



# City and County of Denver

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**Timothy M. O'Brien, CPA**  
Auditor

Mayor Michael B. Hancock  
1437 Bannock St # 350  
Denver, CO 80202

*Hand Delivered*

April 4, 2016

**RE: Notice of Denver Zoological Foundation's Breach of Cooperative Agreement**

Mayor Hancock,

On November 11, 2015, pursuant to the authority prescribed by the Charter and Revised Municipal Code of the City and County of Denver, and the City and County of Denver's ("City") 1998 Cooperative Agreement ("Agreement") with the Denver Zoological Foundation ("Zoo"), the Denver City Auditor's Office initiated a combined audit of the Denver Department of Parks and Recreation and the Foundation ("Audit").

The Zoo has failed in its contractual duties as prescribed in the Agreement and has worked to obstruct the Audit. **Please accept this letter as notice the Zoo has defaulted in performance of material terms of the Agreement.**

In 1956, the City contracted with the Zoo to act as its agent in the operation of the Denver Zoological Gardens. The Zoo receives funding directly from the City's general fund and through City levied bond proceeds. The City and Zoo have twice renewed their Agreement.

In the most recent iteration of the Agreement, the Zoo agreed, "any duly authorized representative of the City (including the City Auditor) shall . . . **have the right to perform whatever audit or check the City may require**, including a financial audit and a check for compliance with this Agreement." (Emphasis added). Agreement, pg. 15, §20. In the Agreement, the Zoo further agreed, the "Agreement shall be governed by and construed, to the extent applicable, in accordance with the laws of the state of Colorado and the Charter and Revised Municipal Code of the City and County of Denver." Agreement, pg. 16, §24.

The Denver Revised Municipal Code requires the Auditor's Office to perform its audits in compliance with the United States Government Accountability Office's government-auditing standards. See D.R.M.C. §20-276(a). US GAO government-auditing standards require the **auditor to identify appropriate and sufficient evidence for collection based on audit objectives**. See G.A.G.A.S. §§3.62, 3.67. US GOA standards by reference to Internal Auditors International Standards for the Professional Practice of Internal Auditing require **unrestricted access to employees, property, and records as appropriate for the performance of the audit activities**.

See G.A.G.A.S. §§3.31, 5.52, 7.44; IIA Supplemental Guidance: The Role of Auditing in the Public Sector Governance.

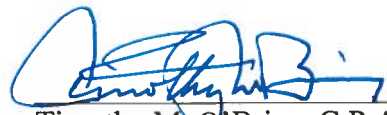
Beginning in November 2015, the Zoo has worked to obstruct the Audit by:

- Disputing the Zoo is subject to the Denver Revised Municipal Code as stated in the Agreement;
- Demanding the Auditor's Office limit the scope of the Audit before assessing the potential risks associated with the Audit subject;
- Refusing to provide the Department of Parks and Recreation documents required under the Agreement;
- Making erroneous and unsupported allegations regarding the Auditor's duties to the Zoo pursuant to the Agreement;
- Attempting to negotiate the validity and scope of the Audit with City agencies other than the Auditor's Office;
- Requiring Zoo employees be interviewed in the presence of Zoo management and Zoo legal counsel;
- Repeatedly postponing entry and grounding interviews;
- Declining to sign a written agreement or verbally agreeing to the terms of the audit; and
- Requesting a confidentiality agreement, in addition to the Auditor's already existing confidentiality requirements.

The Zoo has repeatedly failed in its contractual duty to cooperate with the Audit. The Zoo is attempting to dictate the scope, terms and method of the Audit. The Zoo's conduct prevents the Auditor's Office from conducting an audit in compliance with City law and the professional standards adopted by the City Charter.

For the past five months, the Auditor's Office has unsuccessfully worked through City channels to elicit substantive cooperation from the Zoo. The Agreement requires the Manager of Parks and Recreation to provide the Zoo notice of its default. If the Zoo fails to remedy its default within 90 days, the Agreement permits the Mayor to seek further remedy. The Auditor's Office urges the City to provide the Zoo notice of its default and exercise the legal rights afforded it under the Agreement.

The Auditor's Office has ceased working on the Audit, and will not endeavor to perform additional work on the Audit until the Zoo has cured its default and cooperates with the Audit as required by Agreement and Denver law.



Timothy M. O'Brien, C.P.A.  
Denver City and County Auditor

Copied:

Allegra "Happy" Haynes, Manager, Denver Parks & Recreation