

<p>DISTRICT COURT, ARAPAHOE COUNTY, COLORADO</p> <p>7325 S Potomac Street #100 Centennial, Colorado 80112</p> <hr/> <p>STATE OF COLORADO, ex rel. PHILIP J. WEISER, ATTORNEY GENERAL,</p> <p>Plaintiff,</p> <p>v.</p> <p>CITY OF AURORA, COLORADO,</p> <p>Defendant.</p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
	<p>Case No. _____</p> <p>Div. [___]</p> <p>Ctrm. [___]</p>
<p><b>JOINT MOTION TO ENTER JUDGMENT OF STIPULATED CONSENT DECREE AND JUDGMENT UNDER C.R.S. § 24-31-113</b></p>	

1. The City of Aurora and the Attorney General have reached an agreement on how Aurora will address issues identified in the September 15, 2021, Report “Investigation of the Aurora Police Department and Aurora Fire Rescue.” The attached Consent Decree & Judgment sets forth the specific commitments that Aurora, including the Aurora Police Department, the Aurora Fire Rescue, and the Aurora Civil Service Commission, will take with the support of an Independent Consent Decree Monitor to improve and comply with state and federal law.

2. These changes build on the recent efforts that Aurora has taken and include using outside experts to improve Aurora's use-of-force policies and training on compliance with those policies, creating specific guidance on critical decision-making and the exercise of discretion when engaging with community members to address perceived or actual bias in policing, developing a new system to collect data about police interactions with members of the community, and improving the hiring of police officers and firefighters to ensure a qualified public safety workforce that better reflects Aurora's diversity. The Independent Consent Decree Monitor will provide regular public updates to this Court and work with Aurora to ensure these changes reflect best practices and community input. The parties expect this Consent Decree to last approximately five years, with the exact term determined by how long Aurora takes to implement the changes and when Aurora reaches substantial compliance with the requirements of this Consent Decree.

3. Plaintiff, the People of the State of Colorado, by and through its attorney, Philip J. Weiser, Attorney General of the State of Colorado, and Defendant City of Aurora, Colorado, file this Joint Motion for the Court to enter a judgment of the attached Stipulated Consent Decree.

4. The Court has jurisdiction of this subject matter under C.R.S. § 24-31-113.

5. The State of Colorado initiated this suit by filing a Complaint. The City denies the claims in the Complaint and does not admit liability for any of the allegations made in the Complaint. However, because the City is committed to continuous improvement in the delivery of public safety services, and to avoid protracted and expensive litigation, the City negotiated with the Attorney General to develop this Consent Decree that the Parties believe is fair, reasonable, and in the public interest.

6. The parties jointly represent that they have diligently worked cooperatively to agree to the attached Stipulated Consent Decree and confirm to the Court that the Stipulated Consent Decree incorporates and resolves all possible violations by the City, whether or not referenced in the Stipulated Consent Decree, up to the effective date of the Stipulated Consent Decree.

7. The parties consent to the entry of Judgment outlined in the attached Stipulated Consent Decree without adjudication of any fact discussed, recognizing that the Judgment does not contain any admission of wrongdoing or liability about allegations of violations that occurred before the entry of this Decree and Judgment by Defendant.

8. The individuals signing below represent that the parties have authorized them to affirm entry of the Judgment outlined in the attached Consent Decree.

9. The parties request that the Court enter the attached Stipulated Consent Decree & Judgment as a Judgment of the Court, for the City and its Departments and Commissions to be legally bound.

**AGREED AS TO FORM & SUBSTANCE:**

The State of Colorado ex rel. Philip J. Weiser, Colorado Attorney General, *Plaintiff*

DATE: \_\_\_\_\_

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# EXHIBIT

# 1

<p>DISTRICT COURT, ARAPAHOE COUNTY, COLORADO</p> <p>7325 S Potomac Street #100 Centennial, Colorado 80112</p> <hr/> <p>STATE OF COLORADO, ex rel. PHILIP J. WEISER, ATTORNEY GENERAL,</p> <p>Plaintiff,</p> <p>v.</p> <p>CITY OF AURORA, COLORADO,</p> <p>Defendant.</p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
	<p>Case No. _____</p> <p>Div. [___]</p> <p>Ctrm. [___]</p>
<p><b>STIPULATED CONSENT DECREE &amp; JUDGMENT</b></p>	

The State of Colorado filed a Complaint on \_\_\_\_\_, 2021, and Defendant, the City of Aurora, Colorado, including the Aurora Police Department, Aurora Fire Rescue, and Aurora Civil Service Commission consent to the entry of this Stipulated Consent Decree and Judgment without it constituting any evidence against or admission by any party on any issue of fact or law.

The parties agree to be bound by the provisions of this Stipulated Consent Decree and Judgment, pending approval by the Court, and that the Stipulated

Consent Decree and Judgment will have an effective date of the day it is entered by the Court.

The purpose of this Consent Decree and Judgment is to ensure that the City, including all of its departments and commissions, addresses issues identified in the September 15, 2021, Report titled “Investigation of the Aurora Police Department and Aurora Fire Rescue.”

Without adjudication of any issue of fact or law, and with the consent of the Parties, the Court orders as follows:



## **I. JURISDICTION AND OTHER LAW**

This Court has jurisdiction over the subject matter and the parties. The Complaint states a claim upon which relief may be granted against Defendant under C.R.S. § 24-31-113, and venue is proper under C.R.C.P. 98(c)(1). Defendant waives any objection to jurisdiction in this Court and agrees it will not challenge or dispute jurisdiction of this Court or bring any action related to this Consent Decree in any other court.

Nothing in this Consent Decree will be construed to encourage or authorize any Party or the Independent Consent Decree Monitor, referred to here as a Consent Decree Monitor or Monitor, to violate any state or federal law, including the City of Aurora's Charter.

## **II. POLICIES AND TRAINING GENERALLY**

Aurora Fire Rescue and Aurora Police agree to develop comprehensive policies and procedures that ensure implementation of this Consent Decree. In addition, Aurora Fire Rescue and Aurora Police will work to ensure policies are consistent and complementary, conduct training to ensure coordinated responses, and hold officers and firefighters accountable for violating policy.

### **A. Policy Development, Review, and Implementation**

Aurora will work with the Independent Consent Decree Monitor to evaluate the development, review, and implementation processes for Aurora's policies, procedures, and rules outlined in this Consent Decree. The parties agree that Aurora must develop procedures that speed up the policy development, review, and implementation process.

During the time covered by the Consent Decree, Aurora will submit any new or revised policies, procedures, or rules outlined in this Consent Decree to the Consent Decree Monitor for review before implementation until a time when the Consent Decree Monitor decides that such review is no longer necessary.

For those specific policies, procedures, or rules identified in this Decree, the parties expect that the Consent Decree Monitor will work with the City, Aurora Police, or Aurora Fire Rescue, as appropriate, to offer input early in the development process and stay engaged on progress. When Aurora finalizes a policy,

procedure, or rule that addresses a subject in this Decree, they must share it with the Consent Decree Monitor and discuss whether the Monitor agrees that the policy should be finalized. The Monitor must communicate its agreement or disagreement promptly, but absent a compelling reason, no more than 15 days from when it receives the proposed final policy. If Aurora and the Monitor cannot resolve any disagreements, they will use the agreed dispute resolution procedure outlined below in Section XI.

### **B. Training on Revised Policies, Procedures, and Practices**

Having police officers and firefighters quickly and effectively trained on new or revised departmental policies is as important as getting policies developed, reviewed, and implemented. Aurora Police and Aurora Fire Rescue will incorporate best practices into training developed while this Consent Decree is in effect, including greater use of scenario-based training tools in both of their academies and in-service training. The Departments shall confer with the Consent Decree Monitor as needed to meet this goal and will seek guidance and assistance from outside subject matter experts as appropriate. When Aurora Police or Fire Rescue finalize a training plan identified in this Decree, they will share it with the Consent Decree Monitor and discuss whether the Monitor agrees that the training plan should be finalized. The Monitor will communicate its agreement or disagreement promptly, but absent a compelling reason, no more than 15 days from when it receives the

proposed final version of training plan. If Aurora Police or Fire Rescue and the Monitor cannot resolve any disagreements, they will use the agreed dispute resolution procedure outlined below in Section XI.

This Decree contains three key milestones governing when substantially all of the personnel interacting with the public will receive training on the revised policies on the core elements of this Decree. While this Decree contains deadlines for these milestones, Aurora may complete these milestones earlier than required, which could shorten the duration of this Decree, so long as Aurora remains in substantial compliance with the requirements of this Decree.

### **III. ADDRESSING RACIAL BIAS IN POLICING**

#### **A. Objectives**

The City shall change, in measurable ways, how Aurora Police engages with all members of the community, including by reducing any racial disparities in how Aurora Police engages, arrests, and uses force in the community.

The City shall create full public transparency on how Aurora Police engages, arrests, and uses force in the community, including any disparities in these enforcement actions.

The City shall improve Aurora Police policies and training relevant to officer stops, arrests, and uses of force to give officers concrete guidance on how best to engage in critical decision-making and exercise discretion during community interactions, including by acknowledging the role that bias can play in enforcement decisions and developing strategies to combat bias.

#### **B. Policy Changes**

##### **1. General Principles**

As Aurora Police revises policies on issues outlined in this Consent Decree, it will work with the Consent Decree Monitor as described in Section II.A to develop or revise these policies.

## **2. Amendment of Existing Policies**

Aurora Police will review and revise the following policies to prohibit discrimination based on protected class status and conform to the goals of the Consent Decree and applicable state and federal law, including by increasing the level of detail in the policy and providing examples of prohibited behavior:

- a. Directive 8.32 (Biased-Based Policing)
- b. Directive 6.01 (Arrest Procedure)

## **3. Creation of New Policies**

### **a. Stops**

Aurora Police will draft policies on the legal authority to make “stops,” more specifically detailed in Section V.B.2.a below. These policies will also provide specific, practical guidance intended to support officers in determining how to exercise their discretion when making stops.

This Consent Decree identifies the priority policies for Aurora to review. But the Consent Decree Monitor may recommend additional policies to draft or edit in order to address issues closely related to the subject matter of the Report and this Consent Decree but not specifically listed. If the Parties disagree with a request from the Consent Decree Monitor under this section, Section XI will apply to resolve any disputes that may arise.

### **C. Training**

Aurora Police will develop and provide comprehensive academy and in-service training to police personnel in the following areas assisted by outside subject-matter experts, as necessary:

1. bias;
2. deliberate decision-making, including avoiding unnecessary escalation and teaching officers what they *should* do rather than what they *can* do;
3. recordkeeping requirements, including compliance with § 24-31-309(3.5); and
4. specific articulation of the basis for encounters, including stops and uses of force.

Aurora Police shall develop this training by the Bias Training Development Deadline and will work with the Consent Decree Monitor under Section II.B on this training. Aurora Police will train substantially all the police personnel who interact with the public on these policies by the Bias Training Completion Deadline. Aurora Police will include this training in its training curriculum throughout this Consent Decree.

#### **D. Goals and Measurement**

Aurora Police will develop metrics in consultation with the Consent Decree Monitor and outside experts to measure improvement in the areas described below. The Consent Decree Monitor will monitor compliance with this section and include updates on this item in their periodic updates to the Court.

1. Training provided on the topics identified in this section,
2. Recordkeeping on police interactions, and
3. Documentation and tracking of use-of-force incidents, including:
  - a. Monitoring misdemeanor arrest outcomes and
  - b. Tracking arrests and summons issued for particular offenses, such as “Failure to Obey a Lawful Order,” “Resisting Arrest,” “Criminal Trespass,” and related offenses.



## **IV. USE OF FORCE**

### **A. Objectives**

The City shall create improved policies and training to better equip officers to handle challenging situations in ways that reduce the use of force, ensure force is used in compliance with state and federal law, protect officer and community safety, and build a culture of continuous improvement.

The City shall create a culture of enforcement that prioritizes de-escalation when possible in accordance with Colorado law, but does not compromise officer safety when force must be used.

The City shall improve and develop accountability measures that consistently identify excessive uses of force, situations where force should not have been used even if it was legal, and recurring training and tactical issues related to use of force.

And lastly, the City shall create a culture of collaboration between Aurora Police and Aurora Fire Rescue that is coordinated and emphasizes public safety.

### **B. Policy Changes**

#### **1. General Principles**

Aurora has already retained a team from the Crime and Justice Institute in Boston, Massachusetts to review and improve the use of force policies.

The Crime and Justice Institute's engagement with the City focuses on evaluating historical use of force by Aurora Police, developing an understanding of

the current use of force policies and practices, and recommending use of force policy changes based on direct communication with members of Aurora Police, the Aurora community, and exploration of use of force data.

The Parties expect this review to lead to more detailed policies that provide workable guidance to patrol officers to use force in compliance with state and federal law. This review will include input from the community, officers, and other stakeholders to ensure they address Aurora-specific needs.

This review will include at least the policies below and shall conclude by the Use of Force Policy Deadline. The Crime and Justice Institute will consult the Consent Decree Monitor to confirm that the policies comply with and address the use of force issues raised in the Report. Aurora Police will adopt the policies recommended by the review or, if it seeks to change the policies or not adopt them, confer with the Consent Decree Monitor on its desire to do so and provide alternate policies that address the use of force issues in the Report by the Use of Force Policy Adoption Deadline. Aurora Police will work with the Consent Decree Monitor under Section II.A to develop or revise these policies.

## **2. Amendment of Existing Policies**

The City, assisted by the Crime and Justice Institute, as appropriate, will review, investigate, and make the appropriate changes, if any, to these policies:

- a. Directive 5.03 (Use of Physical and Deadly Force)
- b. Directive 5.04 (Reporting and Investigating the Use of Tools, Weapons and Physical Force)
- c. Directive 6.13 (Dealing with Persons with Mental Health Disorders)
- d. Directive 9.06 (Coordination with Aurora Fire Rescue and Emergency Medical Services)

In addition, this review shall include limiting the use of force in response to low-level offenses such as “failure to obey a lawful order” or “pedestrian failing to yield.”

### **3. Creation of New Policies**

The City shall create policy, procedure, or other directive to facilitate the development of a comprehensive joint coordination policy between Aurora Police and Aurora Fire Rescue.

#### **C. Force Review Board**

Since the Attorney General began the Pattern & Practice investigation, Aurora Police has already made several changes to the Force Review Board. These changes include: 1) adding a standardized process to review each use of force, 2) placing commanders at the academy on the Force Review Board to allow for more immediate feedback on training, 3) including commanders in the Force Review

Board discussion of force incidents from that commander's unit, 4) requiring commanders to follow up on training and tactical issues identified by the Force Review Board with the patrol officers in each district, and 5) adding legal counsel to the Force Review Board.

If Aurora Police seeks to reverse any of the recent changes discussed in this section, it must first discuss those proposed changes with the Consent Decree Monitor following the process in Section II.A.

### **1. Changes to Process**

In addition to these changes, the Force Review Board will, by the Force Review Board Process Improvement Deadline, modify its procedures or policies to:

1. formalize the process of giving feedback from the Force Review Board to those in charge of academy and in-service training, District Commanders, and Aurora Fire Rescue in incidents where no policy violation occurred but practices can be improved,
2. review each instance of force used in the context of the overall encounter, including the circumstances leading to its use and the mental capacity of the suspect, and
3. develop reliable ways to measure the frequency of use of force, compliance with policy, injuries to subjects, the safety of officers,

mental health holds used, and any other relevant measures of improvement.

Once the new Use of Force Policies discussed above are implemented, the Force Review Board shall promptly update its procedures or policies to evaluate use of force incidents against the updated policies, working with the Consent Decree Monitor on both policies and procedures under Section II.A.

## **2. Collaboration with Academy and Other Sections**

A member of the academy staff now serves on the Force Review Board and the member's expertise in training is used in the evaluation of use of force cases and the member's experience on the Force Review Board informs the development of training. Recently, Aurora Police developed guidance on the use of body-worn camera video shown to the Force Review Board in recruit and in-service training classes at the academy. The videos selected will include both successful use of de-escalation and other techniques by Aurora police officers, and videos of incidents where improvement is recommended or needed.

### **D. Training**

Aurora Police will ensure that the training described below is provided and delivered promptly, no later than the Use of Force Training Development Deadline.

1. Scenario-based training,

2. De-escalation, and
3. Joint police and fire training on scene coordination, as appropriate.

Aurora Police will work with the Consent Decree Monitor under Section II.B on this training and will include updates on this item in the periodic reports to the Court.

Aurora Police will train substantially all the police personnel who interact with the public by the Use of Force Training Completion Deadline.

#### **E. Goals and Measurement**

Aurora Police, in consultation with the Consent Decree Monitor and outside experts, will develop metrics to measure improvement in the areas listed below by the Use of Force Metrics Deadline. The Consent Decree Monitor will monitor compliance with this section and include updates on this item in the periodic reports to the Court. The metrics will include at least the following:

1. Participation in ABLE, crisis intervention, and other voluntary trainings,
2. Number and type of use-of-force incidents, and
3. Community and officer complaints.

## **V. DOCUMENTATION OF STOPS**

### **A. Objectives**

The City shall develop a documentation system that complies with state law, allows for prompt and transparent review of officer behavior, and improves the ability of Aurora Police to identify successes and areas for improvement.

The Parties recognize that recent legislative changes require a comprehensive update to the City's practices, which will take time to implement. The City will ensure that compliance with these statutes will occur within the time periods identified in this section.

### **B. Policy Changes**

#### **1. General Principles**

Aurora Police will develop policies that comply with existing law as soon as practicable, and, in any event, no later than the Stops Policy Deadline. The City shall work to develop policies in a comprehensive manner that reduces the need for multiple trainings and policy updates. In addition to compliance with applicable law, the policies and platforms supporting the policies shall link information about officers involved with the stops to the required information about stops.

Aurora Police will work with the Consent Decree Monitor under Section II.A to develop or revise these policies.

## **2. Creation of New Policies**

### **a. Legal Requirements for Stops**

Aurora Police will create a new policy that provides specific guidance on legal requirements for the different types of stops that police officers make, including for “contacts,” “encounters,” “temporary detentions,” and “arrests.” This policy will cover both Colorado law and federal law, including, but not limited to, *Terry v. Ohio*, 392 U.S. 1 (1968).

### **b. Recordkeeping Requirements of C.R.S. §§ 24-31-309(3.5) and 24-31-903**

Aurora Police will create a new policy for implementing the data collection requirements of C.R.S. §§ 24-31-309(3.5) and 24-31-903.

### **C. Training**

Aurora Police will develop a training plan including, but not limited to, curriculum, material, and, if needed, scenario-based modules, in consultation with the Consent Decree Monitor and, as needed, outside experts, for implementing the new policies and for any revisions of current policies required by the Stops Training Plan Deadline. Aurora Police will work with the Consent Decree Monitor on this training under Section II.B. The Consent Decree Monitor may review training after it begins. Aurora Police will train substantially all the police personnel who interact with the public by the Stops Training Completion Deadline.



#### **D. Goals and Measurement**

Compliance with this section will be measured by 1) creating appropriate policies in the time required, 2) effectively training personnel in the time required, and 3) monitoring compliance with the policies based on performance in the field. Monitoring will include, at least, review of samples of body-worn camera footage, ride-alongs, and review of reports required by law, as appropriate. The Consent Decree Monitor may also monitor compliance by contacting those contacted by the police and reviewing complaints from the public and associated police documentation to the extent allowed by state and federal law and the Aurora City Charter.

## **VI. USE OF KETAMINE AND OTHER SEDATIVES AS A CHEMICAL RESTRAINT**

### **A. Objectives**

On September 15, 2020, before this Consent Decree and Judgment was negotiated and stipulated, the City and Aurora Fire Rescue stopped, and by policy forbid, the use of the drug ketamine in the field by Aurora Fire Rescue members.

If the City seeks to use ketamine in the field during the time that any part of this Consent Decree remains in effect, the Consent Decree Monitor will first review the medical protocol for the use of ketamine. Aurora Fire Rescue may not use ketamine in the field during the effective period of this Consent Decree without the agreement of the Consent Decree Monitor that its use complies with applicable law in consultation with the Aurora Fire Rescue Medical Director. Any objections that cannot be resolved will be resolved using the agreed dispute resolution procedure outlined below in Section XI.

The Parties share the goal of ensuring that the use of any chemical sedatives as chemical restraints in the field is done in accordance with applicable law and other requirements. The Report did not investigate the use of other chemical sedatives as chemical restraints in the field by Aurora Fire Rescue because ketamine was one of the two administered chemical sedatives used during the period of review by the Attorney General's office and it received substantial public

scrutiny. Therefore, for other chemical sedatives used as a chemical restraint, Aurora Fire will (1) ensure that policies and procedures reflect strict compliance with state law and any waiver requirements, and (2) closely review use of these sedatives to confirm policy compliance. This agreement is not intended to interfere with the Medical Director's determination of the need for and requirements for waivers for other controlled substances. The Consent Decree Monitor will periodically review Aurora Fire Rescue's use of chemical sedatives as chemical restraints to confirm policy compliance.

The Consent Decree Monitor will review and analyze the coordination of policies of Aurora Police and Aurora Fire Rescue to ensure that members of Aurora Police do not recommend, suggest, or otherwise encourage the use of any chemical restraint in the field by Aurora Fire Rescue. The use of any chemical restraint in the field will be a decision made only by qualified members of Aurora Fire Rescue and the applicable medical protocols in effect and approved by Aurora Fire's medical director in compliance with C.R.S. § 26-20-104 et seq.

The Consent Decree Monitor will meet and confer with each Department to resolve any objections raised by the Consent Decree Monitor. Any objections that cannot be resolved will be resolved using the agreed dispute resolution procedure outlined below in Section XI.

## **B. Definitions**

A “chemical sedative” is a drug that slows down or depresses the central nervous system and therefore slows down both the physical and mental processes in the body. There are two main classes of prescription sedatives. The most commonly prescribed type are called benzodiazepines, which include drugs such as Xanax, Ativan, Midazolam or Versed, Klonopin, Valium, and Centrax. The other class of prescription sedatives are called barbiturates, which includes drugs such as Halcion, Nebutal, Seconal, and Butisol.

A “chemical sedative” becomes a “chemical restraint” when the chemical sedative is intentionally given to exert control over a person’s movements or behavior, not to treat a mental illness or physical condition.

## **C. Policy Changes if Ketamine is Used**

The City and Aurora Fire Rescue have stated they do not intend to use ketamine again in the field, but if Aurora Fire Rescue does seek to reinstate ketamine usage in the field, Aurora Fire Rescue will work with the Consent Decree Monitor under Section II.A. The Consent Decree Monitor will work with the Medical Director to specifically focus on policy and procedure to ensure the policy dictates appropriate dosage recommendations and a procedure for how members of Aurora Fire Rescue will assess the level of patient agitation that would lead to the use of ketamine in the field.

## **D. Process Changes**

### **1. Post-Incident Analysis for Ketamine Administrations if Ketamine is Used**

Aurora Fire Rescue will develop a procedure for post-incident analysis that the Consent Decree Monitor must agree with, using the procedures in Section II.A, before Aurora Fire Rescue may use ketamine in the field.

### **2. Evaluation of Chemical Sedation**

In addition to the current process of reviewing each incident where Aurora Fire Rescue uses chemical sedation as a chemical restraint in the field, Aurora Fire Rescue shall develop a process to periodically review its use of chemical sedation in the field to determine what improvements should be made to policy or training at Aurora Fire Rescue or Aurora Police, including assessing 1) whether the symptoms justified sedation under law and policy, 2) the involvement of police officers before or during a patient's sedation, and 3) what factors increase the risk of adverse outcomes to patients or providers.

Aurora Fire Rescue shall summarize this periodic review to the Consent Decree Monitor at least twice a year, starting 6 months from the effective date. This summary will include at least information about the number of times Aurora Fire Rescue used chemical sedation as a chemical restraint, the symptoms justifying sedation, the type of chemical restraint used, whether Aurora Fire Rescue followed policy, what information police officers provided to Aurora Fire Rescue for

compliance with C.R.S. § 18-8-805, and basic information about the use such as the tabular data included on pages 97-98 of the Report. Nothing in this section should be construed to discourage Aurora Police from providing Aurora Fire Rescue with necessary information about an incident, as this information will only be used to comply with C.R.S. § 18-8-805(2)(b).<sup>1</sup> This requirement does not require the public disclosure of any confidential information.

### **E. Goals and Measurement**

If the City implements the use of ketamine in the field again using the process set forth above, the Monitor will review any use regularly and include such review in the Court reports addressing at least the issues identified in the Report on the reporting timetables set forth in Section IX.A.5.

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<sup>1</sup> C.R.S. § 18-8-805(2)(b) states that “A peace officer shall not unduly influence an emergency medical service provider’s medical decision or diagnosis, and an emergency medical service provider shall not base its medical decision or diagnosis exclusively on information provided by a peace officer.”

## **VII. RECRUITMENT, HIRING, AND PROMOTION**

### **A. Objectives**

The City will transform recruiting and hiring processes to create a more diverse and qualified workforce and establish Aurora Police and Aurora Fire Rescue's commitments to a culture of continuous improvement and becoming better police and fire departments.

The City will also improve transparency, accountability, and predictability in discipline review, including by facilitating the Civil Service Commission's standardization and codification of elements of its disciplinary review process.

The City will also improve transparency and accountability about all of the Civil Service Commission's work, such that community members understand the role that the Commission plays in hiring, promotion, and discipline, as well as any changes the Commission makes to those processes.

### **B. Recruitment**

To maintain high-quality service, ensure employee safety and accountability, and promote constitutional, effective policing, Aurora Police and Aurora Fire Rescue will review and revise as necessary recruitment and hiring programs to ensure that Aurora Police and Aurora Fire Rescue successfully attract and hire a diverse group of qualified individuals for their civil service positions.

Aurora Police and Aurora Fire Rescue will develop written recruitment plans that include, but are not limited to, these items: clear goals, objectives, and action steps for attracting and retaining a quality work force that better reflects the diversity of the City.

The recruitment plans should include, at a minimum, the following:

1. A schedule to work with the Civil Service Commission to review and make any applicable changes to the minimum qualifications for entry-level police and fire recruits and lateral hires;
2. A plan to conduct outreach to many community leaders and stakeholders, aimed at increasing the diversity of each Department's applicant pool—including race, color, gender, ethnicity, sexual orientation, national origin, and religion—and identifying recruit and lateral applicants that are committed to community-oriented policing (for police officers) and have the identified skills to succeed in the applicable role;
3. A plan to broadly distribute information about career opportunities, compensation, hiring, the applicable testing process(es), and deadlines and other requirements of each position throughout the Denver metro-area regularly. The same information will be easily available on the



City's website, with the ability for interested persons to directly contact a member of the recruiting team of each Department.

The recruitment plan shall be developed by the Recruitment Plan Deadline and then provided to the Consent Decree Monitor for review and agreement, using the process set out in Section II.A.

### **C. Civil Service Commission**

#### **1. Hiring of Entry-Level Police Officers and Firefighters**

Before the effective date of this Consent Decree, the Civil Service Commission handled the entire process of hiring entry-level police officers and firefighters. This process led to new civil service employees and the departments meeting each other for the first time after the new employee is appointed and assigned to the training academy. To implement this Consent Decree and the policies and goals it requires, this process will be reworked so that Aurora Police and Aurora Fire Rescue, with coordination and assistance from the Aurora Human Resources Department, will assume a much more active role in the hiring of candidates from the eligibility lists prepared by the Commission and have the final say on which candidates are hired. The new procedures will require a change and recodification of the current Rules and Regulations of the Civil Service Commission. The City Manager, with assistance from Human Resources as needed, will work

with the Civil Service Commission to bring about those changes by the Civil Service Commission Rules and Regulation Modification Deadline. The Consent Decree Monitor will review these modified procedures solely to ensure they meet the objectives of this section and are not inconsistent with other goals of this Decree using the process set out in Section II.A.

Nothing in this section is intended to modify or violate the Aurora City Charter and the duties designated to the Civil Service Commission, the Police Department, and Aurora Fire Rescue.

## **2. Promotion**

The Commission will work with the Consent Decree Monitor and the outside expert (see paragraph 4 , below) to make changes, if any, to the promotional process.

## **3. Discipline**

The Civil Service Commission will update its Rules and Regulations by the Civil Service Commission Rules and Regulations Modification Deadline and this update will include, at a minimum:

- a. guidelines that substantially reduce the time disciplinary cases take from filing to resolution, including to strongly consider not allowing a full “de novo” review of disciplinary cases and instead handling them

as a more appellate style of review within the parameters set forth by the Aurora Charter;

- b. requirements about the content of disciplinary decisions, including that discipline decisions include plain statements of the actual allegations, defenses, findings, and basis for the decision so that a member of the public can understand, from that document alone, what gave rise to the discipline and the reasons the Commission affirmed or modified that discipline; and
- c. requirements that as much of the business of the Civil Service Commission as possible be easily accessible to the public by website, including discipline decisions and all requests for continuances, and specific identification of what is not public and the basis for keeping it not public.

Aurora will work with the Consent Decree Monitor under Section II.A to finalize these changes.

#### **4. Outside Expert**

The City or the Civil Service Commission, in consultation with the Consent Decree Monitor, will select and hire an outside expert with expertise in best practices for recruiting and hiring a qualified and diverse public safety workforce of

police officers and firefighters within the framework of the authority of the Commission provided by the Charter. This outside expert shall be retained by the Civil Service Commission Outside Expert Retention Deadline.

## **5. Transparency**

To improve transparency about the operations of the Commission, the Commission shall conduct as much of its business as possible so that the public may easily access it by website, and specifically identify what is not public and the basis for keeping it not public.

## **VIII. ACCOUNTABILITY AND TRANSPARENCY**

### **A. Objectives**

The City will develop systems that permit Aurora Police to regularly and easily identify trends and patterns in the conduct of its officers, including, but not limited to, conduct that repeatedly gives rise to claims of civil liability; conduct or specific officers implicated in multiple citizen or officer complaints; and repeated conduct that suggests a need for further training or policy review. These systems shall have the ability to track, among other things, conduct by officer, supervisor, shift, beat, and district.

### **B. Goals and Measurement**

Aurora Police, in consultation with the Consent Decree Monitor and outside experts, will develop a system and process to track and follow the following subject matters for use in decision making and for transparency to the public:

1. Tracking of officers' disciplinary outcomes,
2. Identification of trends or patterns of sustained complaints about officers' law enforcement activities, and
3. Public reporting of data collection.

The Police Department and Consent Decree Monitor will develop the initial plan for this data collection by the Initial Measurement Plan Deadline.

## **IX. IMPLEMENTATION, ENFORCEMENT, AND MONITORING**

### **A. Independent Consent Decree Monitor**

#### **1. Selection**

The City previously issued a Request for Proposal to seek qualified proposals from individuals and firms that would like to serve in the role of the Consent Decree Monitor. The Parties expect that the Consent Decree Monitor will be retained shortly after the Court enters this Consent Decree.

#### **2. Scope of Assignment**

This Consent Decree sets forth the specific scope of the Consent Decree Monitor's duties. In summary, the Consent Decree Monitor will oversee the City of Aurora's implementation of this Consent Decree, including engaging in effective community outreach to understand concerns, specific encounters causing frustration, and what Aurora is doing well; issuing public updates to the Court on the City's compliance with the Consent Decree; providing guidance and recommendations on compliance with the Consent Decree to the City of Aurora, the Aurora Police Department, and Aurora Fire Rescue, including reviewing and commenting on policies, training, and initiatives developed under the Consent Decree; and working closely with leadership and staff from the City, Aurora Police, and Aurora Fire Rescue. In undertaking its responsibility to ensure Aurora's compliance with this decree, the Consent Decree Monitor will serve as a resource

and a coach as needed to help Aurora succeed in the commitments the City is making in this decree. The parties expect the Consent Decree Monitor to communicate informally with all parts of the organization in a way that supports the chain of command.

The parties will select the Consent Decree Monitor, and the Monitor could use a team approach with a lead Monitor, supported by a small team of additional subject matter experts.

The Independent Consent Decree Monitor is not an employee of the City and shall serve as a “service provider” to the City.

The Consent Decree Monitor should focus their work on issues of substance, rather than areas of style or preference, in carrying out their work under this Decree.

### **3. Cost**

As stated in the City’s Request for Proposal for a Consent Decree Monitor, the City will pay the Consent Decree Monitor either an annual fixed price based on the scope of work and scope of services, or hourly with an annual not-to-exceed amount. Pricing may include different pricing for different years of the Consent Decree Monitoring. Pricing can include travel allowances for key team members. The final contract with the agreed upon Consent Decree Monitor will include the

possibility for Change Orders to allow for Pricing changes in the event of truly unexpected developments.

The City is responsible for the costs, services, and expenses of the Consent Decree Monitor, as authorized by the written contract with the Consent Decree Monitor. The Independent Consent Decree Monitor shall not substitute or replace their own judgment or decision in place of any official decision, as authorized by the City Charter or other applicable law, made by the Aurora Fire Rescue Chief or Police Chief. Instead, the Monitor will use the Dispute Resolution Procedure in the event of any disagreement.

#### **4. Procedures for Communication with Aurora, Aurora Police, and Aurora Fire**

The Consent Decree Monitor will need to communicate with members of the City staff, the Police Department, the Fire Rescue Department, and the Civil Service Commission from time to time in order to perform the duties required under this Consent Decree. These communications are subject to the provisions of Confidentiality outlined below in Paragraph 6, “Confidentiality and Records Disclosure.”

#### **5. Reporting Requirements**

The Consent Decree Monitor shall provide regular public updates to the Court on the efforts of the City, Aurora Police, Aurora Fire Rescue, and the Civil



Service Commission to achieve compliance under the Consent Decree. However, the Parties agree that the Consent Decree Monitor should spend most of its time on the action items in the Consent Decree rather than write updates.

The Consent Decree Monitor will also develop mechanisms for engaging the community and measuring the effects of the City's efforts under the Consent Decree.

The regular updates will be provided on the following schedule, unless otherwise agreed to by the Parties:

For the first-year term of the Consent Decree: No less than quarterly.

For the remaining term of the Consent Decree: No less than bi-annually.

Despite the above, the parties can by unanimous consent upon conferral reduce the reporting timelines set forth in this paragraph.

## **6. Confidentiality and Records Disclosure**

The City will provide full access to its documents and personnel to the Consent Decree Monitor. Because some of the information that the Monitor will review contains confidential information, such as victim information, confidential personnel information, and other information protected from disclosure by Colorado law, the Consent Decree Monitor must maintain the confidentiality of such information. Nothing in this Consent Decree will be construed as a waiver of the

Colorado Open Records Act (“CORA”), C.R.S. § 24-72-200.1 et seq.; the Colorado Criminal Justice Records Act (“CCJRA”), C.R.S. § 24-72-301 et seq.; or any other privilege held by the Parties. For this Consent Decree, the Consent Decree Monitor will be considered to hold the same confidentiality duties and CORA or CCJRA protections as the Parties.

If the Consent Decree Monitor is served with any request for information, whether formally or informally, the Monitor must forward this request to the Parties within seventy-two (72) hours of receipt of this request and will coordinate with the Parties in resolving this request. The Monitor will not release any confidential information without first providing notice to the relevant parties and giving them an opportunity to promptly respond. Nothing in this section shall preclude the Monitor from releasing information in accordance with a Court Order.

If the Consent Decree Monitor believes that information in a regular update to be filed with this Court contains confidential information, the Consent Decree Monitor will redact the confidential information from the update and file the redacted version with the Court. Separately, the Monitor shall file an unredacted version of the Update with the Court under seal.

## **7. Counsel for Independent Consent Decree Monitor**

Neither the City of Aurora nor the Attorney General shall provide legal representation for the Independent Consent Decree Monitor.

If the Independent Consent Decree Monitor has a question about the meaning of some provision of this Decree, it shall seek guidance from the City of Aurora and the Attorney General. If both parties agree on the meaning, that meaning shall guide the Independent Consent Decree Monitor. In the unlikely event that both parties do not agree, the Independent Consent Decree Monitor may seek independent legal counsel on that question, with the expense for that counsel paid for by the City of Aurora. Before retaining counsel, the Independent Consent Decree Monitor shall work to ensure the costs are reasonable and appropriate and obtain the consent of the City of Aurora and the Attorney General to retain that counsel on those terms. If the parties do not consent, the Dispute Resolution Procedures of Section XI.B will apply.

### **B. Compliance**

#### **1. Self-Reporting Encouraged**

The City is encouraged to report to the Consent Decree Monitor any violations of any requirements of this Consent Decree. In evaluating any consequence for violating this decree, the Parties request that the Court consider whether the violation was self-reported.

## **2. Independent Consent Decree Monitor Role**

The Independent Consent Decree Monitor's primary responsibility shall be ensuring that the City complies with its obligations under this Consent Decree without creating excessive cost or inefficiencies. The Parties agree that the Consent Decree Monitor will have access to any documents or proceedings that it requests from the City. Any documents or other records received by the Consent Decree Monitor from the City will be subject to the confidentiality provisions of Section IX.A.6, above.

## **3. Attorney General Role**

The Consent Decree Monitor will primarily review and ensure compliance with this Decree. The Attorney General may consult the Consent Decree Monitor on any aspect of this Decree.

## **4. Court Role**

The parties agree and request that the Court be the decider of last resort on any disputed issues that may arise under this Consent Decree using the process set forth in the Dispute Resolution Procedures in Section XI below. The Court shall ensure that the Parties have tried to resolve any disputes that may arise under this Consent Decree first without Court action, and that this agreement, and conduct taken under this Consent Decree, comply with all state and federal law and the City of Aurora Charter.

## **X. DURATION AND TERMINATION**

### **A. Term**

Aurora will spend up to two years changing its operations and training to meet the requirements of this Decree and then three years confirming compliance through monitoring, measurement, and making additional adjustments. If Aurora implements the requirements earlier, the three-year compliance period starts running earlier and the Decree may last less than five years.

The Decree establishes three Training Completion milestones—when Aurora has trained substantially all of the relevant personnel on Addressing Bias in Policing, Use of Force, and Documentation of Stops. This Consent Decree will have a term of three years from the date the last Training Completion milestone is met. And as described below in Section X.B.1, Aurora may seek to terminate parts of this Consent Decree three years after it meets a particular milestone.

The parties recognize that this Decree requires significant and lasting reform at Aurora. Aurora has committed to that reform in this Decree through, among other things, changing important policies, developing new training materials, and training its personnel on these new policies. In addition, Aurora will operate in a much more transparent manner by changing core processes and sharing more information with the public. The parties expect that these changes will lead to improved outcomes in areas identified in the Report.

Before termination of any kind, Aurora must have substantially complied with the relevant requirements of this Consent Decree. In evaluating whether Aurora has “substantially complied” with this Decree, the parties intend that Aurora’s demonstrated commitment to continuous improvement throughout the term of this Decree be the primary focus and the standard used for evaluating Aurora’s “substantial compliance” with this Consent Decree. The parties recognize that later developments outside the control of Aurora, such as state or federal legislation, may require some flexibility in the evaluation of substantial compliance with this Consent Decree. And because this Consent Decree requires the development of some of the metrics used to evaluate Aurora’s performance, initial measurements may reflect improved information gathering rather than the progress of the organization. The Parties’ goal is substantial compliance with this Consent Decree.

## **B. Requirements for Termination**

### **1. Full Termination**

For termination of the entire Consent Decree, 90 days before the end of the term, the Consent Decree Monitor shall inform the Court and the Parties of its view of whether Aurora has substantially complied with the Consent Decree. If so, the Court shall terminate the Consent Decree at the end of the term. If the Consent Decree Monitor concludes that Aurora has not substantially complied with the

Consent Decree at the end of the term, a hearing shall promptly be held where the Monitor, Aurora, and the Attorney General shall appear and provide information for the Court to determine whether Aurora should be released from the Decree, either in whole or in part. Nothing in this section prohibits Aurora and the Attorney General from agreeing to make appropriate modifications to the Decree, including extending the full Decree, part of the Decree, or making other modifications to the Decree. Any objections that cannot be resolved will be resolved using the agreed dispute resolution procedure outlined below in Section XI.

## **2. Partial Early Termination by Subject**

As compliance with sections of the Consent Decree is considered complete by the City, the City may submit a request to the Consent Decree Monitor and the Attorney General to find a section of the Consent Decree “complete,” leading to the City no longer being subject to the requirements in the completed section. The City will not make any such request before three years from any Training Completion milestone. For those sections without a Training Completion milestone, the City will not make any such request before three years after completion of the last substantial step required by that section.

Within 15 days of the request, the Consent Decree Monitor will review the request, draft an executive summary of the Consent Decree Monitor’s position on the request, and submit it to the Parties. The Consent Decree Monitor may extend

this time to investigate the request and seek public input. Once the executive summary is sent to the parties, the parties have 15 days to communicate any objection to the decision of the Consent Decree Monitor on the request. If the decision of the Consent Decree Monitor is to approve the termination of a section of the Consent Decree, the City may then file a Notice to the Court of the Consent Decree Monitor's decision that the section(s) are complete and the City should no longer be subject to the requirements of the completed section of the Consent Decree.



## **XI. DISPUTE RESOLUTION PROCEDURE**

### **A. Objective**

The Parties expect and encourage the City and the Consent Decree Monitor to work together collaboratively to address the changes required in this Consent Decree. In the rare circumstances when the City and the Consent Decree Monitor cannot agree on a path forward consistent with the requirements of this Consent Decree, the following procedure is agreed upon by the Parties to resolve those disputes:

### **B. Resolution Process**

1. The City or the Consent Decree Monitor must communicate in writing to the other and the Attorney General's office that they believe that an impasse has been reached on an issue and state their final position on the issue. The written notice must provide the section of this Decree in dispute.
2. The other party must communicate their final position on the issue within 7 days.
3. Informal mediation is encouraged to settle any dispute that may arise under this section. The involved parties, the Monitor, and their legal counsel, if appropriate, must actively participate in good faith in the informal mediation process to resolve the dispute within 14 days.

4. If the dispute has not been resolved after the 14 days, the City must notify the Court within 3 days of the conclusion of the 14-day resolution period, and all parties and the Monitor may file submissions, in whatever form the Court may prefer, 14 days after notification setting forth their final positions and specifically identifying their proposed resolution of the issue.

5. The Parties all request that the Court select the most appropriate resolution from among the three proposed resolutions, rather than crafting a compromise position, so that the parties will be motivated to resolve these issues through negotiated resolution rather than judicial intervention. That said, even though the Parties prefer that the Court select one of the three proposed resolutions submitted, nothing in this Consent Decree removes the Court's judicial authority to make its own decision about a disputed issue.

## XII. DEADLINES

	Days from effective date of contract with Monitor
<i>Addressing Racial Bias in Policing</i>	
Bias Training Development Deadline	365
Bias Training Completion Deadline	730
<i>Use of Force</i>	
Force Review Board Process Improvement Deadline	120
Use of Force Metrics Deadline	150
Use of Force Policy Deadline	270
Use of Force Policy Adoption Deadline	300
Use of Force Training Development Deadline	365
Use of Force Training Completion Deadline	540
<i>Documentation of Stops</i>	
Documentation of Contacts Policy Adoption Deadline	90
Stops Policy Deadline	120
Stops Policy Training Deadline	180
Stops Training Completion Deadline	365
<i>Recruitment, Hiring, and Promotion</i>	
Civil Service Commission Outside Expert Retention Deadline	90
Recruitment Plan Deadline	455
Civil Service Commission Rules and Regulations Modification Deadline	455
<i>Accountability and Transparency</i>	
Initial Measurement Plan Deadline	365

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

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**DISTRICT JUDGE**  
Arapahoe County, Colorado