

The Work under this Agreement shall consist of the inspection, operations,

maintenance, and repair responsibilities of the Project and/or Facilities as set forth and depicted in **Exhibit A**.

II. Exhibits

The Exhibits attached to this Agreement are:

Exhibit A- Scope of Work of the Project

Exhibit B- Local Agency Resolution

Exhibit C- Preparation Guidelines for Operation & Maintenance Plans

Exhibit D- PII Certification

III. Order of Precedence

In the event of conflicts or inconsistencies between this Agreement and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. Special Provisions contained in Section IX of this Agreement
2. This Agreement
3. **Exhibit A-** Scope of Work of the Project
4. **Exhibit C-** Preparation Guidelines for Operations & Maintenance Plans
5. **Exhibit B-** Local Agency Resolution
6. **Exhibit D-** PII Certification

IV. Term

This Agreement shall begin the date approved by all Parties and shall extend for the useful life of the improvements, unless earlier modified or terminated by written agreement of the Parties.

V. CDOT Commitments

- A. CDOT shall accept inspection, operation, maintenance, and repair responsibilities for the portions of the Work identified as CDOT's area of responsibility shown in **Exhibit A**.
- B. CDOT shall, at its own cost and expense, inspect, operate, maintain, repair, and make ample provision each year for said activities for those portions of the Work identified as CDOT's area of responsibility in **Exhibit A**.
- C. CDOT will be responsible for billing Local Agency for tap and water provided on a monthly or bimonthly basis. CDOT will prepare and submit to the Local Agency, no more than monthly, charges for costs incurred relative to the tap and water. CDOT's invoices will be prepared in accordance with the CDOT's standard policies, procedures and standardized billing format.
- D. CDOT grants the Local Agency access to enter CDOT Right of Way ("ROW") to perform inspection and maintenance duties. Though a separate access permit will not be required, notification to CDOT of a Local Agency approved and CDOT accepted Method of Handling Traffic shall be required for any work impacting traffic.
- E. CDOT (and FHWA, if applicable) may make periodic inspections of the Project and/or Facilities to verify that they are being adequately operated, maintained,

and repaired. If CDOT inspections indicate the Project and/or Facilities are not functioning as designed, CDOT may issue a written notice to the Local Agency to cure deficiencies. In the event the deficiencies are not remedied within the Project and/or Facilities timeline after written notice from CDOT to the Local Agency, CDOT may take whatever steps CDOT deems necessary to maintain the Project and /or Facilities. The Local Agency shall reimburse CDOT its actual and documented costs for such maintenance and repair work including labor, equipment, supplies, and materials. If CDOT repairs any deficiencies, it is under no obligation to maintain or repair in the future.

VI. Local Agency Commitments

- A. The Local Agency shall accept inspection, operation, maintenance, and repair responsibilities for the portions of the Work identified as the Local Agency's area of responsibility for the Work shown in **Exhibit A**.
- B. The Local Agency shall, at its own cost and expense, inspect, operate, maintain, repair, and make ample provision each year for those portions of the Work identified as the Local Agency's area of responsibility, as shown in **Exhibit A**.
- C. The Local Agency will reimburse the State for incurred costs relative to tap and water billings following the Local Agency's review and approval of such charges, subject to the terms and conditions of this agreement.
 - ii. If the Local Agency is to be billed for CDOT incurred costs, the billing procedure shall be as follows:
 - 1. Upon receipt of each bill from the State, the Local Agency will remit to the State the amount billed no later than 60 days after receipt of each bill. Should the Local Agency fail to pay moneys due the State within 60 days of demand or within such other period as may be agreed between the parties hereto, the Local Agency agrees that, at the request of the State, the State Treasurer may withhold an equal amount from future apportionment due the Local Agency from the Highway Users Tax Fund and to pay such funds directly to the State. Interim funds, until the State is reimbursed, shall be payable from the State Highway Supplementary Fund (400).
 - 2. If the Local Agency fails to make timely payment to the State as required by this section (within 60 days after the date of each bill), the Local Agency shall pay interest to the State at a rate of one percent per month on the amount of the payment which was not made in a timely manner, until the billing is paid in full. The interest shall accrue for the period from the required payment date to the date on which payment is made.
- D. All Work by the Local Agency must be performed by a person experienced in the inspection, operation, and maintenance of the Project and/or Facilities. This is to ensure that the Project and/or Facilities are operating as designed. Any inspection form may be used if it is acceptable by agreement of the Parties.

- E. The Local Agency grants CDOT access to enter Local Agency ROW to perform CDOT's inspection, operation, maintenance, and repair duties of the Work.
- F. If after inspection of the Project and/or Facilities, CDOT may issue a written notice to cure deficiencies if the Local Agency fails to inspect, report, or properly maintain the Project and Facilities identified in **Exhibit A**. In the event the deficiencies are not remedied within the Project and/or Facilities timeline after written notice from CDOT to the Local Agency, CDOT may take whatever steps CDOT deems necessary to maintain the Project and/or Facilities. The Local Agency shall reimburse CDOT its actual and documented costs for such maintenance and repair work including labor, equipment, supplies, and materials. If CDOT repairs any deficiencies, it is under no obligation to maintain or repair in the future.
- G. If Work includes PWQ Facilities, the Local Agency will create the O & M Plan utilizing the O & M Guidance referenced in **Exhibit C**. The O & M Plan will be submitted to CDOT for prior approval. Final invoice for the construction of the PWQ Facility will not be paid until the O & M Plan is approved and accepted by CDOT.

VII. Joint Commitments

- A. CDOT and the Local Agency will provide liaison through the representatives listed below. If the representatives or contact information changes the Party is to give written notice regarding the substitution of representatives or contact information to the other Party's Liaisons.

CDOT Project and PWQ Facilities Liaison

Jenn Jones
Region 1
425A Corporate Cir
Golden, Co 80401
Phone: 720-497-6953
Email: jennifer.m.jones@state.co.us

Local Agency Project and PWQ Facilities Liaison

Brad Chronowski
City of Lakewood
480 S Allison Pkwy
Lakewood, CO 80226
Phone: 303-987-7805
Email: BraChr@lakewood.org

- B. If safety concerns are identified relating to the Project and Facilities, the Parties will partner with each other and any other affected local jurisdictions to identify the appropriate response to maintain safe and functional Project and/or Facilities.

- C. Prior to commencing any activities, the Parties shall coordinate with each other to minimize impacts to landscaping and/or enhancements that were installed by the Local Agency. CDOT will not be responsible for replacing any enhanced landscaping or irrigation installed by the Local Agency.
- D. If Work includes PWQ Facilities, the Parties agree they will not remove or alter the Facilities in such a way that reduces the documented treatment area as originally constructed. Should CDOT modify the Facilities to add additional area treated, the changed treatment area shall be documented via a drainage report and shared with the Local Agency.
- E. In the event the Project and/or Facilities fail due to surpassing their useful life cycle, the Parties will be responsible for improvements that are not covered by maintenance responsibilities of the Local Agency pursuant to **Exhibit A**.
- F. Any fines levied against CDOT, or the Local Agency shall be the responsibility of the Party whose action or inaction is the cause of the fine, regardless of which Party the fine is levied against.
- G. The Parties shall make, keep, maintain, and allow inspection and monitoring by CDOT, of a complete file of all records, documents, communications, notes, and other written materials, electronic media files, and communications pertaining in any manner to the Work. The Parties shall maintain such records for the useful life of the Project and/or Facilities, following federal, State, and Local Agency record retention policies in either paper or electronic form.

VIII. General Provisions

A. Assignment

Local Agency's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Local Agency's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits, or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

C. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and

understandings related to the Work, oral or written, are merged into this Agreement.

D. Modification

The State may modify the terms and conditions of this Agreement by issuance of an updated Agreement, which shall be effective if Local Agency accepts Agreement Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of the Agreement in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

E. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy, or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Agreement Issuance Date. Local Agency shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Digital Signatures

If any signatory signs this Agreement using a digital signature in accordance with the Colorado State Controller Contract, Agreement and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

G. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Agreement in accordance with the intent of the Agreement.

H. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other Party.

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

J. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

K. Accessibility

- i. Local Agency shall comply with and the work provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S. Local Agency shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii. The State may require Local Agency's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Local Agency's work and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

IX. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts (agreements). Contractor refers to Local Agency and Contract refers to Agreement.

A. Statutory Approval §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(19), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S., applicable Local Agency law, rule or regulation

Financial obligations of the Parties payable after the current State Fiscal Year or fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. Governmental Immunity

Liability for claims for injuries to persons or property arising from the negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. Independent Contractor

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. Compliance with Law

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Choice of Law, Jurisdiction, and Venue

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. Prohibited Terms

Any term included in this Contract that requires the Parties to indemnify or hold Contractor harmless; requires the Parties to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. Software Piracy Prohibition

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that

Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

- I. Employee Financial Interest/Conflict of Interest §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

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Exhibit A - Scope of Work

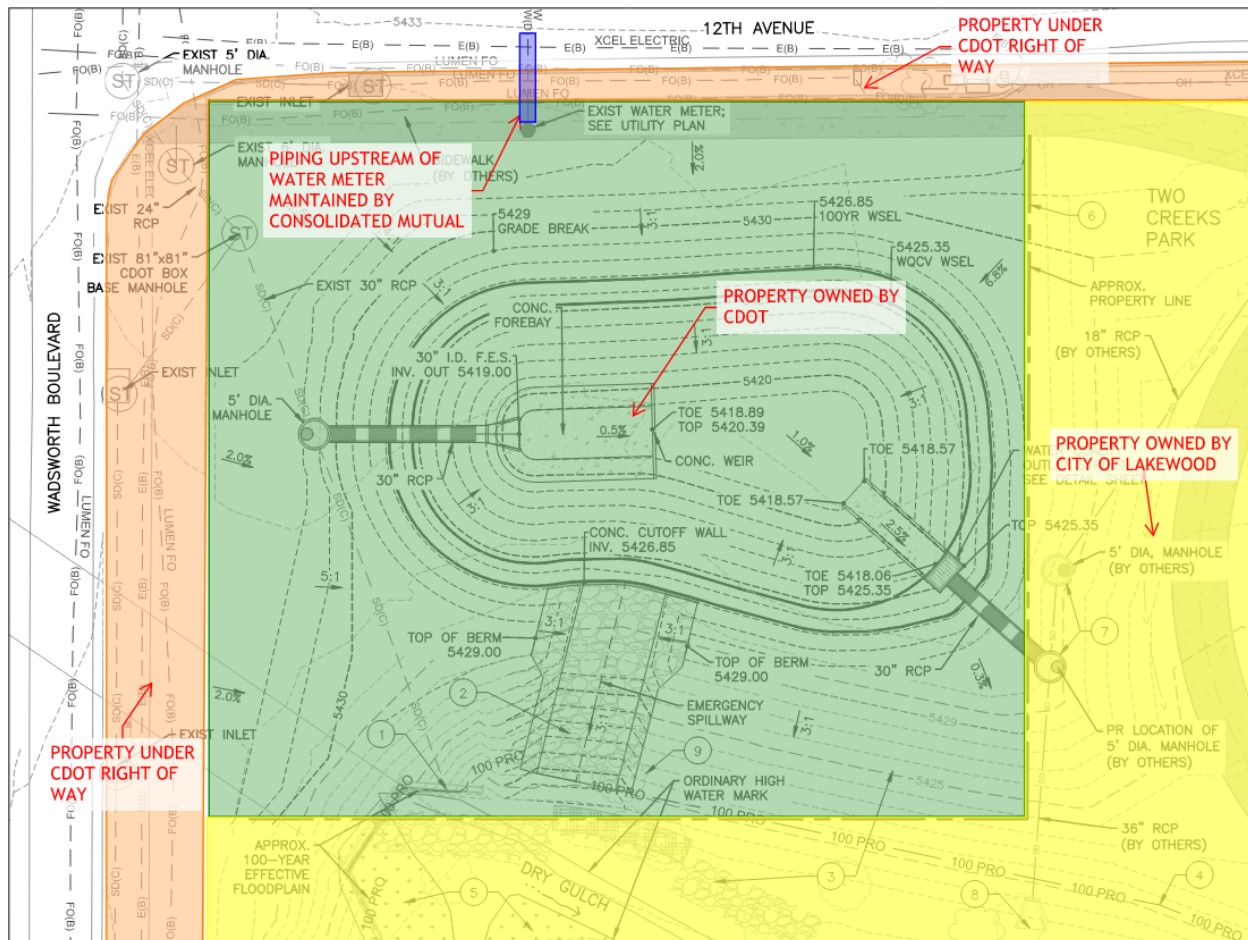
Maintenance Responsibilities of Transportation Infrastructure

Roadway				
Feature/Maintenance Activity	Agency Responsible	Cleaning	Minor Repair or Reset	Major Replacement
Sidewalk/Multi-Use Path/Bike Trail (existing and new as part of COL)	City of Lakewood		x	x
Snow Removal	City of Lakewood	x		
ADA Curb Cuts/Curb Ramps Including maintenance access	City of Lakewood	x	x	x
Signs and Support Structures	City of Lakewood	x	x	x

Drainage				
Feature/Maintenance Activity	Agency Responsible	Cleaning	Minor Repair or Reset	Major Replacement
Storm Sewer Inlets and Pipe	City of Lakewood	x	x	x
Permanent Water Quality Control Measures: Water Quality Pond, emergency spillway	City of Lakewood	x	x	x
Culverts	City of Lakewood	x	x	x
Concrete Box Culverts	City of Lakewood	x	x	x

Roadside				
Feature/Maintenance Activity	Agency Responsible	Cleaning	Minor Repair or Reset	Major Replacement
Landscape Bollards (access control)	City of Lakewood	x	x	x
Landscape & Plantings	City of Lakewood	x	x	x
Irrigation Systems (including the meter)	City of Lakewood	x	x	x
Irrigation water bill	City of Lakewood			
Seeded / Sod Areas (Mechanical Control, Weed Whip, Mowing, Herbicide, Reseeding With Replacement Grass Species)	City of Lakewood	x	x	x
Graffiti Control	City of Lakewood	x	x	x
Public Right of Way: Trespass Management: Unhoused/Homeless Encampment Clean Up	City of Lakewood	x	x	x
Trash Pick up and Disposal	City of Lakewood	x		
Hazardous Materials	City of Lakewood	x		
Ground Water	City of Lakewood	x		

SE corner of intersection of Wadsworth Blvd and 12th Avenue



Legend:

Property owned by CDOT, to be maintained by City of Lakewood to be maintained by IGA.

Property under CDOT ROW.

Property owned by City of Lakewood.

Exhibit B

Local Agency Resolution (if applicable)

Exhibit C

Preparation Guidelines for Operation & Maintenance Plans (if applicable)

The Preparation Guidelines for Operations and Maintenance Plans should be used as reference in creating a plan tailored to this facility. The web addresses for the guidelines, examples of a plan and notes are below.

PREPARATION GUIDELINES FOR OPERATIONS AND MAINTENANCE PLANS (O&M PLANS) FOR PERMANENT WATER QUALITY CONTROL MEASURES (PWQ CMs)

<https://www.codot.gov/programs/environmental/water-quality/stormwater-programs/pwq-permanent-water-quality/assets/o-m-plan-development-guidance-2019>

EXAMPLE PWQ CM OPERATIONS & MAINTENANCE PLAN

<https://www.codot.gov/programs/environmental/water-quality/stormwater-programs/pwq-permanent-water-quality/assets/example-pwq-cm-maintenance-plan-2019>

EXAMPLE OF PWQ CM OPERATIONS & MAINTENANCE NOTES

<https://www.codot.gov/programs/environmental/water-quality/stormwater-programs/pwq-permanent-water-quality/assets/example-pwq-cm-maintenance-notes-2019>

EXHIBIT D

PII Certification

STATE OF COLORADO

**LOCAL AGENCY CERTIFICATION FOR ACCESS TO PII THROUGH A
DATABASE OR AUTOMATED NETWORK**

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of Local Agency) (the “Local Agency”), hereby certify under the penalty of perjury that the Local Agency has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Local Agency.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

STAFF MEMO

DATE OF MEETING: AUGUST 26, 2024 / AGENDA ITEM NO. 8

To: Mayor and City Council
From: Max Kirschbaum, Director of Public Works
Subject: **IGA WITH MHFD - DRY GULCH IMPROVEMENTS AND 10TH AVE SIDEWALK**

SUMMARY STATEMENT: This resolution would authorize the City Manager to enter into an intergovernmental agreement (IGA) with the Mile High Flood District for design of drainage and flood control improvements in Dry Gulch from Vance Street to Teller Street along West 10th Avenue along with sidewalk improvements on West 10th Avenue from Wadsworth Boulevard to Saulsbury Street. Funding for this project is provided by the Mile High Flood District, the City of Lakewood's Stormwater Management Utility, and the City of Lakewood's Bikeway and Sidewalk Capital Improvement funds.

BACKGROUND INFORMATION: Dry Gulch originates from tributaries along Colfax Avenue and flows south-east where it runs under Wadsworth Blvd just north of West 10th Avenue. The Gulch flows through the newly designed, and soon to be constructed, Two Creeks Park and then runs parallel to West 10th Avenue until Teller St where it veers north. Improvements to Dry Gulch, east of Teller St were completed in 2023.

The section of Dry Gulch between Vance St and Teller St is inadequately sized and causes severe flooding of West 10th Avenue and the properties to the north. In addition to mitigating flooding, West 10th Ave is in need of a sidewalk on the north side from Wadsworth to Saulsbury Street. This is a well-used path for residents and students of Jefferson County Open School on the west side of Wadsworth Blvd, who currently have to walk along the roadway without a sidewalk. Accordingly, the current conditions pose a safety hazard for pedestrians, bicyclists and cars.

The overall project consists of the design for drainage, flood control, and sidewalk improvements along West 10th Ave in and parallel to Dry Gulch. Funding needs for the proposed project are estimated at \$330,000. The proposed IGA would establish the City's contribution to the project at \$194,000 and Mile High Flood District's contribution at \$136,000. Funds for the City's contribution will come from the Stormwater Management Utility (\$26,000) and Bikeway and Sidewalk Capital Improvement funds (\$168,000). Use of the funds will be for design which will be managed by the Mile High Flood District in cooperation with City staff.

BUDGETARY IMPACTS: Adequate Stormwater Management Utility funds and Bikeway and Sidewalk Capital Improvement funds are included in the approved 2024 budget for the proposed IGA's funding requirements.

STAFF RECOMMENDATIONS: Approval of the resolution.

ALTERNATIVES: City Council could choose to not approve the resolution resulting in the indefinite postponement of the proposed improvements and maintenance for Dry Gulch between Vance Street and Teller Street and the sidewalk improvements on West 10th Avenue from Wadsworth Blvd to Saulsbury Street.

PUBLIC OUTREACH: Public outreach for the funding associated with the current IGA amendment was

included in the public budget adoption process last year. This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: If the resolution is approved, the current IGA will be executed, and design for the proposed project is expected to commence soon after.

ATTACHMENTS:

1. Resolution 2024-43
2. Exhibit
3. Draft IGA

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

A RESOLUTION

APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT REGARDING FINAL DESIGN SERVICES FOR DRAINAGE AND FLOOD CONTROL IMPROVEMENTS IN DRY GULCH FROM VANCE STREET TO TELLER STREET AND SIDEWALK IMPROVEMENTS ON W 10TH AVENUE FROM WADSWORTH BOULEVARD TO SAULSBURY STREET

WHEREAS, pursuant to C.R.S. § 29-1-203 and § 29-1-203.5 as amended, the City of Lakewood (the “City”) and Mile High Flood District (the “District”) have the authority to enter into an Intergovernmental Agreement (IGA);

WHEREAS, the City and District previously participated in a joint planning study titled “Dry Gulch Major Drainageway Plan” in 2017 (the “Plan”), which identified areas within Dry Gulch in need of additional drainage and flood control improvements to include a stretch within the City from Vance Street to Teller Street along W 10th Avenue;

WHEREAS, the City independently identified the need for sidewalk improvements on W 10th Avenue from Wadsworth Boulevard to Saulsbury Street, which is located near and parallel to the stretch of Dry Gulch along W 10th Avenue from Vance Street to Teller Street in need of drainage and flood control improvements;

WHEREAS, the City and District desire to work together to design the necessary drainage and flood control improvements in Dry Gulch along W 10th Avenue from Vance Street to Teller Street as identified in the Plan, along with the needed sidewalk improvements on W 10th Avenue from Wadsworth Boulevard to Saulsbury Street, as identified by the City,

WHEREAS, the City and District desire to enter into an IGA to fund and perform the final design services for the drainage and flood control improvements in Dry Gulch along W 10th Avenue from Vance Street to Teller Street along with the sidewalk improvements needed on W 10th Avenue from Wadsworth Boulevard to Saulsbury Street (the “Project”);

WHEREAS, the total cost for the Project is anticipated to be three hundred and thirty thousand dollars (\$330,000.00);

WHEREAS, pursuant to the IGA, the District will pay for forty-one percent (41%) of the Project cost and the City will pay the remaining fifty-nine percent (59%); and

WHEREAS, the City’s 59% contribution of \$194,000.00 was previously approved by City Council in the 2024 Annual Budget.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood:

SECTION 1. The City Council hereby authorizes a contribution of up to one hundred and ninety-four thousand dollars (\$194,000.000) for final design services for improvements in Dry Gulch from Vance Street to Teller Street.

SECTION 2. The improvements outlined within the IGA are in the best interests of the residents of the City.

SECTION 3. The City Manager or designee is hereby authorized to execute the IGA and any other documents necessary to complete the Project.

SECTION 4. This City's Chief Financial Officer is hereby authorized and directed to pay amounts not to exceed one hundred and ninety-four thousand dollars (\$194,000.00) for the City's share of the Project cost.

SECTION 5. This Resolution shall become effective immediately upon its adoption.

INTRODUCED, READ, AND ADOPTED by a vote of ____ for and ____ against at a hybrid regular meeting of the City Council on August 26, 2024, at 7 o'clock p.m. at the Lakewood Civic Center, 480 South Allison Parkway, Lakewood, Colorado.

Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

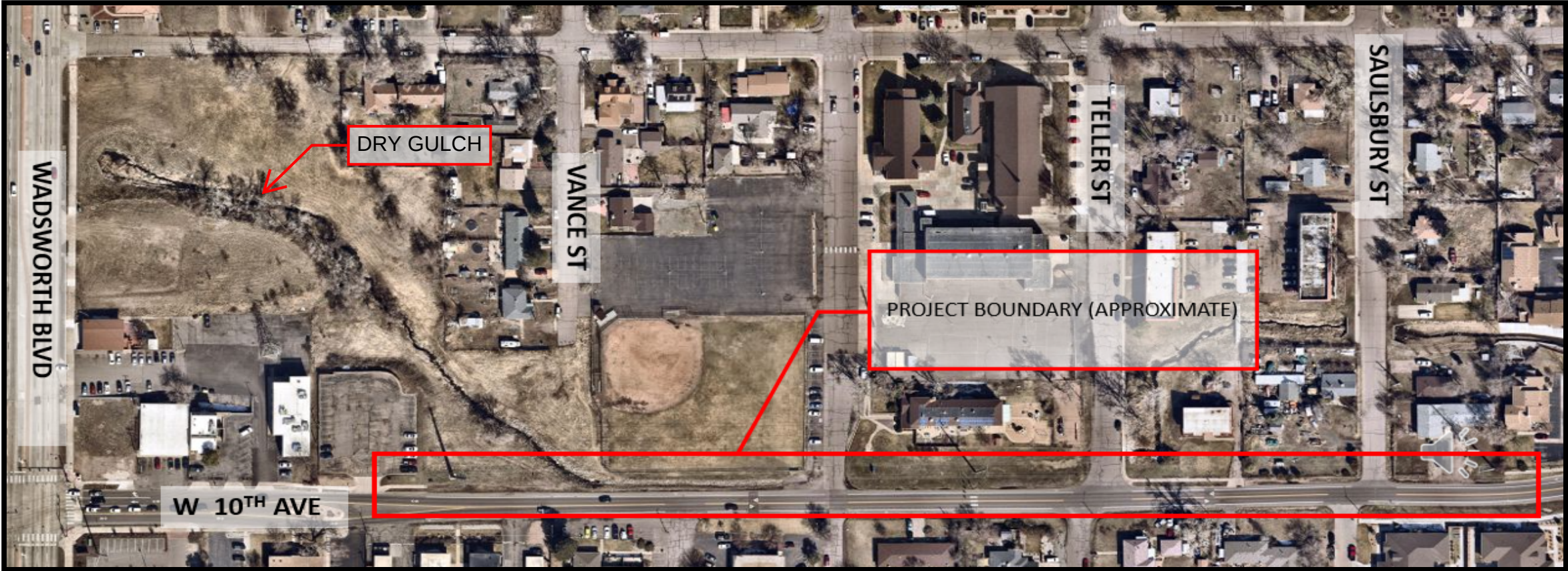
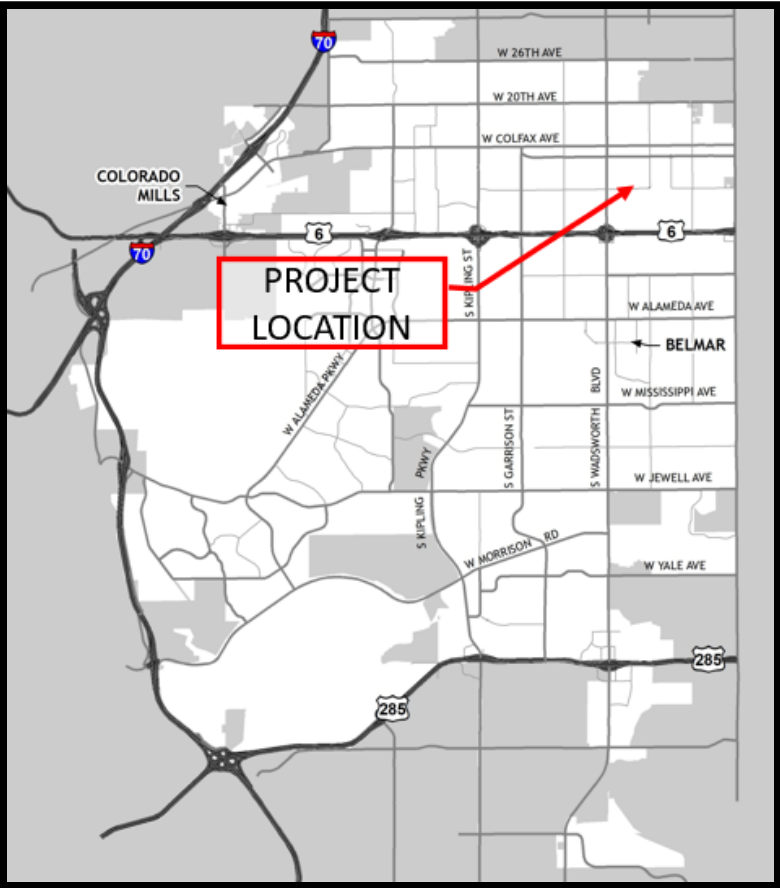


EXHIBIT A

AGREEMENT REGARDING
DESIGN AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
DRY GULCH AT VANCE STREET TO TELLER STREET

Agreement No. 24-04.37
Project No. 110079

THIS AGREEMENT, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT (hereinafter called "DISTRICT") and CITY OF LAKEWOOD (hereinafter called "PROJECT SPONSOR") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, in a policy statement previously adopted, (Resolution No. 14, Series of 1970 and Resolution No. 11, Series of 1973) expressed an intent to assist public bodies which have heretofore enacted floodplain regulation measures; and

WHEREAS, PARTIES participated in a joint planning study titled Dry Gulch Major Drainageway Plan by ICON Engineering dated January 2017 (hereinafter called "PLAN"); and

WHEREAS, DISTRICT has adopted at a public hearing a Five-Year Capital Improvement Program (Resolution No. 90, Series of 2023) for drainage and flood control facilities in which PROJECT was included in the 2024 calendar year; and

WHEREAS, DISTRICT has heretofore adopted a Special Revenue Fund Budget for calendar year 2024 subsequent to public hearing (Resolution No. 87, Series of 2023) which includes funds for PROJECT; and

WHEREAS, DISTRICT's Board of Directors has authorized DISTRICT financial participation for PROJECT (Resolution No. XX, Series of 2024); and

WHEREAS, the governing board (officials) of PROJECT SPONSOR has budgeted, by appropriation or resolution, all of its share of PROJECT costs; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

Part 1

1.01 SCOPE OF AGREEMENT

This Agreement defines the responsibilities and financial commitments of PARTIES with respect to PROJECT.

1.02 SCOPE OF PROJECT

- A. Final Design. PROJECT shall include the final design of improvements in accordance with the recommendations defined in PLAN. Specifically, the final design of facilities shall extend from approximately Dry Gulch at Vance Street to Teller Street, as shown on Exhibit A, attached hereto and incorporated by this reference.

- B. Construction. PROJECT shall include construction by DISTRICT [PROJECT SPONSOR] of the drainage and flood control improvements as set forth in the final design including vegetation establishment.

1.03 PUBLIC NECESSITY

PARTIES agree that the work performed pursuant to this Agreement is necessary for the health, safety, comfort, convenience, and welfare of all the people of the State, and is of particular benefit to the inhabitants of PARTIES and to their property therein.

1.04 PROJECT COSTS AND ALLOCATION OF COSTS

- A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:
1. Final design services;
 2. Construction of improvements;
 3. Contingencies mutually agreeable to PARTIES.

- B. It is understood that PROJECT costs as defined above are not to exceed \$330,000 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Final Design	\$ 330,000
2. Construction*	\$ -
3. Contingency	\$ -
Grand Total	\$ 330,000

* It is anticipated that funds for construction shall be added to this Agreement at a future date.

This breakdown of costs is for estimating purposes only. Costs may vary between the various PROJECT elements without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest, if applicable.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Maximum Contribution</u>
DISTRICT	41%	\$136,000
PROJECT SPONSOR	59%	\$194,000
TOTAL	100%	\$330,000

1.05 MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a PROJECT SPONSOR's share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior DISTRICT approval.

Payment of each party's full share (PROJECT SPONSOR - \$194,000; DISTRICT - \$136,000) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide accounting of PROJECT funds as well as a notification to PROJECT SPONSOR of any unpaid obligations upon request. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 2.05).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares; or, at PROJECT SPONSOR request, PROJECT SPONSOR share of remaining monies shall be transferred to another special fund held by DISTRICT.

1.06 FINAL DESIGN

The contracting officers for PARTIES, as defined under Paragraph 2.05 of this Agreement, shall select an engineer mutually agreeable to both PARTIES. DISTRICT shall contract with selected engineer and shall supervise and coordinate the final design including right-of-way delineation subject to approval of PROJECT SPONSOR. Payment for final design shall be made by DISTRICT as the work progresses from the PROJECT fund established as set forth above.

Final design services shall consist of, but not be limited to, the following:

- A. Preparation of a work plan schedule identifying the timing of major elements in the design;
- B. Preparation of detailed construction plans and specifications;
- C. Preparation of an estimate of probable construction costs of the work covered by the plans and specifications; and
- D. Preparation of an appropriate construction schedule.

DISTRICT shall provide any written work product by the engineer to PROJECT SPONSOR.

1.07 MANAGEMENT OF CONSTRUCTION

- A. Costs. Construction costs shall consist of those costs as incurred by the contractor(s) including detour costs, licenses and permits, utility relocations, and construction related engineering services as defined in Paragraph 1.04 of this Agreement.

- B. Construction Management and Payment

- 1. DISTRICT, with the concurrence of PROJECT SPONSOR, shall administer and coordinate the construction-related work as provided herein.

2. DISTRICT, with concurrence of PROJECT SPONSOR, shall select and award construction contract(s).
 3. DISTRICT shall require the contractor to provide adequate liability insurance that includes PROJECT SPONSOR. The contractor shall be required to indemnify, defend, and hold harmless PROJECT SPONSOR. Copies of the insurance coverage shall be provided to PROJECT SPONSOR upon request.
 4. DISTRICT, with assistance of PROJECT SPONSOR, shall coordinate field surveying; staking; inspection; testing; acquisition of right-of-way; and engineering as required to construct PROJECT. DISTRICT, with assistance of PROJECT SPONSOR, shall assure that construction is performed in accordance with the construction contract documents including approved plans and specifications and shall accurately record the quantities and costs relative thereto. Copies of all inspection reports shall be furnished to PROJECT SPONSOR on a weekly basis upon request. DISTRICT shall retain an engineer to perform all or a part of these duties.
 5. DISTRICT, with concurrence of PROJECT SPONSOR, shall contract with and provide the services of the design engineer for basic engineering construction services to include addendum preparation; survey control points; explanatory sketches; revisions of contract plans; shop drawing review; as-built plans; weekly inspection of work; and final inspection.
 6. PARTIES shall have access to the site during construction at all reasonable times to observe the progress of work and conformance to construction contract documents including plans and specifications.
 7. DISTRICT shall review and approve contractor billings. DISTRICT shall remit payment to contractor based on billings.
 8. DISTRICT, with concurrence of PROJECT SPONSOR, shall prepare and issue all written change or work orders to the contract documents.
 9. PARTIES shall jointly conduct a final inspection and accept or reject the completed PROJECT in accordance with the contract documents
 10. DISTRICT shall provide PROJECT SPONSOR a set of reproducible "as-built" plans.
- C. Construction Change Orders. In the event that it becomes necessary and advisable to change the scope or detail of the work to be performed under the contract(s), such changes shall be rejected or approved in writing by the contracting officers. No change orders shall be approved that increase the costs beyond the funds available in the PROJECT fund, including interest earned on those funds, unless and until the additional funds needed to pay for the added costs are committed by all PARTIES.

1.08 RESPONSIBILITIES OF PARTIES

PROJECT SPONSOR shall be responsible for coordinating with DISTRICT the information developed by the various consultants hired by PROJECT SPONSOR and for obtaining all concurrences from

DISTRICT needed to complete PROJECT in a timely manner. DISTRICT agrees to review all concept plans, preliminary design plans, and final plans and specifications; and to provide comments within 21 calendar days after the drafts have been provided by PROJECT SPONSOR to DISTRICT.

1.09 PUBLIC RELATIONS

It shall be at PROJECT SPONSOR's sole discretion to initiate and to carry out any public relations program to inform the residents in PROJECT area as to the purpose of PROJECT and what impact it may have on them. Technical information shall be presented to the public by the selected engineer, if requested by PROJECT SPONSOR. In any event DISTRICT shall have no responsibility for a public relations program but shall assist PROJECT SPONSOR as needed and appropriate.

1.10 EXECUTION IN COUNTERPARTS – ELECTRONIC SIGNATURES

Electronic signatures shall be permitted to bind the PARTIES to this Agreement, and all subsequent documents requiring the signatures of the PARTIES to this Agreement. Documents requiring notarization may also be notarized by electronic signatures. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, CRS §§ 24-71.3-101 to 121. However, the PARTIES agree that only electronic signatures created by electronic signature software including but not limited to DocuSign shall be permitted.

Part 2

2.01 OWNERSHIP OF PROPERTY AND LIMITATION OF USE

PARTIES acknowledge that, if PROJECT SPONSOR owns the property on which PROJECT is constructed either in fee or non-revocable easement, PROJECT SPONSOR shall be responsible for same including but not limited to fully complying with the remaining provisions of this Paragraph 2.01. It is specifically understood that the right-of-way is being used for drainage and flood control purposes. The properties upon which PROJECT is constructed shall not be used for any purpose that shall diminish or preclude its use for drainage and flood control purposes. PROJECT SPONSOR may not dispose of or change the use of the properties to diminish or preclude its use for drainage and flood control purposes without approval of DISTRICT, which shall not be unreasonably withheld. If, in the future, PROJECT SPONSOR disposes of any portion of or all of the properties acquired upon which PROJECT is constructed pursuant to this Agreement; changes the use to diminish or preclude its use for drainage and flood control purposes of any portion or all of the properties upon which PROJECT is constructed pursuant to this Agreement; or modifies any of the improvements located on any portion of the properties upon which PROJECT is constructed to diminish or preclude its use for drainage and flood control purposes pursuant to this Agreement; and PROJECT SPONSOR has not obtained the written approval of DISTRICT prior to such action, PROJECT SPONSOR shall take any and all action necessary within their legal authority to reverse said unauthorized activity and return the properties and improvements thereon, acquired and constructed pursuant to this Agreement, to the ownership and condition they were in immediately prior to the unauthorized activity at no expense to DISTRICT. However, PROJECT SPONSOR shall not be responsible for the actions of third parties that would violate the provisions

of this Paragraph who may have legal rights in the property as long as PROJECT SPONSOR has taken reasonable action to stop those actions. In the event PROJECT SPONSOR breaches the terms and provisions of this Paragraph 2.01 and does not voluntarily cure as set forth above, DISTRICT shall have the right to pursue a claim against PROJECT SPONSOR for specific performance of this portion of the Agreement.

2.02 MAINTENANCE

PARTIES agree that PROJECT SPONSOR shall own and be responsible for maintenance of the completed and accepted PROJECT. PARTIES further agree that DISTRICT, at PROJECT SPONSOR's request, shall assist PROJECT SPONSOR with the maintenance of all facilities constructed or modified by virtue of this Agreement to the extent possible depending on availability of DISTRICT funds. Such maintenance assistance shall be limited to drainage and flood control features of PROJECT. Maintenance assistance may include activities such as keeping flow areas free and clear of debris and silt, keeping culverts free of debris and sediment, repairing drainage and flood control structures such as drop structures and energy dissipaters, and clean-up measures after periods of heavy runoff. The specific nature of the maintenance assistance shall be set forth in a memorandum of understanding from DISTRICT to PROJECT SPONSOR, upon acceptance of DISTRICT's annual Maintenance Work Program.

DISTRICT shall have right-of-access to right-of-way and storm drainage improvements at all times for observation of flood control facility conditions and for maintenance when funds are available.

2.03 FLOODPLAIN REGULATION

PROJECT SPONSOR agrees to regulate and control the floodplain of Dry Gulch within their jurisdiction in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum.

PARTIES understand and agree, however, that PROJECT SPONSOR cannot obligate itself by contract to exercise its police powers. If PROJECT SPONSOR fails to regulate the floodplain of Dry Gulch within their jurisdiction in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum, DISTRICT may exercise its power to do so and PROJECT SPONSOR shall cooperate fully.

2.04 TERM OF AGREEMENT

The term of this Agreement shall commence upon execution and shall terminate three (3) years after the final payment is made to the construction contractor and the final accounting of funds on deposit at DISTRICT is provided to all PARTIES pursuant to Paragraph 1.05 herein, except for Paragraph 2.03. FLOODPLAIN REGULATION, Paragraph 2.01. OWNERSHIP OF PROPERTY AND LIMITATION OF USE, and Paragraph 2.02. MAINTENANCE.

2.05 LIABILITY

Each party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own negligent or wrongful acts or omissions and may insure against such liabilities as appropriate.

2.06 CONTRACTING OFFICERS

- A. The contracting officer for PROJECT SPONSOR shall be the City Manager, 480 Allison Parkway, Civic Center South, Lakewood Colorado 80226.
- B. The contracting officer for DISTRICT shall be the Executive Director, 2480 West 26th Avenue, Suite 156B, Denver, Colorado 80211.
- C. The contracting officers for PARTIES each agree to designate and assign a PROJECT representative to act on the behalf of said PARTIES in all matters related to PROJECT undertaken pursuant to this Agreement. Each representative shall coordinate all PROJECT-related issues between PARTIES, shall attend all progress meetings, and shall be responsible for providing all available PROJECT-related file information to the engineer upon request by DISTRICT or PROJECT SPONSOR. Said representatives shall have the authority for all approvals, authorizations, notices or concurrences required under this Agreement. However, in regard to any amendments or addenda to this Agreement, said representative shall be responsible to promptly obtain the approval of the proper authority.

2.07 AMENDMENTS

This Agreement contains all of the terms agreed upon by and among PARTIES. Any amendments to this Agreement shall be in writing and executed by PARTIES hereto to be valid and binding.

2.08 SEVERABILITY

If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable clause or provision shall not affect the validity of the Agreement as a whole and all other clauses or provisions shall be given full force and effect.

2.09 APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Jurisdiction for any and all legal actions regarding this Agreement shall be in the State of Colorado and venue for the same shall lie in the county where PROJECT is located.

2.10 ASSIGNABILITY

No party to this Agreement shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party or parties to this Agreement.

2.11 BINDING EFFECT

The provisions of this Agreement shall bind and shall inure to the benefit of PARTIES hereto and to their respective successors and permitted assigns.

2.12 ENFORCEABILITY

PARTIES hereto agree and acknowledge that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available subject to the provisions of the laws of the State of Colorado.

2.13 TERMINATION OF AGREEMENT

This Agreement may be terminated upon thirty (30) days' written notice by any party to this Agreement, but only if there are no contingent, outstanding contracts. If there are contingent, outstanding contracts, this Agreement may only be terminated upon the cancellation of all contingent, outstanding contracts. All costs associated with the cancellation of the contingent contracts shall be shared between PARTIES in the same ratio(s) as were their contributions.

2.14 NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Agreement, PARTIES agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified because of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, gender identity, marital status, or physical or mental disability and further agree to insert the foregoing provision in all subcontracts hereunder.

2.15 APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of the PARTIES stated in this Agreement is subject to the requirement of a prior appropriation of funds therefore by the appropriate governing body of the respective PARTIES.

2.16 NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to PARTIES, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of PARTIES that any person or party other than PARTIES receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

2.17 GOVERNMENTAL IMMUNITIES

PARTIES hereto intend that nothing herein shall be deemed or construed as a waiver by any party of any rights, limitations, or protections afforded to them under the Colorado Governmental Immunity Act (§ 24-10-101, *et seq.*, C.R.S.) as now or hereafter amended or otherwise available at law or equity.

2.18 INTENT OF AGREEMENT

Except as otherwise stated herein, this Agreement is intended to describe the rights and responsibilities of and between PARTIES and is not intended to and shall not be deemed to confer rights upon any person or entities not named as PARTIES, nor to limit in any way the powers and responsibilities of PROJECT SPONSOR, DISTRICT or any other entity not a party hereto.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

URBAN DRAINAGE AND FLOOD CONTROL
DISTRICT
D/B/A
MILE HIGH FLOOD DISTRICT

By_____

Name Laura A. Kroeger

Title Executive Director

Date_____

Checked By

PROJECT SPONSOR

By_____

Name_____

Title_____

Date_____

AGREEMENT REGARDING
DESIGN AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
DRY GULCH AT VANCE STREET TO TELLER STREET

Agreement No. 24-04.37

Exhibit A

STAFF MEMO

DATE OF MEETING: AUGUST 26, 2024 / AGENDA ITEM NO. 9

To: Mayor and City Council
From: Max Kirschbaum, Director of Public Works
Subject: **IGA w/ MHFD - Drainage Criteria Manual**

SUMMARY STATEMENT: This IGA allows the Mile High Flood District, in conjunction with the City, to engage a consultant to update the City of Lakewood Storm Drainage Criteria Manual. The City will have the final decision-making authority as to what content is included in the final version of the updated Manual. The cost of the upgrade will be shared equally between the City and the Mile High Flood District.

BACKGROUND INFORMATION: The current City of Lakewood Storm Drainage Criteria (the “Manual”) was originally adopted in 1982 and has remained largely unchanged aside from minor modifications in 1983 regarding requirements for reports and other similar clarifications. The current Manual can be found on the City’s web page and it is used to define the drainage policies for the City and to provide the rules and criteria that regulate drainage infrastructure on land developments in the City. Changes in drainage methodology and standards of practice along with the current Manual’s lack of critical drainage policy and comprehensive standards necessitate a complete update of the Manual.

The Mile High Flood District (MHFD), formerly known as the Urban Drainage Flood Control District (UDFC), is the expert in drainage methodology in the Denver Metro Area. While the current Manual references the guidelines and criteria from the UDFC, the specific guidelines were not incorporated into the text of the Manual, which means that it is all but impossible to verify what the Manual is referencing, and even if the references can be tracked down, they are likely out-of-date. As a result, changes and advancements in drainage design as well as updates based on climate change and water quality have not been applied to drainage designs for developments in Lakewood. However, it is also important to note that major drainage projects undertaken by the City of Lakewood are designed and constructed in partnership with the MHFD using their updated criteria, which has allowed said projects to be completed to current-day standards.

Most municipalities in the Denver Metro Area have updated their drainage criteria manuals to reflect the advances provided by MHFD. Even though there are requirements unique to each municipality, the core criteria are all based on MHFD procedures and design aids. Because Lakewood’s standards are based on an out-of-date Manual, developers and engineering consultants who work across the Denver Metro Area frequently need to make changes to project designs to meet City of Lakewood criteria. Updating the Manual will provide a higher level of consistency with other municipalities resulting in more streamlined document reviews and shorter timelines for plan approvals.

Additionally, the current Manual focuses on technical design criteria but does not address the major drainage policies needed to accomplish City goals. For example, the Manual is silent on issues such as sustainable design practices, low impact development, or comprehensive plan goals. This IGA allows the City to work with Mile High and third-party expert consultants to not only update the outdated drainage methodologies and standards of practice but to also incorporate all such City goals into the Manual.

Through the proposed IGA, MHFD will contract with consultants who are experts in the field of storm drainage to develop the information and content for the updated Manual. The City and MHFD will then work together to create the final Manual, which will provide the City with comprehensive storm drainage requirements and

procedures for all developments in the City. City staff will play an integral role in the Manual update process to ensure that all major drainage policies and criteria align with the City's comprehensive plan and goals for sustainability, green infrastructure, runoff reduction, while also providing for the health, safety, and welfare of Lakewood residents.

The cost of producing the Manual will be shared equally between the City and MHFD. The preparation of the updated manual will include general public and stakeholder outreach as well as an opportunity for interested residents and stakeholders to provide input to the final document. Once complete, the updated Manual will be presented to City council for adoption.

BUDGETARY IMPACTS: The City's share of the IGA is \$74,500.00 and will be paid using the Stormwater Management Utility Fund.

STAFF RECOMMENDATIONS: Staff recommends adopting this resolution. Adopting the IGA with MHFD will allow the City to bring its Manual up to current standards with the benefit of cost participation from MHFD.

ALTERNATIVES: The alternative to adoption of this IGA is to continue to use the currently adopted 1982 version of the Storm Drainage Criteria Manual.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: None required.

ATTACHMENTS: 1. Resolution 2024-44

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

A RESOLUTION

APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT TO UPDATE THE CITY OF LAKEWOOD STORM DRAINAGE AND TECHNICAL CRITERIA MANUAL

WHEREAS, pursuant to C.R.S. § 29-1-203 and § 29-1-203.5 as amended, the City and Mile High Flood District (the “District”) have the authority to enter into Intergovernmental Agreements;

WHEREAS, the City regulates drainageways on land-use projects across the City, subject to the criteria in the Storm Drainage and Technical Criteria Manual (the “Manual”);

WHEREAS, the Manual was last updated in 1982 and changes in drainage methodologies and standards of practice, along with the current Manual’s lack of critical drainage policy and comprehensive standards necessitate the update of said Manual;

WHEREAS, the City and District desire to enter into an Intergovernmental Agreement (IGA) to fund and perform the necessary updates to the Manual;

WHEREAS, per the terms of the IGA, the District will contract with consultants who are experts in storm drainage who can competently assist the City and District with the necessary updates to the Manual;

WHEREAS, the City will have final decision-making authority as to the content that is included in the final version of the updated Manual;

WHEREAS, the total cost of updating the Manual is \$149,000;

WHEREAS, the parties will each pay 50% of the cost of updating the Manual; and

WHEREAS, the City’s share of the IGA is \$74,500.00 and will be paid using the Stormwater Management Utility Fund.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood:

SECTION 1. The Intergovernmental Agreement (IGA) for the update of the Storm Drainage and Technical Criteria Manual is hereby approved.

SECTION 2. The City Manager is hereby authorized to execute said IGA on behalf of the City, and to direct the Finance Department to pay the City’s share of the IGA, \$74,500.00, with funds from the Stormwater Management Utility Fund.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

INTRODUCED, READ, AND ADOPTED by a vote of ____ for and ____ against at a hybrid regular meeting of the City Council on August 26, 2024, at 7 o'clock p.m. at the Lakewood Civic Center, 480 South Allison Parkway, Lakewood, Colorado.

Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

STAFF MEMO

DATE OF MEETING: AUGUST 26, 2024 / AGENDA ITEM NO. 10

To: Mayor and City Council
From: Max Kirschbaum, Director of Public Works
Subject: **GREEN GABLES PARK PATH DEED ACCEPTANCE**

SUMMARY STATEMENT: City Staff requests that City Council approve a resolution authorizing City Staff to pay for and accept a deed for real property that is directly adjacent to Green Gables Park.

BACKGROUND INFORMATION: This property has been maintained by the City for some time as part of Green Gables Park but was purchased by the current owner from the Jefferson County Treasurer through its tax sale program. City Staff contacted the current property owner and the owner agreed to sell the property to the City for three thousand (\$3,000.00) to recoup expenses for the purchase through the tax sale. The acquisition of this property is important because the City is in the process of designing an 8-foot-wide path through Green Gables Park from South Garrison Street to South Endicott Street along West Florida Avenue. Acquisition of this property will provide adequate space to construct the proposed path as it is currently designed.

BUDGETARY IMPACTS: This project is approved in the 2024 City Budget and is shown on page 13 of the 2024 Capital Improvement and Preservation Plan (CIPP). This project is funded by the Capital Improvement Fund.

STAFF RECOMMENDATIONS: Staff recommends approval of the resolution to accept a deed for this property adjacent to Green Gables Park.

ALTERNATIVES: If this resolution is not approved, the property will remain in private ownership and the proposed path will need to be redesigned to follow a less desirable alignment around the property.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: If the resolution is approved, City Staff would accept and record the deed, and pay the owner three thousand dollars (\$3,000.00). City Staff would then complete the bid documents to construct the aforementioned 8-foot-wide path.

ATTACHMENTS: 1. Resolution 2024-45
2. Exhibit

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

A RESOLUTION

AUTHORIZING THE PURCHASE OF REAL PROPERTY FOR PARK PURPOSES
INCLUDING ACCEPTANCE OF A DEED THEREFOR

WHEREAS, the City of Lakewood (the “City”) desires to purchase approximately nine hundred and twenty-three (923) square feet of land generally located in the Southeast One-Quarter of Section 22, Township 4 South, Range 69 West of the 6th P.M., City of Lakewood, County of Jefferson, State of Colorado, adjacent to Green Gables Park at West Florida Avenue and South Endicott Street, and as more particularly described in Exhibit “A” attached hereto (the “Property”), for park purposes;

WHEREAS, the Property owner, Rocking Horse Winners LLC offered to sell the Property to the City and the City intends to acquire the property through a deed executed between the City and Rocking Horse Winners LLC;

WHEREAS, the purchase price for the property is three thousand dollars (\$3,000.00);

WHEREAS, the City plans to construct an eight-foot-wide shared used path across the Property from South Garrison Street to South Endicott Street along W. Florida Avenue;

WHEREAS, the purchase of the Property for park purposes aligns with the City’s goals to purchase land for park purposes and to support connectivity of the City’s shared use pathways; and

WHEREAS, the acquisition of the Property is and shall be in the best interest of the residents of the City.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The City hereby declares its intent to purchase nine hundred and twenty-three (923) square feet of land generally located in the Southeast One-Quarter of Section 22, Township 4 South, Range 69 West of the 6th P.M., City of Lakewood, County of Jefferson, State of Colorado, adjacent to Green Gables Park at West Florida Avenue and South Endicott Street, and as more particularly described in Exhibit “A” attached hereto (the “Property”), such Property to generally be used for park purposes, and specifically to be used as part of the construction of a shared use path.

SECTION 2. The purchase of the Property will serve public purposes by furthering the health and welfare of the residents of the City.

SECTION 3. The City Manager, or designee, is hereby authorized to accept the deed for the Property and to execute all other documents necessary to facilitate or complete the acquisition following review and approval of all such documents by the City Attorney's Office.

SECTION 4. The City Council hereby authorizes the expenditure of up to three thousand (\$3,000.00) for the purchase of the Property.

SECTION 5. The City's Chief Financial Officer is hereby authorized and directed to pay amounts not to exceed three thousand (\$3,000.00) for the acquisition of the Property upon receipt of appropriate documentation.

SECTION 6. This Resolution shall become effective immediately upon adoption.

INTRODUCED, READ, AND ADOPTED by a vote of ____ for and ____ against at a hybrid regular meeting of the City Council on August 26, 2024, at 7 o'clock p.m. at the Lakewood Civic Center, 480 South Allison Parkway, Lakewood, Colorado.

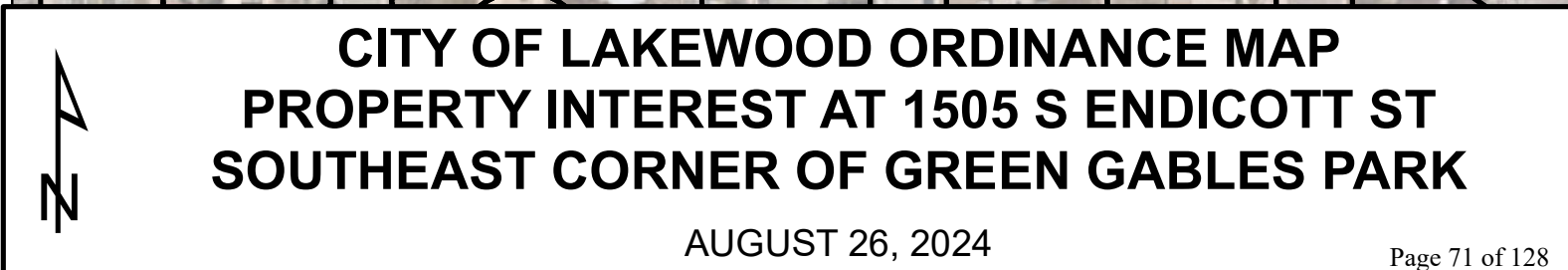
Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney



STAFF MEMO

DATE OF MEETING: AUGUST 26, 2024 / AGENDA ITEM NO. 11

To: Mayor and City Council
From: Max Kirschbaum, Director of Public Works
Subject: **AMENDING ORDINANCE 2023-39 FOR 30FT OF CDOT ROW**

SUMMARY STATEMENT: This Ordinance would authorize the City Manager to enter into an intergovernmental agreement (IGA) with the Colorado Department of Transportation (CDOT) for the devolution of 0.49 miles of the W. 6th Ave. North Frontage Road between Eldridge St. and Alkire St. to the City of Lakewood to accept access control and associated maintenance. This Ordinance was previously approved by City Council on September 25, 2023; however, it was later discovered the legal description of the property was inaccurate and did not account for an additional thirty (30) feet of roadway. The Staff Report, Ordinance, and Attachments are the same except for the revised legal description which has been updated to include the additional thirty (30) feet.

BACKGROUND INFORMATION: The Colorado Department of Transportation (CDOT) owns 0.49 miles of property on the north frontage road of US Highway 6, between Eldridge St. and Alkire St. in Golden. This portion of roadway no longer functions as a part of the state highway system and CDOT wishes to abandon this portion of highway to become a City of Lakewood street. If this Ordinance is approved, the City of Lakewood will accept the rights-of-way and ownership and maintenance of the existing roadway infrastructure. As part of the agreement, the City of Lakewood received a one-time payment from CDOT to perform upgrades to bring the street up to City standards.

The existing roadway consists of one, twelve-foot lane in each direction with shoulders varying from zero to one foot. The pavement surface is fairly old with moderate cracking. Proposed improvements to bring the existing infrastructure up to the City of Lakewood standards include a mill and overlay, widening the existing shoulders to four feet, removal of trees that conflict with the widening, and new pavement markings to define the wider shoulders. No additional drainage or utility impacts are anticipated in this project.

The City Council previously approved the transfer of said roadway by Ordinance O-2023-39 but the conveyance included an error on the legal description. The error in recorded legal description was discovered by City Staff in 2024 and City Staff worked with CDOT to correct the legal description and bring this Ordinance back before City Council for approval.

BUDGETARY IMPACTS: None. CDOT has already remitted the one-time payment of \$485,259 to the City of Lakewood.

STAFF RECOMMENDATIONS: Approval of the revised Ordinance.

ALTERNATIVES: City Council could choose not to approve the ordinance resulting in the City of Lakewood not assuming ownership of a 30-foot section of roadway. CDOT would continue to be responsible for maintenance of this disconnected portion of the 6th Avenue Frontage Road and the City would have to work with CDOT on refunding a portion of the one-time payment that was previously remitted to the City of Lakewood.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be

considered by the Lakewood City Council.

NEXT STEPS: If the Ordinance is approved, a corrective deed will be recorded with the Jefferson County Clerk and Recorder. This action will complete the previously approved conveyance.

ATTACHMENTS:

1. Ord 2024-21_Revised O-2023-39 CDOT Devolution (rev)
2. 2023 IGA and with Original Exhibits
3. Attachment

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

O-2024-21

AN ORDINANCE

AN ORDINANCE AMENDING ORDINANCE 2023-39 REGARDING THE ACCEPTANCE OF THE DEVOLUTION OF CERTAIN PROPERTY FROM THE COLORADO DEPARTMENT OF TRANSPORTATION TO THE CITY OF LAKEWOOD AND APPROVING AN INTERGOVERNMENTAL AGREEMENT THERETO TO CORRECT THE LEGAL DESCRIPTION

WHEREAS, the Colorado Department of Transportation (CDOT) owns real property (0.49 miles) identified as U.S. Highway 6 North Frontage Road, as shown on the revised Exhibit A, attached hereto;

WHEREAS, the Code of Federal Regulations 23.620.203(c)(3) allows CDOT to relinquish portions of unneeded frontage roads;

WHEREAS, C.R.S. § 43-2-106(1)(a) authorizes the Transportation Commission to determine that all or a portion of a state highway no longer functions as a part of the state highway system, and, with the agreement of each affected county or municipality, the state highway (or portion thereof) may be abandoned;

WHEREAS, C.R.S. § 43-1-106(1)(a) further states that the abandoned state highway (or portion thereof) shall become a city street upon adoption of an ordinance to that effect by the governing body of the affected municipality;

WHEREAS, the Transportation Commission approved a Resolution abandoning the U.S. Highway 6 North Frontage Road on August 16, 2023, a copy of which is attached as Exhibit B;

WHEREAS, the City of Lakewood and CDOT have agreed on the terms of this devolution via an Intergovernmental Agreement (IGA), an unsigned copy of which is attached as Exhibit C;

WHEREAS, the IGA contemplates a one-time payment to the City of Lakewood of four hundred eighty-five thousand two hundred and fifty-nine dollars (\$485,259.00) in exchange for the City of Lakewood accepting the street for access control and all associated maintenance;

WHEREAS, after Ordinance 2023-39 was approved by the City Council on September 25, 2023, it was discovered that the legal description did not include an additional thirty (30) feet of abandoned state highway that was intended to be part of the devolution of roadway from the State to the City;

WHEREAS, acceptance of land is within the purview of the City Council;

WHEREAS, correction of the legal description is necessary to document that the City Council accepted the entire devolution; and

WHEREAS, approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The City of Lakewood hereby accepts the U.S. Highway 6 North Frontage Road as more particularly described on the revised Exhibit A in exchange for a one-time devolution payment of \$485,259.00, a sum that has already been remitted to the City of Lakewood from CDOT in accordance with Ordinance 2023-39.

SECTION 2. This Ordinance shall take effect thirty (30) days after final publication.

SECTION 3. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 26th day of August, 2024; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 29th day of August, 2024; set for public hearing to be held on the 16th day of September, 2024, read, finally passed and adopted by the City Council on the 16th day of September, 2024 and, signed by the Mayor on the _____ day of September, 2024.

Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

**US 6 North Frontage Rd. – Abandonment
CDOT Portion Eldridge St. to Alkire St. Region
1 (DM), Project - C 0063-072 (25033)**

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 2024, by and between the STATE OF COLORADO for the use and benefit of THE DEPARTMENT OF TRANSPORTATION, 2829 W. Howard Place, Denver, Colorado (hereinafter referred to as the “State” or “CDOT”), and the CITY OF LAKEWOOD, a Colorado home rule municipal corporation whose principal business address is 480 S. Allison Parkway, Lakewood, Colorado, 80226, CDOT Vendor #2000005 (hereinafter referred to as the “City” or the “Local Agency”). The “State” and “City” shall hereinafter be referred to collectively as the “Parties” and individually as “Party.”

WHEREAS, authority exists in the law and funds have been budgeted, appropriated and otherwise made available by the State and a sufficient uncommitted balance thereof remains available for payment of project and “City” costs in Fund Number [400], Function [3403], GL Acct [4541000030], WBS Element [25033.10.50], and Cost Center [N/A]. Total Encumbrance Amount: [\$485,259.00].

WHEREAS, Colorado Revised Statutes (“CRS”) §43-2-106 (1)(a) provides that the Transportation Commission may determine that a state highway, or portion thereof, no longer functions as a part of the state highway system, and, with the agreement of each affected county or municipality, the state highway or portion thereof is abandoned. CRS §43-2-106 (1)(b) further provides that any county or municipality receiving a payment from CDOT as a result of CRS §43-2-106 (1)(a) shall credit the payment to a special fund to be used only for transportation- related expenditure.

WHEREAS, both Parties have received the required approvals, clearances and completed coordination with appropriate agencies to allow for contributions to be made and a state highway, or portion thereof, to be abandoned.

WHEREAS, the execution of this Agreement is contingent upon approval by the State Transportation Commission.

WHEREAS, the City's Council has confirmed by Ordinance No. 0-2023-39, attached hereto as **Exhibit E**, the City's interest in accepting the road after its abandonment by the CDOT Transportation Commission.

WHEREAS, the Parties desire to enter into this Agreement specifying the conditions of abandonment of the state highway, or portion thereof, by the State and acceptance of it by the City.

WHEREAS, the execution of this Agreement is contingent upon the abandonment of U.S. 6 North Frontage Road from 7th Avenue to Eldridge Street as a State Highway and as a City roadway; and disposal by CDOT and acceptance by one or more private parties of the improvements and real estate generally described as U.S. 6 North Frontage Road between 7th Avenue and Eldridge Street and more specifically described in **Exhibit F**;

WHEREAS, the Parties are authorized to enter into this Agreement pursuant to the provisions of CRS §§ 29-1-203, 43-2-106, 43-1-110, 43-1-114, and 43-2-144, as amended, and pursuant to the Charter of the City of Lakewood and Lakewood Municipal Code Chapters 2.06, 2.08, and 3.04.

WHEREAS, this Agreement establishes the general provisions for and defines certain responsibilities regarding the State's abandonment to the City and acceptance by the City of the road as shown in **Exhibit A**, attached hereto, and described in **Exhibit C**, attached hereto, and reaffirms the abandonment of a state highway, or portion thereof.

NOW, THEREFORE, it is hereby agreed that:

I. COMMITMENTS ON THE PART OF THE STATE

1. By Transportation Commission Resolution #TC-2023-08-03 dated August 16, 2023 and corrected through Transportation Commission resolution # TC-2024-01-05 dated January 18, 2024, both attached hereto as Exhibit D, the State has provided notice of the State's abandonment to the City of the road shown in **Exhibit A**, and described in **Exhibit C**, based on surveys by CDOT, within the City of Lakewood, Colorado.

2. Within ten (10) days after invoice from the Local Agency, the State shall make a one- time payment of **\$485,259.00** to the City, which will also be the maximum payable to the City under this Agreement, unless such amount is increased by an amendment to this Agreement, signed by both parties, and is executed before any increased cost is incurred. An uncontested amount not paid by the State shall bear interest after 45 days. That interest shall not accrue on the unpaid amount that is subject to a good faith dispute as outlined below.
3. The State shall relinquish maintenance duties and ownership of a state highway, or portion thereof, upon acceptance of the road by the City, which will occur upon completion of the recording of a Quit Claim Deed by CDOT (sample of the Quit Claim Deed attached hereto as **Exhibit B**) with the Clerk and Recorder's Office in the County in which the abandoned road, or the abandoned portion thereof, is located. The Quit Claim Deed shall provide that if the City ceases to use the road or a portion thereof for the purposes of a city street, title to the road or portion thereof shall revert to CDOT.
4. If applicable, the Quit Claim Deed shall provide that the State shall reserve unto the State and unto the State's successors and assigns, a perpetual easement for the installation, construction, operation, maintenance, repair and replacement of the State's Project No. N/A, Project Code N/A at US 6 North Frontage Road. If applicable, the perpetual Easement to be reserved by the State is legally described and graphically depicted on N/A.

II. COMMITMENTS ON THE PART OF THE LOCAL AGENCY

1. The City, by negotiating in good faith and with the authority provided in the Charter of the City of Lakewood and the Lakewood Municipal Code, indicated its intent to accept the road in as-is condition and make it a part of the City road system and accept sole responsibility for the road, including both minor and major maintenance. Pursuant to CRS §43-2-106, the City, by its Council, adopted Ordinance No. 0-2023-39 (**Exhibit E**), accepting the abandoned portions of the state highway, or portion thereof. The transfer of

the road shall be completed following the execution of this Agreement by the Parties.

2. The City must present CDOT with an invoice in the amount of **\$485,259.00** before payment can be made.

III. GENERAL PROVISIONS

1. This Agreement is intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or affect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written executed and approved modification pursuant to the State Fiscal Rules.
2. Each Party, to the extent authorized by law, shall be responsible for all claims, damages, liability and court awards including costs, expenses and attorney fees incurred as a result of any act or omission by such Party or its employees, agents, subcontractors, or assignees pursuant to the terms of this Agreement.
3. This Agreement shall inure to the benefit of and be binding upon the Parties, their successors and assigns.
4. To the extent that this Agreement may be executed and performance of the obligations of the Parties may be accomplished within the intent of the Agreement, the terms of this Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.
5. It is expressly understood and agreed that the City or its employees, subcontractors, consultants, or assigns shall not in any respect be deemed an agent of the State.

6. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the State, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. Further, it is the express intention of the Parties that any person or entity other than the Parties that may receive services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
7. The City represents and warrants that it has taken all actions that are necessary or required by its procedures, municipal code, ordinances, or applicable law, to legally authorize the undersigned signatory to execute this Agreement on behalf of the City, and to bind the City to its terms.
8. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this Agreement. Any provision of an Exhibit which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void.
9. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise.
10. At all times during the performance of this Agreement, the Parties shall strictly adhere to all applicable federal and state laws, rules and regulations that have been or may hereafter be established.
11. The signatories hereto aver that they are familiar with CRS §18-8-301, et seq. (Bribery and Corrupt Influences) and 18-8-401, et seq. (Abuse of Public Office), and that no violation of such provisions is present.

12. The signatories aver that to their knowledge, no state employee has a personal or beneficial interest whatsoever in the service or property described herein.

13. The Parties hereby acknowledge that this Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that signature pages may be executed via ink signature or electronic mark and the executed signature pages may be delivered using pdf or similar file type transmitted via electronic mail, cloud-based server, e-signature technology or other similar electronic means. Further, the Parties acknowledge and agree that the original of this Agreement, including the signature page, may be scanned and stored in a computer database or similar device, and that any printout or other output readable by sight, the reproduction of which is shown to accurately reproduce the original of this Agreement, may be used for any purpose as if it were the original, including proof of the content of the original writing.

14. This contract shall be effective upon approval of the State Controller. It shall terminate upon completion of the recording of a Quit Claim Deed by CDOT, unless performance is extended through amendment.

15. Dispute Resolution

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Local Agency for resolution.

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-

106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the “Resolution Statutes”), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor’s challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

C. Questions of Fact

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of CDOT. In connection with any appeal proceeding under this clause, Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, Local Agency shall proceed diligently with the performance of this Agreement in accordance with the Chief Engineer’s decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals shall be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this Agreement, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

IV. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts. Contractor refers to Local Agency and Contract refers to Agreement.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S., applicable Local Agency law, rule or regulation.

Financial obligations of the Parties payable after the current State Fiscal Year or fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof

thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the Parties to indemnify or hold Contractor harmless; requires the Parties to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this

Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

THE PARTIES HERETO HAVE EXECUTED THIS INTERGOVERNMENTAL AGREEMENT

* Persons signing for the Local Agency hereby swear and affirm that they are authorized to act on the Local Agency's behalf and acknowledge that the State is relying on their representations to that effect.	
LOCAL AGENCY CITY OF LAKEWOOD, COLORADO Name: <u>Kathleen E. Hodgson</u> NAME Title: <u>City Manager</u> _____ *Signature Date: _____	STATE OF COLORADO Jared S. Polis, GOVERNOR By _____ Keith Stefanik, P.E. (For) Shoshana M. Lew, Executive Director Date: _____
Local Agency Attestation Name: <u>Jay R. Robb</u> (print name) Title: <u>City Clerk</u> (print title) _____ *Signature Date: _____	LEGAL REVIEW Philip J. Weiser, Attorney General By _____ Assistant Attorney General Date: _____
Local Agency Approved as to Legal Form Name: <u>Lauren Stanek</u> (print name) Title: <u>Senior Assistant City Attorney</u> (print title) _____ *Signature Date: _____	

ALL AGREEMENTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. The Local Agency is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

**STATE OF COLORADO
STATE CONTROLLER
Robert Jaros, CPA, MBA, JD**

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT A

SCOPE OF WORK

Abandonment of a Portion of U.S. 6 North Frontage Road – Eldridge St. to Alkire St.
Project # C 0063-072
SubAccount #: 25033

The Colorado Department of Transportation “CDOT” is partnering with the City of Lakewood “Lakewood” whereas, Lakewood wishes to have U.S. 6 North Frontage Road abandoned as a State Highway by CDOT and accepted as a City roadway by Lakewood from Eldridge St. to Alkire St. CDOT will convey the above-mentioned portion of U.S. 6 North Frontage Road to Lakewood. In exchange for taking ownership of the portion of U.S. 6 North Frontage Road from Eldridge St. to Alkire St., Lakewood will receive \$485,259 of state only funds.

The right-of-way fence between U.S. 6th Ave. and the U.S. 6th Ave. North Frontage Road is on CDOT property, not included in the area to be abandoned, and will be owned and maintained by CDOT.

Vegetation between the CDOT U.S. 6th Ave. right-of-way fence and U.S. 6th Ave. North Frontage Rd., Eldridge St. to Alkire St, to be owned and maintained by the City of Lakewood.

EXHIBIT B

SAMPLE QUITCLAIM DEED

THIS DEED is dated _____, and is made between the DEPARTMENT OF TRANSPORTATION, STATE OF COLORADO, “Grantor”, of the City and County of Denver and State of Colorado, and CITY OF LAKEWOOD, COLORADO, “Grantee,” A HOME RULE MUNICIPALITY, whose legal address is 480 S. ALLISON PARKWAY, LAKEWOOD, COLORADO 80226 of the County of JEFFERSON and State of Colorado.

WITNESS, that the Grantor, for and in consideration of the sum of FOUR HUNDRED EIGHTY FIVE THOUSAND TWO HUNDRED FIFTY NINE DOLLARS and 0/100th, (\$485,259.00), the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release, sell and QUITCLAIM unto the Grantee, and the Grantee’s heirs and assigns, forever, all the right, title, interest, claim and demand which the Grantor has in and to the real property, together with any improvements thereon, located in the County of JEFFERSON and State of Colorado, described as follows:

See attached Exhibit “C” dated March 1, 2023 _____.

Project Number: N/A
Parcel Number: N/A
Location: U.S. 6 North Frontage Road - Eldridge St. to Alkire St.

Subject to any and all easements of record and to any and all utilities as constructed and for their maintenance as necessary.

If the City of Lakewood ceases to use the road or a portion thereof for the purpose of a city street, title to the road or portion thereof shall revert to CDOT.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever of the Grantor, either in law or equity, to the only proper use, benefit and behoof of the Grantee, and the Grantee’s heirs and assigns, forever.

IN WITNESS WHEREOF, the Grantor has executed this deed on the date set forth above.

ATTEST: DEPARTMENT OF TRANSPORTATION
STATE OF COLORADO

ANDREA GRINER
Chief Clerk for Property Management

KEITH STEFANIK, P.E.
Chief Engineer

STATE OF COLORADO)
) ss.
City and County of Denver)

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by Andrea Griner, Chief Clerk for Property Management and Keith Stefanik, P.E. as Chief Engineer of the Department of Transportation, State of Colorado.

Witness my hand and official seal.
My commission expires:

Notary Public

EXHIBIT "C"
DESCRIPTION

COLORADO DEPARTMENT OF TRANSPORTATION
ABANDONMENT – PART OF WEST 6TH AVENUE NORTH FRONTAGE ROAD
ELDRIDGE STREET (MM 276.84 +/-) TO ALKIRE STREET (MM 277.34 +/-)
JEFFERSON COUNTY, COLORADO
DATE: JUNE 21, 2024

A portion of highway frontage road right-of-way of the Department of Transportation, State of Colorado, known as U.S. Highway No. 6, same being a portion of parcels 105 and parcel 106 per Colorado Department of Transportation project no. SN_FAP_67-A(4); located in the South Half of Section 6, Township 4 South, Range 69 West of the 6th Principal Meridian, in Jefferson County, Colorado, described as follows:

That portion of U.S. Highway No. 6 northerly frontage road, as it currently exists, beginning at the west right-of-way line of Eldridge Street (MM 276.84 +/-), running easterly and terminating at the approximate easterly right-of-way line of Alkire Street (MM 277.34 +/-).

The limits of this abandonment are generally described and bounded as follows:

The northerly line of said roadway to be abandoned, is the existing northerly right-of-way line of U.S. Highway No. 6.

The southerly line of said roadway to be abandoned, lies in the common roadside ditch between the U.S. Highway No. 6 westbound edge of paving and the frontage road southerly edge of paving.

This roadway strip of land is generally 67 feet wide at the centerline of Eldridge Street/58 feet wide at the west right-of-way line of Eldridge Street, and 48.5 feet wide at Alkire Street. The overall length of said strip is 2,610 feet +/- in length.

The above description is intended to give up all of CDOT's interest in the frontage road with the above-described locations.

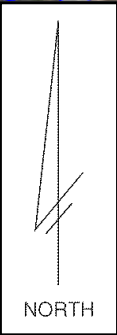
For and on behalf of the
Colorado Department of Transportation
Dane M. Courville, PLS 38548
Region 1 West Right-of-Way Unit
Phone: (720) 672.0231
425A Corporate Circle
Golden, CO 80401



COLORADO DEPARTMENT OF TRANSPORTATION
ABANDONMENT - PART OF WEST 6TH AVENUE NORTH FRONTAGE ROAD
ELDRIDGE STREET (MM 276.84+/-) TO ALKIRE STREET (MM 277.34+/-)
JEFFERSON COUNTY, COLORADO
DATE: MARCH 1, 2023

7TH AVENUE

SECTION 6
TOWNSHIP 4 SOUTH
RANGE 69 WEST



ELDRIDGE ST.

EXISTING NORTH RIGHT-OF-WAY LINE

ALKIRE ST.

See
Detail:

Mile Marker No. 276.84 +/-

67' FROM EXISTING NORTH ROW
LINE (ABANDONMENT WIDTH
VARIES)

U.S. HIGHWAY NO. 6 (6TH AVENUE)

64.5' FROM EXISTING NORTH ROW
LINE (ABANDONMENT WIDTH VARIES)

SOUTHERLY LINE OF ABANDONMENT
(BOTTOM OF ROADSIDE DITCH)

SOUTHERLY LINE OF PARCEL 106 (92' FROM
EXISTING NORTH ROW LINE)

48.5' FROM EXISTING NORTH
ROW LINE (ABANDONMENT
WIDTH VARIES)

Mile Marker No. 277.34 +/-

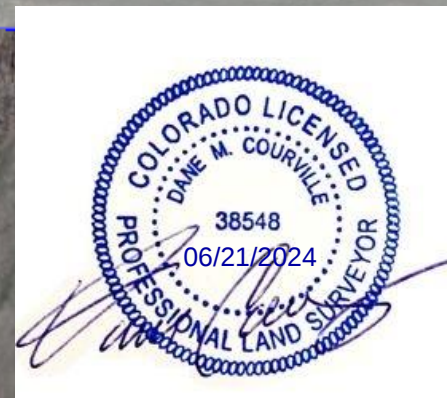
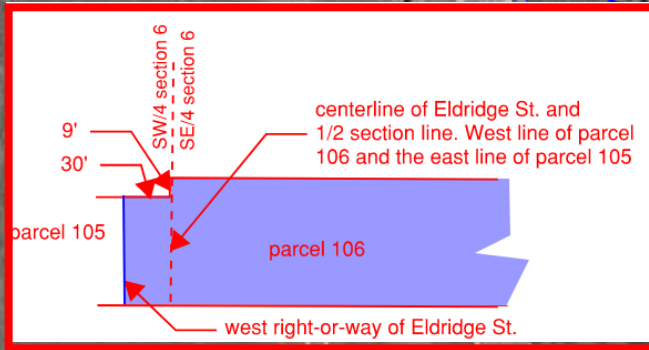


EXHIBIT D
TRANSPORTATION COMMISSION RESOLUTION

Resolution #TC-2023-08-03

Disposal: Abandonment US 6 North Frontage Road, Eldridge St. to Alkire St., Lakewood

Approved by the Transportation Commission on August 16, 2023.

WHEREAS, CDOT owns 0.49 linear miles of roadway in the City of Lakewood, identified as U.S. Highway 6 North Frontage Road; and

WHEREAS, that portion of U.S. Highway 6 North Frontage Road is located between Eldridge St. (MM 276.85) to Alkire St. (377.34); and

WHEREAS, Region 1 has determined that abandoning this portion of roadway would be in the best interest of Colorado taxpayers;

WHEREAS, Region 1 has completed an environmental clearance (Categorical Exclusion, Form 128) as required for the devolution of state highways;

WHEREAS, Colorado Revised Statute 43-2-106 (1)(a) provides that the Transportation Commission may determine that a State Highway, or portion thereof, no longer functions as a state highway, and with the agreement of each affected county or municipality, the state highway, or portion thereof, can be abandoned to the affected county or municipality; and

WHEREAS, the Code of Federal Regulations 23.620.203(c)(3) allows CDOT to relinquish portions of unneeded frontage roads; and

WHEREAS, the governing body of the City of Lakewood shall adopt a resolution agreeing to the State's abandonment of the portion of U.S. Highway 6 North Frontage Road and agreeing that said roadway segment no longer serves the ongoing purposes of the State Highway system; committing the City of Lakewood to assume ownership of said highway segment in the "as is" condition;

WHEREAS, the Chief Engineer, the Department of Transportation, and the Executive Director are authorized pursuant to CRS 43-2-106, to make determinations regarding abandonment of State Highway(s) to affected county(ies) or municipality(ies);

WHEREAS, the Transportation Commission concurs with the Chief Engineer that this portion of U.S. Highway 6 North Frontage Road is no longer needed for State Highway purposes;

NOW THEREFORE BE IT RESOLVED, pursuant to the provisions of the CRS 43-2-106, the Department of Transportation be given authority to declare that portion of U.S. Highway 6 North Frontage Road abandoned, as shown in Exhibit A.

**Herman
Stockinger**

Digitally signed by Herman
Stockinger
Date: 2023.08.18 11:38:20
-06'00'

Herman Stockinger, Secretary
Transportation Commission of Colorado

Date

Resolution #TC-2024-01-05

Abandonment of U.S. 6 North Frontage Road; Location: Eldridge St. to Alkire St.; County: Jefferson

Approved by the Transportation Commission on January 18, 2024

Whereas, CDOT owns 0.49 linear miles of roadway in the City of Lakewood, identified as U.S. Highway 6 North Frontage Road; and

Whereas, that portion of U.S. Highway 6 North Frontage Road begins at Eldridge St. (MM 276.85 +/-) and ends at Alkire St. (MM 277.34+/-); and

Whereas, Colorado Revised Statute 43-2-106 (1)(a) provides that the Transportation Commission may determine that a State Highway, or portion thereof, no longer functions as a state highway, and with the agreement of each affected county or municipality, the state highway, or portion thereof, can be abandoned to the affected county or municipality; and

Whereas, the Code of Federal Regulations 23.620.203(c)(3) allows CDOT to relinquish portions of unneeded frontage roads; and

Whereas, the City of Lakewood proposed to take ownership of U.S. Highway 6 North Frontage Road between Eldridge St. and Alkire St., in exchange for a payment of \$485,259 by CDOT; and

Whereas, the governing body of the City of Lakewood passed and adopted ordinance # O-2023-39 on September 25, 2023 agreeing to the State's abandonment of the portion of U.S. Highway 6 North Frontage Road and agreeing that said roadway segment no longer serves the ongoing purposes of the State Highway system; committing the City of Lakewood to assume ownership of said highway segment in the "as is" condition;

Whereas, the Transportation Commission previously determined in TC resolution TC-2023-08-03 dated August 16, 2023, that 0.49 linear miles of U.S. Highway 6 North Frontage Road beginning at Eldridge St. and ending at Alkire St. is no longer needed for State Highway purposes and could be abandoned to the City of Lakewood; and

Whereas, the Parties desire to enter into an Intergovernmental Agreement (IGA) and agree upon the condition of the abandonment of said highway segment by the State and acceptance by the City of Lakewood; and

Whereas, final review of the IGA determined TC-2023-08-03 incorrectly listed the end point as Alkire St. (377.34); and

Whereas, the end point of the abandoned portion of U.S. 6 North Frontage Road is located at Alkire St. (MM 277.34+/-); and

Whereas, this Transportation Commission Resolution will supersede Transportation Commission Resolution #TC-2023-08-03 dated August 16, 2023; and

Whereas, the Transportation Commission reaffirms that this portion of U.S. Highway 6 North Frontage Road beginning at Eldridge St. (MM 276.85 +/-) and ending at Alkire St. (MM 277.34+/-) is no longer needed for State Highway purposes; and

Whereas, Transportation Commission is authorized pursuant to 43-2-106 to make determinations regarding abandonment of State Highway(s) to affected county(ies) or municipality(ies);

Whereas, the Transportation Commission has determined the 0.49 linear miles of U.S. 6 North Frontage Rd. (Eldridge St. to Alkire St.) (Exhibit A) is no longer needed for State Highway purposes and can be abandoned to the City of Lakewood; and

Whereas, after Transportation Commission reaffirms abandonment and execution of the IGA, CDOT will execute conveyance that will include a reversion provision stating that if the portion of the abandoned highway ceases to be used for the purposes of a city street, title to the abandoned state highway or portion thereof shall revert to the department of transportation; and

Now therefore be it resolved, pursuant to the provisions of the CRS 43-2-106, the Transportation Commission reaffirms Highway 6 North Frontage Road beginning at Eldridge St. (MM 276.85 +/-) and ending at Alkire St. (MM 277.34+/-) as abandoned, as shown in Exhibit A, containing approximately 0.49 total linear miles.

Herman Stockinger Digitally signed by Herman Stockinger
Date: 2024.01.24 15:34:02 -07'00'

Herman Stockinger, Secretary
Transportation Commission of Colorado

EXHIBIT E
LOCAL AGENCY ORDINANCE

O-2023-39

AN ORDINANCE

AN ORDINANCE ACCEPTING THE DEVOLUTION OF CERTAIN PROPERTY FROM THE COLORADO DEPARTMENT OF TRANSPORTATION TO THE CITY OF LAKEWOOD AND APPROVING AN INTERGOVERNMENTAL AGREEMENT TO EFFECT SUCH PROPERTY DEVOLUTION

WHEREAS, the Colorado Department of Transportation (CDOT) owns real property (0.49 miles) identified as U.S. Highway 6 North Frontage Road, as shown in Exhibit A attached hereto;

WHEREAS, the Code of Federal Regulations 23.620.203(c)(3) allows CDOT to relinquish portions of unneeded frontage roads;

WHEREAS, C.R.S. § 43-2-106(1)(a) authorizes the Transportation Commission to determine that all or a portion of a state highway no longer functions as a part of the state highway system, and, with the agreement of each affected county or municipality, the state highway (or portion thereof) may be abandoned;

WHEREAS, C.R.S. § 43-1-106(1)(a) further states that the abandoned state highway (or portion thereof) shall become a city street upon adoption of an ordinance to that effect by the governing body of the affected municipality;

WHEREAS, the Transportation Commission approved a Resolution abandoning the U.S. Highway 6 North Frontage Road on August 16, 2023, a copy of which is attached as Exhibit B;

WHEREAS, the City of Lakewood and CDOT have agreed on the terms of this devolution via an Intergovernmental Agreement (IGA), an unsigned copy of which is attached as Exhibit C;

WHEREAS, the IGA contemplates a one-time payment to the City of Lakewood of four hundred eighty-five thousand two hundred and fifty-nine dollars (\$485,259.00) in exchange for the City of Lakewood accepting the street for access control and all associated maintenance; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The City of Lakewood is willing to accept the U.S. Highway 6 North Frontage Road as more particularly described in Exhibit A, in exchange for a one-time devolution payment of \$485,259.00 from CDOT.

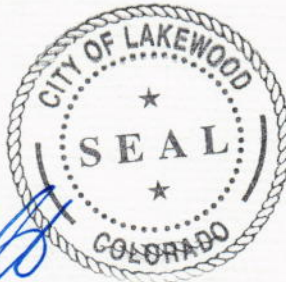
SECTION 2. This ordinance shall take effect thirty (30) days after final publication.

SECTION 3. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 11th day of September 2023; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 14th day of September, 2023; set for public hearing to be held on the 25th day of September, 2023, read, finally passed and adopted by the City Council on the 25th day of September, 2023 and, signed by the Mayor on the 26th day of September, 2023.

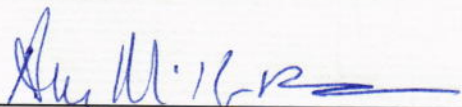
ATTEST:


Jay Robb, City Clerk




Adam Paul, Mayor

APPROVED AS TO FORM:


Alison McKenney Brown, City Attorney

**EXHIBIT F
DESCRIPTION**

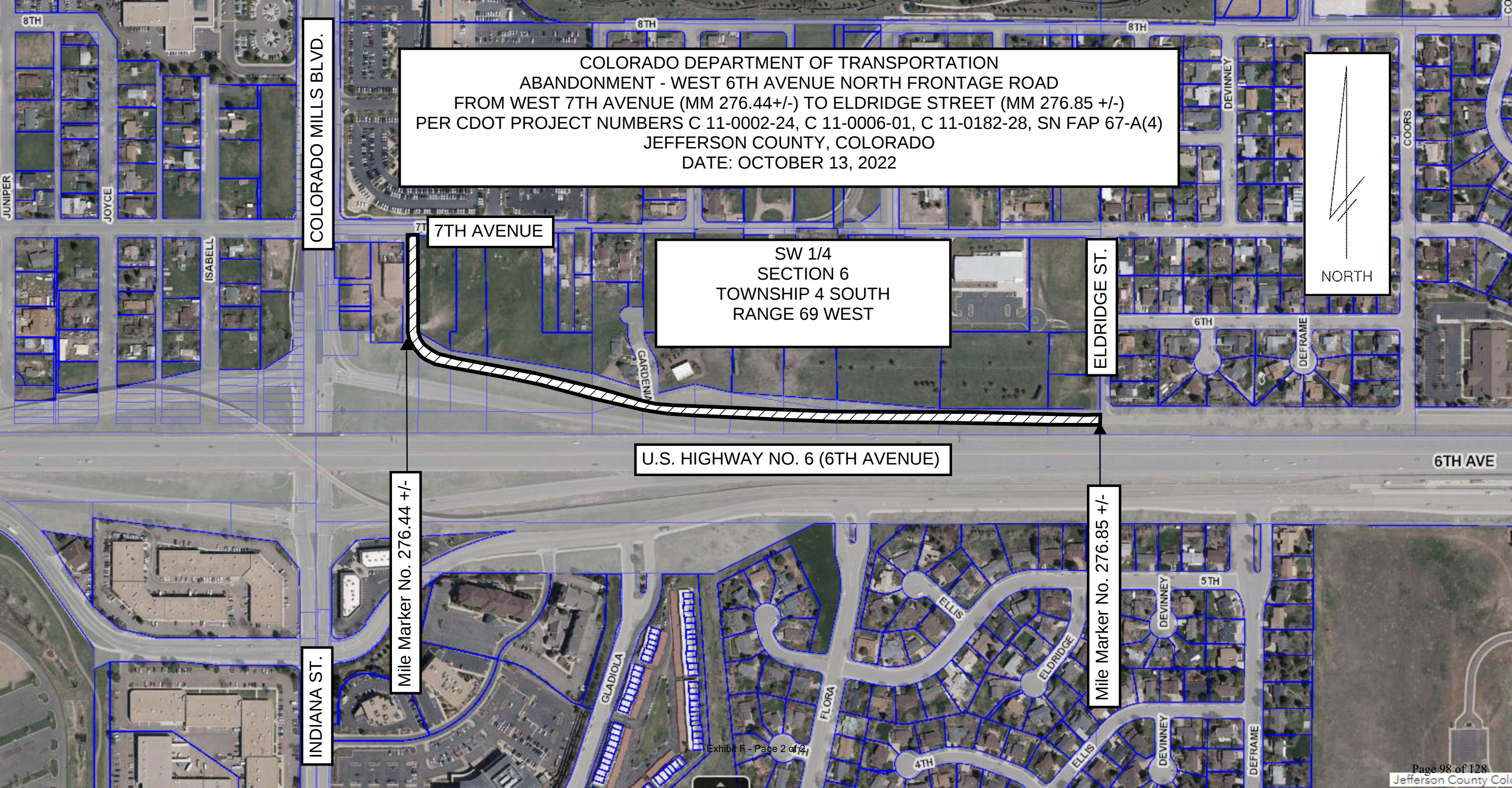
**COLORADO DEPARTMENT OF TRANSPORTATION
ABANDONMENT – WEST 6TH AVENUE NORTH FRONTAGE ROAD
FROM WEST 7TH AVENUE (MM 276.44+/-) TO ELDRIDGE STREET (MM 276.85+/-)
PER CDOT PROJECT NUMBERS C 11-0002-24, C 11-0006-01, C 11-0182-28, SN FAP 67-A(4)
JEFFERSON COUNTY, COLORADO
DATE: SEPTEMBER 27, 2022**

A portion of highway frontage road right-of-way of the Department of Transportation, State of Colorado, known as U.S. Highway No. 6 located in the Southwest Quarter (SW1/4) of Section 6, Township 4 South, Range 69 West of the 6th Principal Meridian, in Jefferson County, Colorado, described as follows:

That portion of U.S. Highway No. 6 northerly frontage road, as it currently exists, beginning at 7th Avenue (MM 276.44 +/-) with a point of termination at Eldridge Street (MM 276.85 +/-).

The distance in the above description is based on CDOT's Online Transportation Information System and are approximate. The above description is intended to give up all of CDOT's interest in the frontage road between the above-described locations.

For and on behalf of the
Colorado Department of Transportation
Darren P. Shanks, PLS 38193
Region 1 West Right-of-Way Unit
Phone: (720) 497-6983
425A Corporate Circle
Golden, CO 80401



COLORADO DEPARTMENT OF TRANSPORTATION
ABANDONMENT - WEST 6TH AVENUE NORTH FRONTAGE ROAD
FROM WEST 7TH AVENUE (MM 276.44+/-) TO ELDRIDGE STREET (MM 276.85 +/-)
PER CDOT PROJECT NUMBERS C 11-0002-24, C 11-0006-01, C 11-0182-28, SN FAP 67-A(4)
JEFFERSON COUNTY, COLORADO
DATE: OCTOBER 13, 2022

COLORADO MILLS BLVD.

7TH AVENUE

SW 1/4
SECTION 6
TOWNSHIP 4 SOUTH
RANGE 69 WEST

ELDRIDGE ST.

NORTH

U.S. HIGHWAY NO. 6 (6TH AVENUE)

Mile Marker No. 276.44 +/-

Mile Marker No. 276.85 +/-

INDIANA ST.

EXHIBIT "A"
DESCRIPTION

COLORADO DEPARTMENT OF TRANSPORTATION
ABANDONMENT – PART OF WEST 6TH AVENUE NORTH FRONTAGE ROAD
ELDRIDGE STREET (MM 276.84 +/-) TO ALKIRE STREET (MM 277.34 +/-)
JEFFERSON COUNTY, COLORADO
DATE: JUNE 21, 2024

A portion of highway frontage road right-of-way of the Department of Transportation, State of Colorado, known as U.S. Highway No. 6, same being a portion of parcels 105 and parcel 106 per Colorado Department of Transportation project no. SN_FAP_67-A(4); located in the South Half of Section 6, Township 4 South, Range 69 West of the 6th Principal Meridian, in Jefferson County, Colorado, described as follows:

That portion of U.S. Highway No. 6 northerly frontage road, as it currently exists, beginning at the west right-of-way line of Eldridge Street (MM 276.84 +/-), running easterly and terminating at the approximate easterly right-of-way line of Alkire Street (MM 277.34 +/-).

The limits of this abandonment are generally described and bounded as follows:

The northerly line of said roadway to be abandoned, is the existing northerly right-of-way line of U.S. Highway No. 6.

The southerly line of said roadway to be abandoned, lies in the common roadside ditch between the U.S. Highway No. 6 westbound edge of paving and the frontage road southerly edge of paving.

This roadway strip of land is generally 67 feet wide at the centerline of Eldridge Street/58 feet wide at the west right-of-way line of Eldridge Street, and 48.5 feet wide at Alkire Street. The overall length of said strip is 2,610 feet +/- in length.

The above description is intended to give up all of CDOT's interest in the frontage road with the above-described locations.

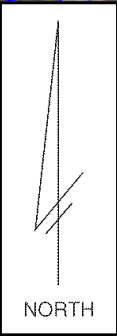
For and on behalf of the
Colorado Department of Transportation
Dane M. Courville, PLS 38548
Region 1 West Right-of-Way Unit
Phone: (720) 672.0231
425A Corporate Circle
Golden, CO 80401



COLORADO DEPARTMENT OF TRANSPORTATION
ABANDONMENT - PART OF WEST 6TH AVENUE NORTH FRONTAGE ROAD
ELDRIDGE STREET (MM 276.84+/-) TO ALKIRE STREET (MM 277.34+/-)
JEFFERSON COUNTY, COLORADO
DATE: MARCH 1, 2023

7TH AVENUE

SECTION 6
TOWNSHIP 4 SOUTH
RANGE 69 WEST



ELDRIDGE ST.

EXISTING NORTH RIGHT-OF-WAY LINE

ALKIRE ST.

See
Detail:

Mile Marker No. 276.84 +/-

67' FROM EXISTING NORTH ROW
LINE (ABANDONMENT WIDTH
VARIES)

U.S. HIGHWAY NO. 6 (6TH AVENUE)

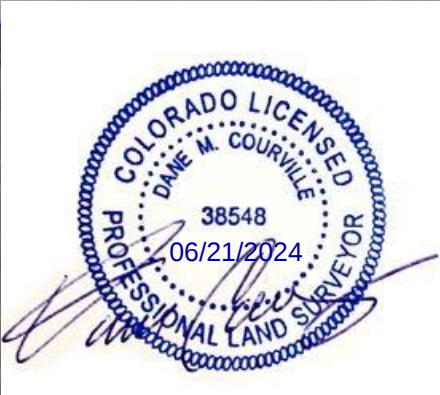
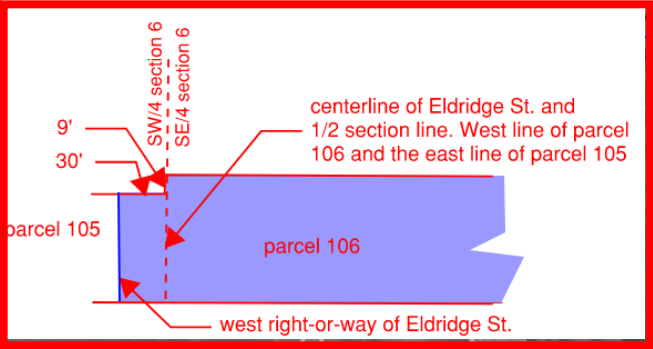
64.5' FROM EXISTING NORTH ROW
LINE (ABANDONMENT WIDTH VARIES)

SOUTHERLY LINE OF ABANDONMENT
(BOTTOM OF ROADSIDE DITCH)

SOUTHERLY LINE OF PARCEL 106 (92' FROM
EXISTING NORTH ROW LINE)

48.5' FROM EXISTING NORTH
ROW LINE (ABANDONMENT
WIDTH VARIES)

Mile Marker No. 277.34 +/-



STAFF MEMO

DATE OF MEETING: AUGUST 26, 2024 / AGENDA ITEM NO. 12

To: Mayor and City Council
From: Max Kirschbaum, Director of Public Works
Subject: **Amending Lakewood Municipal Code for Sleeping Units**

SUMMARY STATEMENT: The intent of this ordinance is to provide the City with the means to utilize a variety of pre manufactured or site constructed structures intended to be used as transitional housing or as support for transitional housing. This ordinance exempts such structures from the strict requirements of the International Building Code (IBC), while ensuring that they still meet the requirements for the health, safety, and welfare of all who occupy them. The proposed exemptions are necessary because these structures are not intended for permanent habitability, such as a traditional home, and therefore their construction does not comply with the strict requirements of the IBC.

BACKGROUND INFORMATION: Pallet Structures have become a tool used by many jurisdictions to provide transitional housing in a variety of conditions and locations. “Pallet Structures” is a brand name of one particular model of temporary shelters but it has become synonymous with pre-manufactured units that provide a protected space for up to two people to sleep in a dry, temperature-controlled space. The IBC refers to this type of structure as a sleeping unit, as follows:

2021 IBC, Section 202, Sleeping Unit. A single unit that provides rooms or spaces for one or more persons, includes permanent provisions for sleeping and can include provisions for living, eating and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

There are multiple companies that offer pre-manufactured sleeping units and these manufacturers use a wide variety of non-traditional materials and construction methods in their products. For example, the Pallet Structure brand uses an expanded foam core panelized construction with a patent pending connection system for quick assembly and transport, whereas other brands manufacture their products with more traditional materials such as lumber, fiberglass insulation, and asphalt shingles. Pre-manufactured sleeping units are popular in transitional housing programs because they are affordable, they are easy to transport, and they are easy to set up and relocate. In addition to sleeping units, some manufacturers also provide structures, referred to as “support structures,” to provide for other basic needs of the users of such units. Support structures typically consist of the same materials and construction methods that are used in the brand’s corresponding sleeping units. Types of support structures include sanitary facilities, showers, fresh water, and safe spaces where residents can meet or obtain health services.

Currently, all structures, including sleeping units, built in the City must meet the requirements of the 2021 IBC as adopted, but Pallet Structures, along with other brands of sleeping units and support structures do not meet the strict requirements of the IBC. However, the IBC recognizes that certain types of structures are unique, and it includes an entire section dedicated to special construction. Temporary structures are a type of “special construction” under the IBC and they can take many forms, including sleeping units/Pallet Structures.

This ordinance proposes modifying two sections of the IBC to allow the City to implement a transitional housing program using Pallet Structures or other similar products. First, the ordinance amends the definition of “sleeping unit” to specifically identify that sleeping units and all of their support structures that are part of a

City of Lakewood approved transitional housing program will be considered “temporary structures” under the IBC. Second, it modifies the section of the IBC regarding the conformance requirements of temporary structures to give the Building Official and Fire Code Official the authority to exempt sleeping units and supporting structures that are part of a City of Lakewood transitional housing program from said conformance standards when they determine that conformance would make the implementation of a Pallet Structure or similar brand of temporary housing difficult or impossible.

This exception for sleeping units is warranted because the IBC as currently adopted cannot be used to effectively evaluate the wide range of proprietary materials and construction methods used by providers of pre-manufactured sleeping units. Additionally, when conventional materials are used, the construction methods required by the IBC are impractical when applied to such small structures. For example, a sleeping unit constructed from traditional lumber could be well insulated with a 6-inch-thick roof for its specific and limited purposes, but to meet the requirements of the energy code, the roof may need to be 20 inches or more in thickness. In other words, the IBC is not well-designed for these smaller structures, which are in turn not designed for full-time habitation and are instead intended only as sleeping units to provide people a temporary safe space out of the elements. It is also important to note that this proposed exemption from the IBC temporary shelter conformance requirements is only applicable to sleeping units and support structures that are part of a City of Lakewood transitional housing program. This means that such sleeping units will not be allowed in people’s backyards, or in other one-off locations.

Further, all exempted sleeping units will still be closely reviewed to ensure they promote the health, safety, and welfare of all occupants as well as the inhabitants of neighboring properties. Specifically, through the Development Services Division of Public Works, both the Building Official and Fire Code Official will review the proposed structures to ensure they meet the basic criteria necessary to ensure public health, safety and general welfare. Issues to be addressed would include design elements such as snow and wind loads, the ability to maintain required temperatures in both hot and cold weather conditions, the inclusion of proper life safety equipment such as smoke detectors, minimum standards for floor area, and the unit’s provisions for outside light and ventilation. Additionally, the review by the Development Services Division will ensure that the site hosting any sleeping units is laid out to provide emergency services access along with ensuring the proper distribution of support facilities such as water, sanitation, trash bins, and community spaces.

Pursuant to LMC 14.12.020(G)(2), the Board of Appeals met on July 31, 2024, to review these proposed amendments to the IBC. The Board of Appeals approved a Resolution recommending the adoption of these amendments to Chapter 14.02 to include a local definition of “Sleeping Unit” along with the amendment of section 3103.1.1 regarding Conformance standards subject to the City Council incorporating additional requirements that all such sleeping units are inspected annually by the Lakewood Building Official and the Lakewood Fire Official to confirm they continue to comply with all requirements for public health, safety, and general welfare. Language was added to the draft ordinance language to incorporate this element of the recommendation from the Board of Appeals.

BUDGETARY IMPACTS: There are no budgetary impacts associated with the adoption of this ordinance.

STAFF RECOMMENDATIONS: Staff recommends adopting this ordinance. Adopting these amendments to the IBC allows the City the widest possible selection of options of sleeping unit types available to meet City budgets and concept goals relative to transitional housing programs and provides for any additional provisions to be built into any future transitional housing programs established by the City. Adopting these amendments is a critical part in the process of quickly and efficiently bringing a transitional housing program from the planning stage to an operable facility.

ALTERNATIVES: The City Council can decline to adopt these amendments, in which case all transitional housing shelters will be required to meet all IBC requirements, thereby adding significant costs to any

transitional shelter program put forward by the City.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: None required.

ATTACHMENTS:

1. Ordinance O-2024-22
2. Board of Appeals Resolution

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

AN ORDINANCE

AMENDING CHAPTER 14.02 OF TITLE 14 OF THE LAKEWOOD MUNICIPAL CODE TO ALLOW SLEEPING UNITS THAT ARE PART OF A CITY APPROVED TRANSITIONAL HOUSING PROGRAM TO BE CONSIDERED TEMPORARY SHELTERS THAT ARE EXEMPT FROM STRICT COMPLIANCE WITH THE REQUIREMENTS OF THE INTERNATIONAL BUILDING CODE

WHEREAS, the City of Lakewood, Colorado (the “City”) previously adopted by reference the International Building Code, 2021 Edition (IBC), of the International Code Council, which is codified in Chapter 14.02 of the Lakewood Municipal Code (the “LMC”);

WHEREAS, the current definition of “Sleeping Unit” in the IBC does not allow for sleeping units to be considered temporary structures;

WHEREAS, the conformance standards for temporary structures in the IBC requires temporary transitional housing structures to conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of permanent structures;

WHEREAS, temporary transitional housing structures, such as pallet homes or other similar products, need not strictly conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of the IBC to be sufficiently safe for their intended purposes;

WHEREAS, LMC Chapter 14.02 currently contains multiple local amendments to the IBC to meet local needs;

WHEREAS, the Board of Appeals was established by LMC 14.12.010 and is charged with reviewing proposed additions, changes, or amendments to the City’s building codes and to make recommendations to the City Council with respect to the adoption thereof;

WHEREAS, the Board of Appeals has reviewed, considered, and recommended for adoption amendments to Chapter 14.02 to include a local definition of “Sleeping Unit” and 3103.1.1 Conformance standards, subject to the City Council incorporating additional requirements regarding the annual inspection of such units used in a City of Lakewood transitional housing program;

WHEREAS, the City desires to amend LMC Chapter 14.02 to change the definition of “Sleeping Unit” to deem sleeping units and their supporting structures that are a part of a City approved transitional housing program to be considered temporary structures;

WHEREAS, the City further desires to amend LMC Chapter 14.02 to change the conformance requirements for temporary structures so that sleeping units and their supporting structures that are part of a City transitional housing program do not need to strictly comply with the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of the IBC;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the City's Charter by setting a public hearing to provide City staff and the public the opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Chapter 14.02.040 Local amendments to certain provisions of the International Building Code is hereby amended as follows:

14.02.040 Local amendments to certain provisions of the International Building Code.

Certain provisions of the International Building Code, as indicated in this section, are hereby amended.

A. The provisions of Chapter 1 shall include the following amendments:

1. Subsection 101.1 is deleted.
2. Section 103 is deleted.
3. Subsection 105.2 is replaced with the following:

105.2 Work exempt from permit. A building permit will not be required for the following:

1. One story detached accessory buildings used as tool sheds, pergolas, playhouses, and similar uses, provided the floor area does not exceed 120 square feet.
2. Moveable cases, cabinets, counters, and partitions not over five feet nine inches in height.
3. Retaining walls not exceeding 30 inches in height, measuring from grade to top of wall unless supporting a surcharge or impounding flammable liquids.
4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2:1.

5. Private walks and driveways not more than 30 inches above grade and not over any basement or story below and not part of an accessible route.
6. Painting, paper and similar finish work.
7. Temporary motion picture, television and theater stage sets and scenery, subject to fire department approval.
8. Window awnings supported by an exterior wall of group R, Division 3 Occupancies when projecting not more than 54 inches.
9. Shutters, windows, gutters doors and other minor cosmetic additions not affecting the structure.
10. Roof repairs of less than 100 square feet unless the repair requires removal of mechanical or electrical equipment.
11. Any unforeseen emergency situation whereby the lack of immediate corrective action creates a substantial risk to life, property, health welfare. Any registered contractor who starts or completes work under this exemption shall apply for the appropriate permit the next business day. Failure to obtain such required permit may be cause for suspension or revocation of the contractor's registration and the permit fee may be doubled.

Exemption from the permit requirements of this Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Code or any other laws or ordinances of this jurisdiction.

4. Subsection 105.2.2 is deleted.
5. Subsection 105.5 is replaced with the following:

105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. Permits shall be extended automatically after each successful inspection for a period of 180 days until the work described in the permit is completed. Failed inspections do not extend the permit automatically.

6. Subsection 105.7 is replaced with the following:

105.7 Placement of permit. The building permit or copy shall be kept on the site of the work until the completion of the project. Permit placards must be posted in a conspicuous location visible from the public way. Any inspection performed on a site where no placard is clearly posted as noted will be failed until such placard is posted on the job site.

7. Subsection 109.2 is replaced with the following:

109.2 Fees. Fees and valuation for permits required by this code shall be specified in section 14.01.060 of the Lakewood Municipal Code.

8. Subsection 110.3.6 is amended by deleting the exception.

9. Subsection 111.2 shall be amended as follows:

111.2 Certificate issued. After the Building Official inspects a building or structure and does not find violations of the provisions of this code or other laws that are enforced by the department, the building official shall issue a certificate of occupancy for all new buildings, buildings with a change of use, or buildings with modifications to the fire sprinkler, fire alarm systems or fire safety systems.

10. Subsection 111.3 is replaced with the following:

111.3. Temporary occupancy. A Temporary Certificate of Occupancy may be issued under the following conditions and stipulations:

1. All partial and/or final inspections on the building shall have been made.
2. On-site improvements such as grading, drainage, parking, sidewalks, landscaping, retaining walls and other features that appear on the approved plans shall be completed.
3. Public improvements such as curb, gutter and sidewalk, street paving, street lighting, landscaping of public way, drainage, structures, and all other features that appear on the approved plans shall be completed and accepted.
4. In lieu of completion of an on-site public improvements as required in 2 or 3 above, the Building Inspection and Engineering Sections may collectively review the circumstances involved and determine the advisability of issuing a Temporary Certificate of Occupancy for a stipulated period of time. The decision to issue a Temporary Certificate of Occupancy will, in addition to the other requirements, be based upon whether sufficient improvements, including but not limited to drainage improvements, street paving, driveways, and parking areas, have been completed as are necessary for the health, safety, and welfare of any users of the property.
5. A stipulation of the Temporary Certificate of Occupancy may be the posting of a surety in the form of a Letter of Credit or cash in an amount equal to 150 percent of the total cost of the work to be done at the time the Temporary Certificate of Occupancy is granted. The surety shall be posted for the period of time that the Temporary Certificate of Occupancy is issued. If the work is not completed during the specified time, the surety may be forfeited and used by the City, as necessary, to complete the work. Legal action may be taken to enforce the terms and

conditions that prompted the issuance of the Temporary Certificate of Occupancy.

6. A Temporary Certificate of Occupancy may be issued for any period of time, not to exceed 180 days. The 180-day certificate shall be issued only on the basis of extraordinary need in order to comply with major requirements and it may be renewed by the Building Official upon a showing of continued extraordinary circumstances with approval of the City Engineer and/or Director of Planning. Said renewals may be granted for a period not to exceed 90 days.

11. Section 113 is replaced by the following:

113 Board of Appeals. Persons aggrieved under this Chapter 14.02 shall file an appeal with the Board of Appeals of the City of Lakewood as provided in Chapter 14.12 of the Lakewood Municipal Code.

- B. The provisions of Chapter 2, Section 202 Definitions shall include the following amendment:

1. The definition of "Sleeping Unit" in Chapter 2, "Definitions", is hereby replaced with the following:

[A] SLEEPING UNIT. A single unit that provides rooms or spaces for one or more persons, includes permanent provisions for sleeping and can include provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units. Sleeping units and any supporting structures, including bathroom, shower, and meeting facilities, that are part of a City of Lakewood approved transitional housing program shall be considered temporary structures and shall be subject to annual inspection of such units in a manner established within a City of Lakewood transitional housing program.

- C. The provisions of Chapter 3 shall include the following amendments:

1. Add new subsection 303.1.6 to read as follows:

303.1.6 Shelters accessory to places of religious worship. Rooms and spaces within places of religious worship providing overnight homeless sheltering for fewer than 50 occupants, for less than 16 continuous hours, shall be classified as part of the primary occupancy provided the aggregate area used for sleeping is less than 10,000 square feet. An operational permit for such use shall be issued by the fire authority having jurisdiction and shall include any of the following as determined by the fire authority:

1. Emergency means of egress and means of egress lighting shall be provided as required in Chapter 10 of the International Building Code.

2. Fully operational smoke alarms and carbon monoxide detection shall be provided in all sleeping areas and installed as required in Chapter 9 of the International Fire Code.
 3. An emergency plan approved by the Fire Code Official may be required to include a minimum one fire watch/attendant as required in Chapter 4 of the International Fire Code.
2. Add new subsection 303.1.7 to read as follows:

303.1.7 Shelters accessory to government facilities. Rooms and spaces within government facilities may be utilized for the sheltering of unhoused individuals with no restrictions provided the following requirements are met:

1. Emergency means of egress and means of egress lighting are Provided as required in Chapter 10 of the International Building Code.
2. Fully operational smoke alarms and carbon monoxide detection shall be provided in all sleeping areas and installed as required in Chapter 9 of the International Fire Code.
3. An emergency plan approved by the Fire Code Official shall be provided to include a minimum of one fire watch/attendant as required in Chapter 4 of the International Fire Code.
4. Provisions for sanitation shall be provided including adequate toilet and washing facilities.

€D. The provisions of Chapter 4 shall include the following amendments:

1. Section 406.6.4 is replaced with the following:

406.6.4 Mechanical-access enclosed parking garages. Mechanically accessed enclosed parking garages are prohibited within the City of Lakewood.

2. A new subsection 420.12 is added to read as follows:

420.12 Electric vehicle charging. When parking spaces are required to be electric vehicle charging stations (EVCS) capable of supporting future electrical vehicle chargers, they shall be identified on the construction documents. Construction documents shall indicate the location of the proposed EVCS.

420.12.1 Single EVCS required. When only one EVCS space is required, a listed raceway to accommodate a dedicated 208/240-volt branch circuit shall be installed. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter). The raceway shall originate at the main service or subpanel and shall terminate into a listed cabinet, box, or other enclosure in close proximity to the proposed location of the electric vehicle charger. Construction documents shall identify the raceway termination point. The service panel or subpanel circuit directory shall provide capacity to install a 50-ampere minimum dedicated branch circuit and space(s) reserved to

permit installation of a branch circuit overcurrent device. Electrical vehicle supply equipment shall be installed in accordance with NFPA 70.

420.12.2 Multiple EVCS required. Construction documents shall indicate the raceway termination point and proposed location of future EVCS and electric vehicle chargers. Construction documents shall also provide information on amperage of future electric vehicle supply equipment, raceway method(s), wiring schematics, and electrical load calculations demonstrating the electrical panel, and electrical system, including any on-site distribution transformer(s), have sufficient capacity to simultaneously charge all electric vehicles at all required EVCS at the full rated amperage of the electrical vehicle supply equipment. Plan design shall be based upon 50-ampere minimum branch circuit. Raceways and related components that are planned to be installed underground, enclosed, inaccessible or in concealed areas and spaces shall be installed at the time of the original construction. Electrical vehicle supply equipment shall be installed in accordance with NFPA 70.

420.12.3 Identification. The service panel or subpanel circuit directory shall identify the overcurrent protective device space(s) reserved for future electrical vehicle charging as "EV CAPABLE." The raceway termination location shall be permanently and visibly marked as "EV CAPABLE."

DE. The provisions of Chapter 16 shall include the following amendments:

1. Subsection 1608.2 is replaced with the following:

1608.2 Ground snow loads. The ground snow load established for the City of Lakewood is 30 pounds per square foot and not reducible.

2. Subsection 1609.3 is replaced with the following:

1609.3 Basic and Ultimate design wind speed. The basic wind speed for the City of Lakewood is established as 100 mph V_{asd} and 130 V_{ult} , for all structures east of the 10,000 West block and 120 V_{asd} and 155 V_{ult} for all other structures in all other locations. The ultimate design wind speed, V_{ult} for use in the design of Risk Category II buildings and structures shall be 138 V_{ult} for all structures east of the 10,000 West block and 166 V_{ult} for all other structures in all other locations. The ultimate design wind speed, V_{ult} , for use in the design of Risk Category I buildings and structures shall be 130 V_{ult} for all structures east of the 10,000 West block and 155 V_{ult} for all other structures in all other locations. For Risk Category III and IV structures east of the 10,000 West block V_{asd} shall be 100 mph and 120 mph west of the 10,000 West block, V_{ult} shall be 148 mph for structures east of the 10,000 West block, and 178 mph west of the 10,000 West block.

3. Subsection 1609.4 is replaced with the following:

1609.4 Exposure category. Exposure C shall be used for the design of all structures in the City of Lakewood.

EF. The provisions of Chapter 18 shall include the following amendments:

1. A new subsection 1803.3.2 is added to read as follows:

1803.3.2 Location of geotechnical investigations. Geotechnical investigations must be performed on the subject property. Investigation reports from locations other than within the property lines of the subject property will not be accepted by the Building Official.

2. A new subsection 1803.3.3 is added to read as follows:

1803.3.3 Age of geotechnical reports. Geotechnical reports must be performed within twenty (20) years of the date of submittal for permit.

Exception: Geotechnical reports that pre-date site disturbances on the subject property will not be accepted.

FG. The provisions of Chapter 29 shall include the following amendment:

1. Table 2902.1 add footnote (g) to read the following:

- g. Required drinking fountains may be substituted with a water dispenser for an occupant load of 50 or fewer.

GH. The provisions of Chapter 30 shall include the following amendments:

1. A new section 3009 is added to read as follows:

Section 3009 Permits and Certificates of Inspection.

3009.1 Permits required. It shall be unlawful to hereafter install any new elevator, moving walk, escalator, or dumbwaiter, or to make major alterations to any existing elevator, dumbwaiter, escalator or moving walk as defined in Part XII of the ANSI code, without having first obtained a permit for such installation from the State of Colorado.

Exception: Permits for conveyances installed within a dwelling unit shall be obtained from the City of Lakewood.

3009.2 Certificates of inspection required. It shall be unlawful to operate any elevator, dumbwaiter, escalator, or moving walk without a current certificate of inspection issued by the State of Colorado.

Exception: Certificate of inspection shall not be required for conveyances within a dwelling unit.

HI. The provisions of Chapter 31, Section 3101 Temporary Structures shall include the following amendment:

1. Subsection 3103.1.1 under the heading of “Conformance” the language is amended to read as follows:

3103.1.1 Conformance. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure public health, safety and general welfare. Where approved by the City of Lakewood Building Official and the Fire Code Official, sleeping units and supporting structures that are part of a City of Lakewood transitional housing program shall not be required to conform to all requirements of this Code when the City of Lakewood Building Official and Fire Code Official determine there are practical difficulties/impossibilities involved in implementing the provisions of this Code in association with temporary structures.

J. The provisions of Chapter 33 shall include the following amendment:

1. A new subsection 3302.2.1 is added to read as follows:

3302.2.1 Construction and Demolition waste management plan. For all new buildings, additions, or remodels with a total interior space over 2,500 square feet, or for developments with multiple buildings with a combined total interior space over 5,000 square feet, a construction waste management plan that demonstrates all recyclable concrete, asphalt, untreated wood, metal, recyclable or salvageable finish materials, and cardboard materials will be donated, reused, or recycled is required at the time of application for a building permit. In the case of any building demolition, a demolition waste management plan that demonstrates all recyclable concrete, asphalt, metal, untreated wood, and finish materials will be donated, reused, recycled and where possible, excluding economic infeasibility, all remaining materials such as doors, windows, cabinets, and fixtures will be recycled, is required at the time of application for a demolition permit. The waste management plan shall be conspicuously posted on the construction site adjacent to the permit placard and labeled containers shall be provided at the construction site for use in capturing recyclable materials. Evidence of compliance with the waste management plan, such as hauler or recycling center receipts, shall be transmitted electronically before a certificate of occupancy is issued, or in the case of demolition, before a final inspection is completed.

SECTION 2. All provisions of Title 14 of the Lakewood Municipal Code not expressly amended hereby shall remain unaltered by this Ordinance and in full force and effect.

SECTION 3. This Ordinance shall take effect thirty (30) days after final publication.

SECTION 4. If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or

applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 26th day of August, 2024; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 29th day of August, 2024; set for public hearing to be held on the 16th day of September, 2024, read, finally passed and adopted by the City Council on the 16th day of September, 2024 and, signed by the Mayor on the _____ day of September, 2024.

Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

RESOLUTION NO. 2024-002
RESOLUTION OF CITY OF LAKEWOOD BOARD OF APPEALS

WHEREAS, the City of Lakewood, Colorado (the "City") previously adopted by reference the International Building Code, 2021 Edition (IBC), of the International Code Council, which is codified in Chapter 14.02 of the Lakewood Municipal Code (the "LMC");

WHEREAS, the current definition of "Sleeping Unit" in the IBC does not allow for sleeping units to be considered temporary structures;

WHEREAS, the conformance standards for temporary structures in the IBC requires temporary transitional housing structures to conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of permanent structures;

WHEREAS, temporary transitional housing structures, such as pallet homes or other similar products, need not strictly conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of the IBC to be sufficiently safe for their intended purposes;

WHEREAS, LMC Chapter 14.02 currently contains multiple local amendments to the IBC to meet local needs;

WHEREAS, City staff desires to amend LMC Chapter 14.02 to include local amendments to the definition of "Sleeping Unit" and 3103.1.1 Conformance standards;

WHEREAS, the Board of Appeals was established by LMC section 14.12.010 and is charged with reviewing proposed additions, changes, or amendments to the City's building codes and to make recommendations to City Council with respect to the adoption thereof;

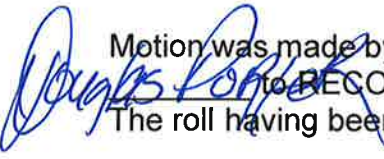
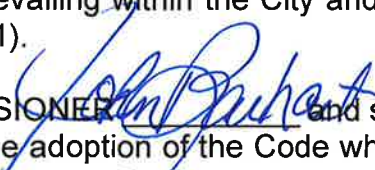
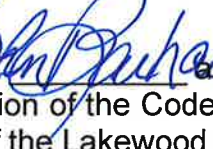
WHEREAS, on July 31, 2024, the Board of Appeals held a public hearing to discuss the proposed amendments to LMC Chapter 14.02; and

WHEREAS, the City has complied with all notice requirements in Title 14.

NOW, THEREFORE, BE IT RESOLVED by the Board of Appeals of the City of Lakewood, Colorado that:

1. Section 1. The Board of Appeals has reviewed, considered, and recommended for adoption amendments to Chapter 14.02 to include a local definition of "Sleeping Unit" and 3103.1.1 Conformance standards subject to the City Council incorporating additional requirements that all such sleeping units are inspected annually by the Lakewood Building Official and the Lakewood Fire Official to confirm they continue to comply with all requirements for public health, safety and general welfare.

2. Section 2. The adoption of amendments to Chapter 14.02 will promote the health, safety, and welfare of the inhabitants of the City.
3. Section 3. Adoption of amendments to Chapter 14.02 is desirable and necessary in light of local conditions prevailing within the City and the Denver metropolitan area pursuant to 14.12.020(G)(1).

 Motion was made by COMMISSIONER  and seconded by COMMISSIONER  to RECOMMEND the adoption of the Code which passed by a vote of _ to _ .
The roll having been called, the vote of the Lakewood Board of Appeals was as follows:

John Barnhart - yes
Dennis Mateski - yes
Jason Summers - yes
Douglas Porter - yes



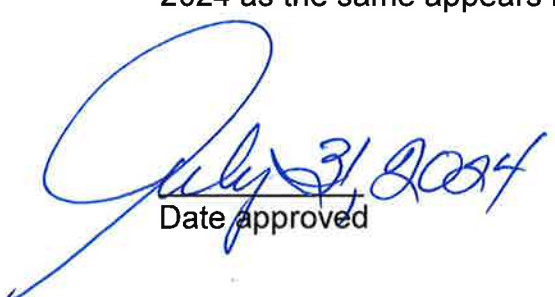
NAME, CHAIRMAN



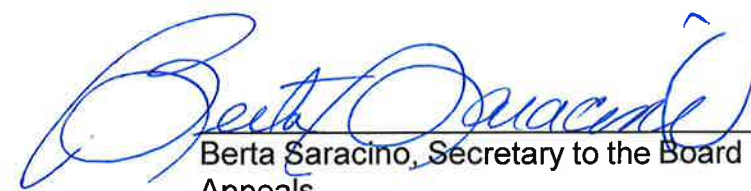
NAME, Secretary of the Board of Appeals

CERTIFICATION

I, BERTA SARACINO, Secretary to the City of Lakewood Board of Appeals, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Lakewood Board of Appeals at a Public Hearing held in Lakewood, Colorado, on the 31st day of July 2024 as the same appears in the minutes of said meeting.



Date approved



Berta Saracino, Secretary to the Board of Appeals

**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD**

7:00 PM

July 22, 2024

Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.

ITEM 1 – CALL TO ORDER

Mayor Strom called the HYBRID meeting to order at 7:02 p.m.

ITEM 2 – ROLL CALL

Councilors Present: Mayor Wendi Strom, Presiding
Councilor Rich Olver
Councilor Sophia Mayott-Guerrero
Councilor Jacob LaBure (Virtual)
Councilor Roger Low
Councilor Isabel Cruz
Councilor Paula Nystrom
Councilor Glenda Sinks

Absent: Councilor Rebekah Stewart
Councilor Dave Rein
Councilor Jeslin Shahrezaei

Others in attendance: Kathy Hodgson, City Manager
Ben Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney
Jay Robb, City Clerk
Bernadette Salazar, Deputy City Clerk

Full and timely notice of this City Council meeting had been given and a quorum was present.

ITEM 3 – PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited, and the audience remained standing for a moment of silent prayer.

ITEM 4 – STATEMENT OF CONFLICT OF INTEREST

Mayor Strom read the Statement of Conflict of Interest.

Mayor Strom stated there would be a change to the agenda by moving Item 10, Executive Report, to follow the Consent Agenda.

**CONSENT AGENDA
ORDINANCES ON FIRST READING**

City Clerk Robb read the Consent Agenda into the record.

**ITEM 5 – RESOLUTION 2024-35 – INTERGOVERNMENTAL AGREEMENT WITH
FOOTHILLS ANIMAL SHELTER**

ITEM 6 – APPROVING MINUTES OF THE CITY COUNCIL MEETINGS

A. CITY COUNCIL REGULAR MEETING JUNE 10, 2024

**ITEM 7 – ORDINANCE O-2024-19 – AMENDING TITLE 2, SECTION 2.02.020, OF
THE LAKEWOOD MUNICIPAL CODE TO ADOPT BOB’S RULES OF
PROCEDURE AS THE PROCEDURAL RULES OF THE CITY COUNCIL
AND REVISE OTHER ANCILLARY PROVISIONS**

END OF CONSENT AGENDA

PUBLIC COMMENT ON CONSENT AGENDA

Public Comment received via Lakewood Speaks:0

Councilor Mayott-Guererro made a motion to approve the consent agenda. The motion was seconded.

VOTE TO APPROVE THE THE CONSENT AGENDA

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO	X		LOW	X	
STEWART		ABSENT	CRUZ	X	
REIN		ABSENT	SINKS	X	
SHAHREZAEI		ABSENT			
TOTAL				8	0

Result: The motion passed.

EXECUTIVE REPORT

City Manager Hodgson read a statement honoring Kit Newland, Director of Community Resources, for serving the City of Lakewood for 22 years. Director Newland made a closing statement thanking City Manager Hodgson, other city employees, the

community, and the City Council. Mayor Strom thanked Director Newland for her service.

ITEM 8 – PUBLIC COMMENT

Public Comment received via Lakewood Speaks: 4 (see attached)

James Mace, Ward 1, addressed Council regarding the police department and the safety of the community.

Theresa Beazer, Ward 1, addressed Council regarding the property surrounding Vivian Elementary School. (Attachment A)

Chandra Shah, Ward 1, addressed Council regarding the property surrounding Vivian Elementary School. (Attachment B)

Susan DuBois, Ward 1, addressed Council regarding the property surrounding Vivian Elementary School.

Jack Meineke, Ward 3, addressed Council regarding fireworks in the community and people on roadways washing windshields.

Jeff Walker, addressed Council regarding the challenges of being unhoused.

Connie Rettig, Ward 3, addressed Council regarding living conditions in her building operated by Metro West Housing Solutions.

Lorie Cramer, Ward 1, addressed Council regarding the property surrounding Vivian Elementary School.

Dan Erion, Ward 4, addressed Council regarding his frustration with the City's Code Enforcement Division.

Sandra Weathers, Ward 3, addressed regarding support for a cease-fire in Gaza.

Amber Varwig, Ward 2, addressed regarding support for a cease-fire in Gaza.

MacKenzie, Ward 3, addressed regarding support for a cease-fire in Gaza.

Bruce Morrison addressed regarding support for a cease-fire in Gaza.

Valerie Passirini, Ward 2, addressed regarding support for a cease-fire in Gaza.

Arnie Carter, Ward 3, addressed regarding support for a cease-fire in Gaza.

Shelby Fuches, Ward 3, addressed regarding support for a cease-fire in Gaza.

Josh Comden, Ward 1, addressed regarding support for a cease-fire in Gaza.

ITEM 9 – GENERAL BUSINESS

A. SPECIAL MEETING REQUEST

Mayor Strom summarized the need for a Special Council meeting on November 18, 2024.

Councilor Mayott-Guererro made a motion for a Special Meeting on November 18, 2024. The motion was seconded.

VOTE TO REQUEST A SPECIAL MEETING

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO	X		LOW	X	
STEWART		ABSENT	CRUZ	X	
REIN		ABSENT	SINKS	X	
SHAHREZAEI		ABSENT			
			TOTAL	8	0

Result: The motion passed.

B. CITY COUNCIL REQUEST

Councilor Olver summarized his request for the Council to tour the NREL Campus in Lakewood.

Councilor Olver made a motion to contact the NREL Government Affairs Team to set up a tour of the NREL campus with the Lakewood City Council, Lakewood staff, the LAC Sustainability Committee, and possibly surrounding municipalities to receive a tour and updates.

Mayor Strom clarified that Councilor Olver would contact NREL to coordinate the site tour.

The Council Members discussed the motion.

VOTE TO APPROVE A COUNCIL AND STAFF TOUR OF THE NREL CAMPUS

	AYES	NAYS		AYES	NAYS
STROM	X		LABURE	X	
OLVER	X		NYSTROM	X	
MAYOTT-GUERRERO	X		LOW	X	
STEWART		ABSENT	CRUZ	X	

REIN		ABSENT	SINKS	X	
SHAHREZAEI		ABSENT			
TOTAL				8	0

Result: The motion passed.

ITEM 10 – EXECUTIVE REPORT

Item 10 was moved to follow the Consent Agenda.

ITEM 11 – MAYOR AND CITY COUNCIL REPORTS

The Councilors and Mayor provided updates regarding upcoming Ward meetings and other events in the community.

ITEM 12 – ADJOURNMENT

Seeing no further business, Mayor Strom adjourned the meeting at 8:34 p.m.

Respectfully submitted,

Jay Robb, City Clerk

STAFF MEMO

DATE OF MEETING: AUGUST 26, 2024 / AGENDA ITEM NO. 14

To: Mayor and City Council
From: Max Kirschbaum, Director of Public Works
Subject:

SUMMARY STATEMENT: City staff is presenting for City Council review and approval an Ordinance to amend Chapter 14.06 of the Lakewood Municipal Code by adopting by reference the 2023 Edition of the National Electrical Code as that Code has been adopted by the State of Colorado Electrical Board.

BACKGROUND INFORMATION: The Electrical Board of the State of Colorado (Board) is empowered by the State to establish regulations that govern and are binding on every person and legal entity authorized to practice, offer to practice, or perform electrical services or electrical contracting in Colorado, including all contractors performing electrical work in Lakewood and all electrical inspectors employed by the City of Lakewood (City). Pursuant to this authority, the Board has recently adopted the National Electrical Code, 2023 Edition, (2023 NEC) as the minimum standard governing the planning, laying out, and installing or the making of additions, alterations and repairs in the installation of wiring apparatus and equipment for electric, light, heat and power in Colorado. Additionally, the Board recently mandated that all electricians abide by, and all municipalities adopt and enforce the 2023 edition of the NEC. All electrical licensees and registrants under Title 12, Article 115 of the Colorado Revised Statutes are charged with having knowledge of and following all requirements provided for in the Board's adopted regulations.

An updated version of the NEC is promulgated every three years by the National Fire Protection Association. It is likely that the Board will adopt the newest version each time it is updated by the publisher.

By adopting the 2023 NEC, including all amendments adopted by the Board, all local amendments to the NEC will now be removed as these are no longer deemed necessary by staff.

Overall, the changes from the 2020 NEC to the 2023 NEC are minor in nature and primarily consist of clarifications regarding enforcement or technology changes such as solar, kitchen island outlets, and providing a level working surface for electricians at electrical service working areas.

Pursuant to LMC 14.12.020(G)(2), the Board of Appeals met on July 31, 2024, to review the proposed updates to the National Electrical Code. The Board of Appeals has approved a Resolution recommending the adoption of the 2023 NEC, as adopted by the Electrical Board of the State of Colorado, as the electrical code of the City of Lakewood.

BUDGETARY IMPACTS: There are no budgetary impacts associated with the adoption of this ordinance.

STAFF RECOMMENDATIONS: Staff recommends adopting this ordinance. By adopting the NEC in this manner, the City will maintain compliance with the State's mandated code adoption, thereby eliminating confusion for contractors doing work within the City regarding code requirements. The update will also keep City electrical inspectors in good standing with the State of Colorado Electrical Board by aligning City and State requirements. Finally, this update will eliminate the need for City Council approval and adoption of the State's mandated code with each code update cycle.

ALTERNATIVES: The alternative to adoption of this ordinance is to continue with the current City process for code adoption. The current process involves preparation of council documents and presentation of State mandated code without amendments to the City Council for approval.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: If approved on second reading, the City will adopt the 2023 edition of the National Electrical Code (2023 NEC) when the Ordinance goes into effect.

ATTACHMENTS:

1. Ordinance O-2024-20
2. Board of Appeals Resolution 2024-001

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney

AN ORDINANCE

AMENDING CHAPTER 14.06 OF TITLE 14 OF THE LAKEWOOD MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2023 NATIONAL ELECTRICAL CODE AS ADOPTED BY THE STATE OF COLORADO BY AND THROUGH THE STATE ELECTRICAL BOARD

WHEREAS, the City of Lakewood, Colorado (the "City") previously adopted by reference the 2020 Edition of the National Electrical Code of the National Fire Protection Association, which is codified in Chapter 14.06 of the Lakewood Municipal Code (the "LMC");

WHEREAS, pursuant to Colorado Revised Statute §12-115-107(2)(a), the State Electrical Board (the "Board") is empowered to adopt rules setting the minimum standards governing the planning, laying out, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric, light, heat, and power in Colorado;

WHEREAS, the Board recently adopted the National Electrical Code, 2023 Edition (the "2023 NEC"), as the minimum standard governing the planning, laying out, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric, light, heat, and power in Colorado;

WHEREAS, City staff desires to amend LMC Chapter 14.06 to adopt by reference the 2023 NEC as adopted by the State of Colorado by and through the Board as the Electrical Code of the City;

WHEREAS, the Board of Appeals was established by LMC section 14.12.010 and is charged with reviewing proposed additions, changes, or amendments to the City's codes including the National Electric Code and to make recommendations to City Council with respect to the adoption thereof;

WHEREAS, the Board of Appeals has reviewed, considered, and recommended for adoption by reference the 2023 NEC as adopted by the State of Colorado by and through the Board;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the City's Charter by setting a public hearing to provide City staff and the public the opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Chapter 14.06 is hereby amended as follows:

14.06.010 - National Electrical Code Adopted by Reference.

The National Electric Code of the National Fire Protection Association, 2023 Edition, as adopted and amended by the State of Colorado, by and through the State Electrical Board, is hereby adopted by reference as the Electrical Code of the City of Lakewood.

14.06.020 - Purpose of ~~National~~ Electrical Code.

The purpose of the ~~National~~ Electrical Code is to safeguard persons in buildings and their contents from hazards arising from the use of electricity for lights, heat, power, radio, signaling, and for other purposes. The subject matter of the code is the regulation of electrical conductors and equipment installed within or on public and private buildings and other premises, including yards, carnival and parking lots, industrial substations, mobile homes, and recreational vehicles, as well as the conductors that connect the installations to a supply of electricity and other outside conductors adjacent to a premises.

~~14.06.040—Amendments to certain provisions of the National Electrical Code.~~

~~Certain provisions of the National Electrical Code, as indicated in this section, are hereby amended.~~

~~A.—The provisions of Annex H shall include the following amendments:~~

~~1.—Section 80.15 is deleted.~~

~~2.—Subsection 80.19(D) is deleted.~~

~~3.—Subsection 80.19(E) is replaced with the following:~~

~~**80.19(E) Fees.** Fees and valuation for permits required by this code shall be as specified in Section 14.01.060 of the Lakewood Building Code.~~

~~4.—Subsection 80.23(B) is deleted.~~

~~5.—Section 80.27 is deleted.~~

14.06.030 - Penalties for violations of the ~~National~~ Electrical Code.

- A. Any person who violates any of the provisions of the code adopted by this chapter or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order, as affirmed or modified by the Board of Appeals or by a court of

competent jurisdiction, within the time fixed in this chapter, shall jointly and severally, for each and every violation and noncompliance respectively, be subject to the penalties set forth in Section 1.16.020. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or deficits within a reasonable time, and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

- B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

SECTION 2. This Ordinance shall take effect thirty (30) days after final publication.

SECTION 3. All provisions of Title 14 of the LMC not expressly amended hereby shall remain unaltered by this Ordinance and in full force and effect.

SECTION 4. If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 12th day of August, 2024; published by title in the Denver Post and in full on the City of Lakewood's website at www.lakewood.org, on the 15th day of August, 2024; set for public hearing to be held on the 26th day of August, 2024; read, finally passed and adopted by the City Council on the 26th day of August, 2024; and signed by the Mayor on the ___ day of August, 2024.

Wendi Strom, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney

RESOLUTION NO. 2024-001
RESOLUTION OF CITY OF LAKEWOOD BOARD OF APPEALS

WHEREAS, the City of Lakewood, Colorado (the "City") previously adopted by reference the National Electrical Code, 2020 Edition, of the National Fire Protection Association, which is codified in Chapter 14.06 of the Lakewood Municipal Code (the "LMC");

WHEREAS, pursuant to Colorado Revised Statute §12-115-107(2)(a), the State Electrical Board is empowered to adopt rules setting the minimum standards governing the planning, laying out, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric, light, heat, and power in Colorado;

WHEREAS, the State Electrical Board recently adopted the National Electrical Code, 2023 Edition, (the "2023 NEC") as the minimum standard governing the planning, laying out, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric, light, heat, and power in Colorado;

WHEREAS, City staff desires to amend the LMC Chapter 14.06 to adopt by reference the 2023 NEC as the electrical code of the City;

WHEREAS, the Board of Appeals was established by LMC section 14.12.010 and is charged with reviewing proposed additions, changes, or amendments to the City's codes, and to make recommendations to City Council with respect to the adoption thereof;

WHEREAS, on July 31, 2024, the Board of Appeals held a public hearing to discuss the proposed amendments to LMC Chapter 14.06 to adopt by reference the 2023 NEC as the electrical code of the City; and

WHEREAS, the City has complied with all notice requirements in Title 14.

NOW, THEREFORE, BE IT RESOLVED by the Board of Appeals of the City of Lakewood, Colorado that:

1. Section 1. The Board of Appeals has reviewed, considered, and recommended for adoption the 2023 NEC as currently adopted, modified or readopted by the State of Colorado.
2. Section 2. The adoption of the 2023 NEC will promote the health, safety, and welfare of the inhabitants of the City.
3. Section 3. Adoption of the 2023 NEC is desirable and necessary in light of local conditions prevailing within the City and the Denver metropolitan area pursuant to

14.12.020(G)(1).

Motion was made by COMMISSIONER *Douglas Porter* and seconded by COMMISSIONER *John Barnhart* to RECOMMEND the adoption of the Code which passed by a vote of _ to _.
The roll having been called, the vote of the Lakewood Board of Appeals was as follows:

Robert Ramsour - *absent*
John Barnhart - *yes*
Dennis Mateski - *yes*
Jason Summers - *yes*
Douglas Porter - *yes*



NAME, CHAIRMAN



Berta Saracino, Secretary of the
Board of Appeals

CERTIFICATION

I, BERTA SARACINO, Secretary to the City of Lakewood Board of Appeals, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Lakewood Board of Appeals at a Public Hearing held in Lakewood, Colorado, on the 31st day of July 2024 as the same appears in the minutes of said meeting.

July 31, 2024
Date approved

Berta Saracino
Berta Saracino, Secretary to the Board of
Appeals

STAFF MEMO

DATE OF MEETING: AUGUST 26, 2024 / AGENDA ITEM NO. 15

To: Mayor and City Council

From:

Subject:

SUMMARY STATEMENT:

BACKGROUND INFORMATION:

BUDGETARY IMPACTS: None

STAFF RECOMMENDATIONS: None

ALTERNATIVES: None

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

NEXT STEPS: None

ATTACHMENTS: None

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney