



TO: Neighborhoods & Planning City Council Committee
FROM: Kyle Dalton, AICP, Senior City Planner
DATE: May 7, 2015
RE: Denver Zoning Code – 2015 Text Amendment Bundle #1

Staff Report and Recommendation

This amendment to the Denver Zoning Code is sponsored by Community Planning & Development. The Neighborhoods & Planning Committee of the Denver City Council will consider this amendment at its regular meeting on May 13, 2015, and determine whether to forward the amendment to the full City Council for final action. A redline of the proposed amendment is available on the CPD website (see link below), while a summary of the proposed text changes is attached to this staff report.

Based on the review criteria for text amendments stated in the Denver Zoning Code, Section 12.4.11 (Text Amendment), CPD staff recommends that the City Council approve the 2015 Text Amendment Bundle #1.

I. Summary and Purpose

The 2015 Text Amendment Bundle #1 provides necessary clarifications, re-organization, graphics revisions, and a variety of substantive changes to the Denver Zoning Code. Please see the attached summary for additional detail of the proposed changes and the redlined document showing the proposed zoning text amendment changes posted on the CPD website at: <http://www.denvergov.org/CPD>.

II. Criteria for Review and CPD Analysis

The criteria for review of a proposed text amendment are found in Section 12.4.11.4 of the DZC. CPD analyzed the proposed text amendment for compliance with the review criteria stated below and finds that the proposed 2015 Text Amendment Bundle #1 satisfies each of the criteria.

A. Text Amendment is Consistent with Adopted Plans

The Text Amendment is consistent with the city's following adopted plans, strategies, and policies:

Denver Comprehensive Plan 2000:

Land Use

- Strategy 2-A: (*paraphrased*) [P]roposed revisions should ensure that the Denver Zoning Ordinance will be flexible and accommodating of current and future land use needs...
- Strategy 3-B: Encourage quality infill development that is consistent with the character of the surrounding neighborhood...

Denver's Legacies

- Strategy 2-A: Establish development standards to encourage positive change and diversity while protecting Denver's traditional character.
- Strategy 2-C: Identify community design and development issues, and target specific concerns with appropriate controls and incentives.

Taken as a whole, the 2015 Text Amendment Bundle #1 is consistent with the above-adopted plan policies because this update to Denver's zoning regulations responds to new and emerging businesses and industries, responds to evolving trends in residential and commercial development and design, and makes these important rules for development more clear to residents, developer and other code users.

B. Text Amendment Furthers the Public Health, Safety, and General Welfare

This Text Amendment furthers the general public health, safety, and welfare of Denver residents, land owners, and businesses by providing clarity and predictability in the zoning regulations, by removing regulatory barriers to planned and desired private enterprise and redevelopment, and by overall continuing to implement the city's adopted comprehensive, land use and transportation plans through regulatory changes.

C. The Text Amendment Results in Regulations that are Uniform within Each Zone District

The 2015 Text Amendment Bundle #1 results in zoning regulations which are uniform in their application to buildings and land uses within the each zone district. Moreover, the 2015 Text Amendment Bundle #1 includes improvements to ensure consistency in zoning regulations, all of which will improve the City's ability to administer and enforce the Code uniformly.

III. Public Outreach and Comments

Below is a summary of the public outreach for this amendment:

<i>February 28, 2015:</i>	CPD attends Inter-Neighborhood Cooperation (INC) Zoning and Planning Committee for briefing
<i>March 6, 2015:</i>	Summary of text amendments posted to website for public review
<i>March 18, 2015:</i>	Televised Informational item at City Council Neighborhoods & Planning Committee meeting
<i>March 18, 2015:</i>	Planning Board Informational Item
<i>March 30, 2015:</i>	Redline draft of text amendments posted to website for public review and email notice sent to all Registered Neighborhood Organizations (RNOs) and City Councilmembers
<i>April 2, 2015:</i>	CPD staff hosts Office Hours for general public
<i>April 10, 2015:</i>	CPD staff hosts Office Hours for general public
<i>April 14, 2015:</i>	CPD staff hosts Office Hours for general public
<i>April 14, 2015:</i>	Email notice to all Registered Neighborhood Organizations (RNOs) and City Councilmembers of scheduled Planning Board public hearing, with link to updated summary
<i>April 22, 2015:</i>	Planning Board staff report and updated redline draft posted to website.
<i>April 24, 2015:</i>	CPD email newsletter sent to all subscribers with information and links to the website with posted summary and redline draft.
<i>April 29, 2015:</i>	Denver Planning Board Public Hearing

As of the date of this staff report, CPD has received 6 written comments on this Text Amendment, attached to this staff report and summarized below:

1. An email from John Sturtz with a general comment about 'citizen friendliness' of the Planning Board.
2. An email attachment from Hank Saipe supporting the proposed reduction in the minimum vehicle parking requirement for mini-storage uses.
3. An email from Kevin Cohen supporting the proposed reduction in the minimum vehicle parking requirement for mini-storage uses.
4. An email attachment from Heather Noyes Gregg requesting that the proposed new ground story active use requirements be made stricter than drafted in this text amendment, particularly in the U-MX zone districts.
 - Ms. Noyes Gregg requests that 100% of ground story building frontage in MX zone districts be occupied by an active use. Currently there is no ground story active use requirement in an MX zone district. Given the extensive mapping of MX zone districts, Staff does not recommend increasing the requirement from 0% to 100% in MX zone districts citywide, absent specific plan direction for increased amounts, such as exists in downtown, Main Streets, and Cherry Creek North.
 - Ms Noyes Gregg requests that "ancillary uses (such as lobby, private gym, private access) for residential development be added to the list of exceptions, or that ancillary uses be limited to 20% of the ground story." As lobbies, gyms, and private access for other uses such as hotels and offices would be allowed, and since these do provide a level of interest and activation along the sidewalk, staff

does not recommend prohibiting or limiting these uses for residential development.

- Ms. Noyes Gregg requests that the minimum depth of a ground story active use be increased to 20'. Staff recommends the minimum 15' in the redline draft. Many uses can be successful in the smaller depth. Also, 20' is larger than the minimum depth of a parking space, which can result in additional site and building design challenges.
 - Ms. Noyes Gregg requests that the exception for small zone lots be eliminated. Staff and the Planning Board agreed and the exception was removed from the draft.
 - Ms. Noyes Gregg requests that the exception for a vehicle access driveway be applied to MS zone districts only and not be applied to MX zone districts. Staff and the Planning Board agreed and the exception was removed from the draft.
 - Ms. Noyes Gregg has been leading a community effort to prepare a design overlay district in the Berkeley neighborhood for the areas of Tennyson Street cited in her email. Following specific plan guidance and/or community engagement, more stringent standards may be applied through a future design overlay in addition to the requirements of the base zone district as proposed in this citywide text amendment.
5. Two emails with attachments from Jesse Lipschuetz regarding the proposed revisions to homeless shelter use limitations and allowances.
- With this text amendment, CPD proposes to correct errors in translation from the Former Chapter 59 to the Denver Zoning Code regarding some types of homeless shelters. Reorganization of the zoning code led to changes in the homeless shelter use limitations that were unintentional. Significant changes to the shelter policy were not debated as part of the 2010 adoption of the code. The proposed revisions would restore the code to the previous policy, which had been codified in a series of language amendments in the 1990s and 2000s with much community involvement. The redline draft was revised in response to Mr. Lipschuetz's comments to provide better clarity.
 - Mr. Lipschuetz expresses concern that these particular provisions were inadequately summarized in staff's general summaries of the redline draft.
 - Mr. Lipschuetz notes that section numbering does not appear in strikethrough or underline in the redline draft, which makes the revisions difficult to understand. This is a limitation of the drafting software used for all text amendments and is a drafting convention CPD uses. Section/outline numbering is corrected in the "clean" version of the text amendment filed as an ordinance for City Council. Staff agrees that this drafting limitation can make the redline draft confusing at times, and CPD will explore ways to show numbering in redline in future text amendments.
 - Specific questions regarding the application of the current zoning code to a specific site were referred to Development Services Zoning Review.

IV. Planning Board Public Hearing & Recommendation

On April 29, 2015, the Denver Planning Board convened a public hearing on the 2015 Text Amendment Bundle #1. Following testimony from three individuals who also had commented in writing, the Planning Board unanimously voted to recommended approval with conditions, as recommended by staff. The Planning Board's conditions were:

- 1) that the Planning Board Review Draft be edited for clarity, correctness, illustrative graphics, section references, and other non-substantive matters as well as any other changes to the Planning Board review Draft made necessary by such edits;
- 2) that all proposed sections regarding Door Design be deleted; and
- 3) that all proposed Street Level Active Use Exceptions for small lots and vehicle access be deleted.

All conditions of the Planning Board's recommendation to approve have been addressed in the revised "City Council Adoption Draft," dated May 7, 2015, which is before the Neighborhoods and Planning Committee for consideration on May 13th.

V. CPD Staff Recommendation

Based on the criteria for review as described above, CPD Staff recommends that the Neighborhoods and Planning Committee forward the DZC 2015 Text Amendment Bundle #1 to the full City Council for final action after a public hearing.

ATTACHMENTS

- 2015 Bundle #1 Summary
- Public comments



Denver Zoning Code 2015 Text Amendment Bundle #1

City Council Adoption Draft Summary For Neighborhoods & Planning Committee Review May 7, 2015

This document presents a **summary** of topics proposed in the 2015 Text Amendment Bundle #1. A redline draft of the complete amendment is also available for review online at www.denvergov.org/CPD.

Purpose of the 2015 Bundle #1:

1. Continue to improve usability and organization of the code.
2. Make clarifying and substantive changes based on experience working with the code for five years.
3. Advance the implementation of adopted plans and code intent for an improved ground story pedestrian environment.

Contents:

The summary is organized into the following groups:

Group 1: GENERAL PROVISIONS (Article 1)

Group 2: NEIGHBORHOOD CONTEXT DESIGN STANDARDS (Articles 3-9, excluding uses and parking requirements)

Group 3: GENERAL DESIGN STANDARDS (Article 10, except parking)

Group 4: PARKING (Articles 3-9, Use Tables-Parking changes only and Article 10 parking standards)

Group 5: USES (Articles 3-9 Use Tables and Article 11)

Group 6: ZONING PROCEDURES (Article 12 and Division 9.4, Overlay Zone Districts)

Group 7: RULES OF MEASUREMENT AND DEFINITIONS (Article 13)

Group 8: ENTIRE CODE CLARIFICATIONS / CORRECTIONS

GROUP 1: GENERAL PROVISIONS

ARTICLE 1

Division 1.2: Zone Lots

Substantive

1. Revise to allow no limit on the number of primary uses per zone lot in all SU and TU zone districts, if all such uses are classified as “Civic, Public and Institutional Uses.” In addition, revise to allow no more than 1 household living use where there is also one or more primary Civic, Public and Institutional Uses on the same zone lot. This change codifies common practice and historic allowances in Denver for either (a) combining civic/public/institutional uses on the same property, typically in SU and TU residential neighborhoods, such as a combination of school and religious assembly uses, or (b) combining a “parish house” single-unit dwelling use with a primary religious assembly use.

Division 1.3: Official Zoning Map

Usability and Clarifications

1. Clarify existing provisions regarding the determination of zone district boundaries and applicable zoning regulations when a zone lot is split by one or more zone districts.

GROUP 2: NEIGHBORHOOD CONTEXT DESIGN STANDARDS

ARTICLES 3-9

Articles 3-9: All Zone Districts

Substantive

1. Add intent statements, where needed, for existing design standard alternatives.
2. Revise vehicle access for 3 or more side-by-side dwelling units in the Apartment, General, and Shopfront building forms across all contexts to require alley access with limited exceptions. This codifies an interim policy in place since September 4, 2014, for the purpose of minimizing impacts to the pedestrian environment and preserving sidewalks.

Usability and Clarifications

1. Where setbacks vary based on zone lot width, clarify the ranges of zone lot widths to eliminate confusion about which standards apply. The ranges are currently written as sequential ranges of whole numbers, which inadvertently excludes fractions between the whole numbers. This codifies a 2014 Zoning Administrator Interpretation.
2. Add graphics to illustrate existing supplemental design standards.
3. Clarify that outside stairways may only encroach into setbacks when required for emergency egress, including fire escapes and fire escape ladders.
4. Include “Stoops” and “terraces” as Architectural Elements allowed to encroach in certain setbacks for consistency with Entry Features specified in Article 13.
5. Reorganize all design standard alternatives into table format for consistency.
6. Move descriptions and rules of measurement for all design standard alternatives out of Articles 3-9 into Article 13 (see Group 7 below).
7. Add height exceptions as measured in stories for certain building features when they are defined as stories through Rules of Measurement (for example, elevator penthouses). These building features already are allowed height exceptions as measured in feet. Clarify how much of a height exception is allowed for elevator penthouses/lobbies accessing the roof, to prevent occupied use of the space such as party rooms, lounges, etc., when they exceed the maximum height otherwise allowed in the zone district.
8. Clarify that barrier-free access ramps are allowed to encroach into setbacks only for existing structures.
9. Specify that the calculation of the “open area” of the sides of certain Architectural Elements, including porches, decks, patios, and exterior balconies, is calculated on all sides except where abutting the building facade.
10. Remove unnecessarily specific cross-references to Article 10 in window well setback encroachment standards in Articles 3-7 and 9. All Denver Zoning Code standards (including Article 10) apply.

Articles 3-7: MS Zone Districts

Substantive

1. Strengthen existing requirements in all MS zone districts for street level active uses to better achieve the quality pedestrian environment envisioned by the intent of these zone districts. Parking spaces and aisles, mini storage, and warehouse uses are prohibited for 100% of the street level portion of the building meeting the build-to requirement.

Articles 5-7: MX Zone Districts

Substantive

1. Add a requirement in the C-MX zone districts for street level active uses to better achieve the quality pedestrian environment envisioned by the intent of these zone districts. Parking spaces and aisles, mini storage, and warehouse uses are prohibited for 100% of the street level portion of the building meeting the build-to requirement.
2. Add a requirement in U-MX and G-MX zone districts for street level active uses to better achieve the quality pedestrian environment envisioned by the intent of these zone districts. Parking spaces and aisles, mini storage, and warehouse uses are prohibited for 40% of the street level portion of the building meeting the build-to requirement.

Division 9.1: Industrial Context

Usability and Clarifications

1. Reorganize the “use” rows in the building form tables so that the “uses” rows are at the bottom of the building form tables, consistent with the Omnibus text amendment adopted in 2014.

Division 9.4: Overlay Zone Districts

Usability and Clarifications

1. Clarify that when creating a new zone lot in the Hilltop Heritage Conservation Overlay District, no zone lot line abutting a street can be less than 75 feet wide (not just a zone lot line abutting a *primary* street).

Division 9.7: Master Planned Context

Usability and Clarifications

1. Add the unintentionally omitted rows regarding uses in the building form tables in the Master Planned Context for Garden Court, Town House, Row House, and Apartment building forms, consistent with the Omnibus text amendment adopted in 2014.
2. Remove the inaccurate “ZPIN” label from the graphic for ground mounted air conditioning units in the Master Planned context, consistent with the Omnibus text amendment adopted in 2014.

GROUP 3: GENERAL DESIGN STANDARDS

ARTICLE 10 (Except Parking – See Group 4)

Division 10.1: Reference to Other Applicable Design Standards

Usability and Clarifications

1. Add references to Liquor License and Retail Marijuana regulations in the Denver Revised Municipal Code (DRMC) under “Reference to Other Applicable Design Standards.”

Division 10.4: Parking and Loading

Usability and Clarifications

1. Clarify the gross floor area square footage requirements that specify the number of loading spaces required. The ranges are currently written as sequential ranges of whole numbers, which inadvertently excludes fractions between the whole numbers. This codifies a 2014 Zoning Administrator Interpretation.

Division 10.5: Landscaping, Fences, Walls and Screening

Substantive

1. Consistent with Former Chapter 59 and common practice, specify that ground cover and turf/sod are acceptable live plant materials.

Usability and Clarifications

1. Clarify that height limitations on retaining walls in the Primary Street Setback area do not apply to retaining walls that are fully integrated components of a below-grade window well or other basement egress area. This codifies a 2014 Zoning Administrator Interpretation.

Division 10.10: Signs

Usability and Clarifications

1. Clarify when the Denver Landmark Preservation Commission acts as the Design Review Committee for signage in the D-C, D-TD, and D-AS zone districts.
2. Clarify prohibitions on illuminated, blinking, moving, flashing, and animated signs to align to the DZC’s definitions of “animated sign” and “flashing sign” in Article 13.

GROUP 4: PARKING STANDARDS

ARTICLES 3-9 (Parking Amounts) and 10 (Parking Standards)

Articles 3-9: Uses and Required Minimum Parking

Substantive

1. Implement a new bike parking requirement for “Public and Religious Assembly” uses as detailed below to better align with actual demand, best practices, and city goals.
2. Implement a new bike parking requirement for “Community Recreation Facility” uses as detailed below to better align with actual demand, best practices, and city goals.
3. Reduce the minimum bike parking requirement for “Lodging Accommodations” uses as detailed below to better align with actual demand and best practices.
4. Reduce the minimum vehicle parking requirement for Mini-Storage Facility uses to 0.1 spaces per 1,000 S.F. The requirement had been erroneously increased from the Former Chapter 59. The proposed requirement will better align with actual demand and best practices.

Division 10.4: Parking and Loading

Substantive

1. Clarify parking requirements for existing land uses in Section 10.4.2.1.B, such that the limitation on reductions of parking are tied to the lesser of what the DZC requires today or the actual number of spaces on-site that were legally established.
2. Reclassify “Public and Religious Assembly” to “Public Use Medium” for bike parking requirements to better align with actual demand and best practices.
3. Reclassify “Community Recreation Facility” to “Public Use Medium” for bike parking requirements to better align with actual demand and best practices.
4. Reclassify “Lodging” use category to “Commercial Medium” for bike parking requirements to better align with actual demand and best practices.

Usability and Clarifications

1. Clarify that when a bike parking requirement cannot be distributed between fixed and enclosed spaces, the required space is rounded to the nearest number.
2. Replace “may” with “shall” to indicate that vehicle parking reductions shall be granted if criteria and standards are met.
3. Clarify the distinction between parking reductions and alternative parking ratios and separate the reductions and alternative ratios into two tables (as opposed to one table) for clarity.
4. Clarify the maximum reductions/combinations allowed when applying multiple alternative parking ratios and parking reductions.
5. Clarify parking aisle width applicability as it pertains to detached garages accessing alleyway versus a “parking space” or “parking area” to clarify how the parking aisle is measured.
6. Replace “Americans with Disability Act” with “Americans with Disabilities Act.”

GROUP 5: USES

Articles 3-9 (Use Tables and Limitations) and Article 11 (Use Limitations and Definitions)

Substantive Amendments

Primary Uses: Civic, Public, and Institutional

1. Use Limitations: Revise organization and sub-section headings in Section 11.2.9 (currently Section 11.2.7) limitations on homeless shelters to implement the original City intent (as found in Former Chapter 59, Section 59-82[d][5]c) that homeless shelters are allowed in all zone districts in Denver, provided they are housed either in a place of religious assembly or in a building owned by the city, state, or non-profit, and subject to specific limitations on the number of homeless persons served and length of the shelter's operation. Use tables throughout Article 3-9 are updated accordingly to reference this section. The conversion of Former Chapter 59 to the Denver Zoning Code resulted in unintended changes in this section, which would be corrected by this amendment.
2. Use Limitations: Revise use limitations in SU and TU zone districts for a day care center in a structure operated by and used as a place for religious assembly. A day care center may be established only in an "existing structure originally designed for a nonresidential use and not for residential occupancy" that is currently operated by and used as a place for religious assembly.

Primary Uses: Industrial, Manufacturing and Wholesale

1. Use Limitations and Definitions: Incorporate specific allowances for the different types of marijuana-based extraction processes in the definitions of commercial food preparation, custom manufacturing, general manufacturing, and heavy manufacturing. Add new use limitations on the type of marijuana extractions that may occur as part of commercial food preparation uses.

Accessory Uses: Accessory to Nonresidential

1. Use Limitations: Revise "accessory garden" standards to: (a) Expressly prohibit the commercial growing of marijuana in the accessory garden; and (b) Allow growing of marijuana not subject to the city's licensing laws, provided all other applicable City rules, regulations and policies are met.
2. Use Limitations: Revise limitations on Outdoor Eating/Serving Areas accessory to restaurants and bars to apply only to permanent (and not also temporary) structures that form a covering over the outdoor eating/serving areas. Revise to also reference applicability of the applicable detached accessory structure building form standards except that the form's setback standards shall not apply.

Usability and Clarification Changes

1. Unlisted Accessory Uses: Clarify that unlisted uses accessory to primary nonresidential uses may be permitted through the Code Interpretation and Use Determination procedures in Article 12.
2. Temporary Uses: Clarify throughout the Code that Division 11.11's standards apply only to temporary land uses, as those are defined and described in the Code, and not to temporary structures in most cases.

3. Use Limitation: Clarify where Community Center use limitations regarding outdoor recreation and entertainment services apply; clarify that limitations apply to outdoor lighting at accessory outdoor facilities.
4. Use Limitation: Clarify the zone lot or carriage lot sizes that determine allowable maximum floor area of accessory dwelling units. The ranges are currently written as sequential ranges of whole numbers, which inadvertently excludes fractions between the whole numbers. This codifies a 2014 Zoning Administrator Interpretation.
5. Use Limitations: Relocate use limitations in Article 9 to Article 11 with all other use limitations to improve ease of use of the code.
6. Use Definition: Revise definition of "group living" category of residential uses to make clear that while homeless shelters are a specific type of group living, residents of a shelter do not typically permanently reside in the shelter for longer than 30 days (a requirement applicable to most other types of group living use types).
7. Use Definition: Revise the definitions of "minor impact utility" and "major impact utility" to: (a) make clear that a "minor impact utility" use must, in all circumstances, be above-ground and must be installed on a site that is less than 10,000 square feet in gross area; and (b) make clear that "major impact utility" means a utility that falls in one or more of the defined sub-categories.
8. Use Definition: Clarify definitions of "custom" and "general" manufacturing to be clear that if a brewery/distillery/winery land use falls within the definition of "custom" manufacturing, it cannot also fall within the definitions of "general" or "heavy" manufacturing. The same clarification was made for a brewery/distillery/winery use that falls within the definition of "general" manufacturing.

GROUP 6: ZONING PROCEDURES

Article 12 and Div. 9.4

Division 9.4: Overlay Zone Districts

Usability and Clarification

1. Clarify for overlay zone districts that text amendments and map amendments can be processed concurrently, as long as a map amendment rezoning land into a new zone district is not approved until the text amendment creating the new zone district is approved.

Division 12.3: Requirements Common to All Zoning Procedures

Usability and Clarification

1. Clarify that an individual City Council member is exempt from application fees, consistent with the fee exemption that already appears in Division 12.4.
2. Clarify that text amendments and map amendments can be processed concurrently, as long as a map amendment rezoning land into a new zone district is not approved until the text amendment creating the new zone district is approved.

Division 12.4: Zoning Application and Review Procedures

Substantive

1. Allow longer time than 30 days for the Zoning Administrator's review of a pending code interpretation and/ or use determination if all parties agree to the extension of time.
2. Codify CPD policy implemented in May 2014 to require informational notification of RNOs and City council members when a complete rezoning application has been received.

Usability and Clarification

1. Clarify that in a use determination, the subject "unlisted" use must ultimately be found to fit within the definition of a listed specific use type, use category, and use classification in the code. Otherwise, a text amendment – rather than a use determination – is the appropriate procedure to allow the use.
2. Clarify that code interpretations and use determinations may be for purposes of interpreting and determining matters of general code applicability and, accordingly do not have to be tied to a specific development proposal or application.
3. Clarify that Section 12.4.6.3.F, "General Rules" apply in place of Division 13.2 interpretation rules if there are any conflicts between the two provisions.
4. Reorganize Sections 12.4.10, Map Amendment, and 12.4.11, Text Amendment, to be more consistent with each other in structure and clarify inconsistent language.
5. Clarify that the City Attorney determines if a map amendment is a legislative rezoning.

Divisions 12.5-12.7: Compliant Uses, Compliant Structures, and Nonconforming Uses

Substantive

1. Revise the termination provisions applicable to all nonconformities and compliant uses and structures to add that, in the case of a violation of zoning law, termination of the

nonconforming use may be avoided if the property owner or user remedies the violation, but after more than one offense or violation of the zoning laws, termination of the nonconforming use will occur automatically by operation of law.

Usability and Clarification

1. Clarify the limitations on expansions of all nonconformities and compliant uses and structures that when a change in the use or structure, or the zone lot containing such use or structure, results in a decrease in the degree or extent of the code noncompliance, such change or expansion will be allowed. For example: A reduction in the floor area of a noncompliant use that results in a decrease in the amount of parking required will be allowed.

GROUP 7: RULES OF MEASUREMENT AND DEFINITIONS

ARTICLE 13

Division 13.1: Rules of Measurement

Substantive

1. Add exceptions to the rule of measurement for height in stories for parking structures to allow additional levels of parking (would still be subject to height in feet) when ground-story activation standards are met and/or parking structure is wrapped with other uses on street-facing facades.
2. Combine the “windows outside the zone of transparency” and “wall design” transparency alternatives to better promote integrated wall designs.
3. Revise the wall design transparency alternative to more clearly define the menu of wall design elements that may be used to promote a pedestrian-friendly ground-story frontage instead of transparent windows.
4. Revise the permanent art transparency alternative to better define what counts for, and how to measure, permanent art. Include Denver Arts & Venues review of permanent art as a transparency alternative.
5. Revise the pergola build-to alternative to improve the pedestrian environment and not allow “pergolas” to extend over a driveway.

Usability and Clarification

1. Add reference in rules of measurement for height in stories to state that exceptions from overall height in stories are found in Articles 3-9.
2. Relocate descriptions and illustrations associated with design standards alternatives from Articles 3-9 to Article 13, consolidating definitions and rules of measurement in a single location for ease of use.
3. Clarify the rule of measurement allowing an additional story on a sloping lot and add a graphic to illustrate.
4. Revise rule of measurement to add direction for how to set the base plane (for measuring building height) when a side interior zone lot line does NOT intersect the Primary street zone lot line, and clarify how to set the base plane on zone lots with multiple streets or full blocks.
5. Add legends to all graphics.
6. Revise Side Street abbreviation from “S” to “SS” on all graphics for consistency; correct figure labels.
7. Add missing graphic for Determining Interior Zone Lot Lines in MS Zone Districts.
8. Add intent statement for Upper Story Stepback rule of measurement and update graphic to be consistent in style with the graphic for Upper Story Side or Rear Setback.
9. Add graphics to illustrate outdoor patio seating, garden walls, pergola, and courtyard build-to alternatives.
10. Add a graphic showing that the zone of transparency is measured from finished ground story, which is any ceiling height 4' or more above grade; delete redundant graphic.
11. Revise graphic to better illustrate the arcade build-to alternative.
12. Clarify and better illustrate rules of measurement for transparency.
13. Add graphic to illustrate the permanent art transparency alternative.
14. Revise graphics to better illustrate display case/ATM, wall design, outdoor eating/serving areas transparency alternatives.
15. Add graphics to illustrate courtyard or plaza and covered walkway entrance alternatives.

Division 13.3: Definitions of Words, Terms and Phrases

Substantive

1. Revise definition of “Solar Panel, Flush Mounted” to remove “2 feet from edge of roof” from definition, to make it consistent with setback encroachments and common practice.
2. Consistent with the marijuana extraction changes described in Group 5 Uses, above, add definitions of Extraction types, Food, Marijuana, Marijuana Concentrate, and Marijuana-Infused Product, and delete the definition of Medical Marijuana.

Usability and Clarification

1. Revise definition of “Court or Courtyard” to remove the word “unoccupied,” which was confusing because such spaces could be occupied by persons and structures such as outdoor furniture or gazebos.
2. Revise definition of “zone lot, nonconforming” to clarify that noncompliance specifically with minimum zone lot size and zone lot width standards is what makes a zone lot “nonconforming.”
3. Move the definition of “Tree” and rename it “Established Tree” for consistency with intent from Former Chapter 59.
4. Add definitions for Pergola, Private Open Space, and Zone of Transparency by cross-referencing to rules of measurement in Division 13.1.
5. Revise the definition of “Story, Ground” to “Street Level.” The “Street Level” definition applies to street level activation design standards and active uses. The common term “ground story” is used more generally throughout the code.

GROUP 8: ENTIRE CODE CLARIFICATIONS / CORRECTIONS

Usability and Clarifications

1. Correct usage of the words “abut” versus “adjacent” throughout the code according to their respective definitions in Article 13 and regulatory intent.
2. Replace the word “allowed” with the word “permitted” in the technically incorrect phrase “allowed use,” consistent with the definition of “permitted use” in Article 13 and/or consistent with the dictionary meanings of the two words.
3. Correct the word “ground story” to “street level” and vice versa, as appropriate, consistent with the revised definition in Article 13.

From: [Rezoning - CPD](#)
To: [Dalton, Kyle A. - Community Planning and Development](#)
Subject: FW: OFFICIAL TEXT AMENDMENT PLANNING BOARD NOTIFICATION
Date: Saturday, April 18, 2015 10:03:16 AM



Venus Boatner | Associate City Planner
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City and County of Denver
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DenverGov.org/CPD | [@DenverCPD](#) | [Take our Survey](#)

From: sturtz@reagan.com [mailto:sturtz@reagan.com]
Sent: Tuesday, April 14, 2015 4:58 PM
To: Rezoning - CPD
Subject: RE: OFFICIAL TEXT AMENDMENT PLANNING BOARD NOTIFICATION

Attention Kyle Dalton:
"User Friendly"? That's a joke, right? How many years before our imperious planning board decides to become 'citizen friendly'? You remember citizens - the people who pay your salary while you enable developers to exploit and victimize the neighborhoods of Denver.
John Sturtz

-----Original Message-----

From: "Rezoning - CPD" <Rezoning@denvergov.org>
Sent: Tuesday, April 14, 2015 3:01pm
To:
Subject: OFFICIAL TEXT AMENDMENT PLANNING BOARD NOTIFICATION

OFFICIAL TEXT AMENDMENT PLANNING BOARD NOTIFICATION			
USE NUMBERS	#2015I-00084 - Denver Zoning Code 2015 Text Amendment Bundle #1		
applicant(s)	Brad Buchanan, Executive Director of Community Planning & Development		
USE MANAGERS	Kyle Dalton Senior City Planner	PHONE/EMAIL	720-865-2972 / Kyle.Dalton@denvergov.org
PLANNING BOARD MEETING INFORMATION			
DATE	Wednesday, April 29, 2015		
TIME	3:00 p.m.		
PLACE	Wellington E. Webb Municipal Building at 201 W. Colfax Avenue		
ROOM	1 st floor conference room #1.B.6 - located in the Office of the Clerk and Recorder		
** NOTICE IS PROVIDED TO ALL REGISTERED NEIGHBORHOOD ORGANIZATIONS **			
** NOTICE IS PROVIDED TO ALL CITY COUNCIL MEMBERS **			

Description: As part of the city's ongoing effort to keep the Denver Zoning Code modern, clear and user-friendly, the Denver Community Planning and Development department will propose a new series of text amendments to the code. Updates for usability, clarification, and substance are prioritized in response to customer and community feedback, industry changes, and other factors

The [Public Review Draft](#) for the above-referenced Official Text Amendment is

available to be viewed or downloaded at:

<http://www.denvergov.org/cpd/CommunityPlanningandDevelopment/Zoning/TextAmendments/tabid/438089/Default.aspx>

. The Planning Board review draft may be viewed and/or downloaded one week

before the scheduled hearing at:

<http://www.denvergov.org/cpd/CommunityPlanningandDevelopment/Zoning/TextAmendments/tabid/438089/Default.aspx>

or www.denvergov.org/planningboard.

Any questions regarding these proposals may be directed to Kyle Dalton, Senior City Planner, at 720-865-2972 or Kyle.Dalton@denvergov.org.

RNOs:

RNOs may take a position on the text amendment, the map amendment, or both. The "RNO Position Statement.pdf" located at <http://www.denvergov.org/Rezoning> should be e-mailed to CPD at rezoning@denvergov.org so that your organization's position regarding this either or both of these proposals may be addressed at the Planning Board Hearing.

WRITTEN COMMENTS WILL BE DISPERSED AS FOLLOWS:

Written comments received by 5 p.m. 9 days prior to the Planning Board Public Hearing will be attached to the staff report that is provided to the Board. Written comments received after that time and prior to 12 p.m. (noon) on the day before the Hearing will be emailed regularly to the Board; hard copies of these comments also will be distributed to the Board at the Hearing. Written comments received after 12 p.m. (noon) on the day before the Hearing will not be distributed to the Board; to ensure these comments are considered by the Board, please submit them to the Board during the Hearing.

ALL INTERESTED PERSONS AND ORGANIZATIONS SHOULD EXPRESS THEIR CONCERNS OR SUPPORT ON EITHER OR BOTH OF THE TEXT AMENDMENT AND THE MAP AMENDMENT PROPOSALS AT THE PLANNING BOARD HEARING AND AT THE PUBLIC HEARING BEFORE CITY COUNCIL.



Venus Boatner | Associate City Planner

Community Planning & Development | Development Services

City and County of Denver

720.865.2993 Phone | venus.boatner@denvergov.org

DenverGov.org/CPD | [@DenverCPD](https://twitter.com/DenverCPD) | [Take our Survey](#)

Saipe Investments
3270 Blake Street Ste. 150
Denver, CO 80220

April 21, 2015

Kyle A. Dalton, AICP
Senior City Planner
Community Planning & Development
City and County of Denver
kyle.dalton@denvergov.org

Dear Kyle,

Thank you for discussing the proposed zoning amendments, as they pertain to changes for the parking requirements for Self Storage. I have been in the Self Storage business since the 80's, and I have watched this industry grow from ugly brightly colored doors, to buildings that architecturally fit within the neighborhood, without exposure of multiple rows of garage doors.

I have developed and assisted clients in developing over twenty properties, in the Denver Metropolitan area. The stated parking requirement of .5/1000 sf, is a mistake where the proposed requirement of .1/1000 is more than adequate for self storage use. My three existing facilities has parking spaces have less than .1/1000 s.f., of parking. My new facility at 3270 Blake Street was planned for 13 parking spaces, as I wanted to assure there was ample parking for my customers. The current zoning code states that I need 46 parking spaces; this far exceeds demand and penalizes a developer to use precious resources of space for parking that will never be utilized as needed customer parking. My studies show that I will have 40 cars per day visiting my facility over 16 hours, where each vehicle will stay on the premises for approximately 20 minutes.

In the self storage business I need to have adequate parking that is strategically placed for my customers to use the facility easily. In the event that I do not have

adequate parking, customers will find another facility that has adequate parking for them to store their goods conveniently.

I trust that the Planning Commission and City Council may correct this error, as it pertains to the parking requirement for self storage facilities.

Thank You,

A handwritten signature in blue ink, appearing to read 'H. Saipe', written in a cursive style.

Harvey (Hank) Saipe



Kyle A. Dalton
Senior City Planner
City and County of Denver

Kyle:

This letter is to communicate Guardian Storage's support for the proposed amendment that would create a parking requirement for self storage properties of 0.1 spots per 1000 gross square feet of building area.

As you know, we have shared data with you over the past several months on our own operations, including parking spots per property, size of properties, the nature of how often tenants visit our stores etc., and while 0.1 spots per 1000 gross square feet is in excess of what we have at our 16 properties, we do think it is reasonable. We very much appreciate the effort on the City's part to take the time necessary to understand our business and the specific characteristics of it that lead to unique parking requirements when compared to other commercial properties.

Guardian Storage is the owner and operator of 16 self storage properties in Colorado and Pennsylvania, with nearly 1.5 million rentable square feet of storage space under management. Guardian is annually listed as one of the "Top 100 Operators" in the country by our industry's major trade publication, the Mini Storage Messenger.

Thanks again,

Kevin Cohen

Business Development, Western Region
Guardian Storage

I submit the following comments regarding the 3/30/15 Draft Text Amendment:

U-MX: Uses

The current recommendation of 40% of ground story building frontage that shall be occupied by ground story active use is too low. Currently, the Tennyson Street commercial corridor is not seeing any new development that contains a vertical mix of use, or any commercial/office space at the ground story along the street. New construction contains either driveways, drive lanes or garages. In order to ensure an economically vibrant commercial district, the majority of ground story along a primary and secondary street should contain active uses.

I request that 100% of ground story building frontage in MX zone districts be occupied by an active use.

5.3.5.4: Ground Story Active Use

C. Supplemental Design Standards

1. Supplemental and ancillary uses that serve only the residents of the building should not be considered an ACTIVE USE. A lobby, a private gym, a door/access to ground floor and/or upper story residences **does** contribute to activation along the street. A lobby, private gym and private entrances to residential units should be considered ancillary uses. These are self-serving uses that do not generate interest or activity along the street.

While it may be beneficial to think that a district or commercial zone would ultimately contain a variety of uses along the street, due to the current economy and development trends, we are not seeing a single foot of new commercial space or office space at the ground level. It is ALL residential or uses that support the residential units within the building. We desperately need regulations that will result in a vertical mix of uses within a single structure.

I request that ancillary uses (such as lobby, private gym, private access) for residential development be added to the list of exceptions, or that ancillary uses be limited to 20% of the ground story.

4. Minimum depth of 15th is too shallow; 15' does not result in adequate room for display space, counter space, desks space and entry/doorway. New development that contains retail spaces along street level will be very costly – the rents will likely be high. In order to make a retail/office space viable, it needs to be deep enough to accommodate very basic elements such as display space, counter space, seating, desks.

I request that the minimum depth to be increased to 20'.

D. Exceptions

1. I oppose the exception that zone lots less than 50' or size of less than 6,000SF be exempt. Along Tennyson Street, existing homes on lots this size are being scrapped and redeveloped

into faux homes - units that contain 100% residential uses. The two-block stretch of Tennyson between 44th and 46th that connects the commercial district to Berkeley Park, Smiley Library, Scheitler Rec Center and Centennial Elementary is quickly turning into a tunnel of tall residential structures that lack pedestrian interest, economic vitality or even the smallest opportunity for locally owned, small businesses.

I request that this exception be eliminated.

2. I oppose that vehicle access to on-site parking and loading spaces from a primary or side street apply toward compliance with the ground story active use in the MX zone districts. If the aforementioned minimum requirement of 40% is approved (and it shouldn't be – it should be more), then vehicle access would reduce this nominal requirement and weaken the overall intent of the regulation.

I request that this exception be applied to MS zone districts only and NOT apply to MX zone districts.

Thank you,

Heather Noyes Gregg
4492 Xavier Street
Denver, Colorado 80212
303-909-9724

From: [Jesse Lipschuetz](#)
To: [Dalton, Kyle A. - Community Planning and Development: ezoning@denvergov.org](#)
Cc: [Jesse Lipschuetz](#)
Subject: Text Amendment Bundle #1 concerning Shelters for the Homeless
Date: Monday, April 20, 2015 4:37:29 PM
Attachments: [combined files attached to jnl ltr to CPD re text amendments.pdf](#)

Dear Mr. Dalton

As you are aware, my initial criticism of the proposed text amendment changes affecting shelters was that these changes would allow shelters in all districts where they are now prohibited even if operated within and by a “religious assembly” (now known as a “religious assembly church”) or a nonprofit corporation or governmental entity. I have also contended that these are substantive changes being made without adequate notice to the public or the Planning Board.

After meeting with CPD staff over the last two weeks and talking to others, I am willing to accept CPD's claim of an unintended “formatting error” in the provisions concerning homeless shelters when the City converted from the old zoning code (former Chapter 59) to the new Denver Zoning Code (DZC) effective in June 2010.

I reached this conclusion after I changed my initial focus - which was comparing the current law (Section 11.2.7 and the Use Tables) with the proposed changes (Section 11.2.9 and the Use Tables) - to comparing proposed 11.2.9 (nka 11.2.7 and fka 11.2.6) with former Section 59-82.

It is my further understanding from discussion with staff that my concerns about the exceptions granted to religious assemblies and to nonprofit corporations and governmental entities, which allow them to operate shelters without a permit, without notice or without compliance with the Group Living spacing and density regulations, are policy concerns better to be presented to City Council than the Planning Board.

Given other prior commitments, I have not had a chance to complete the second comparison in detail and will not be able to submit those comments (if any) in a timely fashion for inclusion in the Staff Report to the Planning Board for the April 29 hearing on Text Amendment Bundle #1. Hence, at this time I only have a few limited comments. I expect, however, to submit more comments before the hearing so they can be distributed to Board members by email or at the hearing.

Although the proposed shelter changes are referred to on p.7 (first Primary Uses) of the detailed 3-30-15 “Bundle #1 summary of public review draft” (“Draft Summary”) as “Substantive Amendments,” they are ignored in the “Summary of Major Proposed Changes” in the Power Point Summary (pp. 8-14).

Nor do the Summaries explain that the shelter amendment changes the rules for shelters from the clear and unambiguous language of the current law, which prohibits shelters in the SU, TU, RH and TH residential districts and in some Main St./Mixed Use Districts, and under certain circumstances would allow them without a permit, without prior public notice and without compliance with the spacing/density requirements of the Group Living Ordinance.

An explanation would make it clearer, especially to persons who over the last 4 ½ years may

have relied on the clear language of the current law when buying property close to a church in a district where a shelter is a Not Permitted use.

Furthermore, the red-line Draft does not reflect numbering changes to facilitate comparisons. For example "Alternative Limitations" was not a strike-out in 11.2.9.2.A. Rather, it was strike-out in 11.2.7.1.F , a subsection that has been re-ordered to become 11.2.9.2.A. Red-lined number changes should better illustrate how 11.2.7 is being changed to relate back to former Section 59-82.

I recognize the proposed changes also eliminate the word “temporary”. I would hope however that these words could be defined in the context of shelters so that the language is clear. Clearer definitions could, hopefully, eliminate some of the confusion encountered in the recent opening (and closing) of a shelter by Catholic Charities at the Holy Rosary Church at 4686 Pearl St., in Globeville.

For the record, I have attached combined (1) emails regarding the Holy Rosary Shelter, (2) a contract that the City entered into on October 27, 2014 with Catholic Charities for \$104,500 of renovations for a "365 nights a year" shelter (see attached pdf pp 32-33 [Exhibit A pp 1&2 of 9]) at that address in a Zone District where under the DZC shelters were and are still clearly prohibited, and (3) other relevant documents. Under the proposed changes, a shelter in this E-SU-B Zone District (as well as in others) would be a “Permitted Use with Limitations” (L) - meaning no prior notice to the public.

Based on this limited information, more questions are left unanswered than answered. Was it a shelter under 11.2.7.1.F.1. or a “temporary” shelter under F.2? Does that mean CC was relying on F.1? Was it an “emergency” shelter under 11.2.7.2 as suggested by Ms. Montero? Or is it really a permanent (“365 nights a year”) shelter? Why wont CPD release records concerning this Shelter?

Sincerely yours

Jesse N. Lipschuetz
303-837-1203

Subject: Meeting tonight for Holy Rosary proposed women's shelter

From: Miguel, Nola J - City Council Operations (Nola.Miguel@denvergov.org)

To:

Cc: Judy.Montero@denvergov.org; Michael.O'Flaherty@denvergov.org; Shawn.Johnson@denvergov.org;

Date: Monday, October 27, 2014 4:30 PM

Dear Globeville neighbors,

I wanted to let you know that I will not be able to attend the Catholic Charities meeting tonight 10/27/2014, 6-7pm at Holy Rosary regarding the placement of a Women's shelter at Holy Rosary because the meeting was scheduled on a Monday night when I have my standing City Council meeting with multiple public hearings tonight.

Catholic Charities CEO, Larry Smith, committed at the last meeting to coordinate meetings with my office that do not conflict with other meetings in the neighborhood and this coordination effort was never made.

Please see the attached zoning code with the stars next to the relevant areas. My office was not notified of the meeting tonight until last Thursday, even though the code states the City Council member and Registered Neighborhood Organizations (RNO) are supposed to be notified 7 days ahead of time. Globeville Civic 1 was not contacted about this meeting, neither was Globeville KARES, Globeville Civic 2 or UCAN as far as I know.

Dave Oletski and myself have requested various times to Catholic Charities that the meeting be held until November, and this request was not honored.

Please note that according to the code an "oversight committee" is also required that include residents that live in the area around the proposed shelter and the Councilmember. I have not been part of any such committee, and am not in support of this use at Holy Rosary.

For those of you that are able to attend the meeting tonight, please feel free to read this letter and bring the zoning code with you.

Sincerely,

Councilwoman Montero

Nola Miguel, MSW | Council Aide

Office of Denver City Councilwoman Judy Montero, District 9
720-337-7709 | [3457 Ringsby Court, Suite 215](#)
nola.miguel@denvergov.org | [Dial 3-1-1 for City Services](#)

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Subject: FW: Proposed Holy Rosary shelter

From: Miguel, Nola J - City Council Operations (Nola.Miguel@denvergov.org)

To: jnlpc@yahoo.com;

Cc: Judy.Montero@denvergov.org;

Date: Thursday, November 13, 2014 3:54 PM

Here is a letter from CW Montero, Im not sure if you received it. The zoning requirements are listed in there for a temporary emergency shelter.

Nola

Nola Miguel, MSW | Council Aide

Office of Denver City Councilwoman Judy Montero, District 9
720-337-7709 | [3457 Ringsby Court, Suite 215](#)
nola.miguel@denvergov.org | [Dial 3-1-1 for City Services](#)

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From: Miguel, Nola J - City Council Operations
Sent: Wednesday, November 12, 2014 2:15 PM
Cc: Montero, Judy H. - City Council District #9
Subject: Proposed Holy Rosary shelter

Hello Globeville neighbors,

Please see the attached letter I am getting out to nearby residents to Holy Rosary regarding the proposed use of the Holy Rosary School as an emergency women's shelter.

I am asking that there be a fair process around the shelter proposal where neighborhood concerns are heard and recorded, and any agreements are formalized.

Catholic Charities has planned a meeting for tonight at 6:00pm that I am again unable to attend.

If they still plan on meeting with this weather, I will be sending my staff to give them the letter and ask that they work with the neighborhood in a respectful way moving forward, and to start a mediated process as

soon as possible.

I will be in touch about upcoming meetings regarding this shelter. Please, as always, feel free to reach out to me or my staff.

Thanks,

Councilwoman Judy Montero

Nola Miguel, MSW | Council Aide

Office of Denver City Councilwoman Judy Montero, District 9
720-337-7709 | [3457 Ringsby Court, Suite 215](#)
nola.miguel@denvergov.org | [Dial 3-1-1 for City Services](#)

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CITY COUNCIL

City and County of Denver



Denver City Council, **District Nine Office**
3457 Ringsby Court, Suite 215
Denver, Colorado 80216
Phone: 303.458.8960
Fax: 303.964.1021
Email: Judy.Montero@denvergov.org

Judy H. Montero
Councilwoman, District Nine

Denver City Council, **Main Office:**
City and County Building
1437 Bannock Street, Room 451
Denver, Colorado 80202
Phone: 720-865-9534

Dear Globeville neighbors,

Many of you have received some information about Catholic Charities proposed emergency shelter for women at the Holy Rosary Church School Annex, at 4688 Pearl St.. I want to first off acknowledge that I have heard that many of you have been stressed for different reasons regarding the proposed emergency shelter use at this location. I also want you to know it has been a difficult process for myself and my staff because the leadership of Catholic Charities has made up its mind to put the shelter into Holy Rosary without a fair process that recognizes the impact of this decision to the neighborhood.

For example, Catholic Charities has scheduled 2 public meetings so far on Monday nights when they know I have City Council meetings; also this coming Wednesday night I received a voicemail at 8:45pm with notification of the meeting at a time when I am unable to attend. They also failed to communicate with my office and the Globeville Registered Neighborhood Organizations around meetings they have had. Until the neighborhood is treated with more respect, I am not in support of this shelter coming in. I as your City Council person did not make the choice for this use, this was made by Catholic Charities because they are allowed this use by the zoning code. Some important things to know are that legally by the Denver zoning code, the shelter can't be there for more than 120 days; and there can be no more than 100 people sheltered at one time. Catholic Charities is also required to provide evidence that they notify 3 days in advance residents within 700 feet, and 7 days in advance to the Registered Neighborhood Organizations and the Council representative (that's me). There also is (in the code) to be an oversight committee that consists of 4 persons within the 1500 feet and the Councilperson. It is important that you know what is in your rights and that your voice is heard in the decisions being made.

As your representative I would like to help you coordinate as a neighborhood to be properly heard and treated respectfully, so that you may voice your concerns in a fair community meeting. I believe it is also important that any agreements moving forward are formalized, and that this process is overseen by an outside party. I would like to host a meeting that is not held by Catholic Charities, where I can fully listen to your concerns in a fair manner. At this meeting I plan to invite a person who can mediate to document all of our concerns. This does not mean that I support the shelter use at Holy Rosary. I will be in contact about upcoming meetings. I would like to see the people that live around Holy Rosary empowered to express themselves and be heard. Please stay in touch with my office about this issue 720-337-7709, judy.montero@denvergov.org.

Thank you,

A handwritten signature in cursive script that reads "Judy Montero".

Councilwoman Judy H. Montero, Denver City Council District 9



Subject: FW: Meeting tonight for Holy Rosary proposed women's shelter

From: Miguel, Nola J - City Council Operations (Nola.Miguel@denvergov.org)

To: jnlpc@yahoo.com;

Cc: Judy.Montero@denvergov.org;

Date: Thursday, November 13, 2014 3:58 PM

Zoning code attached.

Last night they said they are moving forward with a 120 day shelter, but will only be for this year.... (per their letter you saw, and verbal commitments). They have a group of residents that lives right there they will meet with monthly to address any concerns, these residents want to be at the table in case there are issues since it is use by right.

What other information would be helpful?

Nola Miguel, MSW | Council Aide

Office of Denver City Councilwoman Judy Montero, District 9
720-337-7709 | [3457 Ringsby Court, Suite 215](#)
nola.miguel@denvergov.org | [Dial 3-1-1 for City Services](#)

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Subject: FW: Community Meeting Follow-up

From: Miguel, Nola J - City Council Operations (Nola.Miguel@denvergov.org)

To: jnlpc@yahoo.com;

Cc: Judy.Montero@denvergov.org;

Date: Tuesday, December 2, 2014 4:43 PM

Mr. Lipschuetz,

Here is the letter from Catholic Charities.

It looks like start date is Dec 15th. The surrounding neighbors acquiesced to the advisory group because they want to be able to express their concerns as things come up. I attended the last meeting by request of neighbors, and will only continue on the committee if residents there want a Council office representative there. I heard they are doing work on the building currently.

Thanks,

Nola

Nola Miguel, MSW | Council Aide

Office of Denver City Councilwoman Judy Montero, District 9
720-337-7709 | [3457 Ringsby Court, Suite 215](#)
nola.miguel@denvergov.org | [Dial 3-1-1 for City Services](#)

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From: Geoffrey Bennett [mailto:GBennett@ccdenver.org]
Sent: Thursday, November 13, 2014 2:51 PM
To: Miguel, Nola J - City Council Operations; catherine.ortiz@comcast.net; johnmilne4695@gmail.com; msgr.santos@archden.org; 'Open Process'; armandopayan@yahoo.com; 'jhirota@denverfountaination.org'; Gomez, Denise M - Police Department; Montero, Judy H. - City Council District #9; Milliner, Bennie L. - HS Office of Community Impact; Conner, Christopher N - HS Office of Community Impact; Lindi Sinton (lsinton@voacolorado.org)
Cc: Larry Smith; Wendy Oldenbrook; Tom Wanzeck; Stephen Keating (FWD)
Subject: Community Meeting Follow-up

Thank you again for your feedback on the Holy Rosary Center for Women. Attached is a letter outlining some important information on the center that we discussed at last night's community meeting. Please feel free to share this letter with anyone you feel would benefit from this information.

May the Lord Bless You,

Geoff Bennett

Vice President

Shelter & Community Outreach Services

Catholic Charities

4045 Pecos St.

Denver, Co 80211

720 377-1390

Psalm 27:4 One thing I ask of the LORD; this I seek: To dwell in the LORD'S house all the days of my life, To gaze on the LORD'S beauty, to visit his temple.

Our Mission Statement: As the charitable arm of the Archdiocese of Denver and inspired by God's love and compassion, Catholic Charities extends the healing ministry of Jesus Christ to the poor and those in need.

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Holy Rosary Community Meeting Follow-up

To: Globeville Neighborhood

From: Catholic Charities of the Archdiocese of Denver

November 13, 2014

After three community meetings and one small group meeting, Catholic Charities would like to thank everyone who has come out to share their concerns. We are writing this letter to clarify exactly what we plan to do and how we plan to address the concerns you brought to our attention.

The Holy Rosary Center for Women will operate at Holy Rosary School located at 4688 Pearl Street under the following guidelines.

1. We are anticipating a start date of December 15th. The actual date will depend on the completion of the remodel that is currently taking place.
2. Catholic Charities contract with Holy Rosary Parish runs through April 30, 2015.
3. The center will not exceed 100 women.
4. We will have 4 staff at all times taking care of the women.
5. The women will arrive around 7pm and will be departing at 6am.
6. The women will be served dinner and breakfast at Samaritan House.
7. We will make sure all the women that arrive at Samaritan House have the ability to take care of themselves before they get on the bus to Holy Rosary.
8. We will work closely with the district one police department with the operation of the shelter.
9. The women entering the center can only arrive by bus from Samaritan House or the police or the rescue team.
10. Women will not be allowed to leave the shelter during the night. If they do, the police will be called to do a welfare check and the woman will not be allowed to return to Holy Rosary - *ever*.
11. There has been concern that friends or perpetrators of the women being served may loiter around Holy Rosary and make contact with them. Catholic Charities will be very proactive about calling the police if there is any concern about stalking or trespassing. Women will not be allowed to have visitors.

12. NO WALK-UPS WILL BE ADMITTED INTO THE FACILITY

13. No women will be allowed outside to smoke unsupervised and will only be permitted to smoke behind the school. There will be a maximum of two women at a time.
14. Catholic Charities is *actively* looking for another location to host this overnight shelter
15. An advisory council has been set up with 7 residents and a representative from the Councilwoman Judy Montero's office and the district 1 police department. The council will meet once a month. If there are any issues that need to be addressed please contact Councilwoman Montero's office or Geoff Bennett at Catholic Charities (gbennett@ccdenver.org)

Lastly, we would again like to thank the community for your patience as we work on the details of this plan.

***Note:** There will be no walk ups. **If you want to refer people for shelter at Holy Rosary – do not send them to the parish. You will need to direct them to the Samaritan House at Broadway and Lawrence by 5pm each night.**

Subject: RE: Globeville - Homeless Shelter at Holy Rosary Church - 4686/88 Pearl

From: Miguel, Nola J - City Council Operations (Nola.Miguel@denvergov.org)

To: jnlpc@yahoo.com;

Date: Wednesday, December 17, 2014 12:43 PM

Hi Jesse, the latest we heard is opening date to be Dec 22 or 23rd.

We are looking at a community resident meeting to get on the same page in January, led by Civic 1 and the residents right next to the shelter.

Nola

Nola Miguel, MSW | Council Aide

Office of Denver City Councilwoman Judy Montero, District 9
720-337-7709 | [3457 Ringsby Court, Suite 215](#)
nola.miguel@denvergov.org | [Dial 3-1-1 for City Services](#)

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From: Jesse Lipschuetz [mailto:jnlpc@yahoo.com]
Sent: Wednesday, December 17, 2014 12:23 PM
To: Miguel, Nola J - City Council Operations; Montero, Judy H. - City Council District #9
Subject: Globeville - Homeless Shelter at Holy Rosary Church - 4686/88 Pearl

Hi and Happy Holidays

Can you give me an update on Catholic Charities?

Have they opened the new shelter?

Thanks

Subject: RE: Notice of Correction to Clerical Errors in Denver Zoning Code

From: Miguel, Nola J - City Council Operations (Nola.Miguel@denvergov.org)

To: jnlpc@yahoo.com; Jeanne.Robb@denvergov.org;

Cc: Judy.Montero@denvergov.org; armandopayan@yahoo.com;

Date: Thursday, January 29, 2015 11:31 AM

Hi Jesse,

As far as an update on the shelter, it has been in Holy Rosary about 2 weeks. The neighbors have been working directly with Catholic Charities to deal with concerns that have come up.

CC's informal agreement with the neighbors is that they will only be there this year until April, that they are "looking for other sites" but that was never formalized other than the letter from CC. D9 offered mediation to get more formalized agreements to the neighbors if they wanted, but the committee felt it was not necessary.

It will be important for the neighborhood to come together post-April and assert their desires for that site.

Nola

Nola Miguel, MSW | Council Aide

Office of Denver City Councilwoman Judy Montero, District 9
720-337-7709 | [3457 Ringsby Court, Suite 215](#)
nola.miguel@denvergov.org | [Dial 3-1-1 for City Services](#)

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From: Jesse Lipschuetz [mailto:jnlpc@yahoo.com]
Sent: Wednesday, January 28, 2015 6:12 PM
To: Robb, Jeanne - City Council Dist. #10
Cc: Montero, Judy H. - City Council District #9; Miguel, Nola J - City Council Operations; Armando Payan; Jesse Lipschuetz
Subject: Re: Notice of Correction to Clerical Errors in Denver Zoning Code

Jeanne

I have reviewed the red-lined Text Amendments for Sections 11.2.6 & 7. The only changes were renumbering changes that, as I pointed out in my 11/21/14 email to Mr. O'Flaherty, were overlooked when the North Cherry Creek Ordinance was inserted as Section 11.2.4 in Amendment 2 on 10/30/14.

My review finds no proposed substantive changes to Sections 11.2.7.1 & 2, nor to the Use Tables, which when read in conjunction with each other, *do not allow Homeless Shelters in SU, TU, TH, RH MS/MX-2x and MS/MX-2 Zone Districts.*

Thus, Homeless Shelters are clearly still not allowed in the Holy Rosary Church at 4686/88 Pearl St as well as other residential areas in the City, including my neighborhood.

Mr. O'Flaherty stated in his 11/25/14 email that CPD intends to make corrections to Section 11.2.7 of the DZC as soon as possible in 2015. These changes, if approved, would allow Homeless Shelters in all of the residential Zone Districts where they are now clearly prohibited.

I have contented that any such change would be substantive. Given the magnitude of the proposed change, it should be subject to meaningful public input and discussion before it is submitted for final approval.

Under the 1/15/15 procedural change for text amendments, a proposed change will not be made by text amendment if the City Attorney does not “confirm that the changes are only clerical and cannot be interpreted as a change of substance or meaning.”

I am left to presume that either a decision has been made to pursue the change as a substantive change or that there are no plans to make a change at this time.

Could your office or Ms. Montero's office could contact CPD to determine its intent concerning Mr. O'Flaherty's suggested amendment to Section 11.2.7?

By this email I'm also asking your office or Ms. Montero's office to update me on the status of the relocation of the Elati Shelter to the Holy Rosary Church.

As I have mentioned before, the large campus that includes the Archdiocese offices on S. Steele Steele street is perfectly zoned for a Homeless Shelter. Since there are no other Residential Care Use facilities located in that statistical neighborhood, location of a Shelter or other facility there would give real meaning to the spirit of the Group Home Spacing/Density ordinance - i.e., avoiding over-concentration of these facilities in any-one neighborhood.

Thanks again for keeping me updated. Although I subscribed to notices from Council on upcoming Council and committee agendas, these changes slipped by – leading me to again ask, how interested persons might have more immediate access to this information without having to rely on their RNO. More on that later.

Regards

Jesse

From: "Robb, Jeanne - City Council Dist. #10" <Jeanne.Robb@denvergov.org>
To: "jnlpc@yahoo.com" <jnlpc@yahoo.com>
Sent: Tuesday, January 27, 2015 11:10 AM
Subject: FW: Notice of Correction to Clerical Errors in Denver Zoning Code

Hi, Jesse,

I haven't clicked on the links yet, but in case you didn't get this, it may include the renumbering/rearrangement in the residential care/shelter part of the code.

Jeanne Robb
Council District 10
City and County Building
1437 Bannock
Denver, CO 80202

ph: 720-337-7710
fax: 720-337-7717

From: Foster, Alex O - CPD Office of the Manager
Sent: Tuesday, January 27, 2015 11:07 AM
To: Foster, Alex O - CPD Office of the Manager

Subject: Notice of Correction to Clerical Errors in Denver Zoning Code

The Community Planning and Development Department (CPD) recently corrected several minor, nonsubstantive clerical errors on the face of the Denver Zoning Code, such as spelling errors and incorrect cross-references. CPD is authorized under the Denver Municipal Code to make these types of minor changes as codifier and publisher of the Denver Zoning Code. The most up-to-date version of the Denver Zoning Code, including these minor corrections, was published to the CPD webpage on January 21, 2015, and may be viewed or downloaded [here](#). For a complete list of the minor corrections made, please [click here](#) and scroll down the page to view the redline version of the correction packet under “All Adopted Denver Zoning Code Text Amendments.”



Alexandra Foster | Communications program manager
Community Planning & Development | City and County of Denver
720.865.2969 Phone | alexandra.foster@denvergov.org
DenverGov.org/CPD | [@DenverCPD](https://twitter.com/DenverCPD) | [Take our Survey](#)

Subject: GV Shelter is moving April 14th

From: Open Process (22heronpond@gmail.com)

To: armandopayan@yahoo.com;

Cc: jnlpc@yahoo.com;

Date: Friday, April 3, 2015 11:50 AM

Hello Armando,

The neighbors have successfully worked with Catholic Charities to complete the move of the Shelter from Globeville. Zoning requires them to leave by May 5th (9th?) at the 120 day mark from the opening of the Shelter. However, CC has made arrangement to be out by April 14th, and they announced that at the final Shelter Advisory Committee meeting April 1st. I pasted Catherine's meeting report to the Advisory Committee below for you to be advised. I concur with Catherine's assessment of the dynamic.

Also, I forwarded the Zoning changes to Catholic Charities and asked them to comment on those at this Advisory Committee meeting. I also had other people in the neighborhood read the Zoning changes, and I talked at length with Steve Nalley about this, and he did forward me the email exchanges with **Jesse Lipschuetz** regarding whether these text changes are substantive.

I did not get the impression from anyone that these Zoning Text Changes significantly change the limitations on Shelters in neighborhoods. I'll copy Jesse Lipschuetz on this so he can study it further if he wants, and so he understands the Shelter in Globeville is no longer an issue for the neighborhood, thanks to the Shelter Advisory committee holding ground and really working on communications after Catholic Charities' clumsy entry into our neighborhood, along with very insensitive Denver's Road Home leadership.

It is my feeling that we did a very constructive thing by forming this Advisory Committee, stopping a permanent shelter to protect a neighborhood that was disproportionately impacted by its placement, and documenting the entire process - which was well expressed in Catherine's email (below) .

Thanks,

AE

◇◇◇

Here's the close-out summary from Catherine, who functioned as our facilitator and note-taker, and did a fantastic job:

----- Forwarded message -----

From: **Catherine Ortiz** <catherine.ortiz@comcast.net>

Date: Thu, Apr 2, 2015 at 12:49 PM

Subject: Re: Holy Rosary Meeting

To: Globeville Shelter Advisory Committee, Catholic Charities

All,

I'd like to take a moment to share the result of our meeting yesterday and some thoughts. Geoff announced to us that Catholic Charities has found a different solution to serving the homeless women that have been coming to Holy Rosary since January. Beginning April 15, and in partnership with the Salvation Army, they have found a way to provide a walk up shelter for 100 women per night at Samaritan House. This is a long term solution and the last night at Holy Rosary will be April 14. This is a positive resolution for the neighborhood and for Catholic Charities.

I recognize this was a difficult time for all of us and I know we had our differences along the way. However, by working together and engaging in open honest dialogue, neighborhood impact was minimized and CC provided shelter during the coldest months of the year. Compromise and discussions turned into results.

I truly appreciate that Catholic Charities always listened to our concerns, did not discount how we felt and always responded quickly. I'd also like to thank the neighbors who participated and worked with us. Your input and insight was invaluable.

I wish everyone much happiness and success.

Catherine

Sent from my iPhone

**AGREEMENT
PF&I PROGRAM
PART I**

THIS AGREEMENT, in two parts, Part I and Part II, is made by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation organized pursuant to the Constitution of the State of Colorado (the “City”), and **CATHOLIC CHARITIES AND COMMUNITY SERVICES OF THE ARCHDIOCESE OF DENVER, INC.**, a Colorado non-profit corporation (the “Grantee” or “Contractor”), whose address is 4045 Pecos Street, Denver, CO 80211.

WITNESSETH:

WHEREAS, the City desires to provide funds for improvements to a former school building located at Holy Rosary Church at 4664 Pearl Street; and

WHEREAS, the Grantee is ready, willing and able to provide such services;

NOW THEREFORE, in consideration of the premises, and the mutual covenants and obligations herein contained, and subject to the terms and conditions in Part II of this Agreement, the parties agree as follows:

1. SERVICES TO BE PROVIDED: The Grantee agrees to carry out through fully qualified and responsive subcontractors the architecture and construction services associated with renovation of the property located at 4664 Pearl Street, Denver, Colorado 80216 (the “Property”) in accordance with the scope of services and budget set forth in **Exhibit A**, and the financial administration requirements set forth in **Exhibit B**, each of which is attached hereto and incorporated herein by this reference. The services will be performed in a lawful, satisfactory and proper manner, and in accordance with written policies and procedures as may be prescribed by the U.S. Department of Housing and Urban Development (“HUD”) or the City.

2. TIME OF PERFORMANCE: This Agreement shall begin on August 1, 2014, and end on March 31, 2015, unless such time is extended by written agreement of the parties, executed in the same manner as this Agreement.

3. PAYMENT OF FUNDS: The amount to be paid by the City to the Grantee shall not exceed One Hundred Four Thousand Five Hundred and No/100 Dollars (\$104,500.00). The obligation of the City for payments under this Agreement is limited to monies appropriated by the U.S. Congress and the City Council and paid into the City Treasury as an applicable cost under the

Community Development Block Grant (“CDBG”) Agreements referred to below. The obligation of the City shall be from month-to-month as monies are made available by the United States of America. Funds will be released to the Grantee in accordance with the billing procedure set forth in the Scope of Services.

4. **SECTION 3 EMPLOYMENT OPPORTUNITIES:** The Grantee agrees to comply with Section 3 of the Housing and Urban Development Act of 1968 and implementing regulations thereunder, as more fully described in Part II attached hereto.

5. **FEDERAL LABOR STANDARDS:** Grantee must assure that its contractors and subcontractors comply with applicable Federal Labor Standards, including payment of wages in accordance with the Davis-Bacon Act, 40 U.S.C. 276a to a-7 and Department of Labor regulations. Grantee must obtain current Davis-Bacon wage rates from the City’s Business and Housing Services (“BHS”), and include current wage rates in all bid specifications and construction contracts. The City shall have no responsibility for any failure by Grantee or its contractor to pay current wage rates.

6. **PROCUREMENT STANDARDS:**

A. In procuring services, supplies, rental equipment or other property to be used under this Agreement, the Grantee must follow the procurement methods set out in 24 C.F.R. 85.36. The “competitive proposals” method must be followed in obtaining architectural or engineering services. The “sealed bids” method must be followed in obtaining construction contractors. Grantee’s contracts with architects, engineers, and construction contractors must contain the provisions required by 24 C.F.R. 85.36.

B. Grantee agrees to obtain a bid guarantee in the form of a bid bond or certified check equivalent to five percent (5%) of the bid price from all bidders on any construction contract whose total price is One Hundred Thousand Dollars (\$100,000) or more. Grantee also agrees to obtain performance and payment bonds in the amount of one hundred percent (100%) of the contract price from the successful bidder on any construction contract in excess of One Hundred Thousand Dollars (\$100,000).

7. **LEAD BASED PAINT:** Grantee agrees to comply with the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4801 and HUD regulations at 24 C.F.R. 570.608.

8. **ENVIRONMENTAL AND HISTORIC CLEARANCE:** No loan proceeds may be obligated or spent until Grantee has received written environmental and historic clearance from

City's Office of Economic Development ("OED"). Any special environmental and historic conditions imposed by the City must be incorporated into the design and construction of the project. The Grantee covenants that it shall not allow any hazardous substances to be above, in, on, or under the Property, and that it shall not generate, use, have, manage, or release or allow the generation, use, presence, management or release of any hazardous substance above, in, on, under or from the Property. Grantee shall be solely responsible for and shall indemnify and hold harmless the City, its officers, agents, and employees, from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence of hazardous substances on, under or about the Property.

9. SIGNAGE: If requested by OED, Grantee agrees to post a sign, in a form approved by OED, indicating that the project is receiving CDBG assistance.

10. RESTRICTIONS ON USE OF PROPERTY:

A. The Grantee shall at its own expense, maintain said premises and real property in good condition, and repair and rehabilitate any improvements which may be damaged or destroyed by fire, casualty or causes whatsoever. The City is not obligated to make any repairs or replacements to the rehabilitated premises.

B. Grantee agrees in the event of sale, lease or other transfer of the Property at any time to include the covenant of non-discrimination under Title VI of the Civil Rights Act of 1964 required in Part II of this Agreement.

11. RECORDS AND REPORTS: Grantee will provide OED with a monthly narrative report on activities undertaken by the fifteenth (15th) day of each month. The Grantee must maintain racial, ethnic and gender data on persons who have benefited from the services provided under this Agreement.

12. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this Agreement, the Grantee agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts hereunder.

13. DEFENSE & INDEMNIFICATION:

A. Grantee hereby agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Grantee or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

B. Grantee’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Grantee’s duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/ or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.

C. Grantee will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

D. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Grantee under the terms of this indemnification obligation. The Grantee shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

E. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

14. GRANTEE’S INSURANCE:

a. **General Conditions:** Grantee agrees to secure, at or before the disbursement of funds, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Grantee shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and where loan proceeds are

disbursed for construction, required insurance coverage shall be kept in force for eight (8) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as “A-”VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City’s contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Grantee. Grantee shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Grantee. The Grantee shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

b. **Proof of Insurance:** Grantee shall provide a copy of this Agreement to its insurance agent or broker. Grantee may not commence services or work relating to the Agreement prior to placement of coverage. Grantee shall provide a certificate of insurance to the City, preferably an ACORD certificate, which complies with all insurance requirements of this Agreement. The City requests that the City’s contract number be referenced on the Certificate. The City’s acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Grantee’s breach of this Agreement or of any of the City’s rights or remedies under this Agreement. The City’s Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

c. **Additional Insureds:** For Commercial General Liability, Auto Liability and Excess Liability/Umbrella, Grantee and subcontractor’s insurer(s) shall name the City and County of

Denver, its elected and appointed officials, employees and volunteers as additional insured.

d. **Waiver of Subrogation:** For all coverages, Grantee's insurer shall waive subrogation rights against the City.

e. **Subcontractors and Subconsultants:** All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Grantee. Grantee shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Grantee agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

f. **Workers' Compensation/Employer's Liability Insurance:** Unless exempt pursuant to applicable State law, Grantee shall maintain Workers' Compensation coverage at statutory limits.

g. **Commercial General Liability:** Grantee shall maintain Commercial General Liability insurance policy limits of \$1,000,000 per accident and \$2,000,000 policy aggregate.

h. **Business Automobile Liability:** Grantee shall maintain Business Automobile Liability with limits of \$500,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement

i. **Builders' Risk or Installation Floater:** Where loan proceeds are disbursed for construction, Grantee or its contractor shall maintain Builders' Risk Insurance or an Installation Floater in the amount of the value of the Property as improved and renovated, with the City and County of Denver as loss payee.

j. **Property Insurance:** Where loan proceeds are secured through property based collateral, Grantee shall maintain property insurance in the amount of the value of the property subject to the Deed of Trust, with the City named as loss payee.

k. Certificates of Insurance evidencing the above shall be submitted to OED prior to the disbursement of funds hereunder with the exception of Builders' Risk or Installation Floater, which shall be submitted to OED prior to renovation or construction activities. Insurance companies providing the above referenced coverage must be licensed or authorized to do

business in Colorado.

1. **Additional Provisions:**

(a) For Commercial General Liability and Excess Liability, the policies must provide the following:

- (i) That this Agreement is an Insured Contract under the policy;
- (ii) Defense costs in excess of policy limits;
- (iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
- (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(b) For claims-made coverage:

- (i) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier

(c) Grantee shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Grantee will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

15. REQUIRED BACKGROUND CHECKS: The Grantee shall cooperate and comply with the City's Office of Economic Development's "Background Checks Concerning Placement of Youth Participants Policy" for programs or services provided to youth under age 18.

16. AUDIT REQUIREMENTS: Non-profit organizations that expend \$500,000 or more in a year in federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133 and applicable federal regulations.

17. CONDITIONS:

A. This Agreement is subject to and incorporates herein the provisions attached hereto as Part II, General Conditions, as well as all other attachments.

B. This Agreement is also subject to the Housing and Community Development Act of 1974, as amended, and regulations issued by HUD, 24 C.F.R. 570 *et seq.*, the CDBG Agreements entered into between the City and HUD and all applicable City ordinances.

C. This Agreement is further subject to the City's Charter and Revised Municipal Code, as the same may be amended from time to time.

18. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION:

A. The Grantee represents and warrants that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

B. The Grantee will not enter into any lower tier transaction with a person who is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in a covered transaction unless authorized by the federal agency from which the transaction originated.

C. The Grantee shall include the certification contained in subparagraph A of this section in any and all subcontracts hereunder and shall require any subcontractors or sub-consultants to comply with any and all applicable federal laws, rules and regulations, policies and procedures or guidance concerning the federal debarment, suspension, and exclusion program.

D. The Grantee will immediately notify OED in writing if at any time it learns that it failed to disclose that it or any of its principals were excluded at the time the parties executed this contract if due to changed circumstances the Grantee or any of its principals have subsequently been excluded by a federal agency.

E. The representation made in subparagraph A of this section is a material representation of fact upon which reliance was placed when this transaction was entered into.

19. PROHIBITION AGAINST EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THIS AGREEMENT:

A. The Agreement is subject to Article 17.5 of Title 8, Colorado Revised Statutes, and as amended hereafter (the "Certification Statute") and the Grantee is liable for any violations as provided in the Certification Statute.

B. The Grantee certifies that:

(1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.

(2) It will participate in either the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., or the employment verification program established by the Colorado Department of Labor and Employment under § 8-17.5-102(5)(c), C.R.S. (the “Department Program”), to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

C. The Grantee also agrees and represents that:

(1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(2) It shall not enter into a contract with a sub-consultant or subcontractor that fails to certify to the Grantee that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in either the E-Verify Program or the Department Program.

(4) It is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement.

(5) If it obtains actual knowledge that a sub-consultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such sub-consultant or subcontractor and the City within three days. The Grantee will also then terminate such sub-consultant or subcontractor if within three days after such notice the sub-consultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three day period the sub-consultant or subcontractor provides information to establish that the sub-consultant or subcontractor has not knowingly employed or contracted with an illegal alien.

(6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S.

D. The Grantee is liable for any violations as provided in the Certification Ordinance. If Consultant violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Grantee shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Grantee from submitting bids or proposals for future contracts with the City.

20. EXAMINATION OF RECORDS: The Borrower agrees that the Comptroller General of the United States, HUD, the City or any of their duly authorized representatives shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of the Borrower involving transactions related to this Agreement.

21. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:
Grantee consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

22. DEFAULT AND REMEDIES: The City may also suspend or terminate this Contract, in whole or in part, if Grantee materially fails to comply with any term of this Contract, including if Grantee becomes delinquent on any obligation to the City inclusive of any loan, contractual, and tax obligation as due, or with any rule, regulations, or provisions referred to herein; and the City may declare the Grantee ineligible for any further participation in City funding, in addition to other remedies as provided by law. In the event there is probable cause to believe the Grantee is non-compliant with any applicable rules, laws, regulations, or Contract terms or City loan obligation, and only after the City provides a 30 day notice to cure that remains uncured by Grantee, the City may withhold up to one hundred (100) percent of said Contract funds until such time as the

Grantee is found to be in compliance by the City or is otherwise adjudicated to be in compliance, or to exercise the City's rights under any security interest arising hereunder.

[THE BALANCE OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.]

Contract Control Number: OEDEV-201417585-00

Contractor Name: CATHOLIC CHARITIES AND COMMUNITY SERVICE

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of October 27, 2014.



SEAL

CITY AND COUNTY OF DENVER

ATTEST:

Debra Johnson
Debra Johnson, Clerk and Recorder,
Ex-Officio Clerk of the City and
County of Denver

By Michael B. Hancock
Michael B. Hancock, Mayor

APPROVED AS TO FORM:

D. Scott Martinez, Attorney for the
City and County of Denver

REGISTERED AND COUNTERSIGNED:

By Adam C. Hernandez
Adam C. Hernandez, Assistant City
Attorney

By Beth Machann
Beth Machann, City Controller

By Dennis J. Gallagher
Dennis J. Gallagher, Auditor



Contract Control Number: OEDEV-201417585-00

Contractor Name: CATHOLIC CHARITIES AND COMMUNITY SERVICE

By: 

Name: Lawrence Smith
(please print)

Title: CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



EXHIBIT A

SCOPE OF SERVICES

OFFICE OF ECONOMIC DEVELOPMENT
HOUSING AND NEIGHBORHOOD DEVELOPMENT

NEIGHBORHOOD FACILITIES & IMPROVEMENTS CPS# 17
CATHOLIC CHARITIES
HOLY ROSARY
2014 NEIGHBORHOOD FACILITIES AND IMPROVEMENTS

I. INTRODUCTION

The purpose of this contract agreement is to provide a Community Development Block Grant (CDBG) performance based loan in the amount of \$104,500 to Catholic Charities (CC) through the Office of Economic Development's Housing and Neighborhood Development (HAND) office. These funds will be provided to CC to be utilized for minor improvements to a former school building located at Holy Rosary Church in the Globeville neighborhood located at 4664 Pearl Street, Denver, CO 80216. Improvements include the upgrade to the lighting system, installation of a fire alarm and making the ground floor of the building ADA compliant. The improvements are being made in order to provide a women-only overnight shelter for approximately 100 women. This project is being done in conjunction with Denver's Road Home.

Funding Source: **Amount:** **CFDA # 14.218**
 CDBG \$ 104,500
 Skyline \$ _____

HUD Matrix Code: 03C Homeless Facilities (not operating costs)
HUD Eligible Activity: 24 CFR 570.201(c) Public Facilities & Improvements
Accomplishment Code: 11 Public Facilities
Proposed Number: 1

CDBG – Only
HUD National Objective (include brief excerpt from regulation): 24 CFR 570.208 (a) (2) (i) (A) Limited clientele activities, benefit a clientele who are generally presumed to be principally low- and moderate-income persons

Organization: Catholic Charities and Community Services of the Archdiocese of Denver, Inc.

EIN #: 84-0686679

DUNS#: 07-834-2276

CCR (Central Contractor Registration) Expiration Date: 12/09/2014

Address: 4045 Pecos Street, Denver, CO 80211-2552

Contact Person: Tom Wanzeck

Phone: 720-377-1363

Email: twanzeck@ccdenver.org

Organization Type: Non-profit For-profit

Contract Relationship:
 Subrecipient Vendor Beneficiary Community Based Development Organization CHDO

EXHIBIT A

Is the organization a Faith-based/Community Initiative? Yes No
Is the organization woman owned? Yes No

Council District(s): 9 Neighborhood(s): Globeville Census Tracts: 15
(only required for Low Mod Area)

The Federal Funding Accountability and Transparency Act (FFATA)

1. In your business or organization's preceding completed fiscal year, did your business or organization (the legal entity to which this specific CCR record, represented by a DUNS number, belongs) receive (1) 80 percent or more of your annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?: NO

If YES, continue to question 2.

2. Does the public have access to information about the compensation of the executives in your business or organization (the legal entity to which this specific CCR record, represented by a DUNS number, belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?:

If YES, stop here. If NO, continue to question 3.

3. Please provide the names and amounts of the five most highly compensated officers or executives.

Contract Period: August 1, 2014 – March 31, 2015

Will program income be generated by this activity? Yes No
Will this contract be funding architectural, engineering or other project soft cost? Yes No
And if yes, will the final project be completed within 24 months? Yes No
Is the purpose of this activity to:
Help prevent homelessness? Yes No
Help the homeless Yes No
Help those with HIV/AIDS Yes No
Primarily help persons with disabilities Yes No

II. ACTIVITY DESCRIPTION

1. Description of Activity: The project consists of upgrading the electric lighting system, installing additional exterior lighting, installation of a fire alarm system and making the entrance ADA compliant at 4664 Pearl Street, Holy Rosary Catholic Church. The facility will provide a safe environment 365 nights a year for 100 single homeless women who are not otherwise sheltered. The women will sleep in the ground floor of 4664 Pearl Street. Denver's Road Home will assist in transporting the women from pick-up and drop-off sites such as St. Francis Center and the Gathering Place.

2. Funds will be used to: upgrade electrical lighting system, install a fire alarm system and make the ground floor accessible in compliance with ADA.

EXHIBIT A

3. Implementation Plan and Timeline

The following table outlines the implementation plan and time lines for this contract.

Task	Projected Beginning & End Dates
Request qualifications for engineering services related to installation of fire alarm system and for an environmental review of facility	August 2014
Bid electrical, fire alarm and accessibility components	August 2014
Upgrade electrical, install exterior lighting	September - November 2014
Install fire alarm system	September - November 2014
Install ADA accessible access	September – November 2014
Submit final invoice	December 31, 2014

4. Performance Objective & Outcome

Objective (select one)

- Enhance Suitable Living Environment
- Create Decent Housing
- Promote Economic Activity

Outcomes (select one)

- Availability/Accessibility
- Affordability
- Sustainability

Indicators

The following indicators will be used to measure the success of the contract/activity.

Indicators – must be measurable
Common Indicators:
<i>Money Leveraged; \$490,000 (Denver’s Road Home operation and transportation)</i>
<i>Number of proposed outcomes (from 1st page) 1</i>
<i>Income Levels of people/family(if applicable to outcome) presumed benefit</i>
<i>Race and Ethnicity (if applicable to outcome)</i>
Housing and Neighborhood Outcomes (To be reported on the Outcome and Performance Measurement Report OPMR):
30 women will be provided shelter each night in December, the first month of operation. 50 women will be provided shelter each night in the second month (January) of operation.

EXHIBIT A

III. Budget

Please refer to the Cost Allocation Plan and budget narrative for a detailed estimated description and allocation of funds.

If program income is generated, how will income be used? *(Please refer to attached Option Sheet)* _____

Are non-personnel costs being funded? Yes No

IV. Reporting

Data collection is required and must be completed demonstrating income eligibility and achievements met towards meeting the indicators contained in the Scope of Services. All disbursement of funds is contingent based on the ability to collect the required information.

Regardless of when the executed contract was received by the Contractor, Contractor is responsible for submitting a report from the start date of the contract; **even if no activity was conducted or expensed – Contractor should report “No Activity” or outline those activities reimbursed with grant funds. If the Contractor completes the project and all money is drawn a final report will be submitted indicating “final report” and no further reports are required.**

Contractor will email the following report(s) to HAND and CPM (Contracts & Performance Management):

Outcome Performance Measurement Report

Frequency:

Monthly by the 15th day Quarterly: 15 days after the end of the quarter Other: _____

HAND will provide the format of the performance report to the Contractor. The information reported must include progress on the indicators included in this Scope of Services. The report includes current and cumulative (year-to-date) indicator information. Information on the overall progress of the program and/or project should be reported in the narrative section of the report. If the project is not being performed in a timely manner then an explanation should be included in the narrative section of the report.

Annual Verification **NOT APPLICABLE**

Upon completion of the project, the Contractor will be required to respond to an annual request for verification that it is still operating as a nonprofit organization serving at least 51 percent or more of low to moderate income people.

This verification will be required annually for the duration of the promissory note. Upon completion of the final annual verification the Promissory Note and Deed of Trust will be released to the organization.

Income and Demographic Reporting Requirements

For programs that must fulfill the limited clientele activities (LMC), income data must be collected to verify that at least 51 percent of program participants are low- or moderate-income persons. The income limitations are set by HUD annually and HAND will provide the income limitations.

Select what method of income verification will be used to demonstrate income compliance:

Self-Certification Verification with supporting income documentation Not Applicable

HAND has a form entitled “STATEMENT OF HOUSEHOLD INCOME/DEMOGRAPHICS” that may be used to collect income and demographic information or an existing form incorporating the required data may be used. This information must be retained and be made available to HAND staff or designee upon request. The minimum data required for each program participant is as follows:

1. Unique identifier – name and address
2. Identify whether the head of household is female or/or disabled
3. Total number of household members
4. Total income of the household
5. Number of household members served by the program

Page 4 of 9

EXHIBIT A

6. The **ethnicity** – Hispanic or Latino OR Not Hispanic or Latino of each household member served
7. The **race** of each household member served –
 - a. White
 - b. Black/African American
 - c. Asian
 - d. American Indian/Alaska Native
 - e. Native Hawaiian/Other Pacific Islander
 - f. American Indian/Alaska Native & White
 - g. Asian & White
 - h. Black/African American & White
 - i. American Indian/Alaska Native & Black / African American
 - j. Other Multi-race (Please explain)

NOTE: each household member served by the program is required to select **BOTH** an ethnicity and a race category!

8. Household/Individual signature on “STATEMENT OF HOUSEHOLD INCOME/DEMOGRAPHICS” form attesting to the accuracy of the information submitted is required.

This information must be collected on each individual, must be retained by the **Contractor** and be made accessible to OED staff. The **Contractor** must retain these records for seven years from the execution of the contract.

V. PROGRAM REQUIREMENTS AND RESPONSIBILITIES

1. Architectural/Engineering Services Yes No

- A. Design Services. Community Development Block Grant funds will be used for architectural/engineering services on this project. If required based on the scope of work to be completed, the Contractor will have a licensed architect for this project responsible for design, construction documents, bidding and general administration of construction.
- B. Construction Financing. In the event that the construction cost estimates or the construction bids exceed the project budget, the Contractor must submit evidence that is satisfactory to OED within 30 days that either all additional financing has been secured or a viable plan is in place to secure additional financing to complete construction of the project.

2. Construction Management Services Yes No

- A. CDBG funds will be used for construction management services.

3. Construction Services Yes No

- A. Upon completion of design and written approval by the OED, the Contractor may proceed with construction bidding. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids and/or requests for proposals should be excluded from competing for such procurement. If the Contractor can demonstrate that a fair and open selection process has previously been followed to select a construction contractor, the following procedures may be waived. This waiver is at the sole discretion of the OED.

Otherwise, the Contractor must formally advertise for bids as follows:

EXHIBIT A

1. All Invitations for Bid (bid documents) must include the Davis-Bacon wage rates, form HUD-4010 "Federal Labor Standards Provisions", dates on which pre-bid conference and bid opening will be held, and the technical specifications for the project.
2. The Contractor is required to hold a pre-bid conference to explain all federal, state and local requirements. The date of the pre-bid conference must be arranged with OED at least ten working days prior to the advertisement. The Contractor must maintain written minutes of the pre-bid conference. Attendance by the OED staff is mandatory.
3. The Contractor must formally advertise for bids in at least one newspaper of general circulation, i.e. The Denver Post and in the Daily Journal. The advertisement must include verbiage stating that federal wage rates and conditions apply to this project. Bid advertisement must appear on at least three consecutive working days, the first of which must appear at least two weeks before bid opening.
4. Bids are to be opened at a public meeting. The Contractor must maintain copies of all bids received. The contract is to be awarded to the lowest responsive and responsible bidder. Attendance by the OED staff is mandatory.
5. All construction contracts must specify a fixed price for completion of the work. Under no circumstances may a cost-plus-a-percentage-of-cost contract be executed.
6. Projects to be bid by (Contractor Name) estimated to be less than \$100,000 will use the procurement process as follows (Small Procurement Process, Purchases and Services less than \$100,000):
 - i. Bids and Justification of Services and Supplier Selection
Competition is sought through oral or written price quotations. The Non-profit will obtain bids from at least 3 vendors or suppliers and maintain the bids in the file. If a written bid is unavailable, notes from a phone call in at least as much detail as the other bids is acceptable. The Non-profit will provide a brief written analysis of how each bid was obtain and provide written justification of selection of winning service provided and supplier.
Consider at least the following in your justification:
 - Price*
 - Warranty*
 - Quality*
 - Reliability of product*
 - Reliability & quality of service provided by vendor*
 - Compatibility with other products used*
 - Maintenance agreement*
 - Conservation of natural resources and protection of the environment, where practical and economically feasible*
 - Vendor is a small business, minority-owned firm, women-owned firm*References from other customers and vendor's banker should be included if applicable. (After purchase is complete, bid notes should be filed in the Accounts payable file with the all invoices.)
 - ii. Sole Source Purchases
Sole source purchases are made only when items are unique and possess specific characteristics that can be filled by only one source. Factors to be considered in sole source purchases include the following:

EXHIBIT A

- *Whether the vendor possesses exclusive and/or predominant capabilities or the items contained a patented feature providing superior utility not obtainable from similar products*
- *Whether the product or service is unique and easily established as one of a kind*
- *Whether the program requirements can be modified so that competitive products or services may be used*
- *Whether the product is available from only one source and not merchandised through wholesalers, jobbers and retailers.*
Whether items must be interchangeable or compatible with in-place items
- *Sole source purchases require the approval of the Executive Director of the Non-Profit.*

References from other customers and vendor's banker should be included if applicable. (After purchase is complete, bid notes should be filed in the Accounts payable file with the all invoices.)

- B. Section 3 Employment Opportunities. The Contractor agrees to comply with Section 3 of the Housing and Urban Development Act of 1968 and implementing regulations there under, as more fully described in part II of the contract documents.
- C. Construction Contract Documents. The construction contract documents must be provided as indicated in the sample format provided by OED. The final documents must be approved by OED prior to advertisement for bid. (If Applicable)
- D. Federal Labor Standards Requirements. This project is subject to the requirements of the Davis-Bacon Act, the Copeland "Anti-Kickback Act", the Contract Work Hours and Safety Standards Act, and Executive Order 11246, as amended by Executive Order 11375. To comply with these requirements, Contractor must accomplish the following:
- E.
1. Ten days prior to bid advertising, the Contractor, must request Davis-Bacon prevailing wage rates from OED. OED will transmit a copy of the project wage determination to the Contractor.
 2. Immediately prior to bid opening, the Contractor must verify with OED to ensure that no modifications to the project wage determination have been issued. Any modifications must be provided to all bidders and must be included in all contract documents.
 3. OED is responsible for enforcing Federal Labor Standards requirements. These enforcement responsibilities include, but are not limited to, participating in pre-bid and pre-construction conferences, obtaining and reviewing the weekly payrolls which must be submitted by all contractors and subcontractors, conducting on-site interviews with laborers working on the project and resolving wage disputes. The Contractor will guarantee access to the job site and will comply with all requests for information by OED.
 4. The Contractor is required to hold a pre-construction conference prior to the start of construction with the general contractor and all subcontractors to explain the federal labor standards requirements. The date of the pre-construction conference must be arranged with OED at least ten working days prior to the anticipated meeting date. Attendance by the OED staff is mandatory.

EXHIBIT A

- E. Notice to Proceed. The Contractor must obtain a written Notice to Proceed for construction from the OED. The Notice to Proceed will not be issued until the Contractor has provided OED with the following:
1. One copy of its fully executed construction contract including all addenda and attachments
 2. Copies of the contractor's performance and payment bonds in 100 percent of the construction contract amount (if the total project contract amount exceeds \$100,000)
 3. Copies of all necessary permits and insurance certificates
 4. Evidence that the pre-construction conference has been held.
- F. Change Orders. All Change Orders must receive prior written approval from the OED. The Change Order form must be signed by the **Contractor**, the General Contractor and the Project Architect. (If Applicable)
- G. Budget and Method of Payment for Construction Services.
1. All construction payment requests must be submitted with appropriate documentation of costs incurred on an "Application and Certificate for Payment" (AIA Document G702 and G703), or, when applicable, acceptable dated and readable invoices. The invoices must be from a vendor separate from the contractor, and must state what goods or services were provided and the delivery address. Checks written by the contractor, even if cancelled, are not adequate documentation for reimbursement (checks do not verify the goods or services provided). An allocation of an invoice to the contract must be documented. Service Period and Closeout: All reimbursed expenses must be incurred for the time period within the contract. The final payment request must be received by OED within 45 days after the end of the service period stated in the contract.
 2. The construction budget for the project will be that which is attached to the executed construction contract. All payment requests must conform to that budget.
 3. The OED will withhold five (5) percent retainage from all construction payment requests. Release of retainage will occur when the project has been completed, and lien waivers and warranties have been received by the Contractor.
 4. The OED will process a payment request upon receipt of all required and approved documents (as explained at the pre-construction conference).

4. PROJECT MANAGEMENT

- A. Project management requires that the following conditions be met:
1. No costs incurred prior to the date of this contract will be paid or reimbursed by OED.
 2. No funds may be obligated or expended until the Contractor has received written clearance from OED that the environmental review process is complete. Any special environmental or historic resource-related mitigation imposed by OED must be incorporated into the design and construction of the facility.

EXHIBIT A

3. The Contractor may request and OED may require that the warrant be made payable jointly to the Contractor and its vendor(s). Otherwise, the warrant will be made payable directly to the Contractor.
4. The Contractor must maintain in its files all payrolls, invoices, billings, contracts, lien waivers, canceled checks and correspondence pertaining to this project for three years after the expiration of this contract (including any amendments or attachments).
5. The Contractor must obtain guarantees and warranties on all materials, workmanship, and lien waivers before final payment can be made. Lien waivers should be supplied by the general contractor, all subcontractors and suppliers on the project.
6. Construction meetings will be held to review project status. The meetings will be scheduled at a regular time most convenient for all parties. All principals involved in the project are expected to attend (including, but not limited to, OED staff member, the Contractor representative (if applicable, project architect and general contractor).

5. PROHIBITIONS AGAINST THE USE OF FEDERALLY DEBARRED AND SUSPENDED PARTIES

Financial assistance shall not be used to directly or indirectly employ, award contracts to or otherwise engage the services of any contractor or subcontractor during any period of debarment, suspension, or placement in ineligibility status. **The Contractor is responsible for searching the Internet at <https://www.sam.gov> to determine that all first tier contractors are not currently debarred, suspended or otherwise ineligible. Written documentation must be maintained in the contractor's files.**

Program Budget and Cost Allocation Plan Summary

Program Year: **2014**

Catholic Charities
Holy Rosary

Return to OED Project Specialist: Jodi Adkins

8/1/2014 to 11/30/2014

Agency Total (All Funding Sources)	Project Costs OED Funding 1 201100000		Project Costs OED Funding 2 201100000		Total Project Costs requested from OED		Other City & County of Denver Funding (Add applicable funding as necessary)		Other Federal Funding		Other Non-Federal Funding		Agency Total	
	Amount	%	Amount	%	Subtotal	%	Amount	%	Amount	%	Amount	%	Amount	%
6 Budget Category														
7 Personnel: Name and Job Title	Total													
9 Job Title		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!
10 Job Title		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!
11 Total Salary:	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!
13 Fringes		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!
15 Personnel Total:	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!
17 Non-Personnel:	Total													
18 Electrical and Lighting Upgrades	\$22,000.00	100.00%	22,000	100.00%	22,000	100.00%	22,000	100.00%	22,000	100.00%	22,000	100.00%	22,000	100.00%
19 Fire and Security Upgrades	\$41,500.00	100.00%	41,500	100.00%	41,500	100.00%	41,500	100.00%	41,500	100.00%	41,500	100.00%	41,500	100.00%
20 ADA Accessibility Upgrades	\$32,000.00	100.00%	32,000	100.00%	32,000	100.00%	32,000	100.00%	32,000	100.00%	32,000	100.00%	32,000	100.00%
21 Fire System Design & Engineering	\$5,000.00	100.00%	5,000	100.00%	5,000	100.00%	5,000	100.00%	5,000	100.00%	5,000	100.00%	5,000	100.00%
22 Environmental Assessment Report	\$4,000.00	100.00%	4,000	100.00%	4,000	100.00%	4,000	100.00%	4,000	100.00%	4,000	100.00%	4,000	100.00%
23 Total Non-Personnel	104,500		104,500		104,500		104,500		104,500		104,500		104,500	
26 Total Project Cost	104,500		104,500		104,500		104,500		104,500		104,500		104,500	
27 Program Income (through funded activities)		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!
29 Other (Specify):		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!
30 Total Non-Project Cost	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!	-	#DIV/0!
32 Grand Total	104,500		104,500		104,500		104,500		104,500		104,500		104,500	
33														
34														
35														
36														

EXHIBIT B

FINANCIAL ADMINISTRATION:

1.1 Compensation and Methods of Payment

- 1.1.1 Disbursements shall be processed through the BHS Financial Management Unit and the City and County of Denver's Department of Finance.
- 1.1.2 The method of payment to the Contractor by BHS shall be in accordance with established Financial Management Unit (FMU) procedures for line-item reimbursements. The Contractor must submit expenses and accruals to BHS on or before the last day of each month for the previous month's activity. Voucher requests for reimbursement of costs should be submitted on a regular and timely basis in accordance with BHS policies. Vouchers should be submitted within thirty (30) days of the actual service, expenditure or payment of expense, except for the final voucher for reimbursement.
- 1.1.3 The Contractor shall submit the final voucher for reimbursement no later than **forty-five (45) days after the end of the contract period.**
- 1.1.4 The Contractor shall be reimbursed for services provided under this Agreement according to the approved line-item reimbursement budget attached to and made a part of this Agreement (Exhibit A).

1.2 Vouchering Requirements

- 1.2.1 In order to meet Federal Government requirements for current, auditable books at all times, it is required that all vouchers be submitted monthly to BHS in order to be paid.
 - a. The first exception will be that expenses cannot be reimbursed until the funds under this contract have been encumbered.
 - b. The second exception will be that costs cannot be reimbursed until they total a minimum of \$35 unless it is a final payment voucher, or the final voucher for the fiscal year (ending December 31).
- 1.2.2 No more than six (6) vouchers may be submitted per contract per month, without prior approval from BHS.
- 1.2.3 All vouchers for all Agreements must be correctly submitted within forty-five (45) days of the Agreement end date to allow for correct and prompt closeout.
- 1.2.4 City and County of Denver Forms shall be used in back-up documents whenever required in the Voucher Processing Policy.

- 1.2.5 Only allowable costs determined in accordance with the OMB cost principles applicable to the organization incurring the cost will be reimbursed.
- 1.2.6 The reimbursement request, or draw request, for personnel and non-personnel expenses should be submitted to the City on a monthly basis, no later than the last day of the following month for expenses incurred in the prior month. The request for reimbursement should include:
 - a. Amount of the request in total and by line item;
 - b. Period of services for current reimbursement;
 - c. Budget balance in total and by line item;
 - d. Authorization for reimbursement by the contract signatory (i.e., executive director or assistant director).
- 1.2.7 If another person has been authorized by the Contractor to request reimbursement for services provided by this contract, then the authorization should be forwarded in writing to BHS prior to the draw request. The standardized BHS "Expense Certification Form" should be included with each payment request to provide the summary and authorization required for reimbursement.

1.3 Payroll

- 1.3.1 A summary sheet should be included to detail the gross salary of the employee, amount of the salary to be reimbursed, the name of the employee, and the position of the employee. If the employee is reimbursed only partially by this contract, the amount of salary billed under other contracts with the City or other organizations should be shown on the timesheet as described below. Two items are needed for verification of payroll: (1) the amount of time worked by the employee for this pay period; and (2) the amount of salary paid to the employee, including information on payroll deductions.
- 1.3.2 The amount of time worked will be verified with timesheets. The timesheets must include the actual hours worked under the terms of this contract, and the actual amount of time worked under other programs. The total hours worked during the period must reflect all actual hours worked under all programs including leave time. The employee's name, position, and signature, as well as a signature by an appropriate supervisor, or executive director, must be included on the timesheets. If the timesheet submitted indicates that the employee provided services payable under this contract for a portion of the total time worked, then the amount of reimbursement requested must be calculated and documented in the monthly reimbursement request.

- 1.3.3 A payroll register or payroll ledger from the accounting system will verify the amount of salary. Copies of paychecks are acceptable if they include the gross pay and deductions.

1.4 Fringe Benefits

- 1.4.1 Fringe benefits paid by the employer can be requested by applying the FICA match of 7.65 percent to the gross salary paid under this contract. Fringe benefits may also include medical plans, retirement plans, workmen's compensation, and unemployment insurance. Fringe benefits that exceed the FICA match may be documented by 1) a breakdown of how the fringe benefit percentage was determined prior to first draw request; or, 2) by submitting actual invoices for the fringe benefits. If medical insurance premiums are part of the estimates in item #1, one-time documentation of these costs will be required with the breakdown. Payroll taxes may be questioned if they appear to be higher than usual.

1.5 General Reimbursement Requirements

- 1.5.1 Invoices: All non-personnel expenses need dated and readable invoices. The invoices must be from a vendor separate from the Contractor, and must state what goods or services were provided and the delivery address. Verification that the goods or services were received should also be submitted, this may take the form of a receiving document or packing slips, signed and dated by the individual receiving the good or service. Copies of checks written by the Contractor, or documentation of payment such as an accounts payable ledger which includes the check number shall be submitted to verify that the goods or services are on a reimbursement basis.
- 1.5.2 Mileage: A detailed mileage log with destinations and starting and ending mileage must accompany mileage reimbursement. The total miles reimbursed and per mile rate must be stated. Documentation of mileage reimbursement to the respective employee must be included with the voucher request.
- 1.5.3 Pager/Cell Phone: Written statement from executive director will be required certifying that cell phone is necessary and reasonable to run the program. And, if the monthly usage charge is exceeded in any month, a detailed phone log will be required for the amount of the overage.
- 1.5.4 Administration and Overhead cost: Other non-personnel line items, such as administration, or overhead need invoices, and an allocation to this program documented in the draw request. An indirect cost rate can be applied if the Contractor has an approved indirect cost allocation plan. The approved indirect cost rate must be submitted to and approved by BHS.
- 1.5.5 Service Period and Closeout: All reimbursed expenses must be incurred during the time period within the contract. The final payment request must be received

by BHS within forty-five (45) days after the end of the service period stated in the contract.

2.1 Program Income

- 2.1.1 Program income includes, without limitation, income from fees for services performed, from the use or rental of real or personal property acquired with contract funds, from the sale of commodities or items fabricated under a contract agreement, and from payments of principal and interest on loans made with contract funds.
- 2.1.2 Program income may be deducted from total allowable costs to determine net allowable costs and may be used for current reimbursable costs under the terms of this contract. Program income which was not anticipated at the time of the award may be used to reduce the award contribution rather than to increase the funds committed to the project. ALL PROGRAM INCOME GENERATED DURING ANY GIVEN PERIOD SUBMITTED FOR PAYMENT SHALL BE DOCUMENTED ON THE VOUCHER REQUEST.
- 2.1.3 The Contractor, at the end of the program, may be required to remit to the City all or a part of any program income balances (including investments thereof) held by the Contractor (except AS APPROVED IN WRITING BY BHS, INCLUDING those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for section 108 security needs), unless otherwise directed in writing by BHS.

3.1 Financial Management Systems

The Contractor must maintain financial systems that meet the following standards:

- 3.1.1 Financial reporting must be accurate, current, and provide a complete disclosure of the financial results of financially assisted activities and be made in accordance with federal financial reporting requirements.
- 3.1.2 Accounting records must be maintained which adequately identify the source and application of the funds provided for financially assisted activities. The records must contain information pertaining to contracts and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. Accounting records shall provide accurate, separate, and complete disclosure of fund status.
- 3.1.3 Effective internal controls and accountability must be maintained for all contract cash, real and personal property, and other assets. Adequate safeguards must be provided on all property and it must be assured that it is used solely for authorized purposes.

- 3.1.4 Actual expenditures or outlays must be compared with budgeted amounts and financial information must be related to performance or productivity data, including the development of cost information whenever appropriate or specifically required.
- 3.1.5 Applicable Office of Management and Budget (OMB) cost principles, agency program regulations, and the terms of the agreement will be followed in determining the reasonableness, allowability and allocability of costs.
- 3.1.6 Source documents such as cancelled checks, paid bills, payrolls, time and attendance records, contract documents, etc., shall be provided for all disbursements. The Contractor will maintain auditable records, i.e., records must be current and traceable to the source documentation of transactions.
- 3.1.7 The Contractor shall maintain separate accountability for BHS funds as referenced in 24 C.F.R. 85.20 and OMB Circular A-110.
- 3.1.8 The Contractor must properly report to Federal, State, and local taxing authorities for the collection, payment, and depositing of taxes withheld. At a minimum, this includes Federal and State withholding, State Unemployment, Worker's Compensation (staff only), City Occupational Privilege Tax, and FICA.
- 3.1.9 A proper filing of unemployment and worker's compensation (for staff only) insurance shall be made to appropriate organizational units.
- 3.1.10 The Contractor shall participate, when applicable, in BHS provided staff training sessions in the following financial areas including, but not limited to (1) Budgeting and Cost Allocation Plans; (2) Vouchering Process.

4.1 Audit Requirements

- 4.1.1 If the Contractor expends five hundred thousand dollars (\$500,000) or more of federal awards in the Contractor's fiscal year, the Contractor shall ensure that it, and its sub recipients(s), if any, comply with all provisions of the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations."
- 4.1.2 A copy of the final audit report must be submitted to the BHS Financial Manager within the earliest of thirty (30) calendar days after receipt of the auditor's report; or nine (9) months after the end of the period audited.
- 4.1.3 A management letter, if issued, shall be submitted to BHS along with the reporting package prepared in accordance with the Single Audit Act Amendments and OMB Circular A-133. If the management letter is not received by the sub recipient at the same time as the Reporting Package, the Management Letter is also due to BHS within thirty (30) days after receipt of the Management Letter, or nine (9) months after the end of the audit period, whichever is earlier.

If the Management Letter has matters related to BHS funding, the Contactor shall prepare and submit a Corrective Action Plan to BHS in accordance with 24 C.F.R. Part 45 for each applicable management letter matter.

- 4.1.4 All audit related material and information, including reports, packages, management letters, correspondence, etc., shall be submitted to **BHS Financial Management Unit**.
- 4.1.5 The Contractor will be responsible for all Questioned and Disallowed Costs.
- 4.1.6 The Contractor may be required to engage an audit committee to determine the services to be performed, review the progress of the audit and the final audit findings, and intervene in any disputes between management and the independent auditors. The Contractor shall also institute policy and procedures for its sub recipients that comply with these audit provisions, if applicable.

5.1 Budget Modification Requests

- 5.1.1 Minor modifications to the services provided by the Contractor or changes to each line item budget equal to or less than a ten percent (10%) threshold, which do not increase the total funding to the Contractor, will require only notification to BHS with the next monthly draw. Minor modifications to the services provided by Contractor, or changes to each line item budget in excess of the ten percent (10%) threshold, which do not increase the total funding to Contractor, may be made only with prior written approval by BHS. Such budget and service modifications will require submittal by Contractor of written justification and new budget documents. All other contract modifications will require an amendment to this Agreement executed in the same manner as the original Agreement.
- 5.1.2 The Contractor understands that any budget modification requests under this Agreement must be submitted to BHS prior to the last Quarter of the Contract Period, unless waived in writing by the BHS Director.

6.1 Procurement

- 6.1.1 The Contractor shall follow the City Procurement Policy to the extent that it requires that at least three (3) documented quotations be secured for all purchases or services (including insurance) supplies, or other property that costs more than five thousand dollars (\$5,000) in the aggregate.
- 6.1.2 The Contractor will maintain records sufficient to detail the significant history of procurement. These records will include, but are not limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- 6.1.3 If there is a residual inventory of unused supplies exceeding five thousand dollars (\$5,000) in total aggregate upon termination or completion of award, and

if the supplies are not needed for any other federally sponsored programs or projects the Contractor will compensate the awarding agency for its share.

7.1 Bonding

- 7.1.1 BHS may require adequate fidelity bond coverage, in accordance with 24 C.F.R. 84.21, where the subrecipient lacks sufficient coverage to protect the Federal Government's interest.

8.1 Records Retention

- 8.1.1 The Contractor must retain for five (5) years financial records pertaining to the contract award. The retention period for the records of each fund will start on the day the single or last expenditure report for the period, except as otherwise noted, was submitted to the awarding agency.
- 8.1.2 The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access, upon reasonable notice, to any pertinent books, documents, papers, or other records which are pertinent to the contract, in order to make audits, examinations, excerpts, and transcripts.

9.1 Contract Close-Out

- 9.1.1 All Contractors are responsible for completing required BHS contract close-out forms and submitting these forms to their appropriate BHS Contract Specialist within sixty (60) days after the Agreement end date, or sooner if required by BHS in writing.
- 9.1.2 Contract close out forms will be provided to the Contractor by BHS within sixty (60) days prior to end of contract.
- 9.1.3 BHS will close out the award when it determines that all applicable administrative actions and all required work of the contract have been completed. If Contractor fails to perform in accordance with this Agreement, BHS reserves the right to unilaterally close out a contract, "unilaterally close" means that no additional money may be expended against the contract.

10.1 Collection of amounts due

- 10.1.1 Any funds paid to a Contractor in excess of the amount to which the Contractor is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government and the City. If not paid within a reasonable period after demand, BHS may 1) Make an administrative offset against other requests for reimbursements, 2) Withhold advance payments otherwise due to the Contractor, or 3) other action permitted by law.

PART II
SUPPLEMENTARY GENERAL CONDITIONS (CDBG)

ARTICLE I
FEDERAL REQUIREMENTS

The following conditions take precedence over any conflicting conditions in the Agreement.

Sec. 100. Definitions. As used in this Agreement:

A. “City” means City and County of Denver or a person authorized to act on its behalf.

B. “Contractor” means a person or entity that has entered into an Agreement with the City under which the person or entity will receive federal funds under the Community Development Block Grant Program. “Subcontractor” means any person or entity that enters into an agreement or contract with a Contractor.

C. “OED” means the City’s Office of Economic Development or a person authorized to act on its behalf.

D. “HUD” means the Secretary of Housing and Urban Development or a person authorized to act on his behalf.

E. “Construction contract or agreement” means a contract for construction, rehabilitation, alteration and/or repair, including painting and decorating.

Sec. 101. Housing and Community Development Act of 1974. This Agreement is subject to Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.), pertaining to Community Development Block Grants, and HUD regulations at 24 C.F.R. 570 et seq., and 24 C.F.R. 85 et seq.

Sec. 102. Uniform Administrative Requirements. This Agreement is subject to the requirements of U.S. Office of Management and Budget (OMB) Circular Nos. A-87, A-110, A-122, and A-133, and applicable sections of 24 C.F.R. Parts 84 and 85 as they relate to the acceptance and use of Federal funds.

Sec. 103. Nondiscrimination Under Title VI of the Civil Rights Act of 1964.

A. This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and implementing regulations at 24 C.F.R. Part 1, prohibiting discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance.

B. In the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Contractor shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination upon the basis of race, color, religion, sex or national origin, in the sale, lease or rental, or in the use or occupancy of such land or any improvements erected or to be erected thereon, and providing that the Contractor and the United States are beneficiaries of and entitled to enforce such covenant. The Contractor agrees to take such measures as are necessary to enforce such covenant and will not itself so discriminate.

Sec. 104. Nondiscrimination in Housing Under Title VIII of the Civil Rights Act of 1968. This Agreement is subject to the requirements of Title VIII of the Civil Rights Act of 1968 (P.L. 90-284), and implementing regulations at 24 C.F.R. 100, prohibiting housing discrimination on the basis of race, color, religion, sex, disability/handicap, familial status, or national origin. The Contractor agrees to carry out the services under this Agreement in a manner so as to affirmatively further fair housing.

Sec. 105. Nondiscrimination Under Age Discrimination Act of 1975. This Agreement is subject to the requirements of the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*) and implementing regulations at 24 C.F.R. 146. Except as provided in the Act, no person shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving funds under this Agreement. The Contractor will include the provisions of the above clause in every subcontract which is paid for in whole or in part with assistance provided under this Agreement.

Sec. 106. Compliance with Section 109 of the Housing and Community Development Act of 1974. This Agreement is subject to Section 109 of the Housing and Community Development Act of 1974, as amended, and implementing regulations (24 C.F.R. Part 6 and Section 570.602), providing that no person in the United States shall be excluded from participation (including employment), denied program benefits or subjected to discrimination on the basis of race, color, national origin, religion or sex under any program or activity funded in whole or in part under Title I of the Act.

Sec. 107. Nondiscrimination and Equal Opportunity in Housing Under Executive Order 11063. This Agreement is subject to Executive Order 11063, issued November 20, 1962, as amended by Executive Order 12259, issued December 31, 1980, and implementing regulations at 24 C.F.R. Part 107, requiring equal opportunity in housing by prohibiting discrimination on the basis of race, color, religion, sex or national origin in the sale or rental of housing provided, rehabilitated, or operated with federal assistance or are owned or operated by the Federal Government.

Sec. 108. Nondiscrimination on the Basis of Handicap Under Rehabilitation Act of 1973. This Agreement is subject to Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and regulations at 24 C.F.R. Part 8, providing that no otherwise qualified individual with handicaps in the United States shall, solely by reason of a handicap, be excluded

from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal funds.

Sec. 109. “Section 3” Compliance in the Provision of Training, Employment and Business Opportunities.

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3 shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD’s regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

C. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the Contractor’s commitments under this section 3 clause, and will post copies of this notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.

E. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the Agreement is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor’s obligations under 24 C.F.R. Part 135.

F. Noncompliance with HUD’s regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.

Sec. 110. Relocation Assistance and Property Acquisition Requirements.

This Agreement is subject to the relocation and acquisition requirements of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, and implementing regulations at 49 C.F.R. Part 24; Section 104(d) of the Housing & Community Development Act, as amended, and implementing regulations at 24 C.F.R. Part 42; 24 C.F.R. 570.201(i); and 24 C.F.R. 570.606. The Contractor must comply with the City's Anti Displacement and Relocation Assistance Plan on file.

Sec. 111. Conflict of Interest.

A. Conflicts Prohibited.

1) Except for the use of CDBG funds to pay salaries or other related administrative or personnel costs, no employees, agents, consultants, officers, or elected or appointed officials of the City or of a sub-recipient, if applicable, who exercise or have exercised any functions or responsibilities in connection with activities funded under this Agreement or who are in a position to participate in a decision-making process or gain inside information with regard to such activities may obtain any personal or financial interest or benefit from the proceeds of this Agreement for themselves, their families or business associates during their tenure and for one year thereafter. Such prohibited interests include the acquisition and disposition of real property; all subcontracts or agreements for goods or services; and any grants, loans or other forms of assistance provided to individuals, businesses and other private entities out of proceeds of this Agreement.

2) The Contractor's officers, employees or agents shall not solicit or accept gratuities, favors or anything of monetary value from subcontractors, or potential subcontractors.

3) No employee, officer or agent of the Contractor shall perform or provide part-time services for compensation, monetary or otherwise, to a consultant or other subcontractor that has been retained by the Contractor under this Agreement.

4) In the event of a real or apparent conflict of interest, the person involved shall submit to the Contractor and the City a full disclosure statement setting forth the details of the conflict of interest in accordance with 24 C.F.R. 570.611(d), relating to exceptions by HUD. In cases of extreme and unacceptable conflicts of interest, as determined by the City and/or HUD, the City reserves the right to terminate the Agreement for cause, as provided in Article V below. Failure to file a disclosure statement shall constitute grounds for termination of this Agreement for cause by the City.

B. Interest of Certain Federal Officials. No member of the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

Sec. 112. Political Activity Prohibited. None of the funds provided under this Agreement shall be used directly or indirectly for any partisan political activity, or to further the

election or defeat of any candidate for public office, as stated in 24 C.F.R. 570.207(a)(3).

Sec. 113. Lobbying Prohibited. None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the U.S. Congress, as stated in 24 C.F.R. Part 87.

Sec. 113(a). Prohibition on Use of Federal Funds for Lobbying; Requirements for Disclosure Statements, and CERTIFICATION. Section 319, P.L. 101-121. Any contractor, subcontractor and/or grantee receiving federal appropriated funds certifies by signing this Agreement, in two parts Part I, and Part II and signing and/or entering into any other agreement in connection with this Agreement, to the best of his or her knowledge and belief, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Sec. 114. Copyrights. If this Agreement results in a book or other copyright material, the author is free to copyright the work but HUD and the City reserve a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, all copyrighted material and all material which can be copyrighted, as stated in 24 C.F.R. 84.36.

Sec. 115. Patents. Any discovery or invention arising out of or developed in the course of work under this Agreement shall be promptly and fully reported to HUD for determination as to whether patent protection on such invention or discovery should be sought, and how the rights under any patent shall be allocated and administered in order to protect the public interest.

Sec. 116. Theft or embezzlement from OED funds; Improper Inducement, Obstruction of Investigations and other Criminal provisions. Under 24 C.F.R. 24, adopting regulations under 2 C.F.R. Part 180, subparts A through I, the Contractor and/or any member of its staff may be debarred, suspended, and/or criminally liable if s/he:

A. Embezzles, willfully misapplies, steals or obtains by fraud any of the monies, funds, assets or property which are the subject of the contract;

B. By threat of procuring dismissal of any person from employment, induces any persons to give up money or things of value;

C. Willfully obstructs or impedes an investigation or inquiry under HUD;

D. Directly or indirectly provides any employment, position, compensation, contract, appointment or other benefit, provided for or made possible in whole or in part by OED funds to any person as consideration, or reward for any political action by or for the support or opposition to any candidate of any political party;

E. Directly or indirectly knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or threat of denial of any employment or benefit funded under the Act.

ARTICLE II

DISBURSEMENTS AND ACCOUNTING

Sec. 201. Eligible and Ineligible Costs. Costs under this Agreement are governed by OMB Circular A-87 or A-122 as applicable. All costs incurred by the Contractor using monies under this Agreement must be reasonable and relate clearly to the specific purposes and end product of the Agreement. To be eligible for reimbursement, expenditures must: (1) Be necessary and reasonable for proper and efficient performance of the contractual requirements and in accordance with the approved budget; (2) Be allocable to Federal awards under the provisions of OMB Circular A-87; (3) Be authorized or not prohibited under State or local laws or regulations; (4) Conform to any limitations or exclusions set forth in the 4se principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types of amounts of cost items; (5) Be consistent with policies, procedures and practices applied uniformly to activities of the City, both Federally assisted and non-Federally assisted; (6) Be accorded consistent treatment—a cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in

like circumstances has been allocated to the Federal award as an indirect cost: (7) Be determined in accordance with generally accepted accounting principles; (8) Not be allocable to or included as a cost of any other Federally financed program; (9) Be net of all applicable credits, such as purchase discounts, rebates or allowances, sales of publications or materials, or other income or refunds; and (10) Be fully documented.

The following costs or expenditures by the Contractor are specifically ineligible for reimbursement: bad debts, contingency reserves, contributions and donations, entertainment and fines and penalties.

Sec. 202. Documentation of Costs. All costs must be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.

Sec. 203. Charges Against Project Account.

A. Payments under the Agreement shall be made on an actual basis for services that are performed and fully documented as having been performed. The City shall not reimburse or pay any expenditures, costs or payments that are inconsistent with the last approved budget. The budget for this Agreement may be revised upon written request of the Contractor, and written approval from OED.

B. At any time prior to final payment, the City may have the invoices and statements of costs audited. Each payment shall be subject to reduction for amounts which are found by the City not to constitute allowable costs. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

C. In the absence of error or manifest mistake, all payments when approved shall be evidence of the services performed, except that all payments made by the City to the Contractor are subject to correction in accordance with the audit findings of the City or HUD. The Contractor shall promptly repay the City the amounts determined to be due on the basis of such audit.

D. Prior to final payment, the Contractor shall first furnish the City evidence in affidavit form that all claims, liens, or other obligations incurred by it and all of its subcontractors or agents in connection with the performance of their services have been properly paid and settled.

E. Contract funds remaining unspent by the Contractor at the termination of the Agreement for any cause shall be returned to the City within the time specified by the City. Interest shall accrue in the favor of the City at the rate of eight percent (8%) per annum on such funds thereafter.

Sec. 204. Method of Payment and Disbursements. The Contractor must submit properly executed invoices and requests for payment to OED. The City agrees to establish a payment procedure that will provide funds in a timely and regular manner, and which will include, among other things, the requirement for a ten percent (10%) retainage by the City where funds are disbursed for construction. The Contractor agrees to disburse funds within seventy-two (72) hours of receiving payment from the City.

Sec. 205. Travel Expenses. Reimbursement for travel and related subsistence, local mileage and parking, is limited to those costs and amounts for which the City reimburses City employees for official travel. First class air-fare is not allowable. Any travel outside of the Denver metropolitan area must be specifically authorized in advance by the City.

Sec. 206. Designation of Depository. The Contractor shall designate a commercial bank which is a member of the Federal Deposit Insurance Corporation for deposit of funds under this Agreement. Any balance deposited in excess of FDIC insurance coverage must be collaterally secured. The Contractor is encouraged to use minority or female-owned banks.

Sec. 207. Refunds. The Contractor agrees to refund to the City any payment or portions of payments which HUD and/or the City determine were not properly due to the Contractor.

ARTICLE III

CONSTRUCTION CONTRACTS AND LABOR STANDARDS

Sec. 301. Lead-Based Paint Hazards. The construction or rehabilitation of residential structures with assistance provided under this Agreement is subject to the HUD Lead-Based Paint Regulations, 24 C.F.R. 570.608. The Contractor is responsible for the inspections and certifications required.

Sec. 302. Davis-Bacon Act. Except for the rehabilitation of residential property that contains not less than eight (8) units, the Contractor and all subcontractors hired under contracts for more than \$2,000.00 for the construction or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with the Davis-Bacon Act, 40 U.S.C. 276a to 276a-7, and applicable regulations of the Department of Labor under 29 C.F.R. Part 5, requiring the payment of wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor. The current Davis-Bacon wage rate schedule must be included in all bid and contract documents, as well as the “Federal Labor Standards Provisions”, Form HUD-4010, by one of the following methods contained in the Labor Relations Letter No. LR 2006-03 at <http://www.hud.gov/offices/olr/library.cfm>.

Sec. 303. Contract Work Hours and Safety Standards Act. All federally assisted construction contracts of more than \$2,000.00 must comply with Department of Labor regulations (29 C.F.R. Part 5), and all federally assisted construction contracts of more than \$100,000.00 must comply with the Contract Work Hours and Safety Standards Act of 1962 (40

U.S.C. 327 et seq.).

Sec. 304. Anti-Kickback Act. If this Agreement involves construction or repair, then it is subject to the Copeland “Anti-Kickback” Act of 1934 (40 U.S.C. 276c) and Department of Labor regulations (29 C.F.R. Part 3), prohibiting and prescribing penalties for “kickbacks” of wages. Wages must be paid in accordance with the requirements of 29 C.F.R. Part 3 and 29 C.F.R. 5.5.

Sec. 305. Equal Employment Opportunity Under Executive Order No. 11246, as Amended. If this Agreement involves a federally assisted construction project in excess of \$10,000.00 then it is subject to Executive Order No. 11246, as amended by Executive Orders 11375 and 12086, HUD regulations at 24 C.F.R. Part 130, and the Department of Labor Regulations at 41 C.F.R. Chapter 60.

The Contractor agrees that it will be bound by the equal opportunity clause set forth below and other provisions of 41 C.F.R. Chapter 60, with respect to its own employment practices when it participates in federally assisted construction work, provided that if the Contractor so participating is a State or local government, the equal opportunity clause set forth below is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Agreement.

The Contractor agrees that it will incorporate into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 C.F.R. Chapter 60, which is paid for in whole or in part with funds obtained pursuant to this Agreement, the following equal opportunity clause:

“During the performance of this Agreement, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all employment is without regard to race, color, religion, sex or national origin.
- (3) The Contractor will send to each labor union or representative of workers with which he has

a collective bargaining agreement, or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contract procedures authorized in Executive Order No. 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions or paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The subcontract or purchase orders shall include such terms and conditions as the Department may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

The Contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work; provided, that if the Contractor so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government, which does not participate in work on or under the Agreement.

The Contractor agrees that it will assist and cooperate actively with the Department and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor; that it will furnish the Department and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist the Department in and the discharge of its primary

responsibility for securing compliance.

The Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from or who has not demonstrated eligibility for Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontracts by the Department or the Secretary of Labor pursuant to Part II, Subpart D, of the Executive Order. In addition, the Contractor agrees that if it fails or refuses to comply with the requirements hereof, the City may take any or all of the following actions: Cancel, terminate or suspend, in whole or in part this grant, contract, agreement or loan; refrain from extending any further assistance to the Contractor under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such Contractor; and refer the case to the Department of Justice for appropriate legal proceedings.”

ARTICLE IV **ENVIRONMENTAL AND HISTORIC CONDITIONS**

Sec. 401. Environmental Clearance. No funds under this Agreement may be obligated or spent for acquisition or construction until Contractor has received written environmental clearance from OED. Any special environmental and historic conditions imposed by the City must be incorporated into the design and construction of the project.

Sec. 402. Compliance with Clean Air and Water Acts. If this Agreement provides assistance in excess of \$100,000, then the Contractor and all subcontractors must comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act, (33 USC 1368), the Federal Water Pollution Control Act, (33 USC 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency (“EPA”) regulations (40 C.F.R. 35, Subpart E), which prohibit the use of facilities included on the EPA List of Violating Facilities.

Sec. 403. Additional Environmental and Historic Conditions. This Agreement is also subject to the following statutes, executive orders and regulations, when the Contractor is so instructed by the City or the United States of America.

A. National Environmental Policy Act of 1969 (42 USC 4321 *et seq.*), HUD regulations (24 C.F.R. Part 58) and the Council on Environmental Quality regulations (40 C.F.R. Parts 1500-1508) providing for establishment of national policy and procedures for environmental quality;

B. National Historic Preservation Act of 1966 (16 USC 470 *et seq.*), requiring consideration of the effect of a project on any site or structure that is included in or eligible for inclusion in the National Register of Historic Places;

C. Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.), requiring that federally-funded projects contribute to the preservation and enhancement of sites, structures and objects of historical, architectural or archaeological significance;

D. Reservoir Salvage Act of 1960 (16 USC 469 et seq.) as amended by the Archaeological and Historical Data Preservation Act of 1974, (16 USC 469 et seq.), providing for the preservation of historic and archaeological data that would be lost due to federally-funded development and construction activities;

E. Flood Disaster Protection Act of 1973, (42 USC 4001 et seq.), relating to mandatory purchase of flood insurance in areas having special flood hazards;

F. Executive Order 11988, Flood Plain Management, May 24, 1977 (42 FR 26951 et seq.) prohibiting certain activities in flood plains unless there is no practical alternative, in which case the action must be designed to minimize potential damage;

G. Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et seq.), requiring review of all actions affecting a wetland;

H. Safe Drinking Water Act of 1974, (42 USC 300h-3f), prohibiting federal financial assistance for any project which the Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area;

I. Endangered Species Act of 1973, (16 USC 1531 et seq.), requiring that actions funded by the federal government do not jeopardize endangered and threatened species;

J. Wild and Scenic Rivers Act of 1968, (16 USC 1271 et seq.), prohibiting federal assistance in the construction of any water resources project that would have a direct and adverse affect on the National Wild and Scenic Rivers System;

K. Clean Air Act, (42 USC 7401 - 7671q, implementing regulations at 40 C.F.R. Part 51), prohibiting federal assistance for any activity which does not conform to the State implementation plan for national primary and secondary ambient air quality standards;

L. Farmland Protection Policy Act of 1981 (7 USC 4201 et seq.) relating to the effects of federally assisted programs on the conversion of farmland to non-agricultural uses;

M. HUD Environmental Criteria and Standards, (24 C.F.R. Part 51) providing national standards for noise abatement and control, acceptable separation distances from explosive or fire prone substances and suitable land uses for airport runway clear zones.

N. Environmental Justice in Minority Populations and Low-Income Populations,

(Executive Order 12898) providing for the achievement of environmental justice as part of each Federal agencies mission.

ARTICLE V **TERMINATION**

Sec. 501. Termination Due to Loss of Funding. This Agreement is funded with monies provided by the U.S. Department of Housing and Urban Development. If such funds or any part thereof are not appropriated by City Council or paid into the City Treasury, the City may immediately terminate this Agreement.

Sec. 502. Termination for Cause.

A. The City may terminate this Agreement whenever the Contractor materially fails to perform any of its obligations under this Agreement in a timely and proper manner, or is otherwise in default, and shall fail to cure such default within a period of ten (10) days (or such longer period as the City may allow) after receipt from the City of a notice specifying the default.

B. If the City has sustained damages due to the Contractor's breach of this Agreement, the City may withhold payment as a set off until the amount of damages due to the City is determined.

Sec. 503. Termination for Convenience. The City may terminate this Agreement at any time the City desires. The City shall effect such termination by giving written notice of termination to the Contractor and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination.

Sec. 504. Payment After Termination. The Contractor shall be reimbursed only for that portion of work satisfactorily completed at the effective date of the termination.

Sec. 505. Reversion of Assets. Upon termination of this Agreement for any reason, or upon expiration of this Agreement, any CDBG funds on hand and any accounts receivable attributable to the use of CDBG funds must be immediately returned to the City. Any real property under the Contractor's control that was acquired or improved with more than \$25,000 in CDBG funds must either: (1) be used to meet one of the national objectives of the Housing and Community Development Act of 1974, listed in 24 C.F.R. 570.901 for five years after termination or expiration of this Agreement; or (2) disposed of so that the City is reimbursed for the fair market value of the property, minus any portion of the value attributable to expenditures of non-CDBG funds.

ARTICLE VI **MISCELLANEOUS**

Sec. 601. Personnel. The Contractor represents that it has or will secure all personnel required in performing its services under this Agreement. All services required of the Contractor will be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and authorized or permitted under State and local laws to perform such services.

Sec. 602. Subject to Local Laws. This Agreement shall be construed and enforced in accordance with Colorado law, and the Charter and Revised Municipal Code of the City and County of Denver. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver, Colorado.

Sec. 603. Contractual Relationship. The Contractor shall not be considered for any purpose whatsoever to be an agent or an employee of the City. It is understood and agreed that the status of the Contractor shall be that of an independent contractor.

Sec. 604. When Rights and Remedies Not Waived. Payment by the City shall not be construed to be a waiver of any breach which may then exist on the part of the Contractor, and no assent, expressed or implied, to any breach shall be deemed a waiver of any other breach.

Sec. 605. Sales and Use Taxes. The Contractor or any subcontractor is not exempt from payment of the City Sales Tax or Use Tax. In accordance with applicable State and local law, the Contractor will pay, and/or require subcontractors to pay, all sales and use taxes on tangible personal property, including that built into a project or structure, acquired under this Agreement.

Sec. 606. Patented Devices, Materials, and Processes. If the Contractor employs any design, device, material or process covered by letter of patent or copyright, it shall provide for such use by suitable legal agreement with the patentee or owner. The Contractor shall defend, indemnify and save harmless the City from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the City for any costs, expenses, and damages which the City may be obliged to pay by reason of any infringement.

Sec. 607. Titles and Subheadings. The titles and subheadings used in this Agreement are for the convenience of reference only and shall not be taken as having any bearing on the interpretation of this Agreement.

Sec. 608. Notices. All notices shall be given by certified mail. Notices to the City shall be addressed to the Director of the Office of Economic Development. Either of the parties may designate in writing substitute addresses or persons to receive notices.

Subject: FW: Draft CORA reply

From: O'Flaherty, Mike - Development Services (Michael.O'Flaherty@denvergov.org)

To: jnlpc@yahoo.com;

Cc: Nathan.Lucero@denvergov.org;

Date: Thursday, February 19, 2015 1:29 PM

Dear Mr. Lipschuetz,

This email is in reply to your Colorado Open Records Act request received Friday 2/13/2014. The first attachment above is your completed form, and please note your original email follows this reply directly below. I have modified your original email request below only by adding numbers for reference with replies to each numbered item as follows:

- 1) There are no responsive documents on file in CPD/Zoning Administration.
- 2) Lipschuetz CORA pdf attachment above contains documents on file within CPD/Zoning. A broader search of all offices of CPD is estimated to take 2-4 hours of staff time at \$30 per hour. Please let me know if you wish to have that search completed.
- 3) There are no responsive documents on file in CPD/Zoning Administration.
- 4) The language amendment, which includes referenced Section 12.2.7, is currently being drafted as part of a Denver Zoning Code text amendment package
- 5) We are in the initial stages of this process, with an expected City Council adoption by July 2015. A public review draft will be available, along with updates on the process and timeline, at the following link in the coming weeks.

<http://www.denvergov.org/cpd/CommunityPlanningandDevelopment/Zoning/TextAmendments/tabid/438089/Default.aspx> “

Best regards,

City and County of Denver
720.865.2984 Phone | michael.o'flaherty@denvergov.org
DenverGov.org/CPD | [@DenverCPD](#) | [Take our Survey](#)



From: Jesse Lipschuetz [<mailto:jnlpc@yahoo.com>]
Sent: Friday, February 13, 2015 12:04 PM

Mike O'Flaherty | Zoning Administrator
Community Planning & Development | Development Services | Zoning Administration

To: O'Flaherty, Mike - Development Services
Cc: Lucero, Nathan J - City Attorney Office
Subject: 4686 Pearl St. - Holy Rosary Church - Open

Records Request

Dear Mr. O'Flaherty,

Please consider this an Open Records Request. (See Attached CPD form.)

I have been advised that the proposed Shelter at the Holy Rosary Church at 4686 Pearl St. opened in mid-January. (See Attached email from Ms. Montero's office.)

Although I continue to challenge your decision interpreting Section 11.2.7 contrary to its clear and unambiguous meaning,

1) the language in Section 59-82(d)(5)c.3.(ii) that you cited in your November 25 email requires that the Shelter operator provide your office with evidence of compliance with certain conditions before opening. Please provide me with a copy of all such evidence required plus any written community agreement, if one exists.

2) Also please provide me copies of all emails and other written communication and all documents involving your office or any offices of Community Planning and Development relating to this Shelter, including without limitation any with Denver's Road Home, Catholic Charities, the Archdiocese of Denver or any Registered Neighborhood Organization or its constituents .

Further, if this Shelter is not a "temporary" Shelter, then I presume it is operating under the emergency Shelter provisions of Section 11.2.7.3 cited in your Nov. 25 email.

3) If this is the case, please provide me with copies of all written communications and all documents involving your office, the Manager of Community Planning and Development, Denver's Road Home, Catholic Charities, the Archdiocese of Denver or any Registered

Neighborhood Organization or its constituents concerning the required consultation.

4) I am also requesting copies of all communications and documents involving or to and from your office and/or CPD (including draft legislation) relating to the statement in the Nov. 25 email concerning the proposed “corrections to this section [11.2.7] of the code as soon as possible in 2015.”

5) Would you also please advise me of the timing and procedure your office and/or CPD intends to use to make these corrections.

Sincerely yours,

Jesse N. Lipschuetz

728 Clarkson St. #1

Denver CO 80218

303-837-1203

jnlpc@yahoo.com

From: [Jesse Lipschuetz](#)
To: [Dalton, Kyle A. - Community Planning and Development](#)
Cc: [Jesse Lipschuetz](#)
Subject: Text Amendment Bundle #1 concerning Shelters for the Homeless
Date: Wednesday, April 29, 2015 4:40:08 AM

Dear Mr. Dalton

Now that I have had a chance to compare the April 22 red-lined draft to the former Section 59-82 and in particular 59-82(d)(5)c (Shelter for the Homeless), please consider my following comments as a supplement to my comments of April 20.

I am opposed to the proposed text amendments in the Use Tables (Draft, pp. 38, 77, 115, 155, 194, 218, 218, 241, 273 & 289) and in proposed Section 11.2.9. (Draft, pp 413-15), both of which affect homeless shelters, on the grounds that: (1) they do not reflect the clear language and intent of former Section 59-82 as to non-temporary shelters (for lack of a better term); and (2) the added carve-out (exception) language at the beginning of Section 11.2.9 is somewhat circuitous and confusing.

In particular, the proposed changes to the Use Tables would change the classification of shelters in all SU, TU, TH & RH Zone Districts and in MS/MX-2x and MS/MX-2 (Main Street & Mixed Use) Districts from being a "Not Permitted" (NP) use to being a "Permitted Use with Limitations" (L) - with the Limitations being those described in proposed Section 11.2.9 (now 11.2.7 and originally 11.2.6). (For convenience these Districts are herein collectively referred to as "Residential Zone Districts.")

It is my understanding that the SU, TU, TH & RH Districts described in the new DZC replaced the R-0, R-1 and R-2 districts and their variants described in former Chapter 59. (For convenience they are also referred to as "Residential Zone Districts.")

Former 59-82(a) was quite clear that a large residential care use "may be established in all zone districts unless limited by the special requirements of sections 59-82(d)(4) and (5) and 59-82(e), upon review and approval according to the procedures and criteria described herein." Under former Section 59-2 (260), a shelter for the homeless was considered a large residential care use.

Former subsection 59-82(d)(5)c.1 clearly limited the location of shelters to "C-MU-20, R-MU-30, C-MU-30, T-MU-30, R-3, R-4, R-5, B-A-1, B-3, B-A-3, B-4, B-5, B-5-T, B-7, B-8, MS-1, MS-2, MS-3, I-0, I-1, I-2 and O-1 zone districts." Conversely, shelters were not allowed in the Residential Zone Districts.

An exception to this limitation was provided in 59-82(d)(5)c.3 for shelters "allowed in churches or buildings owned by nonprofit corporations or by governmental entities" so long as they complied with certain limitations.

A shelter operated "within and by a church" was excepted if operated for up to 120 days a year; provided, however, that if it housed no more than 8 unrelated persons (or more depending on family relationships and the number of residents allowed in a single dwelling unit) it could be operated throughout the entire year. If the limitations were exceeded, only the spacing and density requirements would apply. Neither prior public notice nor a permit was required.

“Temporary shelters operated in buildings owned by nonprofit corporations or by governmental entities” were excepted from the spacing or density regulations if operated for up to 120 days a year with a maximum of 100 residents and if there was compliance with specific community notice and involvement requirements. A permit was not required.

The Use Tables in former Chapter 59 made no specific mention of a Shelter for the Homeless. Rather they referred to “Residential care uses (See Section 59-82).”

Although neither “permanent” nor “temporary” shelters were defined, the word temporary appears to have meant a shelter operated (1) for no more than 120 days with either a maximum of 100, 200 or more residents, or (2) throughout the year if no more than 8 unrelated persons were residents - or more depending on family relationships and the number of residents allowed in a single unit dwelling.

The proposed change to subsection 11.2.7.1.F (formerly 59-82(d)(5)c.3 and to be known as subsection 11.2.9.2) appears on its face (without considering the proposed changes to the Use Tables) to follow the intent of former subsection 59-92(d)(5)c.3 to allow so-called temporary shelters in the Residential Zone Districts. Therefore, I do not oppose a correction so long as it does not defeat the original intent of prohibiting non-temporary shelters from being operated in Residential Zone Districts.

On the other hand, changes in the Use Tables together with the exceptions proposed to be added to the beginning of Section 11.2.9 do not comply with the intent of former Section 59-82. Although a mistake may have been made with respect to not allowing so-called temporary shelters in Residential Zone Districts when the Use Tables in the new DZC were adopted in 2010, it does appear that a mistake was made regarding non-temporary shelters.

As I mentioned in my April 20 comments, I recognize that the proposed changes in subsection 11.2.9.2 eliminate the term “temporary” as previously used in subsection 11.2.7.1.F and in former Section 59-82(d)(5)c.3. I note, however, that the changes do not eliminate the term “permanent shelters” as used in Section 11.2.7.1.B, Number of Beds and in former 59-82(d)(5)c.2. Since a distinction was intended, it is not clear to me what these proposed changes intend to accomplish.

I contend that the proposed language at the beginning of subsection 11.2.9.1 is a somewhat circuitous and confusing carve-out that excepts Residential Zone Districts from Limitations that apply to (A) large residential care uses, (B) the number of beds, (C) increases in shelter resident populations and (D) operations such as the requirements for (i) undivided sleeping space, (ii) accessory support services, (iii) waiting areas and (iv) restroom facilities.

The question that I have been unable to satisfactorily answer is what limitations would still apply to non-temporary shelters in these Residential Zone Districts if the proposed changes were adopted? To clarify CPD’s stated intent to correct the DZC to reflect the intent of former Chapter 59, the proposed language of Section 11.2.9 should follow or mirror the express language of former subsection 59-82(d)(5)c.1.

Respectfully submitted,

Jesse N. Lipschuetz

PS: I just realized that on March 11, the rules about submitting comments for a public hearing were changed and that the Window #2 deadline was changed from 8 am the day of the hearing to noon the day before the hearing. Instead, I have been relying on a printout of these instructions that I made at 8:04 pm on March 11 that did not mention these changes. I believe I had already signed up for notifications from CPD; however no subsequent notification was received. Although I accept responsibility for this oversight, I request that the new rule be waived and this email be forwarded to the Board members before the hearing. Thank you.