



**City Council/Enterprise Boards
SPECIAL MEETING
FOLLOWED BY TOWN HALL
MEETING**
Tuesday, August 31, 2021
6:30 PM
130 South McKinley Avenue

Zo Stieber, Mayor
Shannon Rhoda, Ward 1
Chris Ceretto, Ward 2
Mike Sanchez, Ward 3
David Crespin, Ward 1
Tommy Holton, Ward 2
Bruce Fitzgerald, Ward 3

**You may join in person or join remotely by registering at:
<https://attendee.gotowebinar.com/rt/3902754318356881932>**

Special Meeting Agenda

Call to Order

Action Memorandum

- a. AM 2021-141 Approving an Ordinance for the Submission of a Ballot Question to the Registered Electors Pertaining to Marijuana Excise Tax for the November 2, 2021, Coordinated Election
- b. AM 2021-140 Declaring Surplus of Equipment From the Information Technology (IT) Department and Approving the Recycling of the Equipment
- c. AM 2021-142 Approve Agreement With Synergetic Systems Staffing for the Placement of Labor to Help With Temporary Needs

Adjourn

Town Hall Agenda

Call to Order

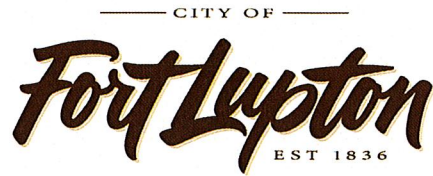
General Discussion – The Town Hall meeting is for the Public to have open discussion with Council regarding any topic. This list is not all-inclusive. The following topics are items to be presented to Council by staff and may or may not be followed by discussion. No transcripts or summary are taken during Town Hall meetings.

- a. Regulated Marijuana Ordinance
- b. Cultivating Marijuana
- c. Modification of Premises - Wholly Stromboli
- d. CDOT Intergovernmental Agreement - Street Maintenance
- e. Asphalt/Concrete Repair Contract
- f. Clean-up Update

- g.** Right of Way Dedication County Road 16 - Macintosh
- h.** Wastewater Updates
- i.** United Power Light Options for New Developments
- j.** Subdivision Signage
- k.** Development Code Update

Adjourn

**CITY OF FORT LUPTON
CITY COUNCIL**



Shannon Rhoda, Ward 1
Chris Ceretto, Ward 2
Michael Sanchez, Ward 3

Zo Stieber, Mayor

David Crespín, Ward 1
Tommy Holton, Ward 2
Bruce Fitzgerald, Ward 3

AM 2021-141

APPROVING AN ORDINANCE FOR THE SUBMISSION OF A BALLOT QUESTION TO THE REGISTERED ELECTORS PERTAINING TO MARIJUANA EXCISE TAX FOR THE NOVEMBER 2, 2021, COORDINATED ELECTION

I. Agenda Date: Council Special Meeting – August 31, 2021

II. Attachments: a. Proposed Ordinance and Ballot Question

III. Summary Statement:

The City Council has determined to ask the registered voters on whether to impose an excise tax on the first sale or transfer of unprocessed marijuana by a cultivation facility.

IV. Submitted by:

Mari Peña, City Clerk

V. Finance Reviewed

Leann Perino
Finance Director

VI. Approved for Presentation:

City Administrator

VII. Attorney Reviewed

Approved

Pending Approval

VIII. Certification of Council Approval:

City Clerk

Date

IX. Detail of Issue/Request:

The City Council may, without receipt of any petition, submit any proposed or adopted ordinance or resolution or any question to a vote of the registered electors of the municipality. The City Council has determined to ask the registered voters the question on whether to impose an excise tax on the sale or transfer of unprocessed retail marijuana.

At this time, there is no ordinance to allow for cultivation facilities however, the City Council is proposing to add an ordinance.

The Council will determine the excise tax based on:

- The collection and enforcement of the tax by the Finance Department.
- Impacts on the Police Department

Marijuana = FLMC 10-289 Marijuana: Offenses Related
Paraphernalia = FLMC 10-285 Possession of Drug Paraphernalia

TOTAL VIOLATIONS			18-20 YEARS OLD		UNDER 18 YEARS OLD	
Year	Marijuana	Paraphernalia	Marijuana	Paraphernalia	Marijuana	Paraphernalia
2018	19	15	7	4	12	11
2019	20	12	6	3	13	8
2020	6	13	5	4	1	2
2021	9	1	5	0	4	1

* 2021 is 01-01-2021 to 07-31-2021

The question as set forth:

SHALL THE CITY OF FORT LUPTON TAXES BE INCREASED BY ONE HUNDRED THOUSAND DOLLARS (\$100,000) ANNUALLY IN THE FIRST FISCAL YEAR (2022), AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING, **EFFECTIVE JANUARY 1, 2022**, A NEW EXCISE TAX OF **XX%** WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A RETAIL MARIJUANA CULTIVATION FACILITY WITH THE TAX REVENUES BEING USED TO **FUND GENERAL GOVERNMENT EXPENSES** AS DETERMINED BY THE CITY COUNCIL, WITH THE RATE OF THE TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 10%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY EXPENDITURE, REVENUE RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20, OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

The Council has determined to submit the ballot issues at an election of the City, to be held as a coordinated election on November 23, 2021, and to set the title and content of the ballot for the ballot issues to be submitted at the election called by the attached Ordinance.

X. Legal/Political Considerations:

XI. Alternatives/Options:

1. Approve the ballot questions.
2. Don't approve the ballot questions.

XII. Financial Considerations:

As a statutory City, Fort Lupton sales tax is collected and audited by the State of Colorado. However, marijuana tax collection and enforcement is left to Cities regardless of statutory designation.

XIII. Staff Recommendation:

Staff seeks recommendations.

ORDINANCE NO. 2021-xxxx

INTRODUCED BY:

AN ORDINANCE OF THE CITY OF FORT LUPTON APPROVING THE SUBMISSION OF A BALLOT QUESTION ON THE NOVEMBER 2, 2021, COORDINATED ELECTION, PERTAINING TO A RETAIL MARIJUANA EXCISE TAX; SETTING THE TITLES AND CONTENT OF THE BALLOT FOR THE ELECTION; AND DECLARING AN EMERGENCY

WHEREAS, the City of Fort Lupton, Weld County, Colorado (the “City”) is a statutory municipality and political subdivision of the State of Colorado (the “State”), duly organized and operating under the Constitution and laws of the State; and

WHEREAS, The City Council may, without receipt of any petition, submit any proposed or adopted ordinance or resolution or any question to a vote of the registered electors of the municipality; and

WHEREAS, the question of whether to allow a retail marijuana excise tax be placed on the ballot,

WHEREAS, § 29-2-114 C.R.S. authorizes each municipality in the state to levy, collect, and enforce a municipal excise tax; and

WHEREAS, § 29-2-114 C.R.S the excise tax shall be imposed on the first sale or transfer of unprocessed retail marijuana by a retail cultivation facility; and

WHEREAS, Article X, Section 20, of the Colorado Constitution (“TABOR Amendment”) limits the ability of the City to enact new taxes; and

WHEREAS, the TABOR Amendment permits electors of the City to approve the adoption of new taxes and to authorize the expenditure of revenues from such taxes; and

WHEREAS, any excise tax imposed by the municipality shall be administered, collected, or enforced by the municipality; and

WHEREAS, the question of whether to impose a retail marijuana excise tax must be directed to the registered voters.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT LUPTON, COLORADO, AS FOLLOWS:

Section 1: An election shall be held on Tuesday, November 2, 2021 at which there shall be submitted to the eligible electors of the City the question on whether to impose a retail marijuana excise tax within the City, which questions shall be in substantially form attached hereto as Exhibit A.

Section 2: The election shall be conducted as a coordinated election in Weld County in accordance with articles 1 to 13 of title 1, C.R.S. (the “Uniform Election Code”), and Intergovernmental Agreements (collectively, the “Intergovernmental Agreement”) between the Board of County Commissioners of the County of Weld, the Weld County Clerk and Recorder (the “County Clerk”) and the City of Fort Lupton.

Section 3: For purposes of C.R.S. § 31-11-111, this Ordinance shall serve to set the title and content for the ballot issues set forth herein and the ballot titles for such questions shall be the text of the questions themselves. Any protest to the ballot titles shall be filed in writing with the City Clerk within five (5) business days following the date of adoption of this Ordinance and shall be resolved thereafter by the City Council following a hearing with published notice.

Section 4: The City Clerk and other City officials and employees are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance.

Section 5: All actions not inconsistent with the provisions of this Ordinance heretofore taken by the members of the City Council and the officers and employees of the City and directed toward holding the election for the purposes stated herein are hereby ratified, approved and confirmed.

Section 6: All prior acts, orders or resolutions, or parts thereof, by the City in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 7: If any section, paragraph, clause or provision of this Ordinance shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Ordinance, it being the intention that the various parts hereof are severable.

Section 8. Emergency Declaration. Because of the necessity of submitting this Ordinance to meet the election scheduling demands, an emergency exists, and the provisions of this Ordinance are hereby declared to be necessary to the immediate preservation of the public health and safety, and it shall become effective upon adoption and compliance with the provisions of Section 31-16-105, Colorado Revised Statutes.

INTRODUCED, READ AND PASSED ON FIRST READING, AND ORDERED PUBLISHED this 31st day of August, 2021.

PUBLISHED in the Fort Lupton Press 8th day of September 2021.

EFFECTIVE the 8th day of October 2021.

CITY OF FORT LUPTON, COLORADO

Zo Stieber, Mayor

ATTEST:

Maricela Pena, City Clerk

Approved as to Form:

Andy Ausmus, City Attorney

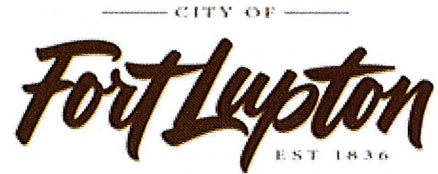
Exhibit A

RETAIL MARIJUANA EXCISE TAX

SHALL THE CITY OF FORT LUPTON TAXES BE INCREASED BY ONE HUNDRED THOUSAND DOLLARS (\$100,000) ANNUALLY IN THE FIRST FISCAL YEAR (2022), AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING, EFFECTIVE JANUARY 1, 2022, A NEW EXCISE TAX OF XX% WHEN UNPROCESSED RETAIL MARIJUANA IS FIRST SOLD OR TRANSFERRED BY A RETAIL MARIJUANA CULTIVATION FACILITY WITH THE TAX REVENUES BEING USED TO FUND GENERAL GOVERNMENT EXPENSES AS DETERMINED BY THE CITY COUNCIL, WITH THE RATE OF THE TAX BEING ALLOWED TO BE INCREASED OR DECREASED WITHOUT FURTHER VOTER APPROVAL SO LONG AS THE RATE OF TAXATION DOES NOT EXCEED 10%, AND WITH THE RESULTING TAX REVENUE BEING ALLOWED TO BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE WITHOUT REGARD TO ANY EXPENDITURE, REVENUE RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20, OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Yes:_____ No:_____

**CITY OF FORT LUPTON
CITY COUNCIL**



Shannon Rhoda, Ward 1
Chris Ceretto, Ward 2
Michael Sanchez, Ward 3

Zo Stieber, Mayor

David Crespín, Ward 1
Tommy Holton, Ward 2
Bruce Fitzgerald, Ward 3

AM 2021-140

**DECLARING SURPLUS OF EQUIPMENT FROM THE INFORMATION TECHNOLOGY (IT)
DEPARTMENT AND APPROVING THE RECYCLING OF THE EQUIPMENT**

- I. **Agenda Date:** Council Special Meeting – August 31, 2021
- II. **Attachments:** a. List of Equipment
- III. **Summary Statement:**

Over time IT equipment becomes End of Life (EOL) meaning that the equipment is out of warranty and is no longer supported by the vendor. This equipment has been stored in the basement waiting to be recycled. All serial numbers have been noted and all data bearing devices have been wiped out according to Department of Defense (DoD) standards prior to going out for recycling. The City has partnered with DMD Systems in the past and will continue to use DMD Systems Asset Disposal Team to properly recycle the systems.

IV. **Submitted by:** _____
Travis Aksamitowski, IT Director

V. **Finance Reviewed** _____
Leann Bruno
Finance Director

VI. **Approved for Presentation:** _____
City Administrator

VII. **Attorney Reviewed** _____ Approved _____ Pending Approval

VIII. **Certification of Council Approval:** _____
City Clerk Date

IX. Detail of Issue/Request:

Over time IT equipment becomes End of Life (EOL) meaning that the equipment is out of warranty and is no longer supported by the vendor. This equipment has been stored in the basement waiting to be recycled. All serial numbers have been noted and all data bearing devices have been wiped out according to Department of Defense (DoD) standards prior to going out for recycling. The City has partnered with DMD Systems in the past and will continue to use DMD Systems Asset Disposal Team to properly recycle the systems.

DMD Systems has estimated that the total cost is estimated between \$1,600 - \$1,700 for the equipment that we currently have. The services include:

- Equipment prepped for shipping
- TSA approved transportation
- Equipment audit
- NAID certified data destruction on all data bearing devices
- Serialized reporting
- Certificate of destruction

X. Legal/Political Considerations:

Not Applicable

XI. Alternatives/Options:

Not Applicable

XII. Financial Considerations:

IT budgeted for the cost of recycled equipment

XIII. Staff Recommendation:

Staff recommends approval of the recycling the surplus equipment.

Desktop Serial #	Service Tags	Make/Model	DBAN/DoD
BRX7M02	2632974882	DELL/D13M	
4YYLH02	10821088082	DELL/D08S	
4XFYQW1	10729328545	DELL/D04S	
4XYHH02	10760435282	DELL/D08S	
3D3VP22	7322924954	DELL/D08S	
H62NH02	37372551122	DELL/D08S	
4298FY1	8843572153	DELL/D07D	
4KYZH51	9975215809	DELL/D07D	
GR7D811	3014839876	DELL/DHM	
Windows 98	Service tag missng	not identified	
Windows 98	Service tag missing	not identified	
Laptops Serial #	Service Tags	Make/Model	DBAN/DoD
5CB25104LV	186195929295	HP/Elitebook 8570p	
CND4375GTW	F2P52UT#ABA	HP/Zbook	
28SJ5S1	4885217281	DELL/Latitude	
Server Serial#	Service tags	Make/Model	DBAN/DoD
MXQ21800WL	Service tag missing	HP/Proliant DL380 G7	
MXQ21800X1	Service tag missing	HP/Proliant DL380 G7	

Peripherals	Count	Date Accounted for
Keyboard Amount	32	8/11/2021
Mice Amount	19	8/11/2021
Cord Amount	Box	8/16/2021
Monitors	11	8/11/2021
TV's	3	8/11/2021
Printers	2	8/11/2021
Barcode Scanner	2	8/11/2021
Reciept Printer	2	8/11/2021
LAN Line Phones	4	8/11/2021
Computer Case	1	8/12/2021
Printer Toners	2	8/11/2021

Date

8/11/2021

8/11/2021

8/11/2021

8/11/2021

8/11/2021

8/11/2021

8/11/2021

8/11/2021

8/11/2021

N/A

N/A

Date

8/12/2021

8/12/2021

8/12/2021

Date

N/A

N/A

**CITY OF FORT LUPTON
CITY COUNCIL**



Shannon Rhoda, Ward 1
Chris Ceretto, Ward 2
Michael Sanchez, Ward 3

Zo Stieber, Mayor

David Crespín, Ward 1
Tommy Holton, Ward 2
Bruce Fitzgerald, Ward 3

AM 2021-142

**APPROVE AGREEMENT WITH SYNERGETIC SYSTEMS STAFFING FOR THE PLACEMENT OF
LABOR TO HELP WITH TEMPORARY NEEDS**

I. **Agenda Date:** Council Special Meeting – August 31, 2021

II. **Attachments:**

- a. Service Agreement for Synergetic Staffing
- b. Synergetic Staffing Temp to Hire Agreement Exhibit A

III. **Summary Statement:**

Consider the approval of the City's Services Agreement and Exhibit A to engage with Synergetic Systems for the placement of labor to help with temporary needs.

IV. **Submitted by:**

Laura Howe, HR Director

V. **Finance Reviewed**

Lean Perino

Finance Director

VI. **Approved for Presentation:**

City Administrator

VII. **Attorney Reviewed**

Approved

Pending Approval

VIII. **Certification of Council Approval:**

City Clerk

Date

IX. Detail of Issue/Request:

The City is in need of more resources to fill temporary positions. Expanding resources for filling seasonal positions would also be helpful. With the labor market being particularly challenging for employers, the City would benefit from working with multiple partners so we can get temporary staff hired more quickly and minimize any delays in City Services.

Synergetic Systems was referred to the City by the Chamber of Commerce. Staff has met with them and would like to use them as a resource. One advantage they offer is that they are willing and able to fill our seasonal maintenance positions, which very few agencies will do. That has been an area of acute difficulty in hiring. The terms of their agreement, Exhibit A, are acceptable.

X. Legal/Political Considerations:

The agreement and attachment have been reviewed and approved by the City Attorney.

XI. Alternatives/Options:

The City could not engage with this staffing company and seek out others.

The City could not utilize staffing companies to help fill openings.

XII. Financial Considerations:

The budget for temporary or seasonal labor comes out of the salary budget for the associated position(s). In most cases, there will not be a budgetary impact because temporary help replaces a separating employee. Budget required to pay for temporary labor for special projects or to cover an extensive employee leave may be requested from Council, if necessary.

If the City anticipates a significant and ongoing need for temporary labor, a purchasing process may need to be completed. That is not expected at this time.

XIII. Staff Recommendation:

Staff recommends Council approve the Services Agreement and Exhibit A for Synergetic Systems.



Service Agreement

This PUBLIC WORKS Agreement is entered into by and between the **City of Fort Lupton**, Colorado (hereinafter “City”) and **Synergetic Staffing, LLC.** (hereinafter “CONSULTANT”).

WHEREAS, the parties hereto agree in consideration of the covenants, payments and agreements set forth herein as follows:

1. **SCOPE OF SERVICES.** Consultant shall perform the services included in the scope of work set forth and incorporated herein as **Exhibit A.** Consultant confirms it possesses all necessary professional licenses and is in good standing with the State of Colorado. Further, Consultant states it possesses professional liability insurance.

2. **CONTRACT DOCUMENTS.** This Agreement consists of and includes this Agreement and **Exhibit A.** In the event of any conflict between any of these documents, this document shall control.

3. **PERIOD OF SERVICE AND SCHEDULE.** The provisions of this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the services stated in the Proposal. Consultant's obligation to render services hereunder will extend for a period that may reasonably be required for the completion of said services. Consultant shall make reasonable efforts to comply with deliverable schedules and consistent with Consultant's professional responsibility.

4. **CONTRACT SUM.** The City shall pay to the Consultant for performance and completion of the work encompassed by this Agreement, and the Consultant will accept as full compensation for rendered services, subject to confirmation by the City of completion of the scope of work in accordance with the contract documents attached hereto. Said amounts to be paid upon review and acceptance of the work by the City, in its sole discretion, including completion by the Consultant of any review corrections as determined by the City and approvals deemed necessary by CDPH&E.

5. **CONTRACT APPROPRIATIONS/NO CHANGE ORDERS.** The City states that the amount of money appropriated for this Agreement is equal to or in excess of the contract amount. No change order to this Agreement requiring additional compensable work to be performed, which work causes the aggregate amount payable under this Agreement to exceed the amount appropriated for the original contract shall be issued by the City unless the City notifies the Consultant in writing, that lawful appropriations to cover the costs of this additional work has been made and the change order is approved by the City in its sole discretion in writing. City shall have the right to make changes within the general scope of Consultant's services, with an appropriate change in compensation and schedule, upon

execution of a mutually acceptable amendment or change order signed by authorized representatives of City and Consultant.

6. **AMENDMENT/NO ASSIGNMENT.** No modification or amendment of this Agreement shall be valid unless in writing and signed by all parties to this Agreement. Consultant's services will be performed solely for the benefit of City and not for the benefit of any other persons or entities. Neither City nor Consultant shall assign or transfer interest in this Agreement without the written consent of the other.

7. **COMPLETE AGREEMENT.** This Agreement, and the exhibits hereto, shall constitute the entire agreement between the parties with respect to the subject matter hereof and there are no agreements, representations or warranties other than as set forth herein.

8. **COMPUTER PROGRAMS OR MODELS**
Any use, development, modification, or integration by Consultant of computer software modeling programs does not constitute ownership or a license to City to use or modify such computer software modeling programs.

9. **ELECTRONIC MEDIA AND DATA TRANSMISSIONS**
A. Any electronic media (computer disks, tapes, etc.) or data transmissions furnished (including Project Web Sites or CAD file transmissions) are for City information and convenience only. Such media or transmissions are not to be considered part of Consultant's instruments of service. Consultant, at its option, may remove all indicia of its ownership and involvement from each electronic display.

B. Consultant shall not be liable for loss or damage directly or indirectly, arising out of City's use of electronic media or data transmissions.

10. **DOCUMENTS.** All documents prepared by Consultant pursuant to this Agreement are instruments of service in respect of the Project specified herein. They are not intended or represented to be suitable for reuse by City or others in extensions of the Project beyond that now contemplated or on any other Project. Any reuse, extension, or completion by City or others without written verification, adaptation, and permission by Consultant for the specific purpose intended will be at City's sole risk and without liability or legal exposure to Consultant.

In the event that Consultant is to reuse, copy or adapt all or portions of reports, plans, or specifications prepared by others, City represents that City either possesses or will obtain permission and necessary rights in copyright, patents, or other proprietary rights and will be responsible for any infringement claims by others. Consultant will use professional judgement and analysis related to any documents produce by others for the City, for which Consultant shall rely on to perform and complete its services.

11. ESTIMATES, SCHEDULES, FORECASTS, AND PROJECTIONS

Estimates, schedules, forecasts, and projections prepared by Consultant relating to loads, interest rates and other financial analysis parameters, construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are opinions based on Consultant's experience, qualifications, and judgment as a professional. Since Consultant has no control over weather, cost and availability of labor, cost and availability of material and equipment, cost of fuel or other utilities, labor productivity, construction contractor's procedures and methods, unavoidable delays, construction contractor's methods of determining prices, economic conditions, government regulations and laws (including the interpretation thereof), competitive bidding or market conditions, and other factors affecting such estimates or projections, Consultant does not guarantee that actual rates, costs, quantities, performance, schedules, etc., will not vary significantly from estimates and projections prepared by Consultant.

12. **POLLUTION** In view of the uncertainty involved in investigating and recommending solutions to environmental problems and the abnormal degree of risk of claims imposed upon Consultant in performing such services, to the maximum extent allowed by law, City agrees to release, defend, indemnify and hold harmless Consultant and its officers, directors, employees, agents, consultants and subcontractors from all liability, claims, demands, damages, losses, and expenses including, but not limited to, claims of City and other persons and organizations, reasonable fees and expenses of attorneys and consultants, and court costs, except where there has been a final adjudication that the damages were caused by Consultant's willful disregard of its obligations under this Agreement. Such indemnification includes claims arising out of, or in any way relating to, the actual, alleged, or threatened dispersal, escape, or release of, or failure to detect or contain, chemicals, wastes, liquids, gases, or any other material, irritant, contaminant, or pollutant.

13. ON-SITE SERVICES

A. Project site visits by Consultant during investigation, observation, construction or equipment installation, or the furnishing of Project representatives shall not make Consultant responsible for construction means, methods, techniques, sequences, or procedures; for construction safety precautions or programs; or for any construction contractor(s') failure to perform its work in accordance with the contract documents.

B. City shall disclose to Consultant the location and types of any known or suspected toxic, hazardous, or chemical materials or wastes existing on or near the premises upon which work is to be performed by Consultant's employees or subcontractors. If any hazardous wastes not identified by City are discovered after a Project is undertaken, City and Consultant agree that the scope of services, schedule, and compensation may be adjusted accordingly. City agrees to release Consultant from all damages related to any pre-existing pollutant, contaminant, toxic, or hazardous substance at the site

14. **TERMINATION.** Services may be terminated by City or Consultant by seven (7) days' written notice in the event of substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party. If so terminated, City shall pay Consultant all amounts due for all services properly rendered and expenses incurred to the date of receipt of notice of termination.

15. **SEVERABILITY.** In the event any portion of this Agreement is held to be unenforceable, the unenforceable portion of this Agreement will be deleted and the remaining provisions of the Agreement shall continue in full force and effect.

16. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Colorado. All parties agree that any dispute regarding enforcement of this Agreement shall be filed in Weld County District Court after first attempting in good faith to submit the dispute to mediation. Submission of any dispute to mediation shall be a condition precedent to filing litigation in this matter, other than the request for injunctive relief.

17. **OSHA REQUIREMENTS.** Consultant agrees that it alone bears the responsibility for providing a safe and healthy work environment and shall provide its employees with adequate orientation and training to safely perform the scope of work set forth in this contract. Consultant shall at all times comply with the safety and health regulations of the Occupational Safety and Health Act of 1970 (29 CFR 1926) including all amendments and modifications thereto. In the event there is a conflict between the safety and health provisions of federal, state or local regulations, the more stringent provision shall prevail. Consultant acknowledges and agrees that with respect to the scope of work under this contract, it shall comply with all obligations and assume all responsibilities for its actions regarding all OSHA rules and regulations.

18. **NO WAIVER OF GOVERNMENTAL IMMUNITY.** The City, its elected officials, officers and employees are relying upon, and do not waive or intent to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. Sec. 24-10-101 et seq. as amended or otherwise available to the City. Nothing herein shall operate as a waiver of any right the City has of governmental immunity under Colorado law which is specifically herein reserved.

19. **INDEPENDENT CONTRACTOR.** Consultant is a separate, legal entity from the City and the parties make this Agreement accordingly with the understanding that Consultant at all times is acting as an independent contractor and not an employee or agent of the City. All persons retained by Consultant to perform services pursuant to this Agreement shall be employees or independent contractors of Consultant and are not employees, contractors or agents of the City. Consultant does not have the authority to bind the City by contract or otherwise.

20. **FORCE MAJEURE.** Neither party shall be liable or responsible to the other party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the affected party, including but not limited to fire, floods, embargoes, pandemics, wars, acts of war (whether war is declared or not), insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, instances affecting public health including pandemics, acts of God or acts, omission, or delays in acting by any governmental authority. Provided, however, that the party so affected shall use reasonable efforts to avoid or remove such causes of non-performance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either party shall provide the other party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure. The parties shall mutually seek a resolution of the delay or the failure to perform as noted above.

21. **INDEMNIFICATION BY CONSULTANT.** Consultant shall defend, indemnify and hold the City harmless from any damages caused by negligence, including but not limited loss, liability, expenses, suit or claim, or claim for injury to persons or damage to property arising out of the activities of Consultant or its sub consultants pursuant to this Agreement. Expenses shall include all out of pocket expenses, attorney fees, expert costs and related litigation fees. To the extent allowed by law, City will require all construction contractors to indemnify, defend, and hold harmless City and Consultant from any and all loss where loss is caused or alleged to be caused in whole or in part by the construction contractors, their employees, agents, subcontractors or suppliers.

22. **APPROVAL REQUIRED.** This Agreement is subject to the final approval of the Fort Lupton City Council and signature by the Mayor of Fort Lupton.

EXECUTED THIS _____ DAY OF _____, 2021.

CITY OF FORT LUPTON, COLORADO

BY: _____

TITLE: _____

Synergetic Staffing, LLC:

BY: _____

TITLE: _____



TEMP-TO-HIRE AGREEMENT

Thank you for choosing to do business with Synergetic Staffing, LLC. This Temp-to-Hire Agreement ("Agreement") sets forth the terms and conditions of our delivery of services to you. "You" and "your" will refer to City of Fort Lupton, Colorado and Synergetic Staffing, LLC will be referred to as "we" "our" or "us" throughout this Agreement.

1. Temporary Associates: We look forward to providing you with quality temporary associates. It is our goal to ensure your job assignments are completed correctly and on time. Our success depends on the quality of skills, abilities, and productivity of the temporary associates we provide your company.
2. Term of Temporary Placement: The initial term for temporary placement will be as follows: This contract will begin as soon as is fully endorsed. It is anticipated that we will have suitable candidates within 48 – 72 hours after contract is finalized. Those candidates will be interviewed and cross checked and it is anticipated that an approved candidate or candidates will begin work as soon as is suitable to City of Fort Lupton. A hired candidate shall be eligible to become a full time employee of the City of Fort Lupton, at no additional expense, after the individual has worked 580 hours for Synergetic Staffing, LLC.
3. Insurance Clause: It is understood and agreed between the parties that temporary employees of Synergetic Staffing, LLC will not drive any vehicles. Synergetic Staffing, LLC will not provide Auto Insurance under the terms of this agreement. Should drivers be needed this clause will need to be updated and insurance stipulations will need to be met. Unless this agreement is modified, there will be no coverage by Synergetic Staffing, LLC, for Auto Insurance. Synergetic Staffing, LLC will provide worker's compensation coverage as long as the temporary employees are on the payroll of Synergetic Staffing, LLC. Synergetic Staffing, LLC also maintains professional and general liability insurance coverage with a limit of \$1,000,000.00 for each occurrence and an aggregate limit no less than \$3,000,000.00.
4. Rates: Below are the service categories, descriptions, and bill rate ranges specific to your requirements. Rates for additional services are available on request. Our hourly rates include all costs for recruiting, payroll, payroll taxes and all tax filing and record keeping. We have a four hour per day minimum work schedule for all temporary associates.
5. Training and Supervision: You understand and agree that you are solely responsible for the training, direction, control, and supervision of the assigned temporary associate.
6. Satisfaction Guarantee. We guarantee the quality of our temporary associates. If you are ever sent someone who cannot meet the minimum qualifications for their assignment, we commit to not bill you for the time worked if we are notified within an 8 -hour period.

7. Modification/Waiver: If either party should waive any breach of any provisions of this Agreement, such party shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision of this Agreement. No modification of any provision of this Agreement will be effective unless in writing and signed by all parties.

8. Indemnification. To the extent permitted by law you hereby agree to defend, indemnify, and hold us and our directors, officers, employees and agents, harmless from and against any and all losses, damages, liabilities, obligations, suits, actions, proceedings, claims or demands, including costs, expenses, and fees (including reasonable attorneys' fees and expert witness fees) incurred in connection with, suffered by any of them, or asserted against any of them arising out of the acts or omissions of any temporary associate placed with you pursuant to this Agreement.

9. Governing Law: This Agreement is made and construed in accordance with the laws of the State of Colorado.

10. Payment Terms: Payment is due and payable in full within thirty (30) days of receipt of invoice date. If full payment of the invoice due has not been received within thirty (30) days from the invoice date, the amount will be considered delinquent. With respect to delinquent accounts, (1) the unpaid balance will be subject to interest at a rate of 1.5 % per month (18% Annual Percentage Rate); (2) the performance guarantee set forth herein will be null and void. You also agree to pay all our collection costs, including reasonable attorney's fees, if collection of our fee is necessary by suit or other collection means.

11. Buyout Provision: If the City of Fort Lupton decides to hire a temporary employee before 580 hours have been completed, a pro-rated portion of the remaining contract will be due. For instance, if the employee has worked 200 hours, the remainder of the hours in paragraph 2 would be due, and the 200 hours would be subtracted from the total number of hours. The number of hours would then be multiplied by the hourly wage and the contract mark-up.

DESCRIPTION:
Various labor and Clerical Positions

RATES:
Pay Rate Range: \$12.32-\$21.21 Per Hour
Rate of markup: 47%
Bill Rate Range: \$18.11-\$31.18 per Hour

Background Check (By request only)
Drug Screen (By request only)

\$50
\$50

DATED this day of May, 2021.
Synergetic Staffing, LLC

City of Fort Lupton

By: _____

By: _____

Its: _____

Its: _____