



NOTICE OF COUNCIL MEETING

STUDY SESSION

TELECONFERENCE (Open to the Public)

Monday, March 20, 2023

6:30 p.m.

TELECONFERENCE/ELECTRONIC PARTICIPATION PROCEDURES

Members of the Aurora City Council will participate in the March 20, 2023 Study Session by teleconference due to concerns surrounding the COVID-19 (coronavirus) outbreak. To keep the members of our community, employees and leaders safe, there will be no public presence at the meeting. Members of the public and media will be able to participate remotely through the options listed below:

View or listen live to the Study Session

Live streamed at www.auroraTV.org
Cable Channels 8 and 880 in Aurora
Call: 855.695.3475

Translation/Accessibility

The City will provide closed captioning services on Cable Channels 8 and 880. If you need any other accommodation, please contact the Office of the City Clerk at (303) 739-7094. If you are in need of an interpreter, please contact the Office of International and Immigrant Affairs at 303-739-7521 by Monday, March 20, 2023 at 9:00 a.m. (Si necesita un intérprete, comuníquese con la oficina de asuntos internacionales e inmigrantes en 303-739-7521 por el viernes anterior a la reunión del lunes.)

For other information regarding public meetings, please contact the Office of the City Clerk at (303) 739-7094 or by email at CityClerk@auroragov.org or visit www.auroragov.org



AGENDA

Study Session of the Aurora City Council

Monday, March 20, 2023

6:30 p.m.

VIRTUAL MEETING

City of Aurora

15151 E Alameda Parkway

Pages

1. ITEMS FROM THE MAYOR

1.a Mayor's Update

1.a.1 Update Regarding Ridgeview Project

4

Sponsor: Mike Coffman, Mayor

Outside Speakers: Tyler Jaeckel, Managing Director, Economic Recovery / Elizabeth Kosar, Economic Recovery Communications Coordinator / Kristin Toombs, Director, Office of Homeless Initiatives / Eleni Angelides, Deputy Legislative Director

Estimated time: 15 mins

1.a.2 Resolution in Support of 140th Wing Flight Operations 2023

7

Sponsor: Mike Coffman, Mayor

Michelle Gardner, Senior Assistant City Attorney

Outside Speakers: Dave Gruber, Former City Council Member / Parker White, Legislative Liaison and Public Information Officer

Estimated time: 15 mins

1.a.3 Aurora Economic Development Strategy

12

Sponsor: Mike Coffman, Mayor

Daniel Krzyzanowski, Planning Supervisor, Planning and
Development Services / Rachel Allen, Client Group Manager, City
Attorney

Estimated time: 30 mins

1.b Issue Update

2. CONSENT CALENDAR

2.a Consideration to Appoint One (1) Member to the Public Defenders Commission

48

Kadee Rodriguez, City Clerk / Dave Lathers, Senior Assistant City Attorney

**2.b Consideration to Reappoint One (1) Member and Appoint Two (2) Members to
the Open Space Advisory Board**

57

Kadee Rodriguez, City Clerk / Dave Lathers, Senior Assistant City Attorney

**2.c IGA with Colorado Department of Transportation (CDOT) for the Smith Road
Multimodal Design Grant**

78

Matt Kozakowski, Transportation Project Delivery Manager, Public Works /
Michelle Gardner, Senior Assistant City Attorney

3. ITEMS FROM THE POLICY COMMITTEES

3.a Monument Signs

270

Sponsor: Danielle Jurinsky, Council Member

Jeannine Rustad, Director, Planning and Development Services / Daniel L.
Money, Senior Assistant City Attorney

Outside Speakers: Steve Cecil, Real Estate Manager, Market Manager for Lamar
/ Brent Window, Senior Vice President, Territory Manager

Estimated time: 30 mins

3.b	Consideration to Update City Code that Governs Purchasing - City Code Chapter 2 Administration, Article VI Purchases and Contracts (Ordinance)	286
	Bryn Fillinger, Manager of Purchasing Services, Finance / Dave Lathers, Senior Assistant City Attorney	
	Estimated time: 20 mins	
3.c	FSIR Legislative Update	307
	Liz Rogers, Intergovernmental Relations Manager / George Koumantakis, Client Services Manager, City Attorney	
	Estimated time: 5 mins	
3.d	Ordinance to Amend A.M.C Section 134	358
	Carrigan Bennett, Police Lieutenant / Megan Platt, Assistant City Attorney	
	Estimated time: 10 mins	
4.	ITEMS FROM THE CITY MANAGER	
4.a	Civil Service Commission Interview Schedule	368
	Kadee Rodriguez, City Clerk / Dave Lathers, Senior Assistant City Attorney	
	Estimated time: 5 mins	
5.	ITEMS FROM THE CITY COUNCIL	
5.a	Preventing Certain Social Media Applications/Websites from Being Installed or Accessed on City Owned Devices and Personal Devices (Resolution)	371
	The sponsor is requesting a waiver of reconsideration.	
	Sponsor: Dustin Zvonek, Council Member	
	George Koumantakis, Manager of Client Services, City Attorney	
	Estimated time: 10 mins	
6.	CALL-UPS OF COUNCIL POLICY COMMITTEE ITEMS	
7.	MISCELLANEOUS ITEMS	
8.	ITEMS REMOVED FROM THE AGENDA, IF ANY	



CITY OF AURORA

Council Agenda Commentary

Item Title: Update Regarding Ridgeview Project
Item Initiator: Mike Coffman, Mayor
Staff Source/Legal Source: None
Outside Speaker: Tyler Jaeckel, Managing Director, Economic Recovery / Elizabeth Kosar, Economic Recovery Communications Coordinator / Kristin Toombs, Director, Office of Homeless Initiatives / Eleni Angelides, Deputy Legislative Director
Council Goal: 2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interests

COUNCIL MEETING DATES:

Study Session: 3/20/2023

Regular Meeting: N/A

2nd Regular Meeting (if applicable): N/A

Item requires a Public Hearing: ☐ Yes ☒ No

ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time for Study Session

Sponsor: Mike Coffman, Mayor

Outside Speakers: Tyler Jaeckel, Managing Director, Economic Recovery / Elizabeth Kosar, Economic Recovery Communications Coordinator / Kristin Toombs, Director, Office of Homeless Initiatives / Eleni Angelides, Deputy Legislative Director

Estimated time: 15 mins

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input checked="" type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field above. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: (Check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> Minutes Not Available |

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Enter History here or type N/A if no history.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

Representatives from the Governor's office will join the meeting to provide an update and information regarding the upcoming project to take place where Ridgeview Academy was located. This project will include a facility intended to support unhoused individuals who are experiencing addiction related difficulties.

FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- | | | |
|--|--|--|
| <input type="checkbox"/> Revenue Impact | <input type="checkbox"/> Budgeted Expenditure Impact | <input type="checkbox"/> Non-Budgeted Expenditure Impact |
| <input type="checkbox"/> Workload Impact | <input checked="" type="checkbox"/> No Fiscal Impact | |

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

QUESTIONS FOR COUNCIL

None. Informational Only.

LEGAL COMMENTS

Article III, Section 8 of the City Charter of the City of Aurora, Colorado, authorizes City Council to “prescribe rules of procedure to govern meetings. A City Council member may place items on the Study Session and Regular/Special Meeting agendas. Each such item shall indicate the party requesting the item. (Rules of Order and Procedure for the Aurora City Council, B.2.) (Bajorek)



CITY OF AURORA

Council Agenda Commentary

Item Title: Resolution in Support of 140th Wing Flight Operations 2023
Item Initiator: Mike Coffman, Mayor
Staff Source/Legal Source: Michelle Gardner, Senior Assistant City Attorney
Outside Speaker: Dave Gruber, Former City Council Member / Parker White, Legislative Liaison and Public Information Officer
Council Goal: 2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interests

COUNCIL MEETING DATES:

Study Session: 3/20/2023

Regular Meeting: 3/27/2023

2nd Regular Meeting (if applicable): 4/10/2023

Item requires a Public Hearing: ☐ Yes ☒ No

ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time for Study Session

Sponsor: Mike Coffman, Mayor

Michelle Gardner, Senior Assistant City Attorney

Outside Speakers: Dave Gruber, Former City Council Member / Parker White, Legislative Liaison and Public Information Officer

Estimated time: 15 mins

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|--|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration | |
| Reason for waiver is described in the Item Details field above. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: (Check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> Minutes Not Available |

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

N/A

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

This resolution memorializes City support of replacement of the aging F-16 Fighting Falcon fighters with a manned fighter mission such as the Next Generation Air Dominance Fighter, F-15EX Eagle II, or a newer fleet of F-16s.

FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- | | | |
|--|--|--|
| <input type="checkbox"/> Revenue Impact | <input type="checkbox"/> Budgeted Expenditure Impact | <input type="checkbox"/> Non-Budgeted Expenditure Impact |
| <input type="checkbox"/> Workload Impact | <input type="checkbox"/> No Fiscal Impact | |

REVENUE IMPACT

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BUDGETED EXPENDITURE IMPACT

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NON-BUDGETED EXPENDITURE IMPACT

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WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

QUESTIONS FOR COUNCIL

Does Council support moving the Resolution forward to the next available Regular Meeting?

LEGAL COMMENTS

The Council shall have all legislative powers of the city and all other powers of a home rule city not specifically limited by the Constitution of the State of Colorado and not specifically limited or conferred upon others by the Charter. (City Charter 3-9). **The City Council of the City of Aurora shall have the power to act by ordinance, resolution or motion and may adopt policies as it deems proper and advisable. (City Charter 5-1).** The Mayor and Council members have authority to place items on the Study Session agenda. Each such item shall indicate the party requesting the item. (City of Aurora City Council Rule of Order and Procedure Section B.2(a)). (M. Gardner)

RESOLUTION NO. R2023-__

RESOLUTION IN SUPPORT OF THE 140TH WING OF THE COLORADO AIR NATIONAL GUARD'S FLIGHT OPERATIONS AT BUCKLEY SPACE FORCE BASE

WHEREAS, the 140th Wing of the Colorado Air National Guard at Buckley Space Force Base, Aurora, Colorado, flies the F-16 Fighting Falcon and defends America's homeland by delivering 24/7 fighter aircraft alert in support of United States Northern Command; and

WHEREAS, the 140th Wing of the Colorado Air National Guard provides strategic capabilities for United States European Command, United States Central Command, and United States Indo-Pacific Command; and

WHEREAS, the runway at Buckley Space Force Base that is operated by the 140th Wing supports: the fighter alert mission; cargo missions in support of Headquarters Air Force and United States Space Command; Special Airlift Assignment missions and transient aircraft mission support for the President of the United States; Air Mobility Command; Air Combat Command; cargo aircraft transporting sensitive satellites manufactured in Colorado; and, missions flown by the Colorado Army National Guard with their fleet of Blackhawk, Lakota, and Chinook helicopters; and

WHEREAS, the United States government, the State of Colorado, Arapahoe County, and the City of Aurora have invested millions of dollars in securing land adjacent to the Buckley Space Force runway to avoid the risk of civilian buildings encroaching said runway and to ensure the noise profile of fifth-generation fighter aircraft will not impact the community; and

WHEREAS, the F-16 Fighting Falcon aircraft flown by the 140th Wing are rapidly approaching end of life, having been issued to the Colorado Air National Guard in the early 1990s following years of service in the active Air Force, and since that time having been flown in support of operations in Iraq, Afghanistan, Japan, Estonia, Hungary, Turkey, and Kuwait; and joint training operations in Korea, Japan, Australia, Denmark, Germany, Estonia, Hungary, Slovenia and Jordan; and

WHEREAS, the Department of the Air Force is faced with replacing the aging F-16 Fighting Falcon fighters with a manned fighter mission such as the Next Generation Air Dominance Fighter, F-15EX Eagle II, or a newer fleet of F-16s; and

WHEREAS, the City Council of the City of Aurora desires to express its support to the Department of the Air Force for the 140th Wing of the Colorado Air National Guard's flight operations at Buckley Space Force Base and for replacement of the aging F-16 Fighting Falcon fighters with a manned fighter mission such as the Next Generation Air Dominance Fighter, F-15EX Eagle II, or a newer fleet of F-16s; and

WHEREAS, pursuant to City Charter 3-9, the City Council of the City of Aurora has all legislative powers of the City and all other powers of a home rule city not specifically limited by the Constitution of the State of Colorado and not specifically limited or conferred upon others by the Charter; and

WHEREAS, pursuant to City Charter 5-1, the City Council of the City of Aurora shall have the power to act by ordinance, resolution or motion and may adopt policies as it deems proper and advisable.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The Resolution in Support of the 140th Wing of the Colorado Air National Guard's Flight Operations at Buckley Space Force Base supporting replacement of the aging F-16 Fighting Falcon fighters with a manned fighter mission such as the Next Generation Air Dominance Fighter, F-15EX Eagle II, or a newer fleet of F-16s is hereby approved.

Section 2. The Mayor and the City Clerk are hereby authorized to execute and deliver this Resolution in substantially the form presented at this meeting, with such technical additions, deletions, and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

Section 3. All prior Resolutions or any parts that are inconsistent herewith are hereby rescinded.

RESOLVED AND PASSED this _____ day of _____, 2023.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

Michelle Gardner RLA

MICHELLE GARDNER, Sr. Assistant City Attorney



CITY OF AURORA

Council Agenda Commentary

Item Title: Aurora Economic Development Strategy
Item Initiator: Daniel Krzyzanowski, Planning Supervisor
Staff Source/Legal Source: Daniel Krzyzanowski, Planning Supervisor, Planning and Development Services / Rachel Allen, Client Group Manager
Outside Speaker: N/A
Council Goal: 2012: 5.0--Be a great place to locate, expand and operate a business and provide for well-planned growth and development

COUNCIL MEETING DATES:

Study Session: 3/20/2023

Regular Meeting: N/A

ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

Sponsor: Mike Coffman, Mayor
Daniel Krzyzanowski, Planning Supervisor, Planning and Development Services / Rachel Allen, Client Group Manager, City Attorney
Estimated time: 30 mins

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Planning & Economic Development

Policy Committee Date: 8/10/2022

Action Taken/Follow-up: *(Check all that apply)*

- | | |
|--|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input checked="" type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> Minutes Not Available |

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Staff provided a brief introduction to the project at the August 10, 2022, meeting of the Planning and Economic Development (PED) Policy Committee. The policy committee voted to move the item forward for full Council review and discussion. Meeting minutes are attached.

At the November 7, 2022, Council study session, staff provided an overview of the proposed economic development strategy. Additionally, five key partners (Visit Aurora, Aurora Chamber, AEDC, SBDC, Fitzsimons Innovation Campus) provided brief overviews of their organizations, including mission, priorities, and successes. **Staff's presentation also addressed the scope of the proposed strategy, basic steps for creating a strategy, and identified partners and stakeholders that would be invited to provide input.** At that time, Council requested an opportunity for additional discussion on the topic at the upcoming Winter Workshop.

At the City Council's Winter Workshop (February 4, 2023), staff provided additional information about the proposed strategic plan as well as some key economic data. Council then participated in a facilitated discussion about priorities and envisioned outcomes of the proposed process. A summary of Council comments collected through this discussion are attached. Council directed staff to provide more detailed profiles of the key economic development partners and additional detail on a proposed scope of work for the project at an upcoming study session.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

A summary of the proposed scope of work is attached. Staff would serve as the lead and project manager, with support from a consultant, who would play three roles: facilitator for outreach to partners, stakeholders, city departments, and community; subject matter expertise in economic development best practices; and support for developing strategy recommendations. The project is estimated to be completed in approximately 15 months. \$250,000 is budgeted for the project.

The requested organizational profiles of key economic development partners are also attached. Profiles are provided from: Visit Aurora, Aurora Chamber, AEDC, the Aurora-South Metro SBDC, the Arapahoe/Douglas Workforce Center, and Fitzsimons Innovation Community.

Staff's presentation will provide an overview of these attachments.

FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact ☒ Budgeted Expenditure Impact ☐ Non-Budgeted Expenditure Impact
☐ Workload Impact ☐ No Fiscal Impact

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

N/A

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

\$250,000 is budgeted for this project, to be paid from the Development Review Fund (Org #67021).

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

Creation of an economic development strategy could be achieved using existing staff through various departments. No new FTEs are requested at this time.

QUESTIONS FOR COUNCIL

Does Council wish to support and move forward with this project?

LEGAL COMMENTS

The City Manager shall be responsible to the Council for the proper administration of all affairs of the City placed in his charge and, to that end, shall have the power and duty to make written or verbal reports at any time concerning the affairs of the City under his supervision upon request of the Council. (City Charter Sec. 7-4(e)). The city manager shall implement an administrative program whereby economic development issues are referred to the appropriate economic development agency, and general business issues are referred to the [business advisory] board; however, both entities are encouraged to provide whatever assistance the other may request. (City Code Sec. 26-32). (Allen)

APPROVED

**PLANNING AND ECONOMIC DEVELOPMENT POLICY COMMITTEE MEETING
MINUTES****Date:** August 10, 2022**Time:** 8:30 am**Members Present** Chair: Councilmember Danielle Jurinsky, Vice Chair: Councilmember Dustin Zvonek, Councilmember Angela Lawson**Others Present** Mayor Pro Tem Bergan
Adrian Botham, Cathy DeWolf, Marisa Noble, Jessica Prosser, Becky Hogan, Gregg Johnson, Laura Perry, Dana Wilks, Tom Blevins, Rick Wells, Morgan Cullen, David Schoonmaker, Melissa Rogers, Kevin Hougen, Stephen Rodriguez, Bruce Dalton, Maria Alvarez, Andrea Barnes, Gregg Johnson, Daniel Brotzman, Diana Rael, Yuriy Gorlov, Sunny Banka, Huiliang Liu, Michelle Gardner, Jeffrey Moore, Cindy Colip, Jacob Cox, Brandon Cammarata, Andrea Amonick, Rachel Allen, Gayle Jetchick, Victor Rachael, Brian Rulla, Maria Alvarez, Jason Batchelor, Daniel Money, Brad Pierce, Tod Kuntzelman, Karen Hancock, Bob Oliva, Scott Berg, Jeannine Rustad, Mac Callison, Melvin E. Bush, Daniel Krzyzanowski, Julie Patterson, Mindy Parnes, Crystal Vigil

1. CALL TO ORDER

2. APPROVAL OF JULY 13, 2022 DRAFT MINUTES—COUNCIL MEMBER JURINSKY**2.a.** The minutes were approved.

3. GENERAL BUSINESS**3.a. Introduction of New Management Assistant- Crystal Vigil***Summary of Issue and Discussion:*

Jeannine Rustad, Director of Planning and Development Services

Jeannine Rustad introduced Ms. Crystal Vigil. She has two years of experience in Aurora.

APPROVED

Outcome:

For information only.

Follow-up Action:

None required.

3.b. Retail Redevelopment Policy Update**Summary of Issue and Discussion:**

Andrea Amonick, Development Services Manager; Bob Oliva, Retail/Commercial Supervisor / Rachel Allen, Client Group Manager/Brian Rulla, Assistant Attorney II

Mayor Pro Tem Bergan and Andrea Amonick presented this item. Aurora has an incentive program for retail focused on improving properties. However, there is a need to close a gap in bringing in tenants to vacant sites, which the city has heard from brokers, retailers, and property owners. The policy update will focus on increasing the emphasis on re-tenanting, reconfiguring, and or rehabilitating spaces or properties to accommodate new and desirable tenants. All incentives are reviewed by Council individually and this policy merely serves as guidance; it does not require a legislative change. Almost two-thirds of the general fund revenues, come from retail sales taxes. Incentives or rebates will be up to 30% of project costs. The portion of new taxes available is generally capped at 50% of the sales tax. This means that the city will still receive the benefit of any new economic development resulting from the incentives. The incentives will also be capped at the lesser of ten years or the life of the new tenant lease. The policy update will also put forward the goal of new revenue generation.

Outcome:

CM Jurinsky and CM Zvonek approved this item to move forward to Study Session.

Follow-up Action:

Staff will add this to the August 15th Study Session.

3.c. Aerotropolis District /Northeast Aurora Development Update**Summary of Issue and Discussion:**

Mindy Parnes, Long Range Planning Manager/ Mac Callison, Transportation Planning Supervisor / Dan Money, Senior Assistant City Attorney

Mindy Parnes presented this item. Former Council Member (CM) Gruber initiated an effort to brand Aerotropolis and rename the primary entry as Aerotropolis Parkway. Through a coordinated effort with Public Works, Planning, and ARTA, the former Harvest Interchange at I-70 will now be Aerotropolis Parkway Interchange. Another connection being refined by property owners, developers, Public Works, and Planning is the Aerotropolis Parkway's connection to DEN Airport. M. Parnes discussed the developments in Northeast Aurora. There is a total

APPROVED

projected growth of 37,000 units yielding a population of about 98,000 people. There are millions of square feet of proposed commercial and 13,820 acres of proposed industrial.

High Point has 299 acres residential, 126 acres mixed, 126 acres commercial, and 326 acres of industrial proposed. Painted Prairie has 644 acres and 44,200 planned units. The town center, which is 59 acres, is already underway. They have also constructed about 400 homes and initially constructed the park to attract new builders. Aurora Highlands has 2,500 acres and 12,000 planned units. 360 units are under consideration and construction. They are also proposing a medical campus and commercial along the main street. Green Valley has 588 acres and 2,600 planned units which 350 of are under construction. They also have a senior housing component. Windler has 840 acres, 5,000 planned residential units, and 223 acres of industrial, commercial, and mixed-use. Their master plan with amendments and site plans are currently in process. Fulenwider has 726 acres of planned industrial, mixed-use, and multi-family. They have 1,200 multi-family units planned. The Gaylord Rockies Resort is planning its second phase which would be a 20% increase. The Rockies Village is planned to have residential and commercial to support the development. Porteos initiated and negotiated the access to DEN Airport as one of the first industrial pioneers in the area. They have 750 acres. JAG Logistics is within Porteos and is a great partner in the city and their connection with aviation support.

Around the I-70 area is the Majestic Commerce Center which has 1,600 acres and 11 million square feet of industrial with 6 million acres already constructed. Aurora Commerce Center has 153 acres with industrial buildings ranging from 130,000 to 600,000 square feet. Stafford Logistics also has industrial buildings ranging from 130,000 to 600,000 square feet. Prologis Park 70 has 571 acres with large-scale industrial buildings. To the South of I-70 is the Horizon Town Center. The Horizon Development has 7,700 planned residential units. They are proposing 3.6 million square feet of mixed-use and commercial development.

- CM Jurinsky asked where the District 4 Police Station will be located. J. Batchelor explained that they are looking at different locations for all facilities including police, fire, parks, and libraries as part of the Capital Improvement Master Plan.
- CM Zvonek asked where they will put the Broncos Stadium. J. Batchelor said that it may be off of 64th Avenue as it is made to be an entertainment and destination district. He added that being near the Gaylord Rockies and Painted Prairie Town Center would be a good location for that asset.
- CM Jurinsky stated that all the developments are incredible, and they cannot wait to see them built up.

APPROVED

Outcome:

Information only.

Follow-up Action:

None required.

3.d. Aurora Economic Development Strategy**Summary of Issue and Discussion:**

Daniel Krzyzanowski, Planning Supervisor, and Jennifer Orozco, Senior Development Project Manager, Planning and Development Services Department / Daniel Money, Senior Assistant City Attorney

Daniel Krzyzanowski presented this item which outlines a proposal to develop an Economic Development Strategy for Aurora. Economic Development is the attraction, retention, and growth of jobs and investment in the city. Aurora has had successes in attracting and growing development and jobs. The strategic planning approach allows Aurora, its partners, and stakeholders to have the opportunity to carefully look at the economy and opportunities in a comprehensive and collaborative way. This strengthens connections and coordination between the city and its stakeholders. The strategy is part of the Aurora Places Comprehensive Plan.

The desired outcomes are to strengthen and diversify the economy, grow the number of jobs and incomes, look at the practical tools of policies, practices, and resources available, attract new employers and investments to come into Aurora, and continue to cultivate established businesses in Aurora. The first step of the process includes reviewing economic conditions, existing resources and organizations, and best processes. Staff will develop an economic existing condition study and research on successful approaches to growth and development that are responsive to current trends. The next step is to engage stakeholders through interviews, focus groups, public meetings, and forums. Information received will shape strategic goals and recommendations. These will be brought back to the community to ensure coordination and collaboration. Primary partners include those directly related to economic development such as AEDC, Chamber of Commerce, Visit Aurora, SBDC, and others. They will also be invited to serve on the steering committee to provide data and input. Additional stakeholders include major employers, school districts, industries, and retailers. Staff also wants to look at the opportunities and resources that the state may provide in addition to regional resources. The general public, including residents, businesses, and development communities, will also be consulted.

The project will be led by city staff and a consultant will be brought in to support the process. The consultant will provide subject matter expertise on economic development and facilitate stakeholder engagement sessions. A budget request for the consultant will be sent to Council.

APPROVED

- CM Zvonek highlighted the importance of having a goal envisioned for economic development with which the core strategies and tactics would stem to ensure the success of the overall effort.

Outcome:

CM Jurinsky and CM Zvonek approved this item to move forward to Study Session.

Follow-up Action:

Staff will move this item to September Study Session

3.e. A Resolution in Support of Enhanced Design Guidelines for Chase Drains**Summary of Issue and Discussion:**

Victor Rachael, Deputy Director of Public Works Engineering / Michelle Gardner, Sr. Assistant City Attorney

Mayor Pro Tem Bergan and Victor Rachael presented this item. Staff has been working with the public, particularly in Southeast Aurora, regarding drainage concerns. In line with this, they are putting forward a resolution to support revisions in the Roadway Manual. The manual is expected to be published in fall or winter of 2022 following engagement with the development community and revisions. The update will allow flexibility and affordability to homeowners that would want to install chase drains. Determination if a chase drain will be required is done at the time of development. The resolution will reduce the threshold from three units flowing towards the sidewalk to two units, at which point a chase drain is required. In addition, if there are two sump pumps pumping water into the side yard swale, a chase drain would be required / installed. Additionally, Aurora Water created a waterwise program that includes eliminating grass or curbside landscaping and replacing it with water-wise landscaping. These also help with some drainage concerns. An acknowledgement to this program is included in the resolution. Aurora will work with the development community and builders to investigate and address drainage issues within a 12-month period after the purchase of a home.

- Mayor Pro Tem Bergan mentioned that they will talk to Legal to ensure that those that regrade their yard would not qualify. V. Rachael confirmed this. He explained that when a home is built, there is an approved grading plan. They will ensure that builders are not penalized if homeowners made changes that were not approved or have an effect on the issue at hand.

Outcome:

CM Jurinsky and CM Zvonek approved this item to move forward to Study Session.

Follow-up Action:

Staff will add this item to the agenda for a future Study Session.

APPROVED

4. MISCELLANEOUS MATTERS FOR CONSIDERATION**4. a. Aurora Economic Development Council**

Yuri Gorlov expressed his support for the Economic Development Initiative and presented the updates from the Aurora Economic Development Council (AEDC). Aurora has gone from having three business parks 20 years ago to more than two dozen that are actively pursuing users. This is a testament to general economic growth from marketing and promoting Aurora as a competitive city of business on a national and global scale. In 2022, the EDC has closed eight deals including a coffee roaster, 5G pole manufacturer, and smart pallet start-up. These deals will bring more than \$2 billion of capital investment into the city and create millions of dollars of tax revenue. The Council is currently working with 14 companies that could potentially come to Aurora.

An economist from CU mentioned that there are major headwinds coming. However, there is a silver lining for companies and industries that have not been at the forefront such as those in the fintech and mortgage industries that hired more people and are now starting to lay several people off. Aurora is not seeing the same trend given that it is not a work-from-home city. AEDC thinks that companies will pull money from their cash reserves to invest and build. Given that Aurora has the available portfolio of land and developments, this will be an advantage. There are developers from California, Minnesota, and other Midwestern states that are interested in Aurora because it is a different market. Despite Aurora being more expensive, companies enter these markets to grow their market share and hire skilled people.

Industrial lease rates are continuing to rise, but office rates have held steadily. Vacancy rates are not as high as the reported 50 to 70% for Downtown since Aurora has a smaller office market and tech center. In Aurora, there are still lots of companies leasing and subleasing. AEDC will sponsor an event at the Gaylord next week about data centers. They will share information regarding Aurora's incentive attraction program and all the capabilities available for data centers.

- CM Zvonek commented that companies go after a more educated and skilled workforce and the low taxes in Colorado despite the higher costs of living. Gorlov mentioned that the tax environment is good, and the skills are diverse. He commented that education attainment levels in Aurora have climbed, and this is something they talk about to software development and aerospace-related companies. He added that they had conversations with those in the automotive industry including Rivian, an electric vehicle manufacturer. He mentioned that they were looking at Aurora because of its engineering concentration, especially in Ward VI.

APPROVED

4.b. Havana Business Improvement District

- Chance Horiuchi:
NO REPORT

4.c. Aurora Chamber of Commerce

- Kevin Hougen:
NO REPORT

4.d. Planning Commission

- Melvin Bush:
NO REPORT

4.e. Oil and Gas Committee

- Brad Pierce:
NO REPORT

4.f. Business Advisory Board

- Garrett Walls
NO REPORT

4.g. Retail

- Bob Oliva
NO REPORT

4.h. Small Business

- Elena Vasquez:
NO REPORT

4.i. Visit Aurora

- Bruce Dalton
NO REPORT

Staff submitted a ticket to IT regarding technical issues.

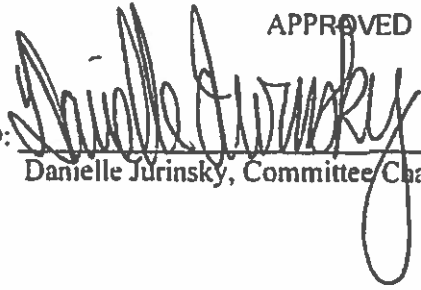
5. CONFIRM NEXT MEETING DATE

Councilmember Jurinsky confirmed next meeting date of September 7, 2022 at 8:30 AM.

6. ADJOURNMENT

APPROVED

APPROVED:

A handwritten signature in black ink, appearing to read 'Danielle Jurinsky', is written over a horizontal line.

Danielle Jurinsky, Committee Chair

Economic Development Strategy

Aurora City Council

Study Session

March 20, 2023



Economic Development Strategy

- Introduction & recap of Winter Workshop
- Partner Profiles
- Project Scope
- Next steps



Winter Workshop Recap

Major themes:

- Identify a unifying vision, align efforts among partners
- Create jobs close to services, housing
- Focus on strengthening, diversifying key sectors
- Reduce net outflow of jobs
- Attract higher wage jobs, reduce wage disparity



Winter Workshop Recap

Major themes (continued):

- Continue to grow skilled workforce
- Include communications and marketing
- Understand interconnectedness, broad engagement
- Balance strategic focus with ability to be flexible, adapt



PARTNER PROFILES



Partner Profiles

- Visit Aurora
- Aurora Chamber
- Aurora-South Metro SBDC
- Aurora Economic Development Council (AEDC)
- Fitzsimons Innovation Community



PROJECT SCOPE



Project Scope

- Outreach plan and steering committee
- Analysis of current policies, practices, resources, organization, data, best practices and market gaps/opportunities
- Vision for Aurora's economic development future
- Draft strategy recommendations, measurable outcomes
- Final economic development strategy for Council review and adoption



Consultant Roles

- Facilitator for steering committee and public outreach
- Subject-matter expertise on economic development best practices
- Contributor to strategic planning recommendations



Project Scope

Estimated project time: 15 months

Budget: \$250,000



NEXT STEPS



Next Steps

Should staff proceed with developing an economic development strategy as outlined in the scope of work?



Winter Workshop

Economic Development Strategy Comments

2/4/2023

Parts of the presentation that made the biggest impression on Council: Net Outflow of Jobs, Creating jobs close to where people live, Focus on Sector Diversity and creating a diversity of Employers, wage disparity, attracting employers who pay higher wages,

- Bergan surprised at our heat map for retail, thought more people were shopping south

Things Council would like to See in the Strategy: “Dossiers” so that we can align, create jobs close to services for employees, Unifying Vision, Inclusive of voices that may otherwise be suppressed, balance the vision with being nimble – take the environment into account, create a bigger scope to fill in the strategy gaps, include Communications Department (for marketing)

Desired outcomes:

Zvonek: Unifying vision for partners and all city departments

Jurinsky: Single point of unity

Sundberg: Market the Vision

Lawson: Unified vision that is dynamic and flexible as the city grows

Bergan: Need a vision (better than the statement from Aurora Places) that reflects what our city wants to be in the future; take into account existing plans and roles of partners

Mayor Coffman: Set of principles that aligns the city & partners; identify gaps & redundancies

Coombs: Inclusive vision builds on our people (our residents)

Marcano: Flexible, high-level vision that trusts that our partners can deliver

Medina: Investment in vision (buy in). Everyone in unison on overall vision, with road maps for each ward.

Murillo: Address economic development in a culturally relevant way; Elevate community voices of all people in through a collaborative process.

Garner: We have a strategy, follow Aurora Places make changes around the edges; Make staff and partners do their job

General Comments based on data presented:

Sundberg, Bergan & Lawson: Reverse net outflow and inflow of workers

Marcano: Diversify our sectors; identify what's missing and put where they should be located; no unifying vision that we can reference; working on increased partnership with A-D Works; need a living document that's always moving forward

Coombs: Already have strong sectors and economic diversity that we need to build on; economic mobility for our residents; build up our existing businesses

Mayor Coffman: Need to create jobs where people live (from a transportation & environmental perspective); Attracting employees with higher wages; Defense job attraction; 10 year plan for immigrant integration into workforce; Action plan among partners that aligns with a single vision; partnering with educational facilities/orgs; need a vision & we don't have one

Medina: Everything is interrelated, jobs feed each other; Vision for entire city that defines where we want to go with an overarching goal

Garner: Diversify our employee types; Aurora Places has a vision, use it, it needs to connect with our partners; can't have more detail and also be nimble

Bergan: Focus on retail due to budget reliance, include city's retail manager; Use existing visions/missions of our partners (including A-D Works); Guiding Principle from Aurora Places is bad because "urban" negates a lot of the city; Communications/branding should be part of the discussion

Zvonek: Need to keep people here (residents that work within the city); No unifying vision

Murillo: Wage discrepancy between; need gap analysis, concrete outcomes; economic mobility for people at different life states; community wealth building; strategic focus for our partners; we should have different strategies for different unique parts of the city

Lawson: Support diverse neighborhoods; Focus on safety & quality of life for our residents

Sundberg: Economic attractions in the city with a defined wish list; include marketing in the strategy & work with Communications; listening sessions to devise wish list; unified explanation of who we are

Coombs: Build up (grow) our local businesses and residents

Jurinsky: Staff should have the freedom to make decisions and cut the red tape; streamline and build on existing; Staff already has established working relationships with partners; want to know partners' visions



Economic Development Strategy

Proposed Scope of Work Summary

This Aurora Economic Development Strategy will provide a deep dive into the economic development landscape of Aurora through data collection, stakeholder and decision-maker engagement, and an analysis of trends, existing conditions, community strengths, and community aspirations. The analysis will inform strategies to create a long-term economic vitality that capitalizes on existing assets and opportunities utilizing a “place-type” approach consistent with the city’s comprehensive plan.

Desired Outcomes

The strategy is intended to strengthen and diversify the economic base of Aurora employers; generate great jobs and income growth in Aurora, identify opportunities and tools for businesses, emerging entrepreneurs and workforce development partners; magnify residents’ economic impact by promoting and better capturing “local spend” strategies and growing Aurora-based businesses; and increase Aurora’s regional prominence and attractiveness as a destination for investment in key areas of business, culture, entertainment, tourism, trade shows and conferences.

Project Partners

City staff has identified a number of key project partners, stakeholders, and other organizations or groups that can provide data, insights, or have an interest in the outcome and implementation of the strategy. Many of those partners, stakeholders, and others are identified below. Staff is developing a more exhaustive list for engagement.

Tier 1: “Partners” will include all economic development organizations currently providing services within Aurora. Partners will be interviewed to provide input on demographic and aspirational information. Partners include: Aurora Economic Development Council (AEDC), Visit Aurora, Aurora Chamber of Commerce, Aurora-South Metro Small Business Development Center (SBDC), the Fitzsimons Innovation Community (FIC) and Arapahoe-Douglas Works.

Tier 2: “Key Stakeholders” will include agencies whose work will be directly impacted by the economic development strategies. Stakeholders include local school districts, major employers and institutions, city boards and commissions, the local business and development sector, major utility providers, and state and regional partners.

Tier 3: Additional outreach efforts to the general public and other community groups or organizations will include: Mayor and City Council, the general public and business community, registered neighborhood organizations, and other community and civic organizations within the city.

Project Tasks

Task 1: Stakeholder Engagement

The project team will develop an engagement plan and schedule for a series of input opportunities using both traditional, in-person meetings and events, and online activities. The consultant will lead facilitation of these input opportunities with support from city staff, who will provide assistance with scheduling, venues, media resources, meeting preparation, and use of the city's online community engagement portal, EngageAurora.org.

Steering Committee: A steering committee will be convened consisting of the "Partners" listed above and select city officials and/or staff. The role of the steering committee includes: providing subject matter expertise; connecting and communicating with stakeholders; identifying opportunities and identifying and mitigating potential risks; reviewing and providing input on strategic direction and recommendations; and serving as an advocate for the project and its recommendations. The steering committee should meet at key stages in the process.

Three Tiers of Public Engagement: Each of the three tiers of stakeholders, as listed above, will be engaged through various methods and purposes. The types of input solicited and engagement methods should be further described in consultant proposals and refined by the project team.

Task 2: Review of current conditions and economic development environment

The city and consultant project team will review and evaluate current policies, practices, resources, and organization of Aurora's economic development efforts and environment, compare to best practices, and identify potential gaps or challenges. The city will continue to review the partner profiles and relevant economic data and trends.

Task 3: Develop a vision for economic development in Aurora

A unifying vision for Aurora's future economic prosperity is a critical and foundational element of the strategic planning process. With City Council leadership and guiding input from economic development partners and other community stakeholders, a statement of vision, principles, or priorities will be identified.

Task 4: Develop draft strategy recommendations

Building on the vision defined in Task 3 and with input from the steering committee and other stakeholders, the project team will develop draft strategy recommendations targeting actions and achievements in the next 3 to 5 years. These strategic recommendations are intended to connect the vision and comprehensive plan to specific and tangible actions and outcomes. Strategies should include metrics for monitoring progress and impact.

Task 5: Finalize recommendations and develop a strategic plan document

The project team will finalize strategy recommendations and content for integration into a final document, and present it to City Council for review and adoption.

Project Schedule and Budget

The project team anticipates a schedule of 15 months to deliver a final draft strategy for Council review and adoption. A project budget of \$250,000 has been identified.

ECONOMIC DEVELOPMENT PARTNER PROFILE

Partner Organization: **THE CHAMBER**

Mission:

The mission of the Aurora Chamber of Commerce is to give a voice to the business community and serve as an advocate for its members, creating a positive business environment that encourages their growth and long-term economic vitality.

Vision:

The Aurora Chamber of Commerce is a unifying voice for business and champions a healthy economic climate to secure Colorado's future! The core of the Chamber's work is leading Aurora, and the eastern metro area to be a preferred place, nationally and internationally, where dynamic business leaders choose to invest and innovate, creating opportunities and prosperity for all our citizens.

Strategic Goals or Priorities (to achieve the mission/vision):

The Chamber's priority is to foster economic growth for our small and large businesses through our networking events, seminars, luncheons, committee meetings, and to elevate Aurora as a top community to do business. Colorado's regulatory climate is the most pressing concern when it comes to barriers to business, it's critical that state leaders understand the burden and costs faced by the business community with each new, complex rule or requirement. The Chamber serves as a credible voice for issues including; Leadership Development, Education, Childcare, Military & Aerospace, Taxes, Affordable Health, Attainable Workforce Housing, Transportation, Diversity and Inclusion, the Arts and Community Wealth Building.

Performance Measures (how do you measure success):

Our membership retention and recruitment of New Business Members, with their continued investment. The Chamber is a Catalyst for business growth, a convener of Leaders and Influencers who make things happen, and we are a Champion for stronger community!!

Organization/Staffing:

Seven staff members with over 40 volunteers.

Funding Sources:

97 % of the Chamber funding comes from membership dues and event sponsorship, 3% of the Chamber funding comes from our government partners.

Contact Information:

Kevin Hougen, President/CEO
14305 East Alameda Ave. Suite 300
Aurora, CO 80012
Office phone number(s)
303-344-1500

ECONOMIC DEVELOPMENT PARTNER PROFILE

Partner Organization: **AURORA-SOUTH METRO SMALL BUSINESS DEVELOPMENT CENTER (SBDC) including Aurora Business Services**

Mission:

The mission of the Small Business Development Center (SBDC) Network is to help existing and new businesses grow and prosper.

Vision:

To be the premier, trusted choice of businesses in the City of Aurora, Arapahoe, and Douglas Counties, for consulting, training, and resources.

Strategic Goals or Priorities (to achieve the mission/vision):

Assist the City of Aurora citizens to increase their personal wealth through the following services:

- Free and Confidential one-on-one consulting
- Free and Low-Cost Training and Events
- Small Business Resource Connections

Business Advisory Board - Staff Liaison

City of Aurora Business Recognition Awards – Staff Liaison

Minority Outreach

Restaurant/Retail program collaboration

City of Aurora Arts District (ACAD) collaboration

Colorado SBDC Small Business Veterans Conference

Performance Measures (how do you measure success):

- Business Starts
- Jobs Created/Jobs Retained
- Capital Formation
- Increase in Sales
- Increase in Contracts
- Customer Satisfaction (following consulting/training and events): 90 – 95%

Organization/Staffing:

Full Time Staff:

- Marcia McGilley – SBDC Executive Director
- Andrea Amonick – SBDC Grant Manager (Manager of Development Services/AURA)
- Elena Vasconez – SBDC Associate Director (Business and Economic Development Supervisor)
- TBD – SBDC Associate Director (South Metro area)
- Laurie Womer – SBDC Senior Business Consultant
- Claudia Yanez – SBDC Senior Business Consultant
- Frankie Anderson – SBDC Program Coordinator
- Laura Lephart – Administrative Specialist

Contract Consultants/Trainers: 5-10 contractors

Funding Sources:

- U.S. Small Business Administration, State of Colorado, City of Aurora
- Gifts and Grants
- Approximately \$400,000 General Fund Match (staff time)

Contact Information:

Marcia McGilley, Executive Director

Office address(es): 15151 E. Alameda Parkway, Suite 2300, Aurora, Colorado 80012

Office phone number(s): (303) 326-8686

Email: info@aurora-southmetrosbdc.com

Website: <https://www.aurora-southmetrosbdc.com>

ECONOMIC DEVELOPMENT PARTNER PROFILE

Partner Organization: **VISIT AURORA**

Mission:

Visit Aurora's mission is to build and empower an inclusive, world-class destination.

Vision:

Visit Aurora's vision is to be internationally known as the Gateway to the Rockies.

Strategic Goals or Priorities (to achieve the mission/vision):

Visit Aurora worked with MMGY NextFactor and the Visit Aurora Board of Directors to develop a three-year strategic plan. The plan is guided by the four pillars listed below.

1. Sales & Marketing

Strategic Initiatives FY 2022-2024

- Maximize group sales opportunities to address need periods
- Implement an aggressive and responsive sales program focused on specific markets
- Promote community values through diversity and inclusion as a brand
- Position the brand as a Colorado destination
- Balance local, regional, and national marketing campaigns

2. Destination Management

Strategic Initiatives FY 2022-2024

- Develop a signature event(s) for Aurora
- Support the development of an arts & culture attraction/ venue
- Pursue LED projection attraction
- Complete a destination master plan

3. Destination Alignment

Strategic Initiatives FY 2022-2024

- Increase alignment with government officials and other key partners
- Improve resident support
- Expand public/private partnerships
- Play a more active role in economic development opportunities
- Develop a tourism ambassador program

4. Organizational Stability

Strategic Initiatives FY 2022-2024

- Protect and grow DMO funding
- Promote diversity and inclusion within the organization
- Continue to build technology and business intelligence capabilities
- Formalize a professional development plan for all employees
- Develop a strategy for retention and succession planning

Performance Measures (how do you measure success):

We partner with two data companies, Zartico and Impaculator to measure key performance indicators and economic impact in the destination. Dashboard attached.

1. Sales and Marketing

2022 Sales Performance

- Leads sent total = 974
- Leads Aurora Hotels = 890
- Lead room nights = 1,107,445
- Booking room nights = 137,684
- Number of hotel group bookings = 192
- Estimated Economic Impact – Hotel Group Leads = \$574,111,397.00
- Estimated Economic Impact – Hotel Definite Bookings = \$73,193,221.00

2. Destination Management

- Announce a signature event by 2024
- Complete a feasibility study for a new venue by 2023
- Produce a light show/ LED projection experience by 2024
- Launch a new destination master plan by the end of 2024

3. Destination Alignment

- Complete a resident sentiment survey by 2022
- Increase the partnership by 50%

4. Organizational Stability

- Delivery community impact dashboard to partners and city leadership by the beginning of 2023
- Increase DMO funding by 10% annually

Organization/Staffing:

- CEO & Administration: 3
- Sales: 5
- Marketing: 3
- Destination Services: 3

Funding Sources:

Visit Aurora contracts with the City of Aurora to receive a portion of the Lodger's Tax for its annual budget. Visit Aurora receives 12.5% of the first \$5M of the Lodger's Tax collections and 50% of collections exceeding \$5M. Visit Aurora also receives funds from the Destination Marketing Improvement Fee which is a flat \$2 fee per room night occupancy assessment.

Contact Information:

Bruce Dalton, President & CEO

Office address(es) 2501 Dallas Street Suite 290 Aurora CO 80010

Office phone number(s) 720-484-8904

ECONOMIC DEVELOPMENT PARTNER PROFILE

Partner Organization: **FITZSIMONS INNOVATION COMMUNITY (FIC)**

Mission:

Fitzsimons Innovation Community is a sprawling campus of leading-edge laboratory workspace where innovative health and life science companies of all sizes can take their research to the next level to cure diseases, save lives, and improve care.

Vision:

Fitzsimons Innovation Community is the home for the boldest visionaries, boundary-pushers, and go-getters in health sciences. From idea incubation to final-product manufacturing, end-to-end life science innovation can come alive on the campus, where the best and the brightest advance discoveries in health and care. We provide superior workspace, a collaborative entrepreneurial environment, and a nimble, fast-thinking team to make sure community members have the resources they need to succeed.

Strategic Goals or Priorities (to achieve the mission/vision):

Attract: We attract leading companies and organizations to the Fitzsimons Innovation Community.

Nurture: We encourage community growth and support the broader health innovation community.

Partner: We collaborate with the University of Colorado Anschutz Medical Campus, business leaders, bioscience organizations, policymakers and economic development partners to drive community growth.

Performance Measures (how do you measure success):

The Fitzsimons Innovation Community seeks to better understand the individual and collective growth of all Community through an annual member survey. We gather information from all companies to showcase the overall growth across Fitzsimons Innovation Community. By demonstrating the collective strength and innovation within our community, we attract more funding and companies to the region and contribute to the broader Colorado ecosystem. The Annual Innovation Reports can be found [here](#).

Organization/Staffing:

The Fitzsimons Innovation Community is an eleven-person team, led by our CEO, executive team finance, property management, and facilities.

Funding Sources:

To advance the mission of the Community, the FIC has capitalized the development of the current facilities with private bank financings leveraged with lease agreements of companies leasing space in the Community.

The Fitzsimons Innovation Community has partnered with the City of Aurora for infrastructure, and public improvement investments, by establishing tax increment financing Districts. Additionally, The Colorado Science & Technology Park Metropolitan District Nos. 1-3 (Districts) are within the Fitzsimons Innovation Community. The Districts, organized in 2007, were established to provide public improvements for the use and benefit of all anticipated inhabitants and taxpayers of the Districts. The primary purpose of the Districts is to finance the construction of these public improvements.

Contact Information:

Steve VanNurden, CEO
svannurden@fitzsimonsinnovation.com

ECONOMIC DEVELOPMENT PARTNER PROFILE

Partner Organization: AURORA ECONOMIC DEVELOPMENT COUNCIL (AEDC)

Mission:

The Aurora Economic Development Council is a public/private partnership dedicated to enhancing the economic strength of the city of Aurora by recruiting new primary employers, retaining existing primary employers, and assisting current primary employers to expand in the city.

Vision:

To be the preferred business address in the West.

Strategic Goals or Priorities (to achieve the mission/vision):

Driving Economic Vitality – Our core purpose is to create and retain primary jobs by pursuing primary employers via lead generation and working with the city on priority projects.

Seeking the (Right) Next Big Opportunity – We are always looking to the horizon for transformational opportunities by identifying projects in targeted industries, positioning the city to benefit from the Aerotropolis, and conducting domestic and international business missions.

Fiscal Responsibility – Finding new ways to fuel our core mission of creating primary jobs, drive funding, and ensure financial stability.

Delivering What Others Can't – Knowing what our stakeholders value and going above and beyond to deliver services they can't find anywhere else. Taking leadership roles in public policy at local, county, state, and federal levels, ensure organization is a 'one stop shop' for economic development services.

Our Brand is our Strength – Expanding our brand at all touch points in new and existing markets. Tell AEDC's story in channels that reach targeted, multi-geographic audiences to drive awareness, continue to develop new and innovative marketing materials to promote our community's assets.

Every Experience Matters – Delivering an experience that exceeds our clients' expectations. Streamline customer interactions to drive trust and loyalty, increase two-way engagement with key stakeholders.

Performance Measures (how do you measure success):

1. Our job creation/retention goal 2021 and 2022 was 2,100 primary jobs. We surpassed this goal in 2021 with 2,301 jobs and in 2022 with 2,147.
2. Capital investment by these deals in 2021 was more than \$496 million and in 2022 was more than \$1.085 billion.
3. New tax revenue generated by these deals in 2021 was \$22.5 million and in 2022 was \$34 million.
4. Increased private sector investment from \$1,839,865 in 2021 to \$2,161,615 in 2022.
5. We had five new companies join our board of directors in 2022.
6. We hosted A-List at the Gaylord Rockies with record attendance of 1,300 and the largest amount of revenues ever raised in the history of the event.
7. We launched a new Accelerate Colorado website in 2022.
8. We will end the 2022 fiscal year with more than \$3,000,000 collected.

Organization/Staffing:

Six employees, including President & CEO

Funding Sources:

Entity	Percentage of Budget
Private Sector	67%
City of Aurora	17%
Adams County	11%
Arapahoe County	3%
Other Public	2%

Contact Information:

Wendy Mitchell, President and CEO
12510 E Iliff Ave, Ste. 115, Aurora, CO 80014
303-755-2223

ECONOMIC DEVELOPMENT PARTNER PROFILE

Partner Organization: **Arapahoe/Douglas Works!**

Mission:

The mission of A/D Works! is to strategically invest in Human Capital, which contributes to regional economic vitality.

Vision:

Our vision is a best-in-class workforce development organization that is responsive to the dynamic needs of job seekers and business/industry.

Strategic Goals or Priorities (to achieve the mission/vision):

A/D Works! connects job seekers to opportunities, including career navigation, occupational training and credentialing, and paid internships; and connects qualified candidates to businesses through consulting, labor force data and analysis, layoff prevention services, and sector partnerships and talent pipeline support.

A/D Works! is driven by the following key results:

- 100% employability for all those who want to work
- Results that are best-in-class
- Metro-area workforce center of choice
- Exceptional delivery of services
- Provide the highest rate of return on public investment

Performance Measures (how do you measure success):

Success is measured by the following:

1. **Employment Rate Q2**
2. **Employment Rate Q4**
3. **Median Earnings**
4. **Credential Attainment Rate**
5. **Measurable Skills Gains**
6. **11 Core Business Services**

Organization/Staffing:

Workforce Director & Division Manager

Administrators, Managers, Supervisors, and Coordinators: 20-25, depending on staffing

Total Staff: 100-120, depending on staffing

Funding Sources:

Through a diversified mix of federal and state funding

Contact Information:

Sasha Easton, Workforce Director & Division Manager

Office address(es) 6964 S. Lima Street, Centennial, Colorado 80112

Office phone number(s): 720-475-0730

Seaston@arapahoegov.com



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to Appoint One (1) Member to the Public Defenders Commission
Item Initiator: Douglas Wilson, Chief Public Defender
Staff Source/Legal Source: Kadee Rodriguez, City Clerk/Dave Lathers, Senior Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 4.3--Be responsive to citizen's concerns and questions to create a shared sense of community

COUNCIL MEETING DATES:

Study Session: 3/20/2023

Regular Meeting: 3/27/2023

2nd Regular Meeting (if applicable): N/A

Item requires a Public Hearing: ☐ Yes ☒ No

ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time for Study Session

Kadee Rodriguez, City Clerk / Dave Lathers, Senior Assistant City Attorney

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- ☐ Approve Item and Move Forward to Study Session ☐ Approve Item as proposed at Study Session
- ☒ Approve Item and Move Forward to Regular Meeting ☐ Approve Item as proposed at Regular Meeting
- ☐ Information Only
- ☐ Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field above.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: *(Check all that apply)*

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

To ensure, through its ability to appoint and discharge the public defender and his or her assistants, that indigent clients are represented independently of any political consideration or private interests, provide legal services to indigent persons accused of violation of municipal ordinances that are commensurate with those available to non-indigents and conduct the office in accordance with the Colorado Code of Professional Standards relating to the administration of criminal justice, the defense function.

The Public Defender Commission consists of seven (7) members appointed by the Aurora City Council. The term length is three (3) years and members are permitted to serve three (3) consecutive terms.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

The Public Defender Commission has two (2) vacancies. The Commission received one (1) application and the interview was conducted on January 27, 2023.

Among the applicants were:
Sean McDermott

Upon conducting interviews, the Public Defender Commission respectfully recommends the appointment of the following candidate:

Sean McDermott – 1st term beginning 10/15/2023 and ending on 10/14/2026

FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

☐ Revenue Impact

☐ Budgeted Expenditure Impact

☐ Non-Budgeted Expenditure Impact

☐ Workload Impact

☒ No Fiscal Impact

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

N/A

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

N/A

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A

QUESTIONS FOR COUNCIL

Does Council wish to appoint Sean McDermott to the Public Defenders Commission?

LEGAL COMMENTS

The public defender commission shall consist of seven members. Four members shall be attorneys admitted to practice law in Colorado (and need not be residents of Aurora), and three members shall be residents of Aurora not admitted to practice law in Colorado. In making appointments to the commission, the city council shall not consider sex, race, and ethnic background. No member of the commission shall be, at the time of or during the term of appointment, a judge, prosecutor, public defender, or employee of a law enforcement agency. (City Code Section 50-167). (Lathers)



MEMORANDUM

TO: Mayor Coffman and Members of City Council

FROM: Tom Tobiassen, 2023 Chairperson, Public Defenders Commission

THROUGH: Tristen Sheptock, City Clerk Analyst

DATE: February 24, 2022

SUBJECT: Appointment to the Public Defenders Commission

Board or Commission: Public Defenders Commission

Number of Vacancies: 2

Interview Information

Date of Interviews: January 27, 2023

Name of Applicant(s): Sean McDermott

Applicant(s) Interviewed: Sean McDermott

Recommendation

Suggested Appointment(s): Sean McDermott

Summary:

The Public Defenders Commission unanimously supports Mr. Sean McDermott for appointment as Commissioner. Sean is a licensed attorney in the State of Colorado, has extensive management and legal experience in Colorado as a Public Defender attorney and has experience in serving the community in various volunteer positions. He brings a level of professionalism and knowledge that will help advise the Chief Public Defender on the many issues that come up in the running of the Public Defender's office. Sean is also actively serving on the Denver Crime Prevention and Control Commission as a Commissioner.

The Public Defenders Commission strongly supports the appointment of Mr. Sean McDermott as a member on the Public Defenders Commission.

Public Defender Commission

Public Defender Commission -
Professional Member (No Ward in Aurora)

Term: 15 Oct 2022 - 14 Oct 2025

Positions Available: 1

Number of applicants in this package: 1
- McDermott, Sean

Date Received: 01/24/2023

Registered Voter & Professional Member

01/23/2003 Professional Member - Public Defender

Tristen Sheptock

Name :McDermott, Sean

Address : [REDACTED]

Email : [REDACTED]

Board Name :Public Defender Commission

Date of Birth :

[REDACTED]

Home Phone Number :

[REDACTED]

Work Phone Number :

[REDACTED]

How long have you lived in Aurora? :

I am a Denver resident. (I live close to Aurora and I do my best to stay apprised with the community)

Are you registered to vote? :

Yes

Years of Education Completed :

16

Degree(s) Received :

Bachelor of Arts in Political Science and a Juris Doctorate.

College(s) Attended :

Colorado State University, University of Denver Sturm College of Law

Employer Name :

McDermott Stuart & Ward LLP

Employer Address :

McDermott Stuart & Ward LLP, 140 E. 19th Avenue, Suite 300, Denver, CO 80203

Current Position :

Partner

Years with Current Employer :

6.5

Work Experience :

Deputy State Public Defender 1998 - 2005, McDermott Hansen & McLaughlin LLP 2005 - 2010, McDermott & McDermott LLP 2010-2016, McDermott Stuart & Ward LLP 2016 - Present

Certification(s) :

I have juris doctorate and I am licensed to practice law in Colorado,

How are you involved in your community? :

I have been a commissioner on the Denver Crime Prevention and Control Commission for several years. I am also on the Board of Director for Lowry Reads. I participate in legal community volunteer work as well.

List your interests and activities. :

When I am not working I enjoy learning about current events. I enjoy skiing, running, playing tennis, reading, and listening to music. I am attempting to learn Spanish. I enjoy spending time with my 15 year old son.

Do you presently serve in any other appointed position on a board, commission or committee? :

Yes

If yes, enter the board name and position :

Denver Crime Prevention and Control Commission. Commissioner.

Are you currently a member and seeking reappointment on the board you are applying for? :

No

Why do you desire this appointment? :

I live about 10 minutes from the Aurora Municipal Courthouse. I believe that a healthy and strong indigent defense system is important to a community. I also know people who were victims in the James Holmes shooting that was close the Courtroom and Court offices. I believe that I am sensitive to different perspectives when it comes to the justice system, and I think that I can contribute in a unique way.

How much time do you anticipate being able to spend on this appointment each month? :

10 hours

Do you have any conflicts of interest that should be disclosed? :

No

If yes, please explain :

No conflict of interest.

Reference 1: Full Name, Phone Number and Address :

Honorable Daniel Walzl, [REDACTED]
[REDACTED]

Reference 2: Full Name, Phone Number and Address :

Miller Leonard, [REDACTED]
[REDACTED]

Reference 3: Full Name, Phone Number and Address :

George McLaughlin, [REDACTED]
[REDACTED]

How did you hear about us? :

Word of Mouth

By clicking APPLY and submitting this application, I certify that the forgoing information is true and correct :


Sean McDermott

Time of Submission :01/13/23 4:50:04 PM

Attachments:

- Resume.pdf

Sean McDermott



Professional Experience

Attorney

July 2016 to present

McDermott Stuart & Ward LLP

Denver, CO 80203

One of the founding members of a law firm that focuses on criminal defense and civil litigation. My practice has consisted primarily of assisting individuals. Most of our firm's practice is criminal defense. My practice consists of criminal defense and assisting people with disputes in the civil arena as well. The civil practice consists of primarily assisting people from the side of the Plaintiff, but it also includes civil forfeiture cases, and sometimes defending someone who has had a criminal prosecution against them that also has a component that requires civil litigation. My practice includes clients who pay privately, and it includes appointed work in both Federal and State Court.

McDermott & McDermott LLP

2010 - 2016

1890 Gaylord Street

Denver, CO 80206

Practice consisted of Criminal Defense and Civil Litigation. Criminal Defense included both private pay cases and State and Federal Court Appointment. Civil Litigation focused on Plaintiff's Personal Injury and Professional Liability Disputes.

McDermott, Hansen & McLaughlin LLP

August 2005 - 2010

Associate and Attorney

1890 Gaylord Street

Denver, CO 80206

Practice consisted of Criminal Defense and Civil Litigation. Criminal Defense included both private pay cases and State and Federal Court Appointment. Civil Litigation focused on Plaintiff's Personal Injury and Professional Liability Disputes.

Deputy State Public Defender

October 1998 – August 2005

Practiced in various counties including El Paso, Pueblo, and Arapahoe Counties. Began focusing on adult misdemeanor cases and juvenile matters. Practice then included different kinds of felony cases. Thoroughly enjoyed this practice.

EDUCATION

B.A., Political Science, Colorado State University, Fort Collins, CO, 1992

J.D., University of Denver, Sturm College of Law, Denver, CO, 1998

PROFESSIONAL MEMBERSHIPS

Colorado Criminal Defense Bar – Former Board Member and Past President

Colorado Trial Lawyers Association

Colorado Bar Association

Rhone Brackett Inn of Court

Faculty of Federal Advocates

American Association of Justice

National Association of Criminal Defense Lawyers

OTHER RELEVANT ACTIVITIES

Commissioner for the Crime Prevention and Control Commission, 2012 – present

During this time, served on various subcommittees including but not limited to the JCC and worked on the Smart Pretrial initiative. Volunteered to participate and attend the Pretrial Justice Institute meeting in Washington D.C. Attended and participated in almost all of the Denver meetings as well. Attendance at meetings has been good at both the commissioner level and subcommittee level.

Volunteer Work

Have consistently volunteered for Causes that I believe are important.



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to Reappoint One (1) Member and Appoint Two (2) Members to the Open Space Advisory Board
Item Initiator: Brian Green, Acting Manager of Open Space & Natural Resources
Staff Source/Legal Source: Kadee Rodriguez, City Clerk/ Dave Lathers, Senior Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interests

COUNCIL MEETING DATES:

Study Session: 3/20/2023

Regular Meeting: 3/27/2023

2nd Regular Meeting (if applicable): N/A

Item requires a Public Hearing: ☐ Yes ☒ No

ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time for Study Session

Kadee Rodriguez, City Clerk / Dave Lathers, Senior Assistant City Attorney

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field above. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: *(Check all that apply)*

☐ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

The purpose of the Open Space Advisory Board is to serve as community advocates for open space and recommend to Council acquisition of open space properties, improvements to open space facilities, and review site/project management plans.

The Open Space Advisory Board consists of nine (9) members appointed by the Aurora City Council. The term length is three (3) years and members are permitted to serve three (3) consecutive terms.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

The Open Space Advisory Board has four (4) vacancies. The Commission received three (3) applications and interviews were conducted on February 23, 2023.

Among the applicants were:

Robert Hunchberger

Joy DeMots

Dennis Roy

Upon conducting interviews, the Open Space Advisory Board respectfully recommends the appointment and reappointment of the following candidates:

Robert Hunchberger – 2nd term beginning 04/01/2023 and ending on 03/31/2026

Joy DeMots – 1st term beginning on 04/01/2023 and ending on 03/31/2026

Dennis Roy – 1st term beginning on 04/01/2023 and ending on 03/31/2026

FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to “Questions for Council”)

☐ Revenue Impact

☐ Budgeted Expenditure Impact

☐ Non-Budgeted Expenditure Impact

☐ Workload Impact

☒ No Fiscal Impact

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

N/A

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

N/A

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A

QUESTIONS FOR COUNCIL

Does Council wish to appoint Joy DeMots and Dennis Roy and the reappoint Robert Hunchberger to the Open Space Advisory Board?

LEGAL COMMENTS

The open space board shall consist of nine members, which are each registered electors. City Council shall endeavor to appoint one member from each of the council wards, for the purpose of providing the board with a full perspective of the entire city's open space needs through an even geographical distribution of the members. (City Code Section 2-392). The open space board members are responsible to serve as advocates for open space within the city, prepare a master plan for open space as a tool for the council to make land use decisions, recommend criteria for lands appropriate for open space consideration and recommend appropriate properties, build awareness in the community for the open space concept, advise the council in development of a management plan to maintain open space, and to seek and obtain private grants and public donations. (City Code Section 2-391). (Lathers)

MEMORANDUM



City of Aurora

Worth Discovering • auroragov.org

TO: Mayor Mike Coffman
Members of City Council

THROUGH: Brian Green, Acting Manager of Open Space and Natural Resources
Brooke Bell, Director of Parks, Recreation and Open Space

FROM: Steve Kennedy, Chair, Open Space Advisory Board

DATE: February 23, 2022

SUBJECT: Open Space Advisory Committee Appointment Recommendations

On February 15th, 2023, the Open Space Advisory Board conducted interviews of one existing board member who reapplied for their current seat on the board. The board also interviewed two new applicants for seats which become available at the end of March 2023. The applications are attached. There are four open seats, and these were the only applicants at the time. One vacancy on the board will remain. Following are the board questions and comments regarding the interview of the candidates.

The criteria used by the Board when interviewing applicants is as follows:

- Is the applicant a user of Open Space, particularly the Aurora Sites?
- Does the applicant show enthusiasm for Open Space and trails, along with an interest in serving on the Board?
- Is the applicant available to attend monthly meetings?

Robert Hunchberger – Ward II- Mr. Hunchberger has served one term and has been an integral part of our board for the last 3 years. He is an active contributor to many of our ongoing projects and adds valuable content to our discussions. It will be great to have him on the Board for a second term.

Joy DeMots – Ward II- Ms. DeMots is a new candidate for appointment to our board. She has a remarkable enthusiasm for open space. She has enjoyed hiking, bicycling, and birdwatching on Aurora open space and trails. She is concerned about preserving critical open space ecosystems in Aurora. She also has an interest in learning more about our open spaces and the environment in general, and she emphasized that she is willing to commit a good deal of time to Open Space efforts in Aurora. Ms. DeMots would be a great asset to the Board.

Dennis Roy – Ward II- Mr. Roy is a new candidate for appointment to our board. He has been a longtime appreciator and user of open spaces in Aurora. He is a topnotch nature photographer who is dedicated to preserving wild spaces in and around Aurora. He is interested in learning more about Aurora open space and to taking an active role on the board. He also speaks of the importance of open space as a gift to future generations—and cites his own young children as examples. Mr. Roy would be an excellent voice to add to the board.

The Open Space Advisory Board unanimously agreed to recommend to City Council consideration for reappointment of Robert Hunchberger, along with the new appointments of Joy DeMots and Dennis Roy. We respectfully request City Council approval.

Open Space Advisory Board

Applicant Package - Ward 2

Open Space Advisory Board - Ward 2

Term:01 Apr 2023 - 31 Mar 2026

Positions Available: 1

Number of applicants in this package: 1

- Roy, Dennis

Date Received: 12/08/2022

Registered Voter & Resident of Aurora

08/24/2012 Ward: 2 County: Arapahoe

Tristen Sheptock

Name : Roy, Dennis

Address : [REDACTED]

Email : [REDACTED]

Board Name : Open Space Advisory Board

Date of Birth : [REDACTED]

Home Phone Number : [REDACTED]

Work Phone Number : [REDACTED]

How long have you lived in Aurora? : 10 years

Are you registered to vote? :

Yes

Years of Education Completed : 17

Degree(s) Received : Masters Degree in Public Administration

College(s) Attended : University of South Dakota University of Colorado-Denver

Employer Name : Developmental Pathways

Employer Address : 814280 E Jewel Ave Suite A Aurora, CO 80012

Current Position : Director of Program Quality

Years with Current Employer : 3

Work Experience :

20 years working in nonprofits and government agencies. Primarily related to youth development and health care

Certification(s) : Project Management Professional

How are you involved in your community? :

I've coached my son's baseball teams for the past 3 years.

List your interests and activities. : Nature Photography

Do you presently serve in any other appointed position on a board, commission or committee? :

No

If yes, enter the board name and position : N/A

Are you currently a member and seeking reappointment on the board you are applying for? :

No

Why do you desire this appointment? :

I hope to support the management and engagement with the Open Space in Aurora

How much time do you anticipate being able to spend on this appointment each month? :

5-6 hours

Do you have any conflicts of interest that should be disclosed? :

No

If yes, please explain :N/A

Reference 1: Full Name, Phone Number and Address :Vicky Samuel - [REDACTED]

Reference 2: Full Name, Phone Number and Address :
Wayne Gallagher - [REDACTED]

Reference 3: Full Name, Phone Number and Address :
Steve Kennedy - [REDACTED]

How did you hear about us? :

Word of Mouth

By clicking APPLY and submitting this application, I certify that the forgoing information is true and correct :

Dennis Roy Jr

Time of Submission :12/07/22 8:09:43 AM

Attachments:

- Resume - Dennis Roy.pdf



Health Care Administrator & Project Manager

Specialist in Project Management, Public Policy, and Health Care Operations

Achievements

- Leadership to Community Centered Board staff and external stakeholders during COVID-19 pandemic. Provided support related to over 125 pandemic related policy changes.
- Executed over 25 federal waiver actions, three state rule changes, and multiple operational changes that improved Colorado Home and Community Based Services Medicaid waivers.
- Nineteen federal waiver actions completed in calendar year 2018; all processed ahead of Centers for Medicare and Medicaid Services (CMS) nationwide scorecard.

Profile

Focus on Person-Centeredness – Public policy efforts facilitated individuals’ access to services in the location and time of their choosing.

Timely Results – Project management abilities, in both nonprofit agencies and state government sectors, delivered products ranging from website development to public policy implementation on time and within budget.

Vendor Selection & Management – Chosen for selection committees to vet contract proposals related to auditing and program evaluation. Managed contract with Quality Improvement Organization (QIO) vendor for utilization review and cost containment processes.

Process Improvement – Focus on efficiency streamlines program enrollments, information gathering, and collaboration with stakeholders.

Innovative Strategies – Operational improvements solidified efficiencies of nonprofit agencies and state Medicaid programs.

Proactive Approach – Early identification of risk prevents un-necessary delays in project execution.

Skills

Budget Oversight
Conflict Resolution
Consensus Building
Contract Negotiation
Data Analytics
Health Care
Leadership Training
Organizational Leadership
Person-Centered Policy
Policy Development
Project Dashboards
Project Management
Public/Private Partnerships
Public Relations
Staff Selection & Supervision
Special Event Coordination
Stakeholder Engagement

Professional Experience

DEVELOPMENTAL PATHWAYS

ENGLEWOOD, CO

Director of Program Quality

June 2022-Present

Providing senior leadership to Community Centered Board (CCB) Subject Matter Expert teams that ensure safety and quality case management for individuals with intellectual and developmental disabilities. Supervising teams that monitor the Health and Welfare of individuals, deliver Medicaid Provider Relations to area stakeholders, complete purchasing of individuals' HCBS benefits, and monitor Medicaid billing of individuals' services.

- Primary project manager and senior leader toward agency implementation of Case Management Redesign in the South Denver Metro area, including development for contract to state procurement office.
- Coached staff members through process improvement projects. Staff coordinated with other agency teams to transition manual processes into automated technologies. Improved staff members' time dependencies facilitated additional staff capacity for other projects.
- Supervising a team of three direct reports and a total of 18 professional staff members.

Associate Director of Program Quality

December 2019-May 2022

- Delivered Provider Relations services to the Program Approved Services Agencies (PASAs) in South Denver Metro catchment area. Received recognition for delivering timely and accurate information throughout the COVID-19 public health emergency.
- Ensured communications to health care providers of safety guidelines and policies related COVID-19 pandemic and Medicaid Services.
- Supervised team of thirteen (13) professional staff members.

COLORADO DEPARTMENT OF HEALTH CARE POLICY & FINANCING

DENVER, CO

Office of Community Living

Home and Community Based Services (HCBS) waivers enable Medicaid clients to maintain independence and community participation through cost-effective public policy development.

HCBS Federal Policy Liaison

November 2017- November 2019

Primary project manager for the execution of waiver actions to update the Colorado HCBS waiver agreements with the Centers for Medicare and Medicaid Services (CMS). Completed stakeholder engagement, policy development, public noticing, and CMS negotiation phases for all HCBS waiver amendments and renewals. Staff lead over two policy specialists.

- Executed nineteen HCBS waiver actions in calendar year 2018. All actions completed in shorter time frames than CMS scorecard and without CMS formal requests for information.
- Developed and implemented process improvements to gather HCBS policy changes from across Department of over 500 employees. Execution of these improvements integrated over ninety policy changes into nineteen HCBS waiver actions in calendar year 2018.
- Completed contract amendment to transfer two utilization review processes to external vendor to improve both the quality and timeliness of reviews.
- Developed internal policies and systematic infrastructure to monitor project and portfolio level progress utilizing SharePoint and Microsoft Project software.
- Monitored cost effectiveness of \$882M in annual HCBS Medicaid claims.

CHCBS Waiver Administrator

September 2014-November 2017

The Children's Home and Community Based Services (CHCBS) waiver provides Medicaid coverage to medically fragile children. Completed utilization review of all case management referrals to the waiver to ensure clients met targeting and functional eligibility criteria. Maintained costs associated with the waiver (\$50M annually) while increasing the caseload.

Project management of public policy changes across the HCBS Operations Unit via the Colorado Medical Services Board and the Centers for Medicaid and Medicare. Staff lead over Program Support Specialist.

- Waiver enrollment increase from 1100 to 1700 children accomplished through elimination of all policy barriers related to enrollment caps, ensuring that that the waiver would never have a waitlist
- Participant in Requirement Validation, Design, and User Acceptance Testing stages of the development of new Colorado Medicaid and Medicare Information System (MMIS) that completes the billing, analysis, and case management functions of Health First Colorado (Colorado's Medicaid Program).
- Selected to procurement committees to determine vendors of auditing and program evaluation functions.

Program Support Specialist

November 2013-September 2014

Project management for the HCBS Operations Unit. Executed two sets of rule revisions to the Colorado Medical Services Board. Eliminated the CHCBS waiver's waitlist. Gained approval of four budgetary and legislative change proposals toward the Governor's FY2014-2015 Budget. Developed comprehensive utilization review management system for three children's waivers.

- Developed a custom Sharepoint solution, utilizing Excel Business Intelligence, to track metrics related to operational functioning.

CHILDREN'S OUTREACH PROJECT

DENVER, CO

Nonprofit high-quality early childhood education center utilizes evidenced based curricula to provide child care and therapeutic supports. Served over one hundred and fifty 2.5 to 6-year-old low-income children and their families in North Denver annually.

Development Director

April 2012-September 2013

Manager of the Development, Marketing, and Volunteer Coordination departments. Efforts generated 200% of budgeted individual and corporate giving in FY 2012-2013. Marketing initiatives, implemented by volunteers, created a waiting list of over 100 children.

YANKTON COUNTY 4-H

YANKTON, SD

State and county funded program providing life skills education to youth in Yankton County, SD. County program utilizes twelve clubs and over thirty volunteers to provide services to two hundred 4-H members.

4-H/Youth Development Program Director

April 2007-August 2009

Coordinated youth development and 4-H activities throughout Yankton County and the eastern half of South Dakota. Provided event management of local, regional, and state level 4-H contests. Created partnerships with Yankton area organizations to develop youth development programs that reached capacity limits in first year of existence.

Other Work Experience

OFFICE DEPOT #2187 Department Manager	DENVER, CO <i>September 2013-November 2013</i>
OFFICE DEPOT #2657 Technology Associate	DENVER, CO <i>November 2009-November 2011</i>

Volunteer Experience

CASA OF ADAMS & BROOMFIELD COUNTIES Court Appointed Special Advocate	ADAMS COUNTY, CO <i>October 2012- August 2014</i>
DENVER KIDS, INC Youth Mentor	DENVER, CO <i>January 2010 – November 2011</i>
AMERICORPS *NATIONAL CIVILIAN CONSERVATION CORPS Corps Member	DENVER, CO <i>January 2001-November 2001</i>

Certifications

PROJECT MANAGEMENT PROFESSIONAL Project Management Institute	<i>July 2015-Present</i>
INCIDENT INVESTIGATOR Labor Relations Alternatives	October 2020

Education

UNIVERSITY OF COLORADO AT DENVER Master of Public Administration	DENVER, CO 2012
UNIVERSITY OF SOUTH DAKOTA Bachelor of Science, Psychology	VERMILLION, SD 2009

Open Space Advisory Board

Applicant Package - Ward 2

Open Space Advisory Board - Ward 2

Term:01 Apr 2023 - 31 Mar 2026

Positions Available: 1

Number of applicants in this package: 1

- Hunchberger, Robert

Date Received: 01/12/2023

Registered Voter & Resident of Aurora

08/21/2018 Ward: 2 County: Arapahoe

Tristan Sheptock

Name :Hunchberger, Robert

Address [REDACTED]

Email [REDACTED]

Board Name :Open Space Advisory Board

Date of Birth :

[REDACTED]

Home Phone Number :

[REDACTED]

Work Phone Number :

N/A

How long have you lived in Aurora? :

5 years

Are you registered to vote? :

Yes

Years of Education Completed :

22

Degree(s) Received :

BA, MS, MA, ASN

College(s) Attended :

Millersville University of Pennsylvania Ball State University Ivy Tech Community College

Employer Name :

Retired

Employer Address :

N/A

Current Position :

Retired

Years with Current Employer :

5

Work Experience :

Several years working for Muncie Division of Water Quality doing stream studies 20+ years as a software engineer 13 years as a nurse and clinical informaticist

Certification(s) :

RN

How are you involved in your community? :

Currently on the Open Space Board, volunteer nurse for Colorado Volunteer Mobilization

List your interests and activities. :

cycling, pickle ball, hiking, paddle boarding

Do you presently serve in any other appointed position on a board, commission or committee? :

Yes

If yes, enter the board name and position :

Volunteer on the Aurora Open Space Advisory Board

Are you currently a member and seeking reappointment on the board you are applying for? :

Yes

Why do you desire this appointment? :

I want to continue to foster communication and education about our open spaces to my Aurora community

How much time do you anticipate being able to spend on this appointment each month? :

Several hours/week

Do you have any conflicts of interest that should be disclosed? :

No

If yes, please explain :

N/A

Reference 1: Full Name, Phone Number and Address :

Bob Giles [REDACTED]

Reference 2: Full Name, Phone Number and Address :

Steven Kennedy [REDACTED]

Reference 3: Full Name, Phone Number and Address :

Kyle Baker [REDACTED]

How did you hear about us? :

Other

By clicking APPLY and submitting this application, I certify that the forgoing information is true and correct :

Robert A Hunchberger

Time of Submission :01/11/23 4:02:35 PM

Attachments:

- rahResume2023.pdf

-- Robert Hunchberger, RN --



Profile

Became an RN in 2009 and merged clinical care experience with a software career becoming a clinical informaticist in one of the largest hospitals in Indiana. One of the founders of and CTO for Praxis Solutions, LLC. 20+ years of experience in IT leading teams as a player-coach, advancing software delivery capability, reducing costs. Focused on the objective, recognizing technology is just one of many tools used to accomplish the goals of the business. Personable and able to communicate verbally or in writing to all levels of an organization. A leader who is not afraid to jump in, get dirty and help the team succeed.

Skill Summary

Informatics	IT Portfolio Management	Accomplished Trainer
Budgeting	Process Improvement	Relationship Management
Managing People	Mentoring and Coaching	Proposal Writing
Strategic Technology Planning	Sales Support	Risk Management
Project Estimating	Business Analysis	Requirements
Orthopedics	Medical-Surgical	Cardiac

Professional Experience

St. Vincent Heath – Clinical Informaticist @ The Heart Center of Indiana – December 2016 – 2018

- Communicate updates, downtimes and significant events affecting clinicians and senior leadership hospital wide.
- Support and train clinicians hospital wide overcome EMR usability issues.
- Gather UX/UI requirements for EMR improvements, change requests and validate final development products prior to production.
- Managing hospital through ACA requirements for ePrescribe and roll-out of new module add ons

St. Vincent Health – Manager of Clinical Informatics – July 2016 – December 2016

- Hired FTEs, managed and mentored new informaticists through organization transition.
- Coordinated with regional hospital leadership to improve utilization and acceptance of EMR by physicians.
- Responsible for 18 FTEs in eight community hospitals.
- Continued previous role responsibilities

St. Vincent Hospital Indianapolis – Supervisor Clinical Informatics – September 2013 – June 2016

- Managed department through attrition, hiring five, expanding team to seven supporting hospital clinical service lines.
- Continued informatics role while training and mentoring new team of informaticists.
- Managed hospital through ACA requirements for portal registration saving \$3M.
- Guided hospital through Joint Commission surveys insuring compliance with CMS requirements
- Managed ad hoc C-suite projects affecting clinician efficiency or patient safety.

St. Vincent Hospital Indianapolis – Clinical Informaticist February 2011 – August 2013

- Trained nurses and physicians monthly in electronic medical record (EMR) use.

- Guided and supported clinicians migrating from paper to Allscripts EMR system.
- Communicated updates, downtimes and significant events affecting clinicians and senior leadership hospital wide.
- Gathered UX/UI requirements for EMR improvements, change requests and validated final development products prior to production.

Author Solutions – Senior Business Systems Analyst **December 2009 – January 2011**

- Managed organization through conversion of home grown .Net sales and customer relationship management platform to Salesforce.com.
- Migrated customer-sales database from SQL Server to Oracle on Salesforce.com.

Clarian North Medical Center – Registered Nurse **February 2009 - December 2009**

Clarian North Medical Center – Student Nurse Extern **August 2007 - January 2009**

Number Six Software (acquired Praxis Solutions) – Research Director **May 2004 - December 2006**

- Communicated best software practices to IN and OH software community at large.
- Trained customers on software process improvement using Rational Unified Process RUP.
- Demonstrated to customers how to attain higher degrees of reuse and productivity.
- Directed, managed and performed analysis of customer software process capability.
- Trained customers on RUP, UX and UI.
- Mentored clients in how to deliver software iteratively.

Praxis Solutions, LLC – Partner and CTO **September 1998 – April 2004**

NewMedia, Inc. - Director **March 1995 – September 1998**

Service Graphics, - Manager **December 1994 – March 1995**

Corporate Computing, Inc. - Consultant **August 1994 – November 1994**

Ernst & Young - Manager **January 1994 – August 1994**

Kellogg Company - Manager **March 1985 – December 1993**

ICI Americas Inc., Stuart Pharmaceuticals Division - Developer **December 1983 – February 1985**

Education/Professional Licenses/Certifications

Associate Degree in Nursing, Ivy Tech Community College, Indianapolis, Indiana
MA, Computer Science, **MS**, Biology, Ball State University, Muncie, Indiana
BA, Biology, Millersville University of Pennsylvania

Registered Nurse 2009

Certified BLS for Healthcare Providers

Certified Consultant in the Rational Unified Process, Rational Software/IBM Software Group

Activities/Interests

Cycling, the outdoors, science, paddle boarding, tennis and pickle ball

Open Space Advisory Board

Applicant Package - Ward 2

Open Space Advisory Board - Ward 2

Term:01 Apr 2023 - 31 Mar 2026

Positions Available: 1

Number of applicants in this package: 1

- DeMots, Joy

Date Received: 12/13/2022

Registered Voter & Resident of Aurora
07/23/2004 Ward: 2 County: Arapahoe

Tristen Sheptock

Name :DeMots, Joy

Address [REDACTED]

Email [REDACTED]

Board Name :Open Space Advisory Board

Date of Birth [REDACTED]

Home Phone Number [REDACTED]

Work Phone Number [REDACTED]

How long have you lived in Aurora? :20 years

Are you registered to vote? :

Yes

Years of Education Completed :Bachelor Degree

Degree(s) Received :Behavioral Sciences with American West History

College(s) Attended :Metropolitan State University of Denver

Employer Name :Retired

Employer Address :NA

Current Position :NA

Years with Current Employer :NA

Work Experience :

Human Resources Management, Statistical Analyses for the State of Colorado, various board member experience.

Certification(s) :Human Resource Management

How are you involved in your community? :

I have volunteered in different capacities as a board member for elementary school, and more recently for the Conservatory HOA and the Conservatory Metro District

List your interests and activities. :

I enjoy hiking, biking, birdwatching, traveling and cooking. My spouse and I take vacations that are centered around hiking. We enjoy wildlife as well as people.

Do you presently serve in any other appointed position on a board, commission or committee? :

Yes

If yes, enter the board name and position :

Co-chair, Design Review Committee for The Conservatory HOA

Are you currently a member and seeking reappointment on the board you are applying for? :

No

Why do you desire this appointment? :

What my resume does not tell you is that I have a concern about our environment, particularly the land and air, and how its impact not only our wildlife but our own lives as well. I have lived in Aurora for almost 20 years and I am an avid hiker and bicycler in Aurora, the mountains, numerous national, local and state parks. I have visited most of the Aurora open spaces listed on your website and I would like to know more about all of them and participate in future development plans.

How much time do you anticipate being able to spend on this appointment each month? :

5-15 or more if necessary

Do you have any conflicts of interest that should be disclosed? :

No

If yes, please explain : I have no conflict of interest that I am aware of.

Reference 1: Full Name, Phone Number and Address :

Bob Hunchberger, [REDACTED]

Reference 2: Full Name, Phone Number and Address :

Bob Giles, [REDACTED]

Reference 3: Full Name, Phone Number and Address :

Marcella Caywood, [REDACTED]

How did you hear about us? :

Word of Mouth

By clicking APPLY and submitting this application, I certify that the forgoing information is true and correct :

Joy DeMots

Time of Submission : 12/13/22 2:34:12 PM

Attachments:

- DeMots Resume Board 12-2022.pdf

Joy DeMots

PROFESSIONAL SUMMARY

Highly motivated and positive person possessing good communication and customer service skills. Possess a keen interest in environmental life and sustainability. An avid wild life supporter.

SKILLS

- Excellent customer service skills in managing conflict between employees to accomplish mutually agreeable salary changes;
- Strong proficiency in Microsoft Suite software;
- Effective written and verbal communicator;
- Experience working at the system level interpreting, developing policies and guidelines;
- Organizational experience developing analytical tools for executive decision making purposes;
- Supervisory experience;
- Various board member experiences:
 - 1990's, PTA Newsletter Chair, Vice President, President
 - The Conservatory HOA
 - Newsletter Chair 2016 and 2017
 - Supported City of Aurora Beautification grant application 2017/2018
 - Appointed one year as director 2016/2017 to back fill an open board position
 - Committee member for the architectural review committee (DRC - Design Review Committee) 2018 - present, current DRC co-chair - 2020 - present
- Conservatory Metropolitan District
 - Volunteered for on Art in Public Places/City of Aurora 2017-2018. Artwork was installed in 2019.
 - Elected to the Metro Board (Treasurer May 2020 - July 2022)
 - Detention Pond Committee - 2020 - 2022
 - Landscaping Committee - 2022

WORK HISTORY

4/2008 to 2/2011

University of Colorado Denver (UC Denver)

Title: Director, HR Operations

- Supervise 7-8 employees; staff members processed hiring and other HR processes;
- Manage special projects, manage systems processing, consult with departments on organizational pay structure, and on-going issues related to operations, systems and legislation;
- Manage employment searches (selection) for exempt professional employees.

10/2006 to 4/2008

University of Colorado Denver (UC Denver)

Title: Compensation Specialist/Principal HR Consultant

- Principal HR consultant on classified and exempt professional compensation for UC Denver;

- Developed a system and database for analyzing, processing and tracking exempt professional position requiring analyses of each position, salary survey information, and determination of salaries based on market and external data;
- Developed various databases and spreadsheets for tracking purposes;
- Developed methodologies for conducting special salary studies for departments to address equity issues.

8/2002 to 10/2006

State of Colorado, Department of Personnel & Administration, Division of Human Resources

Title: HR Measurement Specialist

- Conducted research and data analyses, designed methods to collect data, designed and prepared reports for online publishing (e.g., Annual Workforce Report, and recommended strategies (e.g., standard turnover cost formula, cost per hire calculator) that incorporated research results;
- Developed and advised on workforce planning and succession planning models and plans; assessed HR business needs, evaluated existing processes, and identified opportunities for automation using information technology.

2/1999 to 8/2002

State of Colorado, Department of Personnel & Administration, Division of Human Resources

Title: HR Compensation Specialist

- Member of a self-directed work team that provided professional guidance in human resource management;
- Gathered employee and organizational data, and analyzed to produce reports for external agencies, and for internal use by management;
- Researched and recommended methodologies for analyzing market compensation and benefits information and provided data and analyses to support the annual total compensation recommendations made to the legislature on employee salaries and benefits.

11/1989 to 2/1999

Front Range Community College

Title: Statistical Analyst

- Provided technical and professional research support system-wide;
- Researched, organized, and analyzed student, staff and community data for college-wide uses and system-wide reporting;
- Directly responsible for the accurate and timely reporting of student enrollment and employment data to various education governing associations;
- Provided external information for strategic planning purposes via environmental scanning research methods;
- Provided training to faculty and staff on how to access and use pertinent workforce and educational data to perform their program planning for degrees, certificates and adult education; data and reports published were on the website.

EDUCATION

1989 - Associate of Liberal Arts - Front Range Community College, Westminster, Colorado

1991 - Associate of Science - Front Range Community College, Westminster, Colorado

1994 - Bachelor of Arts in Behavioral Science - Metropolitan State University of Denver, Colorado



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to Approve a Resolution by the City Council of the City of Aurora for the Intergovernmental Agreement Between City of Aurora and Colorado Department of Transportation for the Smith Road Multimodal Design Project

Item Initiator: Gary Vidlock, Engineering Supervisor

Staff Source/Legal Source: Matt Kozakowski, Transportation Project Delivery Manager , Public Works / Michelle Gardner, Senior Assistant City Attorney

Outside Speaker: N/A

Council Goal: 2012: 3.2--Reduce travel time and reduce congestion and provide expanded multi-modal mobility choices

COUNCIL MEETING DATES:

Study Session: 3/20/2023

Regular Meeting: 3/27/2023

ITEM DETAILS

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time for Study Session

Matt Kozakowski, Transportation Project Delivery Manager, Public Works / Michelle Gardner, Senior Assistant City Attorney

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Transportation, Airports & Public Works

Policy Committee Date: 2/23/2023

Action Taken/Follow-up: *(Check all that apply)*

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☒ Minutes Attached

☐ Minutes Not Available

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

At the June 6, 2022 meeting of the Transportation, Airports, and Public Works Policy Committee, staff presented grant applications for three proposed projects to go to the DRCOG Sub-Regional TIP forum for the 2022 Call 2 on June 24, 2022. The Smith Road grant application was among the projects proposed and subsequently supported by the Committee. (minutes attached)

At the October 27, 2022 meeting of the Transportation, Airports and Public Works Policy Committee, staff provided an update on the applications that were submitted on the grant applications that were submitted to the DRCOG Sub-Regional TIP forum for 2022 Call 2 on June 24, 2022. It was reported that that Smith Road grant application was successful. (minutes attached)

At the February 23, 2023 meeting of the Transportation, Airports and Public Works Policy Committee, staff presented the funding IGA for this project and recommended it be forwarded to the next available study session.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

The City of Aurora applied for a DRCOG 2022-2027 Transportation Improvement Program (TIP) Call 2 Adams County Subregional Forum Project Application grant, administered by the Colorado Department of Transportation (CDOT). Funds from this program are distributed to projects that are expected to improve safety, mobility, and travel for users in the City.

Staff identified improvements along the Smith Road corridor, from Peoria Street to Powhaton Road, as a TIP eligible project after identifying multimodal safety issues that could be improved by advancing the design of the Smith Road corridor. By designing the roadway corridor to the 60% level with the inclusion of contiguous sidewalks and multi use paths under the current grant, in the future the City will be able to further design and eventually construct improvements to enhance user safety along the corridor.

The grant application was submitted in June 2022 and the City was notified that this project was selected for funding in September 2022. The project was awarded \$4,500,000 of federal funding for the purposes of developing a coordior design to the 60% level. The project will include evaluation of conceptual level programing for the different considerations uses along the 9 mile corridor, provide NEPA (National Environmental Protection Act) compliant project evaluation, and develop 60% level design plans. Additionally, phasing will be identified for future capital improvement project opportunities, and the deliverable will serve as a template for development along the corridor.

The City is contributing a local match of 10% or \$500,000 for 60% design as shown in the table below. This project was eligible for and capitalized on a unique funding opportunity in the DRCOG 2022 Call 2 for Projects. Projects that meet multi-modal requirements were eligible for a minimum local agency match of 10%, while the standard minimum match is 20%. Local match money is currently in org 49743 – Transportation Improvement Program Match. Design for this project will begin in 2023, with anticipated completion in 2025.

The grant funding is for design to the 60% level.

Entity	Contribution	Percentage
CDOT (TIP)	\$4,500,000	90%
Local (City of Aurora)	\$500,000	10%
Grant TOTAL	\$5,000,000	

FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- ☐ Revenue Impact ☒ Budgeted Expenditure Impact ☐ Non-Budgeted Expenditure Impact
☐ Workload Impact ☐ No Fiscal Impact

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

N/A

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

\$500,000 - City Match funds are budgeted in 49743/68310 – Transportation Improvement Program Match.

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A.

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A. Workload will be absorbed into FTE positions in Transportation Project Delivery unit of Public Works Engineering.

QUESTIONS FOR COUNCIL

Does Council support moving forward the Resolution and the Intergovernmental Agreement between Colorado Department of Transportation and City of Aurora for the Smith Road Multimodal Design Project to the next available Regular Meeting of City Council?

LEGAL COMMENTS

Governments may cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units only if such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve. (Colo. Rev. Stat. §29-1-203(1)). City Council may, by resolution, enter into intergovernmental agreements with other governmental units or special districts for the joint use of buildings, equipment or facilities, and for furnishing or receiving commodities or services. (City Charter §10-12). (M. Gardner)

RESOLUTION NO. R2023 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA,
COLORADO, APPROVING THE INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF AURORA AND THE COLORADO DEPARTMENT OF
TRANSPORTATION (CDOT) FOR THE SMITH ROAD MULTIMODAL DESIGN PROJECT

WHEREAS, the City of Aurora, Colorado (the “City”), and the State of Colorado Department of Transportation (“CDOT”), collectively “the Parties”, as government agencies, are authorized by the provisions of Colo. Const., art. XIV, § 18(2)(a) and C.R.S. §§ 29-1-201, et seq., to contract with one another to provide any function, service or facility lawfully authorized to each; and

WHEREAS, the City applied for a DRCOG 2022-2025 Transportation Improvement Program (TIP) Call 2 Adams County Subregional Forum Project Application grant, administered by CDOT; and

WHEREAS, funds from this program are distributed to projects that are expected to improve safety, mobility, and travel for users in the City; and

WHEREAS, City staff identified improvements along the Smith Road corridor, from Peoria Street to Powhaton Road, as a TIP eligible project after identifying multimodal safety issues that could be improved by advancing the design of the Smith Road corridor (“Project”); and

WHEREAS, by designing the roadway corridor to the 60% level with the inclusion of contiguous sidewalks and multi-use paths under the current grant, the City will be able to further design and eventually construct improvements to enhance user safety along the corridor; and

WHEREAS, design for the Project will begin in 2023 with anticipated completion in 2025; and

WHEREAS, the grant application was submitted in June 2022 and the City was notified that the Project was selected for funding in September 2022 and was awarded \$4,500,000 of federal funding for the purposes of developing a corridor design to the 60% level; and

WHEREAS, the City is contributing a local match of 10% or \$500,000 for the 60% design, for a total Project cost of \$5,000,000; and

WHEREAS, Section 10-12 of the City Charter authorizes City Council to approve, by resolution, the execution of contracts, and amendments thereto, with other governmental units for furnishing or receiving commodities or services; and

WHEREAS, the City Council of the City of Aurora finds and determines that it is in the best interest of the City and its citizens to authorize the execution of the Intergovernmental Agreement between the City and CDOT for the Smith Road Multimodal Design Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The Intergovernmental Agreement Between the City of Aurora and CDOT for the Smith Road Multimodal Design Project is hereby approved.

Section 2. The Mayor and the City Clerk are hereby authorized to execute and deliver this Intergovernmental Agreement in substantially the form presented at this meeting, with such technical additions, deletions, and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

Section 3. All prior Resolutions or any parts that are inconsistent herewith are hereby rescinded.

RESOLVED AND PASSED this _____ day of _____, 2023.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

Michelle Gardner RLA

MICHELLE GARDNER, Sr. Assistant City Attorney

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

Signature and Cover Page

State Agency Department of Transportation			Agreement Routing Number 23-HA1-XC-00036
Local Agency CITY OF AURORA			Agreement Effective Date The later of the effective date or February 01, 2023
Agreement Description SMITH ROAD MULTIMODAL IMPROVEMENT			Agreement Expiration Date January 31, 2033
Project # ARPA M055- 062 (25500)	Region # 1	Contract Writer DM	Agreement Maximum Amount \$5,000,000.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and to bind the Party authorizing his or her signature.

<p style="text-align: center;">LOCAL AGENCY CITY OF AURORA</p> <hr style="border: 0; border-top: 1px solid black; margin: 10px 0;"/> <p style="text-align: center;">Signature</p> <hr style="border: 0; border-top: 1px solid black; margin: 10px 0;"/> <p style="text-align: center;">By: (Mike Coffman, Mayor)</p> <p style="text-align: center;">Date: _____</p>	<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director</p> <hr style="border: 0; border-top: 1px solid black; margin: 10px 0;"/> <p style="text-align: center;">Keith Stefanik, P.E., Chief Engineer</p> <p style="text-align: center;">Date: _____</p>
<p style="text-align: center;">Additional Local Agency Signatures</p> <p>Attest: _____ Kadee Rodriguez, City Clerk</p> <p style="text-align: center;">Date: _____</p> <p>Approved as to Form: _____ Michelle Gardner, Sr. Assistant City Attorney</p> <p style="text-align: center;">Date: _____</p>	
<p style="text-align: center;">In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p style="text-align: center;">By: _____ Department of Transportation</p> <p style="text-align: center;">Effective Date: _____</p>	

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1. PARTIES

This Agreement is entered into by and between Local Agency named on the Signature and Cover Page for this Agreement (“Local Agency”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the “State” or “CDOT”). Local Agency and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and Agreement Funds shall be expended within the dates shown in **Exhibit C** for each respective phase (“Phase Performance Period(s)”). The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Local Agency for any Work performed or expense incurred before 1) the Effective Date of this original Agreement; except as described in **§7.D**; 2) before the encumbering document for the respective phase *and* the official Notice to Proceed for the respective phase; or 3) after the Final Phase Performance End Date, as shown in **Exhibit C**. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline specified in **§7.B.i.e.**, or the expiration of “Special Funding” if applicable, whichever is sooner. The State’s obligation to pay Agreement Funds exclusive of Special Funding will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds.

B. Initial Term and Extension

The Parties’ respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on January 31, 2033 as shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement. Upon request of Local Agency, the State may, in its sole discretion, extend the term of this Agreement by Option Letter pursuant **§7.E.iv**. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in **Exhibit C**.

C. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, and this ARPA Award is not appropriated, or otherwise become unavailable to fund this ARPA Award the State, in its discretion, may terminate this Agreement in whole or in part. This subsection shall not apply to a termination of this Agreement by the State for breach by Local Agency, which shall be governed by **§14.A.i**.

i. Method and Content

The State shall notify Local Agency by providing written notice to Local Agency of the termination and be in accordance with **§16**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Local Agency shall be subject to **§14.A.i.a**

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Local Agency an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Local Agency for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Local Agency which are directly attributable to the uncompleted portion of Local Agency’s obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Local Agency hereunder. This subsection shall not apply to a termination of this ARPA Award by the State for breach by Local Agency.

D. Local Agency Termination Under Federal Requirements

Local Agency may request termination of the ARPA Award by sending notice to the State, which includes the effective date of the termination. If this ARPA Award is terminated in this manner, then Local Agency shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. AUTHORITY

Authority to enter into this Agreement exists in the law as follows:

A. Federal Authority

Pursuant to Title I, Subtitle A, of the “Fixing America’s Surface Transportation Act” (FAST Act) of 2015, and to applicable provisions of Title 23 of the United States Code and implementing regulations at Title 23 of the Code of Federal Regulations, as may be amended, (collectively referred to hereinafter as the “Federal Provisions”), certain federal funds have been and are expected to continue to be allocated for transportation projects requested by Local Agency and eligible under the Surface Transportation Improvement Program that has been proposed by the State and approved by the Federal Highway Administration (“FHWA”).

Pursuant to Title VI of the Social Security Act, Section 602 of the “Coronavirus State and Local Fiscal Recovery Funds”, a part of the American Rescue Plan, provides state, local and Tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery.

B. State Authority

Pursuant to CRS §43-1-223 and to applicable portions of the Federal Provisions, the State is responsible for the general administration and supervision of performance of projects in the Program, including the administration of federal funds for a Program project performed by a Local Agency under a contract with the State. This Agreement is executed under the authority of CRS §§29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-104.5.

4. PURPOSE

The purpose of this Agreement is to disburse Federal funds to the Local Agency pursuant to CDOT’s Stewardship Agreement with the FHWA and/or USDT as shown in **Exhibit C**.

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “**Agreement**” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. “**Agreement Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- C. “**ARPA**” means American Rescue Plan Act, funded by the US Department of the Treasury (“USDT”). See “SLFRF” below.
- D. “**Award**” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- E. “**Budget**” means the budget for the Work described in **Exhibit C**.
- F. “**Business Day**” means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S..
- G. “**Chief Procurement Officer**” means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202 to procure or supervise the procurement of all supplies and services needed by the State.
- H. “**CJI**” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- I. “**Consultant**” means a professional engineer or designer hired by Local Agency to design the Work Product.
- J. “**Contractor**” means the general construction contractor hired by Local Agency to construct the Work.

- K. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.
- L. **“Effective Date”** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.
- M. **“Evaluation”** means the process of examining Local Agency’s Work and rating it based on criteria established in §6, **Exhibit A** and **Exhibit E**.
- N. **“Exhibits”** means the following exhibits attached to this Agreement:
- i. **Exhibit A**, Scope of Work.
 - ii. **Exhibit B**, Sample Option Letter.
 - iii. **Exhibit C**, Funding Provisions
 - iv. **Exhibit D**, Local Agency Resolution
 - v. **Exhibit E**, Local Agency Contract Administration Checklist
 - vi. **Exhibit F**, Certification for Federal-Aid Contracts
 - vii. **Exhibit G**, Disadvantaged Business Enterprise
 - viii. **Exhibit H**, Local Agency Procedures for Consultant Services
 - ix. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts
 - x. **Exhibit J**, Additional Federal Requirements
 - xi. **Exhibit K**, The Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions
 - xii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form
 - xiii. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the “Uniform Guidance”)
 - xiv. **Exhibit N**, Federal Treasury Provisions
 - xv. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds
 - xvi. **Exhibit P**, SLFRF Subrecipient Quarterly Report
 - xvii. **Exhibit Q**, SLFRF Reporting Modification Form
 - xviii. **Exhibit R**, Applicable Federal Awards
 - xix. **Exhibit S**, PII Certification
 - xx. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source
- O. **“Expiration Date”** means the date on which this Agreement expires, as shown on the Signature and Cover Page for this Agreement.
- P. **“Extension Term”** means the period of time by which the ARPA Expiration Date is extended by the State through delivery of an updated ARPA Letter.
- Q. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- R. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. The US Department of the Treasury is the Federal Awarding Agency for the Federal Award, which may be the subject of this Agreement.
- S. **“FHWA”** means the Federal Highway Administration, which is one of the twelve administrations under the Office of the Secretary of Transportation at the U.S. Department of Transportation. FHWA provides stewardship over the construction, maintenance and preservation of the Nation’s highways and tunnels. FHWA is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- T. **“Goods”** means any movable material acquired, produced, or delivered by Local Agency as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Local Agency in connection with the Services.

- U. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- V. **“Initial Term”** means the time period defined in §2.B.
- W. **“Local Funds”** means the funds provided by the Local Agency as their obligated contribution to the federal and/or State Awards to receive the federal and/or State funding.
- X. **“Notice to Proceed”** means the letter issued by the State to the Local Agency stating the date the Local Agency can begin work subject to the conditions of this Agreement.
- Y. **“OMB”** means the Executive Office of the President, Office of Management and Budget.
- Z. **“Oversight”** means the term as it is defined in the Stewardship Agreement between CDOT and the FHWA.
- AA. **“Party”** means the State or Local Agency, and **“Parties”** means both the State and Local Agency.
- BB. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- CC. **“PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- DD. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 C.R.S. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, et. seq., C.R.S.
- EE. **“Recipient”** means the Colorado Department of Transportation (CDOT) for this Federal Award.
- FF. **“Services”** means the services to be performed by Local Agency as set forth in this Agreement and shall include any services to be rendered by Local Agency in connection with the Goods.
- GG. **“SLFRF”** means State and Local Fiscal Recovery Funds, provided by ARPA, funded by the US Treasury Department.
- HH. **“Special Funding”** means an award by Federal agency or the State which may include but is not limited to one or a combination of Multimodal Transportation & Mitigation Options Funding, Revitalizing Main Streets, Safer Main Streets, Stimulus Funds, Coronavirus Response and Relief Supplemental Funds, ARPA, SLFRF, or COVID Relief.
- II. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII and State personnel records not subject to disclosure under CORA.
- JJ. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).
- KK. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- LL. **“State Purchasing Director”** means the position described in the Colorado Procurement Code and its implementing regulations.

- MM. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- NN. **“Sub-Award”** means this Award by the State to Local Agency funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to this Sub-Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- OO. **“Subcontractor”** means third parties, if any, engaged by Local Agency to aid in performance of the Work.
- PP. **“Subrecipient”** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency.
- QQ. **“Tax Information”** means Federal and State of Colorado tax information including, without limitation, Federal and State tax returns, return information, and such other tax-related information as may be protected by Federal and State law and regulation. Tax Information includes but is not limited to all information defined as Federal tax Information in Internal Revenue Service Publication 1075.
- RR. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- SS. **“USDT”** The United States Department of the Treasury (**USDT**) is the national treasury and finance department of the federal government of the United States where it serves as an executive department. The USDT funds ARPA.
- TT. **“Work”** means the delivery of the Goods and performance of the Services in compliance with CDOT’s Local Agency Manual described in this Agreement.
- UU. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

6. SCOPE OF WORK

Local Agency shall complete the Work as described in this Agreement and in accordance with the provisions of **Exhibit A**, and the Local Agency Manual. The State shall have no liability to compensate Local Agency for the delivery of any Goods or the performance of any Services that are not specifically set forth in this Agreement. Work may be divided into multiple phases that have separate periods of performance. The State may not compensate for Work that Local Agency performs outside of its designated phase performance period. The performance period of phases, including, but not limited to Design, Construction, Right of Way, Utilities, or Environment phases, are identified in **Exhibit C**. The State may unilaterally modify **Exhibit C** from time to time, at its sole discretion, to extend the Agreement Expiration Date and/or to extend the period of performance for a phase of Work authorized under this Agreement. To exercise these options to extend the Agreement Expiration Date and/or to update the phase performance period extension option, the State will provide written notice to Local Agency in a form substantially equivalent to **Exhibit B**. The State’s unilateral extension of the Agreement Expiration Date and/or the phase performance periods will not amend or alter in any way the funding provisions or any other terms specified in this Agreement, notwithstanding the options listed under **\$7.E**

A. Local Agency Commitments

i. Design

If the Work includes preliminary design, final design, design work sheets, or special provisions and estimates (collectively referred to as the “Plans”), Local Agency shall ensure that it and its Contractors comply with and are responsible for satisfying the following requirements:

- a. Perform or provide the Plans to the extent required by the nature of the Work.
 - b. Prepare final design in accordance with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by the State.
 - c. Prepare provisions and estimates in accordance with the most current version of the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by the State.
 - d. Include details of any required detours in the Plans in order to prevent any interference of the construction Work and to protect the traveling public.
 - e. Stamp the Plans as produced by a Colorado registered professional engineer.
 - f. Provide final assembly of Plans and all other necessary documents.
 - g. Ensure the Plans are accurate and complete.
 - h. Make no further changes in the Plans following the award of the construction contract to Contractor unless agreed to in writing by the Parties. The Plans shall be considered final when approved in writing by CDOT, and when final, they will be deemed incorporated herein.
- ii. Local Agency Work
- a. Local Agency shall comply with the requirements of the Americans With Disabilities Act (ADA) 42 U.S.C. § 12101, et. seq., and applicable federal regulations and standards as contained in the document "ADA Accessibility Requirements in CDOT Transportation Projects".
 - b. Local Agency shall afford the State ample opportunity to review the Plans and shall make any changes in the Plans that are directed by the State to comply with FHWA requirements.
 - c. Local Agency may enter into a contract with a Consultant to perform all or any portion of the Plans and/or construction administration. Provided, however, if federal-aid funds are involved in the cost of such Work to be done by such Consultant, such Consultant contract (and the performance provision of the Plans under the contract) must comply with all applicable requirements of 23 C.F.R. Part 172 and with any procedures implementing those requirements as provided by the State, including those in **Exhibit H**. If Local Agency enters into a contract with a Consultant for the Work:
 - 1) Local Agency shall submit a certification that procurement of any Consultant contract complies with the requirements of 23 C.F.R. 172.5(1) prior to entering into such Consultant contract, subject to the State's approval. If not approved by the State, Local Agency shall not enter into such Consultant contract.
 - 2) Local Agency shall ensure that all changes in the Consultant contract have prior approval by the State and FHWA and that they are in writing. Immediately after the Consultant contract has been awarded, one copy of the executed Consultant contract and any amendments shall be submitted to the State.
 - 3) Local Agency shall require that all billings under the Consultant contract comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
 - 4) Local Agency (and any Consultant) shall comply with 23 C.F.R. 172.5(b) and (d) and use the CDOT procedures described in **Exhibit H** to administer the Consultant contract.
 - 5) Local Agency may expedite any CDOT approval of its procurement process and/or Consultant contract by submitting a letter to CDOT from Local Agency's attorney/authorized representative certifying compliance with **Exhibit H** and 23 C.F.R. 172.5(b) and (d).
 - 6) Local Agency shall ensure that the Consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
 - (a) The design work under this Agreement shall be compatible with the requirements of the contract between Local Agency and the State (which is incorporated herein by this

reference) for the design/construction of the project. The State is an intended third-party beneficiary of this agreement for that purpose.

- (b) Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.
- (c) The consultant shall review the construction Contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work.
- (d) The State, in its sole discretion, may review construction plans, special provisions and estimates and may require Local Agency to make such changes therein as the State determines necessary to comply with State and FHWA requirements.

iii. Construction

If the Work includes construction, Local Agency shall perform the construction in accordance with the approved design plans and/or administer the construction in accordance with **Exhibit E**. Such administration shall include Work inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing construction Contractor claims; construction supervision; and meeting the quality control requirements of the FHWA/CDOT Stewardship Agreement, as described in **Exhibit E**.

- a. The State may, after providing written notice of the reason for the suspension to Local Agency, suspend the Work, wholly or in part, due to the failure of Local Agency or its Contractor to correct conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
- b. Local Agency shall be responsible for the following:
 - 1) Appointing a qualified professional engineer, licensed in the State of Colorado, as Local Agency Project Engineer (LAPE), to perform engineering administration. The LAPE shall administer the Work in accordance with this Agreement, the requirements of the construction contract and applicable State procedures, as defined in the CDOT Local Agency Manual (https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual).
 - 2) For the construction Services, advertising the call for bids, following its approval by the State, and awarding the construction contract(s) to the lowest responsible bidder(s).
 - (a) All Local Agency's advertising and bid awards pursuant to this Agreement shall comply with applicable requirements of 23 U.S.C. §112 and 23 C.F.R. Parts 633 and 635 and C.R.S. § 24-92-101 et seq. Those requirements include, without limitation, that Local Agency and its Contractor(s) incorporate Form 1273 (Exhibit I) in its entirety, verbatim, into any subcontract(s) for Services as terms and conditions thereof, as required by 23 C.F.R. 633.102(e).
 - (b) Local Agency may accept or reject the proposal of the apparent low bidder for Work on which competitive bids have been received. Local Agency must accept or reject such bids within three (3) working days after they are publicly opened.
 - (c) If Local Agency accepts bids and makes awards that exceed the amount of available Agreement Funds, Local Agency shall provide the additional funds necessary to complete the Work or not award such bids.
 - (d) The requirements of **§6.A.iii.b.2** also apply to any advertising and bid awards made by the State.

- (e) The State (and in some cases FHWA) must approve in advance all Force Account Construction, and Local Agency shall not initiate any such Services until the State issues a written Notice to Proceed.

iv. Right of Way (ROW) and Acquisition/Relocation

- a. If Local Agency purchases a ROW for a State highway, including areas of influence, Local Agency shall convey the ROW to CDOT promptly upon the completion of the project/construction.
- b. Any acquisition/relocation activities shall comply with all applicable federal and State statutes and regulations, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, as amended (49 C.F.R. Part 24), CDOT's Right of Way Manual, and CDOT's Policy and Procedural Directives.
- c. The Parties' respective responsibilities for ensuring compliance with acquisition, relocation and incidentals depend on the level of federal participation as detailed in CDOT's Right of Way Manual (located at <http://www.codot.gov/business/manuals/right-of-way>); however, the State always retains oversight responsibilities.
- d. The Parties' respective responsibilities at each level of federal participation in CDOT's Right of Way Manual, and the State's reimbursement of Local Agency costs will be determined pursuant the following categories:
 - 1) Right of way acquisition (3111) for federal participation and non-participation;
 - 2) Relocation activities, if applicable (3109);
 - 3) Right of way incidentals, if applicable (expenses incidental to acquisition/relocation of right of way – 3114).

v. Utilities

If necessary, Local Agency shall be responsible for obtaining the proper clearance or approval from any utility company that may become involved in the Work. Prior to the Work being advertised for bids, Local Agency shall certify in writing to the State that all such clearances have been obtained.

vi. Railroads

If the Work involves modification of a railroad company's facilities and such modification will be accomplished by the railroad company, Local Agency shall make timely application to the Public Utilities Commission ("PUC") requesting its order providing for the installation of the proposed improvements. Local Agency shall not proceed with that part of the Work before obtaining the PUC's order. Local Agency shall also establish contact with the railroad company involved for the purpose of complying with applicable provisions of 23 C.F.R. 646, subpart B, concerning federal-aid projects involving railroad facilities, and:

- a. Execute an agreement with the railroad company setting out what work is to be accomplished and the location(s) thereof, and which costs shall be eligible for federal participation.
- b. Obtain the railroad's detailed estimate of the cost of the Work.
- c. Establish future maintenance responsibilities for the proposed installation.
- d. Proscribe in the agreement the future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- e. Establish future repair and/or replacement responsibilities, as between the railroad company and the Local Agency, in the event of accidental destruction or damage to the installation.

vii. Environmental Obligations

Local Agency shall perform all Work in accordance with the requirements of current federal and State environmental regulations, including the National Environmental Policy Act of 1969 (NEPA) as applicable.

viii. Maintenance Obligations

Local Agency shall maintain and operate the Work constructed under this Agreement at its own cost and expense during their useful life, in a manner satisfactory to the State and FHWA. Local Agency shall conduct such maintenance and operations in accordance with all applicable statutes, ordinances, and regulations pertaining to maintaining such improvements. The State and FHWA may make periodic inspections to verify that such improvements are being adequately maintained.

ix. Monitoring Obligations

Local Agency shall respond in a timely manner to and participate fully with the monitoring activities described in **§7.F.vi.**

B. State's Commitments

- i. The State will perform a final project inspection of the Work as a quality control/assurance activity. When all Work has been satisfactorily completed, the State will sign the FHWA Form 1212.
- ii. Notwithstanding any consents or approvals given by the State for the Plans, the State shall not be liable or responsible in any manner for the structural design, details or construction of any Work constituting major structures designed by, or that are the responsibility of, Local Agency, as identified in **Exhibit E.**

7. PAYMENTS

A. Maximum Amount

Payments to Local Agency are limited to the unpaid, obligated balance of the Agreement Funds set forth in **Exhibit C.** The State shall not pay Local Agency any amount under this Agreement that exceeds the Agreement Maximum set forth in **Exhibit C.**

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Local Agency in the amounts and in accordance with conditions set forth in **Exhibit C.**
- b. Local Agency shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Local Agency and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Local Agency shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.
- e. If a project is funded in part with Federal or State special funding there may be an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. To receive payment or credit for the match, Work must be completed or substantially completed, as outlined in the terms of the grant, prior to the expiration date of the special funding and invoiced in compliance with the rules outlined in the award of the funding. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

ii. Interest

Amounts not paid by the State within 45 days after the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 46th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Local Agency shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days interest to be paid and the interest rate.

iii. Payment Disputes

If Local Agency disputes any calculation, determination, or amount of any payment, Local Agency shall notify the State in writing of its dispute within 30 days following the earlier to occur of Local Agency's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Local Agency and may make changes to its determination based on this review. The calculation, determination, or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

- a. The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Local Agency beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Agreement Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Agreement Funds, the State's obligation to pay Local Agency shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Agreement Funds, and the State's liability for such payments shall be limited to the amount remaining of such Agreement Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.C**.
- b. If the agreement funds are terminated, the State can terminate the contract early. Payment due for work done to the date of termination will be processed in a manner consistent with **§2.C**.

v. Erroneous Payments

The State may recover, at the State's discretion, payments made to Local Agency in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Local Agency. The State may recover such payments by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Local Agency, or by any other appropriate method for collecting debts owed to the State. The close out of a Federal Award does not affect the right of FHWA or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period (as defined below in **§9.A.**).

vi. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Local Agency Funds

Local Agency shall provide their obligated contribution funds as outlined in **§7.A.** and **Exhibit C**. Local Agency shall have raised the full amount of their funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Local Agency's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Local Agency and paid into Local Agency's treasury. Local Agency represents to the State that the amount designated "Local Agency Funds" in **Exhibit C** has been legally appropriated for the purpose of this Agreement by its authorized representatives and paid into its treasury. Local Agency may evidence such obligation by an appropriate ordinance/resolution or other authority letter expressly authorizing Local Agency to enter into this Agreement and to expend its match share of the Work. A copy of any such ordinance/resolution or authority letter is attached hereto as **Exhibit D** if applicable. Local Agency does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of

Local Agency. Local Agency shall not pay or be liable for any claimed interest, late charges, fees, taxes, or penalties of any nature, except as required by Local Agency's laws or policies.

D. Reimbursement of Local Agency Costs

The State shall reimburse Local Agency's allowable costs, not exceeding the maximum total amount described in **Exhibit C** and §7. However, any costs incurred by Local Agency prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Local Agency for costs or expenses incurred or performance by the Local Agency prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the Local Agency. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement. The applicable principles described in 2 C.F.R. Part 200 shall govern the State's obligation to reimburse all costs incurred by Local Agency and submitted to the State for reimbursement hereunder, and Local Agency shall comply with all such principles. The State shall reimburse Local Agency for the federal-aid share of properly documented costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and **Exhibit C**. Local Agency costs for Work performed prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. Local Agency costs for Work performed after any Performance Period End Date for a respective phase of the Work, is not reimbursable. Allowable costs shall be:

- i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided.
- ii. Actual net cost to Local Agency (i.e. the price paid minus any items of value received by Local Agency that reduce the cost actually incurred).

E. Unilateral Modification of Agreement Funds Budget by State Option Letter

The State may, at its discretion, issue an "Option Letter" to Local Agency to add or modify Work phases in the Work schedule in **Exhibit C** if such modifications do not increase total budgeted Agreement Funds. Such Option Letters shall amend and update **Exhibit C**, Sections 2 or 4 of the Table, and sub-sections B and C of the **Exhibit C**. Option Letters shall not be deemed valid until signed by the State Controller or an authorized delegate. **This is NOT a Notice to Proceed.** Modification of **Exhibit C** by unilateral Option Letter is permitted only in the specific scenarios listed below. The State will exercise such options by providing Local Agency a fully executed Option Letter, in a form substantially equivalent to **Exhibit B**. Such Option Letters will be incorporated into this Agreement. This applies to the entire Scope of Work.

- i. Option to Begin a Phase and/or Increase or Decrease the Encumbrance Amount

The State may require by Option Letter that Local Agency begin a new Work phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous Work (but may not include Right of Way Acquisition/Relocation or Railroads) as detailed in **Exhibit A**. Such Option Letters may not modify the other terms and conditions stated in this Agreement and must decrease the amount budgeted and encumbered for one or more other Work phases so that the total amount of budgeted Agreement Funds remains the same. The State may also change the funding sources so long as the amount budgeted remains the same and the Local Agency contribution does not increase. The State may also issue a unilateral Option Letter to increase and/or decrease the total encumbrance amount of two or more existing Work phases, as long as the total amount of budgeted Agreement Funds remains the same, replacing the original Agreement Funding exhibit (**Exhibit C**) with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

- ii. Option to Transfer Funds from One Phase to Another Phase.

The State may require or permit Local Agency to transfer Agreement Funds from one Work phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another phase as a result of changes to State, federal, and local match funding. In such case, the original funding exhibit (**Exhibit C**) will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The Agreement Funds transferred from one Work phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a

fully executed Option Letter to Local Agency within thirty (30) days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iii. Option to Exercise Options i and ii.

The State may require Local Agency to add a Work phase as detailed in **Exhibit A**, and encumber and transfer Agreement Funds from one Work phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The addition of a Work phase and encumbrance and transfer of Agreement Funds are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a fully executed Option Letter to Local Agency within 30 days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iv. Option to Extend Agreement/Phase Term and/or modify the OMB Uniform Guidance. The State, at its discretion, shall have the option to extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.). In order to exercise this option, the State shall provide written notice to the Local Agency in a form substantially equivalent to **Exhibit B**.

F. Accounting

Local Agency shall establish and maintain accounting systems in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme). Such accounting systems shall, at a minimum, provide as follows:

i. Local Agency Performing the Work

If Local Agency is performing the Work, it shall document all allowable costs, including any approved Services contributed by Local Agency or subcontractors, using payrolls, time records, invoices, contracts, vouchers, and other applicable records.

ii. Local Agency-Checks or Draws

Checks issued or draws made by Local Agency shall be made or drawn against properly signed vouchers detailing the purpose thereof. Local Agency shall keep on file all checks, payrolls, invoices, contracts, vouchers, orders, and other accounting documents in the office of Local Agency, clearly identified, readily accessible, and to the extent feasible, separate and apart from all other Work documents.

iii. State-Administrative Services

The State may perform any necessary administrative support services required hereunder. Local Agency shall reimburse the State for the costs of any such services from the budgeted Agreement Funds as provided for in **Exhibit C**. If FHWA Agreement Funds are or become unavailable, or if Local Agency terminates this Agreement prior to the Work being approved by the State or otherwise completed, then all actual incurred costs of such services and assistance provided by the State shall be reimbursed to the State by Local Agency at its sole expense.

iv. Local Agency-Invoices

Local Agency's invoices shall describe in detail the reimbursable costs incurred by Local Agency for which it seeks reimbursement, the dates such costs were incurred and the amounts thereof, and Local Agency shall not submit more than one invoice per month.

v. Invoicing Within 60 Days

The State shall not be liable to reimburse Local Agency for any costs invoiced more than 60 days after the date on which the costs were incurred, including costs included in Local Agency's final invoice. The State may withhold final payment to Local Agency at the State's sole discretion until completion of final audit. Any costs incurred by Local Agency that are not allowable under 2 C.F.R. Part 200 shall be Local Agency's responsibility, and the State will deduct such disallowed costs from any payments due to Local Agency. The State will not reimburse costs for Work performed after the Performance Period End Date for a respective Work phase. The State will not reimburse costs for Work performed prior to Performance

Period End Date, but for which an invoice is received more than 60 days after the Performance Period End Date.

vi. Risk Assessment & Monitoring

Pursuant to 2 C.F.R. 200.331(b), – CDOT will evaluate Local Agency’s risk of noncompliance with federal statutes, regulations, and terms and conditions of this Agreement. Local Agency shall complete a Risk Assessment Form (**Exhibit L**) when that may be requested by CDOT. The risk assessment is a quantitative and/or qualitative determination of the potential for Local Agency’s non-compliance with the requirements of the Federal Award. The risk assessment will evaluate some or all of the following factors:

- Experience: Factors associated with the experience and history of the Subrecipient with the same or similar Federal Awards or grants.
- Monitoring/Audit: Factors associated with the results of the Subrecipient’s previous audits or monitoring visits, including those performed by the Federal Awarding Agency, when the Subrecipient also receives direct federal funding. Include audit results if Subrecipient receives single audit, where the specific award being assessed was selected as a major program.
- Operation: Factors associated with the significant aspects of the Subrecipient’s operations, in which failure could impact the Subrecipient’s ability to perform and account for the contracted goods or services.
- Financial: Factors associated with the Subrecipient’s financial stability and ability to comply with financial requirements of the Federal Award.
- Internal Controls: Factors associated with safeguarding assets and resources, deterring and detecting errors, fraud and theft, ensuring accuracy and completeness of accounting data, producing reliable and timely financial and management information, and ensuring adherence to its policies and plans.
- Impact: Factors associated with the potential impact of a Subrecipient’s non-compliance to the overall success of the program objectives.
- Program Management: Factors associated with processes to manage critical personnel, approved written procedures, and knowledge of rules and regulations regarding federal-aid projects.

Following Local Agency’s completion of the Risk Assessment Tool (**Exhibit L**), CDOT will determine the level of monitoring it will apply to Local Agency’s performance of the Work. This risk assessment may be re-evaluated after CDOT begins performing monitoring activities.

G. Close Out

Local Agency shall close out this Award within 90 days after the Final Phase Performance End Date. If SLFRF Funds are used the Local Agency shall close out that portion of the Award within 45 days after the ARPA Award Expiration Date. Close out requires Local Agency’s submission to the State of all deliverables defined in this Agreement, and Local Agency’s final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If FHWA or US Treasury has not closed this Federal Award within one (1) year and 90 days after the Final Phase Performance End Date due to Local Agency’s failure to submit required documentation, then Local Agency may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

8. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §19 or pursuant to any exhibit, for any contract having a term longer than 3 months, Local Agency shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than ten (10) Business Days following the end of each calendar quarter or at such time as otherwise specified by the State. If SLFRF Funds are used the report must be in the format of **Exhibit P**.

B. Litigation Reporting

If Local Agency is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Local Agency's ability to perform its obligations under this Agreement, Local Agency shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §16.

C. Performance and Final Status

Local Agency shall submit all financial, performance and other reports to the State no later than 60 calendar days after the Final Phase Performance End Date or sooner termination of this Agreement, containing an Evaluation of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Local Agency must disclose, in a timely manner, in writing to the State and FHWA, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. Penalties for noncompliance may include suspension or debarment (2 CFR Part 180 and 31 U.S.C. 3321).

9. LOCAL AGENCY RECORDS

A. Maintenance

Local Agency shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Local Agency shall maintain such records for a period (the "Record Retention Period") pursuant to the requirements of the funding source and for a minimum of three (3) years following the date of submission to the State of the final expenditure report, whichever is longer, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Local Agency in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three (3) years following final disposition of such property.

B. Inspection

Records during the Record Retention Period. Local Agency shall make Local Agency Records available during normal business hours at Local Agency's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two (2) Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Local Agency's performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. Local Agency shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Local Agency. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. If Local Agency enters into a subcontract with an entity that would also be considered a Subrecipient, then the subcontract entered into by Local Agency shall contain provisions permitting both Local Agency and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

D. Final Audit Report

Local Agency shall promptly submit to the State a copy of any final audit report of an audit performed on Local Agency's records that relates to or affects this Agreement or the Work, whether the audit is conducted

by Local Agency or a third party. Additionally, if Local Agency is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Local Agency shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Local Agency shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Local Agency for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by Local Agency under CORA. Local Agency shall not, without prior written approval of the State, use for Local Agency's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Agreement. Local Agency shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative. If Local Agency or any of its Subcontractors will or may receive the following types of data, Local Agency or its Subcontractors shall provide for the security of such data according to the following: (i) the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Award as an Exhibit, if applicable, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and (iv) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Award, if applicable. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Local Agency may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Local Agency shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Agreement, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Local Agency shall provide copies of those signed nondisclosure agreements to the State upon request.

C. Use, Security, and Retention

Local Agency shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Local Agency shall provide the State with access, subject to Local Agency's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Local Agency shall return State Records provided to Local Agency or destroy such State Records and certify to the State that it has done so, as directed by the State. If Local Agency is prevented by law or regulation from returning or destroying State Confidential Information, Local Agency warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Local Agency becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Local Agency can establish that none of Local Agency or any of its agents, employees, assigns, or Subcontractors are the cause or source of the Incident, Local Agency shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Local Agency shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which

may include, but is not limited to, developing, and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding Personally Identifying Information "PII"

If Local Agency or any of its Subcontracts will or may receive PII under this agreement, Local Agency shall provide for the security for such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Local Agency shall be a "Third Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 et seq., C.R.S. In addition, as set forth in § 24-74-102, et. seq., C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as **Exhibit S** on an annual basis Contractor's duty and obligation to certify as set forth in **Exhibit S** shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Local Agency shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Local Agency under this Agreement. Such a conflict of interest would arise when a Local Agency or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement. Officers, employees, and agents of Local Agency may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.

B. Apparent Conflicts of Interest

Local Agency acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Local Agency shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Local Agency's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Local Agency is uncertain whether a conflict or the appearance of a conflict has arisen, Local Agency shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

12. INSURANCE

Local Agency shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies with an AM Best rating of A-VIII or better.

A. Local Agency Insurance

Local Agency is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA") and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

B. Subcontractor Requirements

Local Agency shall ensure that each Subcontractor that is a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA. Local Agency shall ensure that each Subcontractor that is not a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement all of the following insurance policies:

i. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Local Agency or Subcontractor employees acting within the course and scope of their employment.

ii. General Liability

Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- a. \$1,000,000 each occurrence;
- b. \$1,000,000 general aggregate;
- c. \$1,000,000 products and completed operations aggregate; and
- d. \$50,000 any 1 fire.

iii. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Protected Information

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$2,000,000 general aggregate.

v. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

vi. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

vii. Cyber/Network Security and Privacy Liability

Liability insurance covering all civil, regulatory and statutory damages, contractual damages, data breach management exposure, and any loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of breach, violation or infringement of right to privacy rights through improper use or disclosure of protect consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and

- b. \$2,000,000 general aggregate.
- C. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Local Agency and Subcontractors. In the event of cancellation of any commercial general liability policy, the carrier shall provide at least 10 days prior written notice to CDOT.
- D. Primacy of Coverage

Coverage required of Local Agency and each Subcontractor shall be primary over any insurance or self-insurance program carried by Local Agency or the State.
- E. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Local Agency and Local Agency shall forward such notice to the State in accordance with §16 within 7 days of Local Agency's receipt of such notice.
- F. Subrogation Waiver

All commercial insurance policies secured or maintained by Local Agency or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Local Agency or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.
- G. Certificates

For each commercial insurance plan provided by Local Agency under this Agreement, Local Agency shall provide to the State certificates evidencing Local Agency's insurance coverage required in this Agreement within seven (7) Business Days following the Effective Date. Local Agency shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following the Effective Date, except that, if Local Agency's subcontract is not in effect as of the Effective Date, Local Agency shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following Local Agency's execution of the subcontract. No later than 15 days before the expiration date of Local Agency's or any Subcontractor's coverage, Local Agency shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Local Agency shall, within seven (7) Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

13. BREACH

- A. Defined

The failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization, or similar law, by or against Local Agency, or the appointment of a receiver or similar officer for Local Agency or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.
- B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §14 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in the Agreement in order to protect the public interest of the State.

14. REMEDIES

- A. State's Remedies

If Local Agency is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in **§13.B**, shall have all of the remedies listed in this **§14.A**, in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Local Agency's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Local Agency shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Local Agency shall not incur further obligations or render further performance past the effective date of such notice and shall terminate outstanding orders and subcontracts with third parties. However, Local Agency shall complete and deliver to the State all Work not canceled by the termination notice and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Local Agency shall assign to the State all of Local Agency's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Local Agency shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Local Agency but in which the State has an interest. At the State's request, Local Agency shall return materials owned by the State in Local Agency's possession at the time of any termination. Local Agency shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Local Agency for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Local Agency was not in breach or that Local Agency's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under **§2.C**.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Local Agency shall remain liable to the State for any damages sustained by the State in connection with any breach by Local Agency, and the State may withhold payment to Local Agency for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Local Agency is determined. The State may withhold any amount that may be due Local Agency as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Local Agency's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Local Agency to an adjustment in price or cost or an adjustment in the performance schedule. Local Agency shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Local Agency after the suspension of performance.

b. Withhold Payment

Withhold payment to Local Agency until Local Agency corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Local Agency's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal from the Work of any of Local Agency's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes a patent, copyright, trademark, trade secret, or other intellectual property right, Local Agency shall, as approved by the State (a) secure that right to use such Work for the State or Local Agency; (b) replace the Work with non infringing Work or modify the Work so that it becomes non infringing; or, (c) remove any infringing Work and refund the amount paid for such Work to the State.

B. Local Agency's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Local Agency, following the notice and cure period in **§13.B** and the dispute resolution process in **§15** shall have all remedies available at law and equity.

15. DISPUTE RESOLUTION

A. Initial Resolution

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

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

C. Questions of Fact

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

16. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) by hand with receipt required, (ii) by certified or registered mail to such Party's principal representative at the address set forth below

or (iii) as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §16 without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

For the State

Colorado Department of Transportation (CDOT)
Cristobal Abbud, R-1 Local Agency Coordinator
CDOT - R1
2829 W Howard Pl.
Denver, CO 80204
303-512-4135
Cristobal.Abbudgarcia@state.co.us

For the Local Agency

CITY OF AURORA
Gary Vidlock, Engineering Supervisor
15151 E Alameda Pkwy.
Aurora, CO 80012
303-739-7315
gvidlock@auroragov.org

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Local Agency hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Local Agency or any Subcontractors. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Local Agency is under contract with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire.

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Local Agency hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Local Agency cannot make any of the assignments required by this section, Local Agency hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Local Agency grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Local Agency that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not the Local Agency is under Agreement with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives, or other documents, drawings, models, materials, data, and information shall be the exclusive property of the State (collectively, "State Materials"). Local Agency shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Local Agency's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Local Agency shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Local Agency

Local Agency retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Local Agency including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Local Agency under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Local Agency Property"). Local Agency Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. The following applies through June 30, 2022: no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Local Agency under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this §19 shall apply. Local Agency agrees to be governed by and comply with the provisions of §24-106-103, §24-102-206, §24-106-106, §24-106-107 C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Local Agency's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

20. GENERAL PROVISIONS

A. Assignment

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

B. Subcontracts

Local Agency shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Local Agency shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Local Agency in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

C. Binding Effect

Except as otherwise provided in **§20.A.** all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

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

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Digital Signatures

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

H. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

I. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

J. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than contract amendments, shall conform to the policies promulgated by the Colorado State Controller.

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

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

L. Order of Precedence

In the event of a conflict or inconsistency between this Agreement and any exhibits or attachment such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. The provisions of the other sections of the main body of this Agreement.
- ii. **Exhibit N**, Federal Treasury Provisions.
- iii. **Exhibit F**, Certification for Federal-Aid Contracts.
- iv. **Exhibit G**, Disadvantaged Business Enterprise.
- v. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts.
- vi. **Exhibit J**, Additional Federal Requirements.
- vii. **Exhibit K**, Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions.
- viii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form.
- ix. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the "Uniform Guidance").
- x. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds.
- xi. **Exhibit R**, Applicable Federal Awards.
- xii. Colorado Special Provisions in the main body of this Agreement.
- xiii. **Exhibit A**, Scope of Work.
- xiv. **Exhibit H**, Local Agency Procedures for Consultant Services.
- xv. **Exhibit B**, Sample Option Letter.
- xvi. **Exhibit C**, Funding Provisions.
- xvii. **Exhibit P**, SLFRF Subrecipient Quarterly Report.
- xviii. **Exhibit Q**, SLFRF Reporting Modification Form.
- xix. **Exhibit D**, Local Agency Resolution.
- xx. **Exhibit E**, Local Agency Contract Administration Checklist.
- xxi. **Exhibit S**, PII Certification.
- xxii. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source.
- xxiii. Other exhibits in descending order of their attachment.

M. Severability

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

N. Survival of Certain Agreement Terms

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

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§20.C**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

P. Waiver

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

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107 C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Local Agency shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Local Agency's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations.

Local Agency shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

T. Compliance with State and Federal Law, Regulations, and Executive Orders

Local Agency shall comply with all State and Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Agreement.

U. Accessibility

- i. Local Agency shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor's Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Local Agency shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii. Each Party agrees to be responsible for its own liability incurred as a result of its participation in and performance under this Agreement. In the event any claim is litigated, each Party will be responsible for its own attorneys' fees, expenses of litigation, or other costs. No provision of this Agreement shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to either the Local Agency or the State by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. and Article XI of the Colorado Constitution. Nothing in the Agreement shall be construed as a waiver of any provision of the State Fiscal Rules.
- iii. The State may require Local Agency's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Local Agency's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

V. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq., C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Local Agency. Local Agency shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Local Agency may wish to have in place in connection with this Agreement.

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

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

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

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

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

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

C. GOVERNMENTAL IMMUNITY.

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

D. INDEPENDENT CONTRACTOR

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

E. COMPLIANCE WITH LAW.

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

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

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

G. PROHIBITED TERMS.

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

H. SOFTWARE PIRACY PROHIBITION.

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

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

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

22. FEDERAL REQUIREMENTS

Local Agency and/or their contractors, subcontractors, and consultants shall at all times during the execution of this Agreement strictly adhere to, and comply with, all applicable federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended. A summary of applicable federal provisions are attached hereto as **Exhibit F, Exhibit I, Exhibit J, Exhibit K, Exhibit M, Exhibit N** and **Exhibit O** are hereby incorporated by this reference.

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Local Agency will comply with all requirements of **Exhibit G** and **Exhibit E**, Local Agency Contract Administration Checklist, regarding DBE requirements for the Work, except that if Local Agency desires to use its own DBE program to implement and administer the DBE provisions of 49 C.F.R. Part 26 under this Agreement, it must submit a copy of its program's requirements to the State for review and approval before the execution of this Agreement. If Local Agency uses any State- approved DBE program for this Agreement, Local Agency shall be solely responsible to defend that DBE program and its use of that program against all legal and other challenges or complaints, at its sole cost and expense. Such responsibility includes, without limitation, determinations concerning DBE eligibility requirements and certification, adequate legal and factual bases for DBE goals and good faith efforts. State approval (if provided) of Local Agency's DBE program does not waive or modify the sole responsibility of Local Agency for use of its program.

EXHIBIT A
SCOPE OF WORK

Name of Project: SMITH ROAD MULTIMODAL IMPROVEMENT
Project Number: ARPA M055-062
SubAccount #: 25500

The project includes 60 percent design of roadway and multimodal safety and access improvements on a 9-mile section of Smith Road between Peoria Street on the west and Powhatan Road on the east. This project is primarily intended to provide multimodal access for vulnerable roadway users, but in order to design them, the ultimate roadway design needs to be included in this effort. Preparing the full design will enable the pedestrian and bicycle facilities to be located in their final configuration which will eliminate reconstruction and “throw-away” of physical improvements in the future. Key project elements include a two-way bi-directional cycle track and 8-foot sidewalk from Peoria to Chambers, an 8-foot sidewalk and 4-foot paved shoulder from Chambers to Picadilly, and a 14-foot shared use path from Picadilly to Powhatan. A conceptual design has already been prepared for a portion of the corridor and is included as Attachment 2; the typical section changes throughout the corridor based on existing land uses and multimodal needs, and has been revised from the typical standards shown in the City’s 2016 Roadway Design and Construction Standards Manual to provide consistency along the corridor.

If ARPA funds are used, all ARPA funds must be encumbered by December 31, 2024. All work funded by ARPA must be completed by December 31, 2026 and all bills must be submitted to CDOT for payment by January 31, 2027. These bills must be paid by CDOT by March 31, 2027.

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A constructed under this Agreement at its own cost and expense during its useful life.**

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

EXHIBIT B

SAMPLE IGA OPTION LETTER

Date	State Fiscal Year	Option Letter No.
Project Code	Original Agreement #	

Vendor Name:

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous and to update encumbrance amount(s).

Option to unilaterally transfer funds from one phase to another phase.

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous, to update encumbrance amount(s), and to unilaterally transfer funds from one phase to another phase.

Option to unilaterally extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify OMB Guidance.

Option A

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to authorize the Local Agency to add a phase and to encumber funds for the phase based on changes in funding availability and authorization. The total encumbrance is (or increased) by \$0.00. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option B

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to transfer funds based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option C

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to 1) release the Local Agency to begin a phase; 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from phases based on variance in actual phase costs and

original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. This is made part of the original Agreement and replaces the Expiration Date shown on the Signature and Cover Page. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

The effective date of this option letter is upon approval of the State Controller or delegate.

STATE OF COLORADO
Jared S. Polis
Department of Transportation

By: _____
Stephen Harelson, P.E., Chief Engineer
(For) Shoshana M. Lew, Executive Director

Date: _____

ALL AGREEMENTS MUST BE APPROVED BY THE STATE CONTROLLER

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

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

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT C- FUNDING PROVISIONS**City of Aurora - ARPA M055-062 (25500)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be **\$5,000,000.00**, which is to be funded as follows:

1. FUNDING**CRP Federal Award**

- | | | |
|----|--------------------------------------|----------------|
| a. | Federal Funds (80% of CRP Award) | \$2,000,000.00 |
| b. | Local Agency Fund (20% of CRP Award) | \$500,000.00 |

MMOF ARPA Award

- | | | |
|----|--|----------------|
| c. | Federal Funds MMOF ARPA US Treasury Expenditure Category EC6
(50% of MMOF ARPA Award of \$5,000,000.00)
(50% of MMOF ARPA Award of \$5,000,000.00 is Total CRP
Award of \$2,500,000.00) | \$2,500,000.00 |
|----|--|----------------|

TOTAL FUNDS ALL SOURCES**\$5,000,000.00****2. OMB UNIFORM GUIDANCE**

- | | | |
|----|--|------------|
| a. | Federal Award Identification Number (FAIN): | TBD |
| b. | Name of Federal Awarding Agency: | FHWA, USDT |
| c. | Local Agency Unique Entity Identifier | TBD |
| d. | Assistance Listing # Highway Planning and Construction | ALN 20.205 |
| e. | Assistance Listing # Coronavirus State and Local Fiscal Recovery Funds | ALN 21.027 |
| f. | Is the Award for R&D? | No |
| g. | Indirect Cost Rate (if applicable) | N/A |
| h. | Amount of Federal Funds Obligated by this Action: | \$0.00 |
| i. | Amount of Federal Funds Obligated to Date (including this Action): | \$0.00 |

3. ESTIMATED PAYMENT TO LOCAL AGENCY

- | | | |
|----|---|----------------|
| a. | Federal Funds Budgeted | \$2,000,000.00 |
| b. | ARPA Funds Budgeted | \$2,500,000.00 |
| d. | Less Estimated Federal Share of CDOT-Incurred Costs | \$0.00 |

TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY**90%****\$4,500,000.00****TOTAL ESTIMATED FUNDING BY LOCAL AGENCY****10%****\$500,000.00****TOTAL PROJECT ESTIMATED FUNDING****100%****\$5,000,000.00****4. FOR CDOT ENCUMBRANCE PURPOSES****CRP Federal Award**

- | | | |
|----|---|----------------|
| a. | Total Encumbrance Amount (Federal funds + Local Agency funds) | \$2,500,000.00 |
| b. | Less ROW Acquisition 3111 and/or ROW Relocation 3109 | \$0.00 |
| | Federal % of ROW | \$0.00 |
| | Local Agency % of ROW | \$0.00 |

MMOF ARPA Award

- | | | |
|----|---|----------------|
| a. | Total Encumbrance Amount (Only ARPA funds are encumbered) | \$2,500,000.00 |
| b. | Less ROW Acquisition 3111 and/or ROW Relocation 3109 | \$0.00 |

NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS**\$5,000,000.00**

Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.

CRP Federal Award

WBS Element 25500.10.30	Performance Period Start*/End Date	Design 3020	\$0.00
-------------------------	------------------------------------	-------------	--------

WBS Element 25500.20.10	TBD-TBD Performance Period Start*/End Date TBD- TBD	Const. 3301	\$0.00
MMOF ARPA Award			
WBS Element 25500.10.30	Performance Period Start**/End Date TBD-TBD	Design 3020	\$0.00
WBS Element 25500.20.10	Performance Period Start**/End Date TBD-TBD	Const. 3301	\$0.00

* CRP Federal Award the Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed these three (3) milestones are achieved will not be reimbursable.

** MMOF ARPA Award Local Agency should not begin work until both of the following are in place: 1) the execution of the document encumbering funds for the respective phase; and 2) Local Agency receipt of the official Notice to Proceed. Any work performed these two (2) milestones are achieved will not be reimbursable.

B. Funding Ratios

The funding ratio for the for this Work is 90% federal funds to 10% Local Agency funds, and this ratio applies only to the \$5,000,000.00 that is eligible for federal funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$5,000,000.00, and additional federal funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$5,000,000.00, then the amounts of Local Agency, state, and federal funds will be decreased in accordance with the funding ratio described in **A1. This applies to the entire scope of Work.**

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$4,500,000.00. For CDOT accounting purposes, the federal funds of \$2,000,000.00, federal ARPA funds of \$2,500,000.00, and the Local Agency funds of \$500,000.00 will be encumbered for a total encumbrance of \$5,000,000.00. The total budget of this project is \$5,000,000.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work. ARPA Funds can only originate from and after May 18, 2021.**

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

i. Expenditure less than \$750,000

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

ii. Expenditure of \$750,000 or more-Highway Funds Only

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

iii. Expenditure of \$750,000 or more-Multiple Funding Sources

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from

multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

iv. Independent CPA

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

EXHIBIT D

LOCAL AGENCY RESOLUTION (IF APPLICABLE)

Exhibit E-**Local Agency Contract Administration Checklist**

COLORADO DEPARTMENT OF TRANSPORTATION			
LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST			
Project No. ARPA M055-062	STIP No. SDR 9000	Project Code 25500	Region R-1
Project Location: Between Peoria Street and Powhaton Road.			Date 01/06/2022
Project Description: Design multi modal improvements from Peoria St to Powhaton Rd.			
Local Agency: City of Aurora		Local Agency Project Manager: Gary Vidlock	
CDOT Resident Engineer: Maria Hajiaghade		CDOT Project Manager: Cristobal Abbud	
<p>INSTRUCTIONS:</p> <p>This checklist shall be used to establish the contractual administrative responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency Agreement. Section numbers (NO.) correspond to the applicable chapters of the <i>CDOT Local Agency Desk Reference (Local Agency Manual)</i>. LAWR numbers correspond to the applicable flowchart in the Local Agency Web Resource.</p> <p>The checklist shall be prepared by placing an X under the responsible party, opposite each of the tasks. The X denotes the party responsible for initiating and executing the task. Only one responsible party should be selected. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, # will denote that CDOT must concur or approve.</p> <p>Tasks that will be performed by Headquarters staff are indicated with an X in the CDOT column under Responsible Party. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT.</p> <p>The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist.</p> <p>Note: Failure to comply with applicable Federal and State requirements may result in the loss of Federal or State participation in funding.</p>			

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
		TIP / STIP AND LONG-RANGE PLANS		
	2.1	Review Project to ensure it is consistent with Statewide Plan and amendments thereto		X
		FEDERAL FUNDING OBLIGATION AND AUTHORIZATION		
	4.1	Authorize funding by phases (Requires FHWA concurrence/involvement if Federal-aid Highway funded project.). <i>Please write in "NA", if Not Applicable.</i>		x
		PROJECT DEVELOPMENT		
1	5.1	Prepare Design Data - CDOT Form 463	X	
	5.2	Determine Delivery Method	X	
	5.3	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
2	5.4	Conduct Consultant Selection/Execute Consultant Agreement <ul style="list-style-type: none"> Project Development Construction Contract Administration (including Fabrication Inspection Services) 	X X	# #
3,3A	5.5	Conduct Design Scoping Review Meeting	X	X
3,6	5.6	Conduct Public Involvement	X	

Exhibit E-
Local Agency Contract Administration Checklist

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
3	5.7	Conduct Field Inspection Review (FIR)	X	#
4	5.8	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	#
5	5.9	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	
3	5.10	Obtain Utility and Railroad Agreements	X	#
3	5.11	Conduct Final Office Review (FOR)	X	#
3A	5.12	Justify Force Account Work by the Local Agency	X	#
3B	5.13	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	#
3	5.14	Document Design Exceptions - CDOT Form 464	X	#
	5.15	Seek Approval of Guaranty and Warranty Clauses	X	#
	5.16	Justify Colorado Residency Labor Preference	X	#
	5.17	Seek Approval of Specifications on Local Agency Projects	X	#
3	5.18	Prepare Plans, Specifications, Construction Cost Estimates and Submittals	X	
	5.19	Comply with Requirements for Off-and On-System Bridges & Other Structural Work		#
	5.20	Update Approvals on PS&E Package if Project Schedule Delayed	X	#
	5.21	Ensure Authorization of Funds for Construction		X
	5.22	Use Electronic Signatures	X	
	5.23	File Project Records/Documentation in ProjectWise		X
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE				
3	6.1	Set Disadvantaged Business Enterprise (DBE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist).		X
	6.2	Determine Applicability of Davis-Bacon Act This project <input type="checkbox"/> is <input checked="" type="checkbox"/> is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.) Maria Hajiaghaee 01/05/2022 CDOT Resident Engineer Date		X
	6.3	Set On-the-Job Training Goals (CDOT Region EEO/Civil Rights Specialist) "NA", if Not Applicable		X
	6.4	Enforce Prompt Payment Requirements		X
	6.5	Use Electronic Tracking and Submission Systems – B2Gnow <input checked="" type="checkbox"/> LCPTracker <input checked="" type="checkbox"/>		
3	6.6	Prepare/submit Title VI Plan and Incorporate Title VI Assurances	X	
6,7		Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)	X	#
ADVERTISE, BID AND AWARD of CONSTRUCTION PROJECTS				
Federal Project (use 7.1 series in Chapter 7) <input checked="" type="checkbox"/> Non-Federal Project (Use 7.2 series in Chapter 7) <input type="checkbox"/>				
6,7		Obtain Approval for Advertisement Period of Less Than Three Weeks;	X	#
7		Advertise for Bids	X	#
7		Concurrence to Advertise		X
7		Distribute "Advertisement Set" of Plans and Specifications	X	
7		Review Worksite & Plan Details w/ Prospective Bidders While Project Is Under Ad	X	
7		Open Bids	X	
7		Process Bids for Compliance		
		Check CDOT Form 1415 – Commitment Confirmation when the low bidder meets DBE goals. (Please write in "NA", if Not Applicable)		X
		Evaluate CDOT Form 1416 - Good Faith Effort Report and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals. "NA", if Not Applicable.		X
		Submit required documentation for CDOT award concurrence	X	

Exhibit E-
Local Agency Contract Administration Checklist

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
		Concurrence from CDOT to Award		X
		Approve Rejection of Low Bidder		X
7,8		Award Contract (federal)	X	#
8		Provide "Award" and "Record" Sets of Plans and Specifications (federal)	X	#
CONSTRUCTION MANAGEMENT				
8	8.1	Issue Notice to Proceed to the Contractor	X	#
8	8.2	Project Safety	X	
		Pre-construction Conference (Appendix B) • Fabrication Inspection Notifications	X	
		Pre-survey • Construction staking • Monumentation	X X	
		Partnering (Optional)	N/A	N/A
		Structural Concrete Pre-Pour (Agenda is in <i>CDOT Construction Manual</i>)	X	
		Concrete Pavement Pre-Paving (Agenda is in <i>CDOT Construction Manual</i>)	X	
		HMA Pre-Paving (Agenda is in <i>CDOT Construction Manual</i>)	X	
8	8.4	Develop and distribute Public Notice of Planned Construction to media and local residents		
9	8.5	Supervise Construction		
		A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." Matt Kozakowski (303) 739-7337 Local Agency Professional Engineer or CDOT Resident Engineer Phone number	X	
		Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	
		Construction inspection and documentation (including projects with structures)	X	
		Fabrication Inspection and documentation	X	
9	8.6	Review and Approve Shop Drawings	X	#
9	8.7	Perform Traffic Control Inspections	X	
9	8.8	Perform Construction Surveying	X	
9	8.9	Monument Right-of-Way	X	
9,9A	8.10	Prepare and Approve Interim and Final Contractor Pay Estimates. Collect and review CDOT Form 1418 (or equivalent) Provide the name and phone number of the person authorized for this task. Gary Vidlock (303) 739-7315 Local Agency Representative Phone number	X	#
9	8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	X	#
9B	8.12	Prepare and Authorize Change Orders	X	X
9B	8.13	Submit Change Order Package to CDOT	X	
9A	8.14	Prepare Local Agency Reimbursement Requests	X	
9	8.15	Monitor Project Financial Status	X	#
9	8.16	Prepare and Submit Monthly Progress Reports	X	#
9	8.17	Resolve Contractor Claims and Disputes	X	#
	8.18	Conduct Routine and Random Project Reviews Provide the name and phone number of the person responsible for this task. Maria Hajiaghadee 303.757.9914, CDOT Resident Engineer Phone number		X
9	8.19	Ongoing Oversight of DBE Participation	X	

Exhibit E-
Local Agency Contract Administration Checklist

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
MATERIALS				
9,9C	9.1	Discuss Materials at Pre-Construction Meeting • Buy America documentation required prior to installation of steel	X	X
			X	#
9,9C	9.2	Complete CDOT Form 250 - Materials Documentation Record • Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project • Update the form as work progresses • Complete and distribute form after work is completed		X
				X
			X	
			X	
9C	9.3	Perform Project Acceptance Samples and Tests	X	
9C	9.4	Perform Laboratory Verification Tests	X	
9C	9.6	Accept Manufactured Products		
		Inspection of structural components: On-system requires CDOT Approval		
		• Fabrication of structural steel and pre-stressed concrete structural components	X	#
		• Bridge modular expansion devices (0" to 6" or greater)	X	#
		• Fabrication of bearing devices	X	#
9C	9.6	Approve Sources of Materials: On-system requires CDOT Approval	X	#
9C	9.7	Independent Assurance Testing (IAT) On-system requires CDOT Approval Local Agency Procedures <input type="checkbox"/> CDOT Procedures <input checked="" type="checkbox"/> • Generate IAT schedule • Schedule and provide notification • Conduct IAT	X	X
			X	
9C	9.8	Approve mix designs On-system requires CDOT Approval • Concrete • Hot mix asphalt	X	#
			X	#
9C	9.9	Check Final Materials Documentation	X	
9C	9.10	Complete and Distribute Final Materials Documentation	X	
CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE				
9	10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	X	
8,9	10.2	Process CDOT Form 205 - Sublet Permit Application and CDOT Form 1425 – Supplier Application Approval Request. Review & sign completed forms, as applicable, and submit to EEO/Civil Rights Specialist.	X	X
9	10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	X	
9	10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	X	
9	10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. • Complete CDOT Form 1337 – Contractor Commitment to Meet OJT Requirements. • Complete CDOT Form 838 – OJT Trainee / Apprentice Record. • Complete CDOT Form 200 - OJT Training Questionnaire	X	
9	10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	
9	10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	X	
	10.8	Contract Compliance and Project Site Reviews		X
FINALS				
	11.1	Conduct Final Project Inspection.	X	X
10	11.2	Write Final Project Acceptance Letter	X	
10	11.3	Advertise for Final Settlement	X	
11	11.4	Prepare and Distribute Final As-Constructed Plans	X	
11	11.5	Prepare EEO Certification and Collect EEO Forms	X	

Exhibit E-
Local Agency Contract Administration Checklist

11	11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	X	
LA WK	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA CDOT	
11	11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	X
	11.8	Review CDOT Form 1419		X
	11.9	Submit CDOT Professional Services Closeout Report Form		
	11.10	Complete and Submit CDOT Form 1212 LA – Final Acceptance Report (by CDOT)	X	X
11	11.11	Process Final Payment	X	
	11.12	Close out Local Project	X	X
	11.13	Complete and Submit CDOT Form 950 - Project Closure		X
11	11.14	Retain Project Records	X	
11	11.15	Retain Final Version of Local Agency Contract Administration Checklist	X	X

cc: CDOT Resident Engineer/Project Manager
CDOT Region Program Engineer
CDOT Region EEO/Civil Rights Specialist

CDOT Region Materials Engineer
CDOT Contracts and Market Analysis Branch
Local Agency Project Manager

EXHIBIT F
CERTIFICATION FOR FEDERAL-AID CONTRACTS

The Local Agency certifies, by signing this Agreement, to the best of its knowledge and belief, that:

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

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

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

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

EXHIBIT G

DISADVANTAGED BUSINESS ENTERPRISE

SECTION 1. Policy.

It is the policy of the Colorado Department of Transportation (CDOT) that disadvantaged business enterprises shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement, pursuant to 49 CFR Part 26. Consequently, the 49 CFR Part IE DBE requirements the Colorado Department of Transportation DBE Program (or a Local Agency DBE Program approved in advance by the State) apply to this agreement.

SECTION 2. DBE Obligation.

The recipient or the Local Agency agrees to ensure that disadvantaged business enterprises as determined by the Office of Certification at the Colorado Department of Regulatory Agencies have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all participants or contractors shall take all necessary and reasonable steps in accordance with the CDOT DBE program (or a Local Agency DBE Program approved in advance by the State) to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of CDOT assisted contracts.

SECTION 3 DBE Program.

The Local Agency (sub-recipient) shall be responsible for obtaining the Disadvantaged Business Enterprise Program of the Colorado Department of Transportation, 1988, as amended, and shall comply with the applicable provisions of the program. (If applicable).

A copy of the DBE Program is available from and will be mailed to the Local Agency

upon request: Business Programs Office

Colorado Department of Transportation

2829 West Howard Place Denver,

Colorado 80204

Phone: (303) 757-9007

REQUIRED BY 49 CFR
PART 26

EXHIBIT H

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

Title 23 Code of Federal Regulations (CFR) 172 applies to a federally funded Local Agency project agreement administered by CDOT that involves professional consultant services. 23 CFR 172.1 states “The policies and procedures involve federally funded contracts for engineering and design related services for projects subject to the provisions of 23 U.S.C. 112(a) and are issued to ensure that a qualified consultant is obtained through an equitable selection process, that prescribed work is properly accomplished in a timely manner, and at fair and reasonable cost” and according to 23 CFR 172.5 “Price shall not be used as a factor in the analysis and selection phase.” Therefore, local agencies must comply with these CFR requirements when obtaining professional consultant services under a federally funded consultant contract administered by CDOT.

CDOT has formulated its procedures in Procedural Directive (P.D.) 400.1 and the related operations guidebook titled "Obtaining Professional Consultant Services". This directive and guidebook incorporate requirements from both Federal and State regulations, i.e., 23 CFR 172 and CRS §24-30-1401 et seq. Copies of the directive and the guidebook may be obtained upon request from CDOT's Agreements and Consultant Management Unit. [Local agencies should have their own written procedures on file for each method of procurement that addresses the items in 23 CFR 172].

Because the procedures and laws described in the Procedural Directive and the guidebook are quite lengthy, the subsequent steps serve as a short-hand guide to CDOT procedures that a Local Agency must follow in obtaining professional consultant services. This guidance follows the format of 23 CFR 172. The steps are:

1. The contracting Local Agency shall document the need for obtaining professional services.
2. Prior to solicitation for consultant services, the contracting Local Agency shall develop a detailed scope of work and a list of evaluation factors and their relative importance. The evaluation factors are those identified in C.R.S. 24-30-1403. Also, a detailed cost estimate should be prepared for use during negotiations.
3. The contracting agency must advertise for contracts in conformity with the requirements of C.R.S. 24-30-1405. The public notice period, when such notice is required, is a minimum of 15 days prior to the selection of the three most qualified firms and the advertising should be done in one or more daily newspapers of general circulation.
4. The Local Agency shall not advertise any federal aid contract without prior review by the CDOT Regional Civil Rights Office (RCRO) to determine whether the contract shall be subject to a DBE contract goal. If the RCRO determines a goal is necessary, then the Local Agency shall include the goal and the applicable provisions within the advertisement. The Local Agency shall not award a contract to any Contractor or Consultant without the confirmation by the CDOT Civil Rights and Business Resource Center that the Contractor or Consultant has demonstrated good faith efforts. The Local Agency shall work with the CDOT RCRO to ensure compliance with the established terms during the performance of the contract.
5. The Local Agency shall require that all contractors pay subcontractors for satisfactory performance of work no later than 30 days after the receipt of payment for that work from the contractor. For construction projects, this time period shall be reduced to seven days in accordance with Colorado Revised Statute 24-91-103(2). If the Local Agency withholds retainage from contractors and/or allows contractors to withhold retainage from subcontractors, such retainage provisions must comply with 49 CFR 26.29.
6. Payments to all Subconsultants shall be made within thirty days of receipt of payment from [the Local Agency] or no later than ninety days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify [the Local Agency] no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include the Consultant's failure to submit an invoice to the Local Agency or to deposit payments made.
7. The analysis and selection of the consultants shall be done in accordance with CRS §24-30-1403. This section of the regulation identifies the criteria to be used in the evaluation of CDOT pre-qualified prime consultants and their team. It also shows which criteria are used to short-list and to make a final selection.

The short-list is based on the following evaluation factors:

- a. Qualifications,

- b. Approach to the Work,
- c. Ability to furnish professional services.
- d. Anticipated design concepts, and
- e. Alternative methods of approach for furnishing the professional services. Evaluation factors for final selection are the consultant's:

- a. Abilities of their personnel,
 - b. Past performance,
 - c. Willingness to meet the time and budget requirement,
 - d. Location,
 - e. Current and projected work load,
 - f. Volume of previously awarded contracts, and
 - g. Involvement of minority consultants.
8. Once a consultant is selected, the Local Agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work. Pre-negotiation audits are prepared for contracts expected to be greater than \$50,000. Federal reimbursements for costs are limited to those costs allowable under the cost principles of 48 CFR 31. Fixed fees (profit) are determined with consideration given to size, complexity, duration, and degree of risk involved in the work. Profit is in the range of six to 15 percent of the total direct and indirect costs.
9. A qualified Local Agency employee shall be responsible and in charge of the Work to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. At the end of Work, the Local Agency prepares a performance evaluation (a CDOT form is available) on the consultant.

CRS §§24-30-1401 THROUGH 24-30-1408, 23 CFR PART 172, AND P.D. 400.1, PROVIDE ADDITIONAL DETAILS FOR COMPLYING WITH THE PRECEEDING EIGHT (8) STEPS.

EXHIBIT I

FEDERAL-AID CONTRACT PROVISIONS FOR CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design- build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension/debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60- 1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:** The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

a. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

b. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

c. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA- 1273 format and FHWA program requirements.

1. Minimum wages:

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account, assets for the meeting of obligations under the plan or program.

2. Withholding:

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements.

It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (i) That the payroll for the payroll period contains the information required to be provided under §5.5(a)(3) (ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices.

Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity.

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S.DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and

7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility:

- a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification– First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below.

The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph(a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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

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

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL
ACCESSROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT J

ADDITIONAL FEDERAL REQUIREMENTS

Federal laws and regulations that may be applicable to the Work include:

Executive Order 11246

Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by the Local Agencies and their contractors or the Local Agencies).

Copeland "Anti-Kickback" Act

The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and sub-Agreements for construction or repair).

Davis-Bacon Act

The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by the Local Agencies and the Local Agencies when required by Federal Agreement program legislation. This act requires that all laborers and mechanics employed by contractors or sub-contractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor).

Contract Work Hours and Safety Standards Act

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by the Local Agency's in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).

Clean Air Act

Standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (contracts, subcontracts, and sub-Agreements of amounts more than \$100,000).

Energy Policy and Conservation Act

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

OMB Circulars

Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.

Hatch Act

The Hatch Act (5 USC 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs.

Nondiscrimination

The Local Agency shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color national origin, sex, age or disability. Prior to the receipt of any Federal financial assistance from CDOT, the Local Agency shall execute the attached Standard DOT Title VI assurance. As appropriate, the Local Agency shall include Appendix A, B, or C to the Standard DOT Title VI assurance in any contract utilizing federal funds, land, or other aid. The Local Agency shall also include the following in all contract advertisements:

The [Local Agency], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (79 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, DBEs will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for any award.

ADA

In any contract utilizing federal funds, land, or other federal aid, the Local Agency shall require the federal-aid recipient or contractor to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91-646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor is acquiring real property and displacing households or businesses in the performance of the Agreement).

Drug-Free Workplace Act

The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 et seq.).

Age Discrimination Act of 1975

The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et. seq. and its implementing regulation, 45 C.F.R. Part 91; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.

23 C.F.R. Part 172

23 C.F.R. Part 172, concerning "Administration of Engineering and Design Related Contracts".

23 C.F.R Part 633

23 C.F.R Part 633, concerning "Required Contract Provisions for Federal-Aid Construction Contracts".

23 C.F.R. Part 635

23 C.F.R. Part 635, concerning "Construction and Maintenance Provisions".

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973. The requirements for which are shown in the Nondiscrimination Provisions, which are attached hereto and made a part hereof.

Nondiscrimination Provisions:

In compliance with Title VI of the Civil Rights Act of 1964 and with Section 162(a) of the Federal Aid Highway Act of 1973, the Contractor, for itself, its assignees, and successors in interest, agree as follows:

i. Compliance with Regulations

The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

ii. Nondiscrimination

The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, mental or physical handicap or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix C of the Regulations.

iii. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, sex, mental or physical handicap or national origin.

iv. Information and Reports

The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate and shall set forth what efforts have been made to obtain the information.

v. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the State shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: **a.** Withholding of payments to the Contractor under the contract until the Contractor complies, and/or **b.** Cancellation, termination or suspension of the contract, in whole or in part.

Incorporation of Provisions §22

The Contractor will include the provisions of this Exhibit J in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interest of the State and in addition, the Contractor may request the FHWA to enter into such litigation to protect the interests of the United States.

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SAMPLE

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances for Local Agencies

DOT Order No. 1050.2A

The [Local Agency] (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Colorado Department of Transportation and the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, "for which the Recipient receives Federal financial assistance from DOT, including the FHWA, FTA, or FAA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non- discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated or will be (with regard to a "facility") operated or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
3. "The [Local Agency] in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity

4. to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
5. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
6. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
7. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
8. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
9. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
10. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
11. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
12. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the [Local Agency] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by CDOT, FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review

upon request to CDOT, FHWA, FTA, or FAA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

[Local Agency] gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on [Local Agency], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the [Local Agency], CDOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the [Local Agency], CDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the non-discrimination provisions of this contract, the [Local Agency] will impose such contract sanctions as it, CDOT or FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the [Local Agency], CDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the [Local Agency] will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of (*Name of Appropriate Program*), and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the [Local Agency] all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto [Local Agency] and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the [Local Agency] its successors and assigns.

The [Local Agency], in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the [Local Agency] will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the [Local Agency] pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the [Local Agency] will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the [Local Agency] and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by [Local Agency] pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non- discrimination covenants, [Local Agency] will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will there upon revert to and vest in and become the absolute property of [Local Agency] of Transportation and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

EXHIBIT K

FFATA SUPPLEMENTAL FEDERAL PROVISIONS

**State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As Amended
Revised as of 3-20-13**

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

1.1. “Award” means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- 1.1.1.** Grants;
- 1.1.2.** Contracts;
- 1.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.4.** Loans;
- 1.1.5.** Loan Guarantees;
- 1.1.6.** Subsidies;
- 1.1.7.** Insurance;
- 1.1.8.** Food commodities;
- 1.1.9.** Direct appropriations;
- 1.1.10.** Assessed and voluntary contributions; and
- 1.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award *does not* include:

- 1.1.12.** Technical assistance, which provides services in lieu of money;
- 1.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 1.1.14.** Any award classified for security purposes; or
- 1.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

1.2. “Contract” means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.

1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.

1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpartC;

- 1.5.1.** A governmental organization, which is a State, local government, or Indian Tribe;
- 1.5.2.** A foreign public entity;
- 1.5.3.** A domestic or foreign non-profit organization;

- 1.5.4. A domestic or foreign for-profit organization; and
- 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
- 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109- 282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
- 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
- 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
 - 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 1.17 **“Vendor”** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2. **Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
3. **System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
 - 3.1. **SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
 - 3.2. **DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
4. **Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 4.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 4.2. In the preceding fiscal year, Contractor received:
 - 4.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
5. **Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
6. **Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
7. **Subrecipient Reporting Requirements.** If Contractor is a Subrecipient, Contractor shall report as set forth below.

7.1 To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

7.1.1 Subrecipient DUNS Number;

7.1.2 Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;

7.1.3 Subrecipient Parent DUNS Number;

7.1.4 Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

7.1.5 Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

7.1.6 Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

7.2 To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

7.2.1 Subrecipient's DUNS Number as registered in **SAM**.

7.2.2 Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

8. Exemptions.

8.1. These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

8.2 A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

8.3 Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.

8.4 There are no Transparency Act reporting requirements for Vendors.

Event of Default. Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT L

SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

CDOT SUBRECIPIENT RISK ASSESSMENT		Date:	
Name of Entity (Subrecipient):			
Name of Project / Program:			
Estimated Award Period:			
Entity Executive Director or VP:			
Entity Chief Financial Officer:			
Entity Representative for this Self Assessment:			
Instructions: (See "Instructions" tab for more information) 1. Check only one box for each question. All questions are required to be answered. 2. Utilize the "Comment" section below the last question for additional responses. 3. When complete, check the box at the bottom of the form to authorize.		Yes	No
		N/A	
EXPERIENCE ASSESSMENT		Yes	No
		N/A	
1	Is your entity new to operating or managing federal funds (has not done so within the past three years)?	<input type="checkbox"/>	<input type="checkbox"/>
2	Is this funding program new for your entity (managed for less than three years)? <i>Examples of funding programs include CMAQ, TAP, STP-M, etc.</i>	<input type="checkbox"/>	<input type="checkbox"/>
3	Does your staff assigned to the program have at least three full years of experience with this federal program?	<input type="checkbox"/>	<input type="checkbox"/>
MONITORING/AUDIT ASSESSMENT		Yes	No
		N/A	
4	Has your entity had an on-site project or grant review from an external entity (e.g., CDOT, FHWA) within the last three years?	<input type="checkbox"/>	<input type="checkbox"/>
5	a) Were there non-compliance issues in this prior review?	<input type="checkbox"/>	<input type="checkbox"/>
	b) What were the number and extent of issues in prior review?	<input type="checkbox"/> 1 to 2	<input type="checkbox"/> >3
OPERATION ASSESSMENT		Yes	No
		N/A	
6	Does your entity have a time and effort reporting system in place to account for 100% of all employees' time, that can provide a breakdown of the actual time spent on each funded project? <i>If No, in the comment section please explain how you intend to document 100% of hours worked by employees and breakdown of time spent on each funding project.</i>	<input type="checkbox"/>	<input type="checkbox"/>
FINANCIAL ASSESSMENT		Yes	No
		N/A	
7	a) Does your entity have an indirect cost rate that is approved and current?	<input type="checkbox"/>	<input type="checkbox"/>
	b) If Yes, who approved the rate, and what date was it approved?		
8	Is this grant/award 10% or more of your entity's overall funding?	<input type="checkbox"/> >10%	<input type="checkbox"/> <10%
9	Has your entity returned lapsed* funds? *Funds "lapse" when they are no longer available for obligation.	<input type="checkbox"/>	<input type="checkbox"/>
10	Has your entity had difficulty meeting local match requirements in the last three years?	<input type="checkbox"/>	<input type="checkbox"/>
11	What is the total federal funding your entity has been awarded for the last federal fiscal year, and what is your entity's fiscal year end?		

INTERNAL CONTROLS ASSESSMENT		Yes	No	N/A
12	Has your entity had any significant changes in key personnel or accounting system(s) in the last year? (e.g., Controller, Exec Director, Program Mgr, Accounting Mgr, etc.) If Yes, in the comment section, please identify the accounting system(s), and / or list personnel positions and identify any that are vacant.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	Does your entity have financial procedures and controls in place to accommodate a federal-aid project?	<input type="checkbox"/>	<input type="checkbox"/>	
14	Does your accounting system identify the receipts and expenditures of program funds separately for each award?	<input type="checkbox"/>	<input type="checkbox"/>	
15	Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget?	<input type="checkbox"/>	<input type="checkbox"/>	
16	Does your agency have a review process for all expenditures that will ensure that all costs are reasonable, allowable and allocated correctly to each funding source? If Yes, in the comment section, please explain your current process for reviewing costs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	How many total FTE perform accounting functions within your organization?	<input type="checkbox"/> ≥ 6	<input type="checkbox"/> 2 to 5	<input type="checkbox"/> < 2
IMPACT ASSESSMENT		Yes	No	N/A
18	For this upcoming federal award or in the immediate future, does your entity have any potential conflicts of interest* in accordance with applicable Federal awarding agency policy? If Yes, please disclose these conflicts in writing, along with supporting information, and submit with this form. (*Any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Subrecipient's obligations to the State.)	<input type="checkbox"/>	<input type="checkbox"/>	
19	For this award, has your entity disclosed to CDOT, in writing, violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award? Response options: YES = Check if have one or more violation(s) and have either disclosed previously to CDOT or as part of this form. In the comment section, list all violations with names of supporting documentation and submit with this form. NO = Check if have one or more violation(s) and have not disclosed previously or will not disclose as part of this form. Explain in the comment section. N/A = Check if have no violations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PROGRAM MANAGEMENT ASSESSMENT		Yes	No	N/A
20	Does your entity have a written process/procedure or certification statement approved by your governing board ensuring critical project personnel are capable of effectively managing Federal-aid projects? If Yes, please submit with this form.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21	Does your entity have written procurement policies or certification statement for consultant selection approved by your governing board in compliance with 23 CFR 172*? If Yes, please submit with this form. (*The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications, at a fair and reasonable price.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22	a) Is your staff familiar with the relevant CDOT manuals and federal program requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	b) Does your entity have a written policy or a certification statement approved by your governing board assuring federal-aid projects will receive adequate inspections? If Yes, please submit with this form.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	c) Does your entity have a written process or a certification statement approved by your governing board assuring a contractor's work will be completed in conformance with approved plans and specifications? If Yes, please submit with this form.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. <i>If Yes, please submit with this form.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Does your entity have a written policy or certification statement approved by your governing board assuring that only US manufactured steel will be incorporated into the project (<i>Buy America requirements</i>)? <i>If Yes, please submit with this form.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments - As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.</p>			
<p><input type="checkbox"/> By checking this box, the Executive Director, VP or Chief Financial Officer of this entity certifies that all information provided on this form is true and correct.</p>			



Tool Version:
v2.0 (081816)

EXHIBIT M

OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS

**Subject to
The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and
Audit Requirements for Federal Awards (“Uniform Guidance”),
Federal Register, Vol. 78, No. 248, 78590**

The agreement to which these Uniform Guidance Supplemental Provisions are attached has been funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the agreement or any attachments or exhibits incorporated into and made a part of the agreement, the provisions of these Uniform Guidance Supplemental Provisions shall control. In the event of a conflict between the provisions of these Supplemental Provisions and the FFATA Supplemental Provisions, the FFATA Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

- 1.1. “Award”** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38
- 1.2. “Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- 1.3. “Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. 2 CFR §200.37
- 1.4. “FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 1.5. “Grant” or “Grant Agreement”** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.
- 1.6. “OMB”** means the Executive Office of the President, Office of Management and Budget.
- 1.7. “Recipient”** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86
- 1.8. “State”** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.
- 1.9. “Subrecipient”** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.
- 1.10. “Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

- 1.11. “Uniform Guidance Supplemental Provisions”** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing guidance from relevant Federal agencies or the Colorado State Controller.
- 2. Compliance.** Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions automatically shall become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3. Procurement Standards.**
- 3.1 Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation,
§§200.318 through 200.326 thereof.
- 3.2 Procurement of Recovered Materials.** If Subrecipient is a State Agency or an agency of a political subdivision of a state, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 4. Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient’s records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).
- 5. Single Audit Requirements.** If Subrecipient expends \$750,000 or more in Federal Awards during Subrecipient’s fiscal year, Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
- 5.1 Election.** Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program’s statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 5.2 Exemption.** If Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government

Accountability Office.

- 5.3 Subrecipient Compliance Responsibility.** Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

- 6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

- 6.1 Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

“During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments

under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled,

terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

6.2 Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40

U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

6.3 Rights to Inventions Made Under a Contract or Agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

6.4 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251- 1387), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection

Agency (EPA).

6.5 Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAMExclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

6.6 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

7. Certifications. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

7.1 Event of Default. Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

8. Effective Date. The effective date of the Uniform Guidance is December 26, 2013. 2 CFR §200.110. The procurement standards set forth in Uniform Guidance §§200.317-200.326 are applicable to new Awards made by Recipient as of December 26, 2015. The standards set forth in Uniform Guidance Subpart F-Audit Requirements are applicable to audits of fiscal years beginning on or after December 26, 2014.

9. Performance Measurement. The Uniform Guidance requires completion of OMB-approved standard information collection forms (the PPR). The form focuses on outcomes, as related to the Federal Award Performance Goals that awarding Federal agencies are required to detail in the Awards.

Section 200.301 provides guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes.

The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones (200.210). Also, must require the recipient to relate financial data to performance accomplishments of the Federal award.

Exhibit N

Federal Treasury Provisions

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.
- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Data Universal Numbering System (DUNS) Number" means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet's website may be found at: <http://fedgov.dnb.com/webform>.
 - 2.1.3. "Entity" means:
 - 2.1.3.1. a Non-Federal Entity;
 - 2.1.3.2. a foreign public entity;
 - 2.1.3.3. a foreign organization;
 - 2.1.3.4. a non-profit organization;
 - 2.1.3.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.3.6. a foreign non-profit organization (only for 2 CFR part 170) only;

- 2.1.3.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
- 2.1.3.8. a foreign for-profit organization (for 2 CFR part 170 only).
- 2.1.4. “Executive” means an officer, managing partner or any other employee in a management position.
- 2.1.5. “Expenditure Category (EC)” means the category of eligible uses as defined by the US Department of Treasury in “Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds” report available at www.treasury.gov.
- 2.1.6. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
- 2.1.7. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.8. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.9. “Non-Federal Entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.10. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
 - 2.1.10.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.10.2. Is not organized primarily for profit; and
 - 2.1.10.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.11. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.12. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.13. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.14. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.

- 2.1.15. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.16. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.16.1. Salary and bonus;
 - 2.1.16.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 2.1.16.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.16.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.16.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.16.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.17. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.18. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

3. COMPLIANCE.

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, grantee programs or services must not include a term or conditions that undermines efforts to stop COVID-19 or discourages compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS.

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. DUNS. Grantee shall provide its DUNS number to its Prime Recipient, and shall update Grantee's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Grantee's information.

5. TOTAL COMPENSATION.

- 5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
 - 5.1.2. In the preceding fiscal year, Grantee received:
 - 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

- 6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. Grantee shall report as set forth below.
 - 8.1.1. Grantee shall use the SLFRF Subrecipient Quarterly Report Workbook as referenced in Exhibit P to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

EC 1 – Public Health

All Public Health Projects

- a) Description of structure and objectives
- b) Description of relation to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification

- v. Labor reporting

COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)

- a) Amount of total project used for evidence-based programs
- b) Evaluation plan description

COVID-19 Small Business Economic Assistance (1.8)

- a) Number of small businesses served

COVID-19 Assistance to Non-Profits (1.9)

- a) Number of non-profits served

COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)

- a) Sector of employer
- b) Purpose of funds

EC 2 – Negative Economic Impacts

All Negative Economic Impacts Projects

- a) Description of project structure and objectives
- b) Description of project's response to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Amount of total project used for evidence-based programs and description of evaluation plan (*not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36*)
- e) Number of workers enrolled in sectoral job training programs
- f) Number of workers completing sectoral job training programs
- g) Number of people participating in summer youth employment programs
- h) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

Household Assistance (2.1-2.8)

- a) Number of households served
- b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)
- c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)

Healthy Childhood Environments (2.11-2.13)

- a) Number of children served by childcare and early learning (*Federal guidance may change this requirement in July 2022*)
- b) Number of families served by home visiting (*Federal guidance may change this requirement in July 2022*)

Education Assistance (2.14, 2.24-2.27)

- a) National Center for Education Statistics (“NCES”) School ID or NCES District ID
- b) Number of students participating in evidence-based programs (*Federal guidance may change this requirement in July 2022*)

Housing Support (2.15, 2.16, 2.18)

- a) Number of people or households receiving eviction prevention services (*Federal guidance may change this requirement in July 2022*)
- b) Number of affordable housing units preserved or developed (*Federal guidance may change this requirement in July 2022*)

Small Business Economic Assistance (2.29-2.33)

- a) Number of small businesses served

Assistance to Non-Profits (2.34)

- a) Number of non-profits served

Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)

- a) Sector of employer
- b) Purpose of funds
- c) If other than travel, tourism and hospitality (2.36) – description of hardship

EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity

Payroll for Public Health and Safety Employees (EC 3.1)

- a) Number of government FTEs responding to COVID-19

Rehiring Public Sector Staff (EC 3.2)

- a) Number of FTEs rehired by governments

EC 4 – Premium Pay

All Premium Pay Projects

- a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
- b) Numbers of workers served
- c) Employer sector for all subawards to third-party employers
- d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county’s average annual wage
- e) Number of workers to be served with premium pay in K-12 schools

EC 5 – Infrastructure Projects

All Infrastructure Projects

- a) Projected/actual construction start date (month/year)
- b) Projected/actual initiation of operations date (month/year)
- c) Location (for broadband, geospatial data of locations to be served)
- d) Projects over \$10 million
 - i. Prevailing wage certification or detailed project employment and local impact report

- ii. Project labor agreement certification or project workforce continuity plan
- iii. Prioritization of local hires
- iv. Community benefit agreement description, if applicable

Water and sewer projects (EC 5.1-5.18)

- a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
- c) Median Household Income of service area
- d) Lowest Quintile Income of the service area

Broadband projects (EC 5.19-5.21)

- a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
 - i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
 - ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
- b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to (*Federal guidance may change this requirement in July 2022*):
 - i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
 - ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum

- speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.
- iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

All Expenditure Categories

- a) Program income earned and expended to cover eligible project costs
- 8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.
- 8.1.2.1. Subrecipient DUNS Number;
 - 8.1.2.2. Subrecipient DUNS Number if more than one electronic funds transfer (EFT) account;
 - 8.1.2.3. Subrecipient parent's organization DUNS Number;
 - 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
 - 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

- 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, the following data elements:
- 8.1.3.1. Subrecipient's DUNS Number as registered in SAM.
 - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
 - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. This requirement is applicable to all projects in Expenditure Categories 1 and 2.
 - 8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. See section 8.1.1 for relevant Expenditure Categories.
 - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.
 - 8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, other than those where the eligible worker receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.
 - 8.1.3.7. For infrastructure projects (EC 5), or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and

location (for broadband, geospatial location data). For projects over \$10 million:

- 8.1.3.8. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.
- 8.1.3.8.1. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.
- 8.1.3.8.2. Whether the project prioritizes local hires.
- 8.1.3.8.3. Whether the project has a Community Benefit Agreement, with a description of any such agreement.
- 8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Exhibit Q – SLFRF Reporting Modification Form.

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.
- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

- 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

- 12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.
 - 12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of "federally assisted construction Agreement" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.
 - 12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

- 12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.
- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. Never Agreement with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Agreement with the enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S. C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit O and submit to State Agency with signed grant agreement.

13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

15. EVENT OF DEFAULT AND TERMINATION.

15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:

- 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
- 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or

By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT O

AGREEMENT WITH SUBSUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The State of Colorado has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and the State and your organization is signing and certifying the same terms and conditions included in the State's separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from the State, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified in bills passed by the General Assembly and signed by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization's obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name _____

Authorized Representative: _____

Title: _____

Signature: _____

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS
TERMS AND CONDITIONS

1. Use of Funds.
 - a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
 - b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Subrecipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to comply with any reporting requirements established by the Governor's Office and Office of the State Controller.
4. Maintenance of and Access to Records
 - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs. Subrecipient shall follow guidance on administrative costs issued by the Governor's Office and Office of the State Controller.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Subrecipient.
8. Conflicts of Interest. The State of Colorado understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy

is applicable to each activity funded under this award. Subrecipient and Contractors must disclose in writing to the Office of the State Controller or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Office of the State Controller shall disclose such conflict to Treasury.

9. Compliance with Applicable Law and Regulations.

a. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

- i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - i. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - ii. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - iii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - iv. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

- v. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Subrecipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of Colorado by the U.S. Department of the Treasury.”
14. Debts Owed the Federal Government.
- a. Any funds paid to the Subrecipient (1) in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.
 - b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
15. Disclaimer.
- a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.
 - b. The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.
16. Protections for Whistleblowers.
- a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.
 - b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;

- iii. The Government Accountability Office;
- iv. A Treasury employee responsible for Agreement or grant oversight or management;
- v. An authorized official of the Department of Justice or other law enforcement agency;
- vi. A court or grand jury; or
- vii. A management official or other employee of Subrecipient, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

1. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Subrecipients, and Contractorsto adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.
9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of

discrimination, please so state.

10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

EXHIBIT P

SLFRF SUBRECIPIENT QUARTERLY REPORT

1. SLFRF SUBRECIPIENT QUARTERLY REPORT WORKBOOK

- 1.1 The SLFRF Subrecipient Quarterly Report Workbook must be submitted to the State Agency within ten (10) days following each quarter ended September, December, March and June. The SLFRF Subrecipient Quarterly Report Workbook can be found at:

<https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates tab)

EXHIBIT Q

SAMPLE SLFRF REPORTING MODIFICATION FORM

Local Agency:			Agreement No:	
Project Title:			Project No:	
Project Duration:	To:		From:	
State Agency:	CDOT			

This form serves as notification that there has been a change to the reporting requirements set forth in the original SLFRF Grant Agreement.

The following reporting requirements have been (add/ remove additional rows as necessary):

Updated Reporting Requirement (Add/Delete/Modify)	Project Number	Reporting Requirement

By signing this form, the Local Agency agrees to and acknowledges the changes to the reporting requirements set forth in the original SLFRF Grant Agreement. All other terms and conditions of the original SLFRF Grant Agreement, with any approved modifications, remain in full force and effect. Grantee shall submit this form to the State Agency within 10 business days of the date sent by that Agency.

Local Agency

Date

CDOT Program Manager

Date

EXHIBIT R
APPLICABLE FEDERAL AWARDS

FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD

Federal Awarding Office	US Department of the Treasury
Grant Program	Coronavirus State and Local Fiscal Recovery Funds
Assistance Listing Number	21.027
Federal Award Number	SLFRP0126
Federal Award Date *	May 18, 2021
Federal Award End Date	December 31, 2024
Federal Statutory Authority	Title VI of the Social Security Act, Section 602
Total Amount of Federal Award (this is <u>not</u> the amount of this grant agreement)	\$3,828,761,790

* Funds may not be available through the Federal Award End Date subject to the provisions in §2 and §5 below.

EXHIBIT S

PII Certification

STATE OF COLORADO

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

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

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

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT T

CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE

Checklist for required exhibits due to funding sources. Required Exhibits are dependent on the source of funding. This is a guide to assist in the incorporation and completion of Exhibits in relation to funding sources.

Exhibit	Funding only from FHWA	Funding only from ARPA	FHWA and ARPA Funding
EXHIBIT A, SCOPE OF WORK	✓	✓	✓
EXHIBIT B, SAMPLE OPTION LETTER	✓	✓	✓
EXHIBIT C, FUNDING PROVISIONS	✓	✓	✓
EXHIBIT D, LOCAL AGENCY RESOLUTION (IF APPLICABLE)	✓	✓	✓
EXHIBIT E, LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST	✓	✓	✓
EXHIBIT F, CERTIFICATION FOR FEDERAL-AID AGREEMENTS	✓		✓
EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE	✓		✓
EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES	✓		✓
EXHIBIT I, FEDERAL-AID AGREEMENT PROVISIONS FOR CONSTRUCTION AGREEMENTS	✓		✓
EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS	✓		✓
EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS	✓	✓	✓
EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM	✓	✓	✓
EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS	✓		✓

EXHIBIT N, FEDERAL TREASURY PROVISIONS		✓	✓
EXHIBIT O, AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS		✓	✓
EXHIBIT P, SLFRF SUBRECIPIENT QUARTERLY REPORT		✓	✓
EXHIBIT Q, SLFRF REPORTING MODIFICATION FORM		✓	✓
EXHIBIT R, APPLICABLE FEDERAL AWARDS		✓	✓
EXHIBIT S, PII CERTIFICATAION	✓	✓	✓
EXHIBIT T, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE	✓	✓	✓



City Manager
15151 E. Alameda Parkway, 5th Floor
Aurora, Colorado 80012
phone 303.739.7010
fax 303.739.7123

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Adams County Subregional Transportation Forum – Commissioner Steve O’Dorisio
C/O Chris Chovan, Senior Transportation and Mobility Planner
Adams County Transportation Forum
4430 South Adams County Parkway
Brighton, CO 80601-8204

June 23, 2022

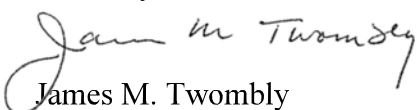
Dear Commissioner O’Dorisio,

The city of Aurora is pleased to submit our DRCOG 2022-2025 Transportation Improvement Program Call 2 Adams County Subregional Forum Project Application for two (2) key subregionally significant multimodal improvement projects. These projects are critical to substantially improving mobility and travel for our collective customers throughout the City, the County, adjacent jurisdictions and beneficiaries throughout the eastern part of the metro area. Designing a multiuse path along Smith Road between Peoria Station and Powhatan Road will improve multimodal connectivity and employee accessibility to one of the region’s fastest growing major centers for logistics, manufacturing and distribution warehousing. Delivering key arterial sidewalk improvements focusing on Colfax Avenue and Havana Street will provide residents and travelers in Aurora safer and more comfortable options in accessing transit services and key employment opportunities, retail, medical and social service centers and education and recreation venues through walking or bicycling.

Completing these projects will provide a variety of calculated benefits including greenhouse gas emission reduction, improved access and mobility for vulnerable populations, and anticipated crash/injury reductions. These projects will improve travel operations and enhance and provide needed connectivity for travelers throughout the area.

Thank you for your favorable consideration of these high priority project funding requests. These projects represent key investments in our multimodal mobility system and will improve the quality and safety of our customer’s mobility experience. If you have any questions about this application, please contact Victor Rachael, vrachael@auroragov.org, 303.739.7300, or Mac Callison, mcalliso@auroragov.org, 303.739.7256.

Sincerely,


James M. Twombly
City Manager

cc: Mayor Mike Coffman.
Aurora City Council Members
Laura Perry, Deputy City manager
Jason Batchelor, Deputy City Manager
Cindy Colip, Public Works Deputy Director
Jeannine Rustad, Planning & Development Services Director
Mac Callison, Transportation Planning Supervisor

DRCOG FY2022-2025 TIP – **Adams County Subregion**

Subregional Share Air Quality/Multimodal (AQ/MM)

Application Programming Federal Fiscal Years 2023-2025

APPLICATION OVERVIEW

What: The Subregional Share Call for Projects for the FY2022-2025 TIP, programming fiscal years 2023-2025

Funding Available: \$161,292,000 overall. Target of \$24,903,000 for Adams County (estimated as of the open date)

Application: Air Quality & Multimodal (AQ/MM) eligible projects only

Major Project Eligibility Exceptions: Roadway capacity, roadway reconstruction, bridge, interchange projects

Call Opens: May 2, 2022

Call Closes: June 24, 2022, 3 pm

Application Submittals: submit the items below online through the submittal link on the [TIP Data Hub](#)

1. REQUIRED: a **single PDF document** containing the below. Please **DO NOT** attach additional cover pages, embed graphics in the application, or otherwise change the format of the application form.
 - a. this application
 - b. one location map/graphic
 - c. cost estimate (your own or the CDOT [cost estimate form](#))
 - d. CDOT/RTD concurrence response (if applicable)
 - e. any required documentation based on the application text (i.e., FHWA emissions calculators)
 - f. project support letters and/or [Request for Peer Agency Support](#)
2. OPTIONAL: Submit **one additional** PDF document containing any supplemental materials, if applicable
3. REQUIRED: Submit a zipped GIS shapefile of your project. Requests for assistance with creating a shapefile should be submitted to tipapplications@drcog.org no later than June 3, 2022

Other Notable items:

- **TIP Trainings:** To be eligible to submit an application, at least one person from your agency must have attended one of the two mandatory TIP training workshops ([February 10](#) and [February 16, 2022](#))
- **CDOT/RTD Concurrence:** If required, [CDOT and/or RTD concurrence](#) must be provided with the application submittal. The CDOT/RTD concurrence request is due to CDOT/RTD no later than May 13, 2022, with CDOT/RTD providing a response no later than June 10, 2022. Submit requests to the following: CDOT Region 1 – JoAnn Mattson, joann.mattson@state.co.us; CDOT Region 4 – Josie Hadley, josie.hadley@state.co.us; RTD – Chris Quinn, chris.quinn@rtd-denver.com
- **If a submitted application in Call #1 was not funded,** and you wish to resubmit the same application for this call, please contact DRCOG at tipapplications@drcog.org. In these cases, we can unlock the application, change the title, and save the applicant work in the resubmittal process.
- **Application Data:** To assist sponsors in filling out the application, DRCOG has developed a TIP Data Tool to streamline quantitative analyses requested in the application. A link to the TIP Data Tool and instructions on how to use it are available on the [TIP Data Hub](#). Additionally, sponsors may download datasets to run their own analyses from this same site. Requests for additional data or calculations from DRCOG staff should be submitted to tipapplications@drcog.org no later than June 3, 2022
- **Project Affirmation:** The application must be affirmed by either the applicant's City or County Manager, Chief Elected Official (Mayor or County Commission Chair) for local governments, or agency director or equivalent for other applicants
- **TIP Policy:** Further details on project eligibility, evaluation criteria, and the selection process are defined in the [Policies for TIP Program Development](#) document (a [quick-guide](#) is also available for reference)
- **Evaluation Process:** DRCOG staff will review submittals for eligibility and post to the DRCOG website (June 27-July 1). Applications and scoring sheets will then be provided to the individual subregional forums no later than July 1. The forums will then review, score, discuss, and rank the applications and provide a recommended funding list within the funding available by August 5. The forums' recommendations will then be forwarded to the DRCOG committee process for incorporation into the adopted TIP
- If you have any questions or need assistance, reach out to us at tipapplications@drcog.org

APPLICATION FORMAT

The AQ/MM Subregional Share application contains two parts: *project information* and *evaluation questions*.

Project Information

Applicants enter **foundational** information for the *project/program/study* (hereafter referred to as *project*), including a problem statement, project description, and concurrence documentation from CDOT and/or RTD, if applicable. This section is not scored.

Evaluation Questions

This part includes four sections (A-D) for the **applicant to provide qualitative and quantitative responses** to use for scoring projects. The checkboxes and data entry fields should guide the applicant's responses. They are not directly scored but provide context as reviewers consider the full response to each question. Applicants may access the TIP Data Tool and additional data resources which applicants may find useful [here](#).

Scoring Methodology: Each section will be scored on a scale of 0 to 5, relative to other applications received. All questions will be factored into the final score, with any questions left blank receiving 0 points. The four sections are weighted and scored as follows:

Section A. Subregional Impact of Proposed Projects 30%

Projects will be evaluated on the degree to which they address a significant regional or subregional problem or benefit people throughout the subregion. Relevant quantitative data should be included within narrative responses.

5	The project benefits will substantially address a major regional or subregional problem and benefit people and businesses in multiple subregions.
4	The project benefits will significantly address a major subregional problem primarily benefiting people and businesses in one subregion.
3	The project benefits will either moderately address a major subregional problem or significantly address a moderate -level subregional problem.
2	The project benefits will moderately address a moderate -level subregional problem.
1	The project benefits will address a minor subregional problem.
0	The project does not address a subregional problem.

Section B. Metro Vision Regional Transportation Plan Priorities50%

The TIP's investments should implement the 2050 Metro Vision Regional Transportation Plan (2050 MVRTP) regional project and program investment priorities, which contribute to addressing the Board-adopted Metro Vision objectives and the federal performance-based planning framework required by the Federal Highway Administration and Federal Transit Administration as outlined in current federal transportation legislation and regulations. Therefore, projects will be evaluated on the degree to which they address the six priorities identified in the 2050 MVRTP: safety, active transportation, air quality, multimodal mobility, freight, and regional transit. It is anticipated that projects may not be able to address all six priorities, but it's in the applicant's interest to address as many priority areas as possible. Relevant quantitative data is required to be included within narrative responses. The table below demonstrates how each priority area will be scored.

5	The project provides demonstrable substantial benefits in the 2050 MVRTP priority area and is determined to be in the top fifth of applications based on the magnitude of benefits in that priority area.
4	The project provides demonstrable significant benefits in the 2050 MVRTP priority area.
3	The project provides demonstrable moderate benefits in the 2050 MVRTP priority area and is determined to be in the middle fifth of applications based on the magnitude of benefits in that priority area.
2	The project provides demonstrable modest benefits in the 2050 MVRTP priority area.
1	The project provides demonstrable slight benefits in the 2050 MVRTP priority area and is determined to be in the bottom fifth of applications based on the magnitude of benefits in that priority area.
0	The project does not provide demonstrable benefits in the 2050 MVRTP priority area.

Section C. Project Leveraging (“overmatch”) 10%

Scores are assigned based on the percent of other funding sources (non-Subregional Share funds).

Score	% non-Subregional Share funds
5	60% and above
4	50-59.9%
3	40-49.9%
2	20-39.9%
1	10.1-19.9%
0	10%

Section D. Project Readiness 10%

Be sure to answer ALL questions. While “Yes” answers will generally reflect greater readiness, opportunities are given to provide additional details to assist reviewers in fully evaluating the readiness of your project.

5	Substantial readiness is demonstrated and all known obstacles that are likely to result in project delays have been mitigated.
4	Significant readiness is demonstrated and several known obstacles that are likely to result in project delays have been mitigated.
3	Moderate readiness is demonstrated and some known obstacles that are likely to result in project delays have been mitigated.
2	Slight readiness is demonstrated and some known obstacles that are likely to result in project delays have been mitigated.
1	Few mitigation or readiness activities have been demonstrated.
0	No mitigation or readiness activities have been demonstrated.

Project Information

1. Project Title		Smith Road Multimodal Design Project	
2. Project Location <i>Provide a map, as appropriate (see Page 1)</i>		Start point: Peoria Street End point: Powhaton Road OR Geographic Area:	
3. Project Sponsor <i>(entity that will be financially responsible for the project)</i>		City of Aurora	
4. Project Contact Person:			
Name	Carlie Campuzano	Title	Traffic Manager
Phone	303.739.7309	Email	ccampuza@auroragov.org
5. Required CDOT and/or RTD Concurrence: Does this project touch CDOT Right-of-Way, involve a CDOT roadway, access RTD property, or request RTD involvement to operate service?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, provide applicable concurrence documentation</i>
6. What planning document(s) identifies this project? <i>Provide link to document(s) and referenced page number if possible, or provide documentation in the supplement</i>	<input checked="" type="checkbox"/> DRCOG 2050 Metro Vision Regional Transportation Plan (2050 MVRTP) Provide MVRTP staging period, if applicable capital project:		
	<input checked="" type="checkbox"/> Local/Regional plan:	Planning Document Title: The Aurora Comprehensive Plan (Aurora Places) calls for an easy-to-use transportation network with multiple choices for travel that supports a strong economy, healthy community and flourishing environment. https://www.auroragov.org/business_services/planning/plans_and_studies/comprehensive_plan page 94 Adopting agency (local agency Council, CDOT, RTD, etc.): Aurora City Council Provide date of adoption by council/board/commission, if applicable: Fall 2018	
	Please describe public review/engagement to date:	No public engagement has yet been completed for this project. Engagement would be completed in tandem with future design phases and prior to construction.	
	Other pertinent details:		
7. Identify the project's key phases and the anticipated schedule of phase milestones. (phases and dates should correspond with the Funding Breakdown table below)			
Phases to be included:	Major phase milestones:	Anticipated completion date (based on 9/21/2022 DRCOG approval date): (MM/YYYY)	
<u>FOR ALL PHASES</u>	Intergovernmental Agreement (IGA) executed (with CDOT/RTD; assumed process is 4-9 months)	05/2023	
<input checked="" type="checkbox"/> Design	Design contract Notice to Proceed (NTP) issued (if using a consultant):	08/2023	
	Design scoping meeting held with CDOT (if no consultant):		

<input type="checkbox"/> Environmental	Environmental contract Notice to Proceed (NTP) issued (if using a consultant):	<input type="checkbox"/>
	Environmental scoping meeting held with CDOT (if no consultant):	<input type="checkbox"/>
<input type="checkbox"/> Right-of-Way	Initial set of ROW plans submitted to CDOT:	<input type="checkbox"/>
	ROW acquisition completed: Estimated number of parcels to acquire:	
<input type="checkbox"/> Construction	FIR (Field Inspection Review):	<input type="checkbox"/>
	FOR (Final Office Review):	<input type="checkbox"/>
	Required clearances:	<input type="checkbox"/>
	Project publicly advertised:	<input type="checkbox"/>
<input type="checkbox"/> Study	Kick-off meeting held after consultant NTP (or internal if no consultant):	<input type="checkbox"/>
<input type="checkbox"/> Bus Service	Service begins:	<input type="checkbox"/>
<input type="checkbox"/> Equipment Purchase (Procurement)	RFP/RFQ/RFB (bids) issued:	<input type="checkbox"/>
<input type="checkbox"/> Other:	First invoice submitted to CDOT/RTD:	<input type="checkbox"/>

8. Problem Statement: What specific subregional problem/issue will the transportation project address?

Smith Road is an important east-west roadway in northern Aurora. It is classified as an arterial roadway with a posted speed limit of 45 mph and varying cross sections, which generally consists of 2 to 4 travel lanes. Multimodal facilities are either nonexistent or substandard throughout the 9-mile long project area and the roadway runs parallel to railroad tracks which create a physical barrier, preventing users from accessing alternative multimodal facilities to the north.

As shown on Figure 1, Smith Road serves as a primary connector between the Peoria RTD Station, the Peoria-Smith Urban Center, several large employers along Smith Road, several neighborhoods to the south (Morris Heights, Sable Altura Chambers, and Tower Triangle), and two regional trails (the Sand Creek Greenway and the Highline Canal Trail). In addition, Smith Road transects several sub-areas identified for significant, future job growth and it is a half-mile north of the I-70 / Picadilly Interchange project.

Despite the important role the corridor plays from a connectivity standpoint now and more so in the years ahead, it currently lacks facilities to provide for safe, reliable, multimodal transportation. The primary issues / deficiencies are as follows:

1) Over 50 percent of the project corridor (both north and south sides) is lacking sidewalks.

Sidewalks on the south side of Smith Road are non-contiguous. They have primarily been constructed along the frontages of newer commercial properties but are altogether lacking in segments where development hasn't taken place or along older developments where development standards at that time did not require frontage improvements. Pedestrians therefore encounter a mixed environment transitioning between wide sidewalks (8-10 feet) and unimproved stretches of dirt, gravel, and debris.

There are no sidewalks on the north side of Smith Road in the project area. Pedestrians walking on that side of the roadway encounter a combination of narrow, paved shoulders and extended areas of dirt / gravel subject to the collection of water, snow, mud and debris. There is also a drainage ditch along much of the north side, located approximately 2 - 4 feet from edge of pavement depending on location.

2) For 90 percent of the project corridor there are no designated bicycle facilities on either side of the roadway. Bicyclists are permitted to use the travel lanes and sidewalks but no facilities are dedicated to bicycle travel aside from a 1-mile section with bike lanes just east of Picadilly. Further, where paved shoulders do exist, they are discontinuous and the majority are less than 3-feet wide, providing limited separation from vehicles, many of which are large commercial trucks serving the manufacturing and warehousing uses on the corridor.

3) There are seven bus stops on the project corridor serving RTD's Route 37 bus with stops on the north side of Smith Road leaving riders alighting a bus without connections to a sidewalk or improved shoulder. Riders must wait for a gap in traffic, standing immediately adjacent to the vehicle travel lane where heavy, high speed vehicles travel, before crossing in unprotected locations to get to a sidewalk or shoulder on the south side of Smith Road. Several businesses on Smith Road have contacted the City of Aurora expressing safety concerns for employees who take the Route 37 bus and have no protected crossing points.

4) The corridor is identified in the Denver Regional Council of Governments' (DRCOG) 2050 Regional Vision Zero Plan as part of the high-injury network, and it intersects with two critical corridors (Peoria and Chambers), which are defined as those where the highest density of fatal and injury crashes occur throughout the region. The project is also identified in Table 3.1 of the 2050 Regional Transportation Plan (Active Transportation Projects and Programs) as Smith Road bicycle / pedestrian facilities, Peoria Street to Powhaton Road, new shared-use path.

5) Due to the industrial and warehousing uses along Smith Road and in close proximity, there is a high number of large, commercial trucks that use the corridor. This contributes to a higher level of traffic stress for bicycles and

pedestrian traveling on the corridor with the existing substandard or nonexistent bicycle or pedestrian facilities. Vehicular truck counts were conducted in May 2022 for AM and PM peak hours along Smith Road at the intersections with Picadilly Road, Tower Road, and Chambers Road. For the AM peak, on average, 13 percent of all vehicles counted were heavy vehicles. For the PM peak, on average, 10 percent of all vehicles were heavy vehicles. This included 362 and 452 articulated trucks, respectively.

When compared to 2020 CDOT data for similar roadway types in the DRCOG region, 13 and 10 percent is a high count for heavy vehicles. The CDOT data quantifies the percent of all vehicles recorded that were trucks during peak and off-peak hours. To be conservative, the higher (off-peak) totals were used for a comparison with Smith Road. Across the 29 locations where counts were taken by CDOT, the average percent of trucks recorded was 4 percent. The data reinforces what was encountered during field work completed for this application; Smith Road carries a comparatively high number of trucks, affirming the need for facilities and separation that increase the comfort and safety of vulnerable users including bicyclists, pedestrians, and transit patrons.

6) With only a few exceptions where intersection curb ramps have been improved in conjunction with at-grade crossings of RTD's A line, the majority of the existing curb ramps along the project corridor don't meet ADA standards to accommodate users with disabilities.

In summary, the project corridor is bordered by the Peoria Station, the Peoria-Smith Urban Center, thousands of existing jobs, sub-areas identified for robust, future job growth, and two DRCOG-designated active transportation corridors (the Highline Canal Trail and Sand Creek Regional Greenway). Consistent with the transportation goals of MetroVision and the City of Aurora, this should be a corridor that encourages walking, bicycling, and the use of transit through the provision of safe and reliable facilities. However, it currently does not and without the proposed improvements, this corridor will fail to support regional and local transportation goals. Deficient infrastructure and a lack of connections need to be addressed if this corridor is to serve current and future employees, residents, customers and other visitors of all ages and abilities, some of whom are entirely or mostly reliant on walking, bicycling, bus, or rail as their primary mode of transportation.

9. Identify the project's **key elements**. A single project may have multiple project elements.

Roadway

☒ Operational Improvements

Grade Separation

☐ Roadway

☐ Railway

☐ Bicycle

☐ Pedestrian

Regional Transit¹

☐ Rapid Transit Capacity (2050 MVRTP)

☐ Mobility Hub(s)

☐ Transit Planning Corridors

☐ Transit Facilities/Service (Expansion/New)

☒ **Safety Improvements**

Active Transportation Improvements

☒ Bicycle Facility

☒ Pedestrian Facility

☒ **Air Quality Improvements**

☐ **Improvements Impacting Freight**

Multimodal Mobility (i.e., accommodating a broad range of users)

☒ Complete Streets Improvements

☐ **Study**

☒ **Other**, briefly describe: Improving existing RTD bus stops for Route # 37.

¹For any project with transit elements, the sponsor must coordinate with RTD to ensure RTD agrees to the scope and cost. Be sure to include RTD's concurrence in your application submittal.

10. Define the **scope and **specific elements** of the project (including any elements checked in #9 above).**

***DO NOT** include scope elements that will not be part of the DRCOG funded project or your IGA scope of work (i.e., adjacent locally funded improvements or the project merits and benefits). Please keep the response to this question tailored to details of the scope only and no more than five sentences.*

To address the multiple deficiencies identified above in the Problem Statement, the project includes 60 percent design of roadway and multimodal safety and access improvements on a 9-mile section of Smith Road between Peoria Street on the west and Powhatan Road on the east. This project is primarily intended to provide multimodal access for vulnerable roadway users, but in order to design them, the ultimate roadway design needs to be included in this effort. Preparing the full design will enable the pedestrian and bicycle facilities to be located in their final configuration which will eliminate reconstruction and "throw-away" of physical improvements in the future.

Key project elements include a two-way bi-directional cycle track and 8-foot sidewalk from Peoria to Chambers, an 8-foot sidewalk and 4-foot paved shoulder from Chambers to Picadilly, and a 14-foot shared use path from Picadilly to Powhatan. A conceptual design has already been prepared for a portion of the corridor and is included as Attachment 2; the typical section changes throughout the corridor based on existing land uses and multimodal needs, and has been revised from the typical standards shown in the City's 2016 Roadway Design and Construction Standards Manual to provide consistency along the corridor.

11. What is the current status of the proposed scope as defined in Question 10 above? *Note that overall project readiness is addressed in more detail in Section D below.*

Conceptual design work has been completed for improvements on Smith Road between Peoria and Picadilly. This work has been used to quantify the estimated cost for 60 percent design work and the amount of requested funding.

A revised typical section has been identified which would provide consistency along the project corridor for bicycle and pedestrian facilities and roadway alignment for the entire 9-mile segment.

12. Would a smaller DRCOG-allocation than requested be acceptable, while maintaining the original intent of the project?

☐ Yes ☒ No

*If yes, smaller meaningful limits, size, service level, phases, or scopes, along with the cost, **MUST** be defined.*

Smaller DRCOG funding request:

Outline the differences between the scope outlined above and the reduced scope:

Project Financial Information and Funding Request

(All funding amounts in \$1,000s)

Total amount of Subregional Share Funding Request (in \$1,000's) (No less than \$100,000 and not to exceed 90% of the total project cost)		\$4,500	90.00% of total project cost
<input type="checkbox"/> Check box if requesting only state MMOF funds (requires minimum 50% local funds) ¹			
Match Funds (in \$1,000's) List each funding source and contribution amount.		Contribution Amount	% Contribution to Overall Project Total
City of Aurora		\$500	10%
		\$	0%
		\$	0%
		\$	0%
		\$	0%
		\$	0%
Total Match (private, local, state, another subregion, or federal)		\$500	10.00%
Project Total		\$5,000	
Notes:	1. Per CDOT action, the following jurisdictions are only required to provide 25% match on the MMOF funds: Englewood, Jamestown, and Wheat Ridge. The following jurisdictions are not required to provide a match on the MMOF funds: Federal Heights, Lakeside, Larkspur, Sheridan, and Ward. All sponsors will still be required to have 20% match on any added federal funds.		

Funding Breakdown (in \$1,000s) (by program year) ¹ (Total funding should match the Project Total from above)				
	FY 2023	FY 2024	FY 2025	Total
DRCOG Requested Funds	\$750,000	\$3,750,000	\$	\$4,500,000
CDOT or RTD Supplied Funds ²	\$	\$	\$	\$0
Local Funds (Funding from sources other than DRCOG, CDOT, or RTD)	\$75,000	\$425,000	\$	\$500,000
Total Funding	\$825,000	\$4,175,000	\$0	\$5,000,000
Phase to be Initiated	Design	Design	Choose an item	
Notes:	1. Fiscal years are October 1 through September 30 (e.g., FY 2023 is October 1, 2022 through September 30, 2023). The proposed funding plan is not guaranteed if the project is selected for funding. While DRCOG will do everything it can to accommodate the applicants' request, final funding will be assigned at DRCOG's discretion within fiscal constraint. Funding amounts must be provided in year of expenditure dollars using a recommended 3% inflation factor. 2. Only enter funding in this line if CDOT and/or RTD specifically give permission via concurrence letters or other written source.			
Affirmation:	By checking this box, the applicant's Chief Elected Official (Mayor or County Commission Chair/City or County Manager/Agency Director) has certified it allows this application to be submitted for potential DRCOG-allocated funding and will follow all local, DRCOG, state, and federal policies and regulations if funding is awarded. <input checked="" type="checkbox"/>			

Evaluation Questions

A. Subregional Impact of Proposed Project

WEIGHT

30%

Provide **qualitative and quantitative** responses to the following questions on the regional impact of the proposed project. Be sure to provide all required information for each question. Quantitative data from DRCOG is available [here](#).

1. Why is this project subregionally important? Relevant quantitative data in your response is required.

This project is important because the proposed improvements along Smith Road will provide safe and reliable multimodal facilities on a corridor where they are needed for current and future users. In its current form, the shortage of well-connected facilities along Smith Road fail to encourage walking, bicycling, and the use of transit.

1. Safety - Smith Road is identified in DRCOG's 2050 Regional Vision Zero Plan as being on the high-injury network, and it intersects with two streets (Chambers and Peoria) that are identified as critical corridors. Critical corridors are defined as those in the region where the highest density of fatal and injury crashes occur. Only 9% of roads in the region are on the high-injury network and only 1.5% are critical corridors. The addition of a cycle track, continuous sidewalks, improved shoulders, a shared use path, improved lighting, and protected mid-block crosswalks at existing bus stops will provide much needed safety improvements for bicyclists, pedestrians, and transit patrons on the corridor.

2. Mobility for All Ages – Thirty (30) percent of the residents (or 6,156) within a half-mile of the project corridor are between the ages of 5-17, or 65 and older. Youth below the age of 16 can't drive and it's expected that some seniors don't drive or drive on a limited basis due to impairments, disability, or limited income. The proposed improvements on Smith Road will increase transportation access for these residents by providing facilities that don't require a (privately owned) motor vehicle for everyday mobility.

3. Access to Employment - There are currently over 46,000 jobs located within a half-mile, or 10-minute walk, of the project corridor, with many of those located on Smith Road. By 2050, it's projected the number of jobs will exceed 68,000. As shown on Figure 1, the project corridor transects or is in close proximity to multiple sub-areas that will encompass thousands of jobs in the years ahead. Given that many of the jobs involve manufacturing and warehousing, many of these employees need to be on-site for their work. They are not able to work remotely. Providing the facilities that enable current and future employees to walk, bike, or take the bus between their jobs and the Peoria Station will become increasingly important as the number of jobs in the area, and subsequent demand for mobility, increases.

4. Transportation Equity – Approximately 10 percent of all households (614 households) within a half-mile of the project corridor only have access to 1 or fewer motor vehicles. Residents of these households however, particularly those with two or more working adults, still need to access jobs, services, school, etc. For residents with limited or no access to a motor vehicle who travel on Smith Road, the provision of a cycle track, continuous sidewalks, a widened shoulder, a shared use path, crosswalk connections to RTD bus stops, and overhead lighting will significantly improve everyday mobility options for them and members of their households.

Furthermore, thirty one (31) percent of the households within a half-mile of the project corridor are housing cost burdened, meaning they spend more than 30 percent of their gross annual income on housing. The rising cost of gasoline and diesel coupled with inflation is contributing to a growing financial burden on these households and many others in the region. These households, especially, need transportation options that don't require owning, operating, and maintaining a private vehicle. The proposed improvements on Smith Road will help provide these options by making walking, bicycling, and taking transit a safer and more viable, everyday option.

Finally, a key consideration related to transportation equity is employees' annual wages in relation to their transportation costs. As previously noted, several of the employees along Smith Road work in the warehousing and light manufacturing sectors. According to the Bureau of Labor Statistics, the 2021 Median Pay for Hand Laborers and Material Movers is \$30,320. This aligns with the outcomes of a survey that 273 employees along the Smith Road corridor responded to in the spring of 2020. Sixty percent of employees who responded had an annual household income of less than \$46,500 and over 35 percent had annual household incomes (before taxes) of less than \$38,500.

According to the American Automobile Association (Triple A), the annual cost of owning and operating a singular motor vehicle in 2021 was \$9,666. In comparison, the annual cost of a regional RTD pass is \$2,400, which allows pass holders to ride any bus or rail route within the RTD system.

For lower wage earners who work along Smith Road now and for those in the future, having reliable access to alternative, less expensive modes of transportation will make a significant difference in relation to what they actually earn. For example, for a warehouse laborer earning \$35,000/ year, owning and operating a private vehicle would require 27 percent of his / her income whereas an annual transit pass would only account for 7 percent. Providing safe and reliable access to transit along Smith Road, including the Peoria Station, is therefore a key factor when considering transportation equity and what lower wage employees along the corridor are able to earn.

5. Advancing local and regional goals – The proposed improvements will advance several transportation goals set forth in DRCOG's Metro Vision Plan and City of Aurora's Comprehensive Plan (Aurora Places). Each plan envisions a well-connected, multimodal transportation system that provides all residents and employees of the city and region, respectively, with reliable, safe, and accessible transportation options, regardless of age, physical ability, or income. The improvements on Smith Road will advance the shared vision and help the city and region meet those goals through the addition of facilities that better enable residents and employees to walk, bicycle, take the bus, light rail, or commuter rail for everyday trips.

2. How will the proposed project address the specific transportation problem described in the **Problem Statement (as submitted in Project Information, #8)? Relevant quantitative data in your response is required.**

In its current condition, Smith Road fails to accommodate multimodal travel and is unsafe for non-vehicular modes of travel. Despite the connection to Peoria Station and the Peoria-Smith Urban Center to the west, sidewalks are discontinuous or non-existent and there are no dedicated bicycle facilities on 90 percent of the corridor, which carries a high volume of heavy, commercial trucks. Some existing curb ramps are not ADA compliant, and existing bus stops on the north side of Smith Road are disconnected from the south side of the road due to a lack of crosswalks. When a passenger gets off at a stop on the north side of Smith Road they are bound by a ditch to their north, heavy, high-speed vehicles traveling the corridor to their south, and no comfortable means of traveling east or west along the road since shoulders are generally dirt or gravel and 3 feet in width. As such, a passenger will wait on a 3-foot uneven shoulder, which puts them in conflict with bicycle traffic and adjacent to high speed traffic, waiting for a gap before crossing Smith Road at an unprotected crossing. This project will address these issues through the following:

1. Cycle Track (Peoria to Chambers). Slightly north of the adjacent westbound lanes, a new 13-foot wide bi-directional cycle track will be designed for this 2-mile segment of the corridor on the north side of the road. With proper cautionary markings and signage, the cycle track's surface could also serve as a bus pad where passengers on the Route 37 bus could board and alight.

2. Paved and Widened Shoulder (Chambers to Powhaton). A continuous, 4-foot paved shoulder will be designed for the north side of Smith Road for this 7-mile segment of the corridor. Current conditions consist of either a narrow, paved shoulder or dirt and gravel. A consistent and continuous facility will improve conditions for both

bicyclists and pedestrians. While 4-feet from edge of the travel lane comparatively provides limited separation from motorized traffic, it will be a notable improvement in relation to the existing condition.

3. Sidewalks (Peoria to Picadilly) – The project will design for continuous 8-foot wide sidewalks on the south side of Smith Road between Peoria Street and Picadilly Road, which is a 6-mile segment. Currently, sidewalks in this segment are discontinuous. Some have been constructed in association with commercial development, however other portions of this segment have no sidewalks and the edge of road is defined by narrow shoulders or unimproved dirt areas subject to pooling, mud, snow, etc. While primarily intended for pedestrians, eastbound bicyclists not wishing to use the travel lane could ride on the new sidewalks.

4. Shared Use Path (Picadilly to Powhaton)– The project will design for a 14-foot wide shared use path on the south side of Smith Road from Picadilly to Powhaton, which is a three mile segment. Design will also consider where, for this segment, a landscape buffer could be added to separate the path from the adjacent eastbound travel lanes.

5. Mid-Block Crossings - There are 7 bus stops for the Route 37 bus along Smith Road between Peoria and Sable. None of these are accompanied by a cross walk that passengers can use to get across Smith Road. The project will examine stop locations, determine whether a crosswalk facility was warranted at these locations, and what type of crosswalk will be appropriate to maximize passenger safety.

6. Curb Ramp Upgrades – Design work will include upgrades to any curb ramps that currently do not meet ADA standards.

7. Wayfinding - There is currently no wayfinding signage on the corridor to provide bicyclists and pedestrians with direction and distance information to key destinations such as the Peoria Station, the Sand Creek Regional Greenway, or Star K Ranch Park. Project design will identify what types of bicycle / pedestrian - oriented wayfinding on the corridor will be appropriate and plans will show approximately where signs could be placed to enhance multimodal connectivity and encourage travel by walking or bicycling.

8. Lighting – Adequate lighting of the new facilities will be essential for safe usage and reducing the potential for crashes. As such, existing lighting will be examined along the project corridor. Where the types / levels of illumination are identified as inadequate, the design work will recommend location and type where retrofit or new lighting should be added to enhance safety along the roadway, including the cycle track, improved sidewalks and shoulders.

3. Does the proposed project benefit multiple municipalities and/or subregions? If yes, which ones and how? Also describe any funding partnerships (*other subregions, regional agencies, municipalities, private, etc.*) established in association with this project.

Yes, as noted in response to Question 1, the project corridor and the half-mile area surrounding it encompasses over 46,000 jobs and that total is expected to increase to over 68,000 in the next 30 years. Employees filling these jobs reside throughout the DRCOG region. The proposed improvements on Smith Road will significantly improve multimodal travel options for these employees. It will improve their ability to get to and from the Peoria Station, the stops for the Route 37 bus, the Sand Creek Regional Greenway Trail and Highline Canal Trail. This enhanced access for thousands of employees will benefit any county or municipality in which those employees live or work by improving the quality of life and access to opportunity for residents living, working or traveling through the corridor.

These improvements will also benefit the 6,200 households within ½ mile of the corridor, and more specifically the 10 percent of households with access to only 1 or fewer cars as these improvements will provide access to Peoria Station and opportunity for access to employment, shopping, and medical care within Smith-Peoria Urban

Center and the greater DRCOG region. Looking more broadly, 2019 data indicates that approximately 48 percent of all households within a half-mile of the R (light rail) line have only one vehicle.

Better enabling people with limited access to (private) vehicles to easily travel to jobs, healthcare, retail, and services across multiple cities and counties strengthens the region's overall tax base and economy.

4. Describe how the project will improve access and mobility for each of the applicable disproportionately impacted and environmental justice population groups identified in the table below. This data is available in the TIP Data Tool.

Completing the below table and referencing relevant quantitative data in your response is required.

	DI and EJ Population Groups	Number within ½ mile	% of Total	Regional %
Use 2015-2019 American Community Survey Data (In the TIP Data Tool, use a 0.5 mile buffer)	a. Total population	20,786	-	-
	b. Total households	6,264	-	-
	c. Individuals of color	15,229	73%	33%
	d. Low-Income households	562	9%	9%
	e. Individuals with limited English proficiency	1,835	9%	3%
	f. Adults age 65 and over	1,650	8%	13%
	g. Children age 5-17	4,506	22%	16%
	h. Individuals with a disability	1,356	7%	9%
	i. Households without a motor vehicle	224	4%	5%
	j. Households that are housing cost-burdened	1,939	31%	32%

For Lines c. – i. use definitions in the [DRCOG Title VI Implementation Plan](#). For Line j., as defined in C.R.S. 24-38.5-302(3)(b)(I): “‘cost-burdened’ means a household that spends more than thirty percent of its income on housing.”

Describe how this project will improve access and mobility for each of the applicable groups, *including the required quantitative analysis*:

Nearly one-third (31%) of households within a half-mile of the project corridor are housing cost-burdened (paying more than 30% of household income for housing). Four (4) percent of households don't have access to a motor vehicle. Approximately 10 percent have access to only 1 or fewer cars. For these cost-burdened households and residents, access to affordable transportation options that don't require a motor vehicle is very important, especially in light of inflationary pressures and rising fuel costs. For these people, the improvements on Smith Road will provide that transportation choice, and enhance their ability to walk, bike, or take the bus to / from jobs along Smith Road. The improved multimodal access to the Peoria Station, and the two regional trails (Sand Creek and Highline) will also enhance their ability to reliably reach jobs and services elsewhere in the region.

Taken together, 30 percent of the residents within a half-mile of the project corridor are between the ages of 5-17 and 65 and over. Furthermore, 7 percent of residents have a disability. Youth up to the age of 16 can't drive and some seniors and residents with disabilities may be unable to drive. The proposed facilities along Smith Road will provide these residents with the ability to more comfortably and safely walk, bike, or use a mobility assistance device for reaching their destinations on the corridor or elsewhere in the region.

5. How will this project move the region toward achieving the shared [regional transportation outcomes](#) established in [Metro Vision](#)?

- Improve the diversity and livability of communities. Seventy-three (73) percent of the people residing within a half-mile of the project corridor are individuals of color. As indicated in the preceding table, that is 40 percent higher than the total for the entire DRCOG region, which is 33 percent. For these residents, the project will increase multimodal access along Smith Road to the regional transit system, residences, jobs, parks, and trails. The ability of these residents to safely travel along the project corridor in a variety of ways encourages ongoing investment and will positively contribute to the overall livability of the project area.

- Contain urban development in locations designated for urban growth and services. The project will occur along an existing road in an urbanized area that has already been developed or is planned for development and is served by existing services (i.e. utilities and emergency response services). In addition, as shown in Figure 1, Smith Road (within the project area) transects or is in close proximity to multiple sub-areas that the City has designated for future job growth.
- Increase housing and employment in urban centers. The immediate project corridor does not include housing and although it does not include long-term employment-generating uses, it will improve transportation options within and adjacent to the Peoria-Smith Urban Center. The provision of new sidewalks, a bi-directional cycle track, and a shared use path where they don't currently exist will enhance employees' ability to get to and from their jobs within the Center. For existing and prospective employers within or near the Center, this increased accessibility could be an incentive to grow jobs at an existing business or start a new business.
- Improve and expand the region's multimodal transportation system, services, and connections. This is the heart of the project. The improvements on Smith Road will provide multimodal connections to the Peoria Station, which serves the R Line (Light Rail), the A Line (Commuter Rail), and four RTD bus routes, thus reducing vehicle dependency. Currently, accessing the station from the east along Smith Road is challenging for pedestrians and bicyclists due to a lack of infrastructure. There are no bicycle-designated facilities and no sidewalks on the north side of the road. Sidewalks on the southern side contain many missing links. The project will also evaluate the potential for new protected, mid-block crossings on Smith Road where Route 37 bus stops exist but there are no connections to sidewalks, shoulders or paths of any kind. Taken together, the project will result in a more cohesive and connected multimodal system and significantly enhance access to services for residents and employees.
- Operate, manage, and maintain a safe and reliable transportation system. The improvements will enhance the safety and reliability of the transportation system in the project area. The provision of a continuous sidewalk on the south side of Smith Road, currently defined by several missing links, and the installation of a cycle track and improved shoulder on the north side will notably increase reliability on a corridor where these facilities are currently deficient or non-existent. Additionally, the addition of mid-block crossings will enhance the safety of the system for users along the corridor, especially passengers traveling on the Route 37 bus.
- Improve air quality and reduce greenhouse gas emissions. Affording residents, employees, and customers the ability to comfortably bike, walk, or take transit along Smith Road and also connect to regional transit and trails increases the opportunity to divert vehicle trips to other modes, thus reducing impacts on air quality and greenhouse gas emissions. More detailed, quantitative emission reduction estimates are provided later in this application.
- Connect people to natural resource and recreational areas. Smith Road is only 0.25-mile from the 250-acre Star K Ranch Park, which includes hiking trails, picnic areas, and the Morrison Nature Center. The park includes a direct connection to the Sand Creek Regional Greenway Trail: a 13-mile multi-use trail and natural area that links Denver, Aurora, and Commerce City. The park also provides a direct connection to the Highline Canal Trail, which is a 71-mile shared use trail spanning 11 jurisdictions. The improvements along Smith Road will enable residents, employees, and visitors to more comfortably and safely use it to connect to these natural and recreational amenities.
- Reduce the risk of hazards and their impact. The project will increase transportation options in the project area and increase separation between high speed, commercial vehicles and other multimodal users of the road. As previously noted, approximately 10 percent of households within a half-mile of the project corridor only have access to one or fewer vehicles. For residents of these households, their improved ability to move throughout the project area or evacuate from it on foot, by bike, by scooter, etc. could reduce the risk that some may face during a hazardous event. The new facilities would also better equip employees along Smith Road to evacuate by foot or bicycle in the event that car travel was inaccessible during an emergency.
- Increase access to amenities that support healthy, active choices. The improvements on Smith Road will significantly enhance access from the project corridor to the Star K Ranch Park, the Sand Creek

Regional Greenway Trail, and the Highline Canal Trail. The improvements will also enhance access to the existing 0.90-mile bike lane on Baranmor Parkway to the south in the Morris Heights Neighborhood and the city's designated north-south bike route on Sable Boulevard.

- **Improve transportation connections to health care facilities and service providers.** The proposed improvements on Smith Road will be 1.35 miles from the Fitzsimmons Medical Campus, which includes the Children's Hospital Colorado, the University of Colorado Hospital, and the Rocky Mountain Regional VA Medical Clinic. The proposed improvements will significantly enhance access to the Peoria Station and RTD's R Line which has a stop on the southeast edge of the campus.
- **Diversify the region's housing stock.** The project would not include the design or construction of any new housing.
- **Improve access to opportunity.** As previously noted, there are currently over 46,000 jobs within a half-mile of the project corridor. Many of them are jobs in light industrial, warehousing, and manufacturing and are located on the south side of Smith Road. For current employees and the 22,000 more projected by 2050, the proposed improvements will significantly improve access to job opportunities, especially those who have limited or no access to a private automobile. Furthermore, the enhanced connectivity to / from the Peoria Station, the Sand Creek Regional Greenway Trail, and Highline Canal Trail will increase access to opportunities for the 6,200 households in the project area, throughout the DRCOG region.
- **Improve the region's competitive position.** The ability of our region's employees to reliably and safely get to their places of employment by a variety of modes is a cornerstone to improving the region's competitive position. The proposed improvements will significantly improve that reliability and multimodal safety in an area forecasted to encompass over 68,000 jobs by 2050.

6. Describe how the project will improve access to and/or connectivity between DRCOG-defined urban centers, multimodal corridors, mixed-use areas, Transit Oriented Development (transit near high-density development), or locally defined priority growth areas. Items marked with an asterisk (*) below are available in the TIP Data Tool.

- Is there a DRCOG designated urban center within ½ mile of the project limits?*
- ☒ Yes ☐ No If yes, please provide the name: [Peoria - Smith](#)
- Does the project connect two or more urban centers?*
- ☐ Yes ☒ No If yes, please provide the names:
- Is there a transit stop or station within ½ mile of the project limits?*
- Bus stop: ☒ Yes ☐ No If yes, how many? [7](#)
- Rail station: ☒ Yes ☐ No If yes, how many? [1](#)
- Is the project in a locally-defined priority growth and development area?
- ☒ Yes ☐ No
- If yes, provide a link to the relevant planning document: [See map on page 62. https://cdn5-hosted.civiclive.com/UserFiles/Servers/Server_1881137/Image/Business%20Services/Planning/Aurora%20Places/Aurora%20Places%20Comp%20Plan%20Adopted%202018%20MQ%20-%20Bookmarked.pdf](https://cdn5-hosted.civiclive.com/UserFiles/Servers/Server_1881137/Image/Business%20Services/Planning/Aurora%20Places/Aurora%20Places%20Comp%20Plan%20Adopted%202018%20MQ%20-%20Bookmarked.pdf)
- If yes, provide how the area is defined in the relevant planning document: [The project corridor is within the Aerotropolis Strategic Development Area. As stated on page 63 of the Aurora Places Comprehensive Plan, 'aerotropolis is a dynamic, urban place in which the layout, infrastructure, and economy center around the airports. An aerotropolis is more than any single development, it is largely characterized by a collection of transportation-linked businesses and supporting industrial and commercial development. However, appropriately-located residential, retail and restaurants will also be included.'](#)
- Is the project in an area with zoning that supports compact, mixed-use development patterns and a variety of housing options?
- ☐ Yes ☒ No If yes, please provide the zoning district designation(s): [The project corridor touches one parcel that's zoned as Mixed Use Corridor District \(at the southwest corner of the Smith/ Tower Road intersection\), but it's otherwise within industrial zoning districts.](#)

Provide households and employment data*	2020	2050
Households within ½ mile	6,264	18,664
Jobs within ½ mile	46,318	68,983
Household density (per acre) within ½ mile	0.44	0.98
Job density (per acre) within ½ mile	4.47	6.45

Describe how this project will improve access to and/or connectivity between the above identified areas, *including the required quantitative analysis:*

[In comparison to current conditions, the project will significantly improve multimodal connectivity between the Peoria-Smith Urban Center, the Peoria Station, four employment nodes, and approximately 6,000 households within the Morris Heights, Sable / Altura / Chambers and Triangle Park neighborhoods. Figure 1 shows how Smith Road relates to each of these and how the improvements will enhance multimodal access to / from them.](#)

[Notably, the number of households within a half-mile of the project corridor is projected to increase nearly 200 percent by 2050. The improvements will provide safe and reliable multimodal options for those \(future\) households.](#)

[The western end of the project area overlaps with part of the Peoria-Smith Urban Center. The improvements will enhance access to / from the Center for employees working in the Smith Road corridor and residents in the vicinity, especially those of the Morris Heights Neighborhood, which is closest to the Center.](#)

The improvements will significantly improve multimodal connectivity and access to / from RTD's Peoria Station which is served by RTD's A Line (Commuter), R Line (Light Rail), and four bus lines including Routes 37, 45, 121, and 153. There is currently a short segment of shared use path to the station that crosses underneath Peoria Street, however just east of Peoria, there are no sidewalks or bicycle facilities on either side of Smith Road that lead into and connect with the path.

The Route 37 bus travels along Smith Road and has seven existing stops on the project corridor. The project will determine the optimal type and location of crosswalks at these stops for passengers crossing Smith Road.

7. Describe how this project will improve **access** and **connections** to key employment centers or regional destinations, including health services; commerce, educational, cultural, and recreational opportunities; or other important community resources. In your answer, define the key destination(s) and clearly explain how the project improves **access** and/or **connectivity**.

As noted in response to Question 6, the improvements on Smith Road will improve access to jobs and services within the Peoria-Smith Urban Center and along Smith Road. Specifically, the project will improve multimodal access to several major employment nodes on the corridor including Majestic Commerce Center (Smith & Himalaya), Aurora Commerce Center and Eastgate Industrial Park (both at Smith & Picadilly). Together, these contain industrial, logistics, commercial, retail and mixed use developments where thousands of jobs currently exist and thousands more are forecasted for the years ahead. Furthermore, the project will improve multimodal connections to the future I-70 & Picadilly interchange.

In addition, the improvements will enhance multimodal connectivity to the Star K Ranch Park, just 0.25-mile south of the project corridor. The park provides direct connections to the Sand Creek Regional Greenway Trail and the Highline Canal Trail and it's home to the Morrison Nature Center, picnic areas, and walking/hiking trails. Improvements along Smith Road will improve peoples' ability to safely and comfortably access the the park, the trails, and the nature center by walking or bicycling.

Lastly, through enhancing access to the Peoria Light Rail Station, the project will also indirectly improve access to the Fitzsimmons Medical Campus, which is 1.35 miles away from the project corridor. The R Line, which stops at the Peoria Station, also has a stop on the southeast edge of the campus. Enabling people to more safely and reliably access the Peoria Station will improve their ability to access care, services, and jobs on the campus.

More broadly, improved access to and from regional transit will enhance residents' access to cultural, recreational, entertainment, and healthcare destinations throughout the region. These may include but aren't limited to museums, concert venues, parks, sports venues, healthcare facilities, etc. that are within convenient walking or bicycling distances of transit stops outside the project area.

B. MVRTP Priorities

WEIGHT

50%

- **Qualitative and quantitative** responses are **REQUIRED** for the following items on how the proposed project contributes to the project and program investment priorities in the adopted 2050 Metro Vision Regional Transportation Plan. To be considered for full points, you must fully answer all parts of the question, including incorporating quantitative data into your answer. (see scoring section for details). Quantitative data from DRCOG is available [here](#).
- Checkboxes and data tables help to provide context and guide responses, but do not account for the full range of potential improvements and are not directly scored, but are required to be completed.
- Not all proposed projects will necessarily be able to answer all questions, however it is in the applicant's interest to address as many priority areas as possible.

Multimodal Mobility

Provide improved travel options for all modes.

(drawn from [2050 MVRTP priorities](#); [federal travel time reliability, infrastructure condition, & transit asset management performance measures](#); & [Metro Vision objective 4](#))

Examples of Project Elements: combinations of improvements that support options for a broad range of users, such as complete streets improvements, or a bicycle/pedestrian access to transit, etc.

How does this project help increase mobility choices for people, goods, and/or services? Note that any roadway operational improvements must be on the DRCOG [Regional Roadway System](#) and/or [Regional Managed Lanes System](#).

- What modes will project improvements directly address?
☒ Walking ☒ Bicycling ☒ Transit ☒ Roadway Operations ☒ Other: [Wheelchairs](#)
- List the elements of this project which will address the above modes (i.e., sidewalk, shared use path, bus stop improvements, signal interconnection, etc.): [Additional lighting](#), [new sidewalks](#), [bi-directional cycle track](#), [improved roadway shoulder](#), [shared use path](#), [auxiliary lane improvements](#), [traffic signal improvements](#), [ADA improvements](#), [possible crosswalks at bus stops](#) and [wayfinding signage to guide pedestrians and bicyclists to key destinations](#).
- Will the completed project be a complete street as described in the [Regional Complete Streets Toolkit](#)? This data is available in the TIP Data Tool.
☒ Yes ☐ No If yes, describe how it implements the Toolkit's strategies in your response.
- Does this project improve travel time reliability?
☒ Yes ☐ No
- Does this project improve asset management of active transportation facilities and/or transit vehicle fleets?
☐ Yes ☒ No
- Does this project implement resilient infrastructure that helps the region mitigate natural and/or human-made hazards?
☒ Yes ☐ No

Describe how this project increases mobility choices for all users, *include quantitative information, including any items referenced above, in your response:*

[Smith Road \(between Peoria and Powhatan\)](#) is classified in DRCOG's Regional Complete Streets Toolkit as an Industrial Street. According to the toolkit, modal priorities for pedestrians, bicyclists, and transit passengers are high, medium, and low, respectively. Given the industrial nature of the corridor and its importance in relation to the movement of freight, trucks and cars are assigned a high modal priority. The proposed improvements are consistent with these priorities.

Pedestrian access and safety will be improved through the design of continuous sidewalks where they are currently discontinuous or absent altogether on the south side along with 7.5 foot buffers between sidewalks and travel lanes from I-70 to Powhatan. Bicyclist access, safety, and comfort will be improved through the design and construction of an off-street, bi-directional cycle track (between Peoria and Chambers), a continuous 4-foot shoulder (between Chambers and Picadilly) on the north side of the road, and a 14-foot shared use path (between Picadilly and Powhatan) on the south side of the road.

The design process will also examine whether crosswalks could be added at the seven existing bus stop locations on Smith Road to provide transit passengers with facilities for crossing, and whether wayfinding signage could be added to orient bicyclists, pedestrians, and passengers to key destinations including the Peoria Station, major employers, the Star K Ranch Park, the Highline Canal Trail, etc. In addition, the adequacy of existing lighting will be assessed through the design process and where types / levels of lighting are deemed inadequate, recommendations for improvements will be made.

The improvements that will be designed under this project are intended to serve and benefit all ages, abilities and income-levels. As indicated in response to Question 4 in Section A, notable percentages of residents on and within a half-mile of the project corridor fall within Disproportionately Impacted and Environmental Justice population groups. These residents, in comparison, are those most likely to benefit from the improvements that will be designed under the project. They include those listed below. Percentages are of the total population within a half-mile of the project corridor.

- Individuals of color (73 percent)
- Low income households (9 percent)
- Individuals with limited English proficiency (9 percent)
- Adults age 65 and over (8 percent)
- Children age 5-17 (22 percent)
- Individual with a disability (7 percent)
- Households without a motor vehicle (4 percent)
- Households that are housing-cost burdened (31 percent)

Existing motorized lane capacity and commercial rail infrastructure will be maintained on the corridor for the continued movement of freight. Moreover, providing facilities on the corridor dedicated to bicyclists and pedestrians reduces the potential that motor vehicles will experience a crash involving bikes or pedestrians.

Air Quality	Improve air quality and reduce greenhouse gas emissions. (drawn from 2050 MVRTP priorities ; state greenhouse gas rulemaking ; federal congestion & emissions reduction performance measures ; Metro Vision objectives 2, 3, & 6a) Examples of Project Elements: active transportation, transit, or TDM elements; vehicle operational improvements; electric vehicle supportive infrastructure; etc.													
	<p>How does this project help reduce congestion and air pollutants, including but not limited to, carbon monoxide, ground-level ozone precursors, particulate matter, and greenhouse gas emissions?</p> <ul style="list-style-type: none"> Does this project reduce congestion? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Does this project reduce vehicle miles traveled (VMT)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Does this project reduce single-occupant vehicle (SOV) travel? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 													
<table border="1"> <thead> <tr> <th>Emissions Reduced (kg/day)</th> <th>CO</th> <th>NOx</th> <th>VOCs</th> <th>PM 10</th> </tr> </thead> <tbody> <tr> <td></td> <td>140.20</td> <td>8.38</td> <td>4.40</td> <td>2.48</td> </tr> </tbody> </table>		Emissions Reduced (kg/day)	CO	NOx	VOCs	PM 10		140.20	8.38	4.40	2.48	<p>Use the FHWA CMAQ Calculators or a similar reasonable methodology to determine emissions reduced. Base your calculations on the year of opening. Please attach a screenshot of your work (such as the FHWA calculator showing the inputs and outputs) as part of your submittal packet.</p> <p>Note: if not using the FHWA Calculators, please note your methodology in your narrative below.</p>		
Emissions Reduced (kg/day)	CO	NOx	VOCs	PM 10										
	140.20	8.38	4.40	2.48										
<p>Describe how this project reduces air pollutants, <i>include quantitative information, including any items referenced above, in your response:</i></p> <p>This project will reduce air pollutants through the provision of new multimodal facilities that will make it more safe and convenient for employees and residents within the project corridor to walk, bike, or take transit to and from jobs, homes, retail services, and recreation.</p> <p>Based on the number of jobs and residences currently on and within a half-mile of the project corridor, it's estimated that 50,000 daily passenger vehicle trips (one-way) are made in the study area currently (or a daily total of 100,000 trips). This is for Smith Road and the roadway network within a half-mile of the project corridor. Considering how the proposed improvements will better connect job nodes, the Peoria Station, the Urban Center, residences, and regional trails, it's estimated that 7 percent of daily trips will be diverted to walk, bike, or transit trips following construction. This will equate to 3,500 one-way trips or 7,000 daily round trips.</p> <p>In regard to congestion, the corridor does not currently experience significant congestion on any mainline segments or intersections. However, as a result of significant job growth forecasted on the corridor, it's reasonable to assume that a growing number of employee vehicles as well as service / delivery vehicles (trucks) will result in congestion if the roadway were to remain unchanged. The addition of travel lanes in the future cross section, however, will serve to mitigate the level of congestion and its adverse effect on air quality.</p>														

Regional Transit	Expand and improve the region's transit network.
	(drawn from 2050 MVRTP priorities , Coordinated Transit Plan , RTD's Regional Bus Rapid Transit Feasibility Study) Examples of Project Elements: transit lanes, station improvements, new/expanded service, etc. <u>Note:</u> For any project with transit elements, the sponsor must coordinate with RTD to ensure RTD agrees to the scope and cost. Be sure to include RTD's concurrence in your application submittal.

How does this project improve connections to or expand the region's transit system, as outlined in the [2050 MVRTP](#)? Note that rapid transit improvements must be on the [Regional Rapid Transit System](#). Items marked with an asterisk (*) below are available in the TIP Data Tool.

- Does this project implement a portion of the [regional bus rapid transit \(BRT\) network](#)?*
☐ Yes ☒ No If yes, which specific corridor will this project focus on?
- Does this project involve a [regional transit planning corridor](#)?*
☐ Yes ☒ No If yes, which specific corridor will this project focus on?
- Does this project implement a mobility hub as defined in the [2050 MVRTP](#)?
☐ Yes ☒ No
- Does this project improve connections between transit and other modes?
☒ Yes ☐ No If yes, please describe in your response.
- Is this project adding new or expanded transit service?
☐ Yes ☒ No If yes, who will operate the service?
- Does this project add and/or improve transit service to or within a DRCOG-defined urban center?*
☒ Yes ☐ No If yes, provide the name of the urban center: [Peoria - Smith](#)

Describe how this project improves connections to or expands the region's transit system, *include quantitative information, including any items referenced above, in your response:*

This project will provide new multimodal facilities and connections along Smith Road that tie directly into RTD's Peoria Station, which serves commuter rail (A Line), Light Rail (R Line) and is a hub for four RTD bus routes. These include the Route 37 bus that has seven stops along Smith Road.

As defined above in the Problem Statement, multimodal connections to and from the Peoria Station are currently lacking in many respects. There are no designated bicycle facilities along Smith Road and sidewalks are entirely lacking on the north side of the road. On the south side of the road, sidewalks are discontinuous and missing links are defined by unimproved areas of gravel, dirt, mud, or snow, depending on conditions.

For a two-mile segment (between Peoria and Chambers) improvements will include a 13-foot wide bi-directional cycle track on the north side of the road. Between Peoria and Picadilly, improvements will include a continuous 8-foot wide sidewalk on the south side of the road and from Picadilly to Powhaton it will include a 14-foot wide shared use path. Between Chambers Road and Powhaton, 4-foot wide paved shoulders will be provided on the north side of the road, which is currently a combination of narrow, paved shoulder and unimproved gravel / dirt.

For approximately 4 miles, between I-70 and Powhaton Road, the sidewalk / shared use path will be separated from the road by a 7.5-foot landscape buffer.

Taken together, these improvements will significantly improve access, safety, and comfort for people who have to or want to walk or bike to or from the Peoria Station, the stops for the Route 37 bus on Smith Road, and the Peoria-Smith Urban Center.

In addition, none of the seven bus stops along Smith Road that serve the Route 37 bus are currently accompanied by crosswalks. The project's design will examine whether crosswalks are warranted at any or all of the stops and what crossing type will be optimal for warranted locations.

Safety	Increase the safety for all users of the transportation system. (drawn from 2050 MVRTP priorities , Taking Action on Regional Vision Zero , CDOT Strategic Transportation Safety Plan , & federal safety performance measures) Examples of Project Elements: bike/pedestrian crossing improvements, vehicle crash countermeasures, traffic calming, etc.		
	How does this project implement safety improvements (roadway, active transportation facility, etc.), particularly improvements in line with the recommendations in Taking Action on Regional Vision Zero ? Note that any improvements on roadways must be on the DRCOG Regional Roadway System . Items marked with an asterisk (*) below are available in the TIP Data Tool.		
<ul style="list-style-type: none"> Does this project address a location on the DRCOG High-Injury Network or Critical Corridors or corridors defined in a local Vision Zero or equivalent safety plan?* 			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<ul style="list-style-type: none"> Does this project implement a safety countermeasure listed in the countermeasure glossary? 			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Provide the current number of crashes involving motor vehicles, bicyclists, and pedestrians* (using the 2015-2019 period – in the TIP Data Tool, use a 0.02 mile buffer of your project) NOTE: if constructing a new facility, report crashes along closest existing alternative route		Sponsor must use industry accepted crash reduction factors (CRF) or accident modification factor (AMF) practices (e.g., NCHRP Project 17-25, NCHRP Report 617, or DiExSys methodology).	
Fatal crashes	3		
Serious Injury crashes	14		
Other Injury crashes	77		
Property Damage Only crashes	231		
Estimated reduction in crashes applicable to the project scope (per the five-year period used above)		Provide the methodology below:	
Fatal crashes reduced	1.32	Please see explanation of methodology in final paragraph below.	
Serious Injury crashes reduced	6.16		
Other Injury crashes reduced	36.08		
Property Damage Only crashes reduced	99.44		
Describe how this project will improve safety, include quantitative information, including any items referenced above, in your response:			
<p>The project corridor is a part of DRCOG's designated High Injury Network and it intersects with two critical corridors (Chambers and Peoria). On several portions of the project corridor, there is currently limited or no separation between existing travel lanes and areas outside the travel lanes where bicyclists or pedestrians are most likely to travel. Additionally, many vehicles on this corridor travel at high speeds and the percentage of heavy vehicles is fairly high: 13 percent of all vehicles for the AM peak and 10 percent for the PM peak. The lack of separation increases the potential for conflict and crashes involving bicyclists and pedestrians.</p>			
<p>As explained above in response to Questions 9 and 10, the project will design a combination of new, continuous sidewalks, a cycle track, and continuous shoulder. These will be implemented in areas where they either don't exist or are interrupted by gaps.</p>			
<p>Although the cycle track (between Peoria and Chambers) and sidewalks (between Peoria and I-70) will be attached to the roadway, the width of the proposed facilities will provide much needed separation between motorists and people on bicycles and foot. For pedestrians and bicyclists, it will be much more clear where they are expected to be within the roadway profile and they will not have to transition back and forth between sidewalk / shoulder and roadway because of missing links. Further, in instances where motorists may accidentally veer from the lane of travel, the facilities will provide vulnerable users with more of a buffer and space in which to avert a collision with a motor vehicle.</p>			
<p>For motorists, the facilities will more clearly define where pedestrians, bicyclists, and transit patrons are likely to be within the roadway profile. This increased level of predictability has the potential to reduce crashes.</p>			

In addition, if new protected mid-block crosswalks (across Smith Road) were added at some or all of the existing stops for the Route 37 bus, they will inform pedestrians and bicyclists on where it's appropriate to cross and increase motorists' awareness of where these users are likely to be crossing.

Lastly, existing lighting will be examined along the project corridor. Where the types / levels of illumination are identified as inadequate, the design work will recommend location and type where retrofit or new lighting should be added to enhance safety along the roadway, including the cycle track, improved sidewalks and shoulders.

Some bicycle / pedestrian safety countermeasures that will be considered in the project design are listed below, along with the safety benefits of each.

- Co-locate bus stops and pedestrian crossings – Provides an opportunity for transit riders to safely access bus stops and reduces the volume of patrons crossing at unprotected mid-block locations.
- Dual curb ramps (where appropriate) – Improve orientation for visually impaired pedestrians by directing them toward the correct crosswalk.
- High visibility crosswalks (at mid-block locations) – Provides a 46% reduction in pedestrian crashes (FHWA Proven Safety Countermeasures)
- Protected/separated bikeway – Provides a reduction in vehicle to bicycle crashes of 59-94% (Crash Mitigation Factors Clearinghouse)
- Rectangular Rapid Flashing Beacon (if warranted) – Provides 47% reduction in vehicle to pedestrian crashes (Crash Mitigation Factors Clearinghouse)
- Sidewalks – Provides a 65-89% reduction in crashes involving pedestrians walking along roadways (FHWA Proven Safety Countermeasures)
- Paved shoulders – Provides a 71% reduction in crashes involving pedestrians walking along roadways (FHWA Proven Safety Countermeasures)
- Lighting – Provides a 34% reduction in crashes involving pedestrians at intersections and along roadways.

EXPLANATION OF METHODOLOGY - The primary safety elements of this project will include new sidewalks, a bike lane, protected mid-block crosswalks, and a continuous shoulder. Using FHWA's Proven Safety Countermeasure Guide, an average of the crash reduction rate for these measures was calculated. That average (44 percent crash reduction potential) was applied to the (2015-2019) baseline crash calculations shown above. It's understood that the baseline crash rates include motor vehicle crashes. However, because the safety countermeasures for this project primarily focus on pedestrians and bicyclists, it's appropriate to apply crash reduction rates associated with those interventions.

Freight

Maintain efficient movement of goods within and beyond the region.

(drawn from [2050 MVRTP priorities](#); [Regional Multimodal Freight Plan](#); [Colorado Freight Plan](#), [federal freight reliability performance measure](#); [Metro Vision objective 14](#))

Examples of Project Elements: roadway operational improvements, etc.

How does this project improve the efficient movement of goods, specifically improvements identified in the [Regional Multimodal Freight Plan](#)? Note that any improvements on roadways must be on the DRCOG [Regional Roadway System](#). Items marked with an asterisk (*) below are available in the TIP Data Tool.

- Is this project located in or impact access to a [Freight Focus Area](#)?*
☒ Yes ☐ No If yes, please provide the name: [I-70 East Distribution Corridor](#)
- Is the project located on the [Tier 1 or Tier 2 Regional Highway Freight Vision Network](#)?*
☐ Yes ☒ No
- If this project is located in a [Freight Focus Area](#) does it address the relevant Needs and Issues identified in the Plan (see text located within each Focus Area)?
☐ Yes ☒ No If yes, please describe in your response.
- Check any items from the [Inventory of Current Needs](#) which this project will address:
☒ Truck Crash Location ☐ Rail Crossing Safety ([eligible locations](#))
☒ Truck Delay ☒ Truck Reliability
Please provide the location(s) being addressed: [Peoria - Powhaton](#)
- Does this project include any innovative or non-traditional freight supportive elements (i.e., curb management strategies, cargo bike supportive infrastructure, etc.)?
☐ Yes ☒ No If yes, please describe in your response.

Describe how this project will improve the movement of goods, *include quantitative information, including any items referenced above, in your response:*

[Smith Road is on the Regional Highway Freight Vision Network and currently carries significant volumes of truck traffic. As a result of significant job growth forecasted on the corridor, it's reasonable to assume that a growing number of employee vehicles as well as service / delivery vehicles \(trucks\) will result in congestion if the roadway were to remain unchanged. The addition of travel lanes in the future cross section, however, will serve to decrease the overall truck delay and will improve truck reliability.](#)

The corridor experiences high volumes of truck traffic (10-13% of total traffic) as described in the problem statement section, and it does experience crashes involving trucks as well. Many of the crash reduction factors, such as lighting, can be applied to truck crashes as well as total vehicle crashes. Decreasing truck crashes will improve the overall movement of goods.

Active Transportation	Expand and enhance active transportation travel options. (drawn from 2050 MVRTP priorities ; Denver Regional Active Transportation Plan ; & Metro Vision objectives 10 & 13) Examples of Project Elements: shared use paths, sidewalks, regional trails, grade separations, etc.	
<p>How does this project help expand the active transportation network, close gaps, improve comfort, and/or improve connections to key destinations, particularly improvements in line with the recommendations in the Denver Regional Active Transportation Plan? Items marked with an asterisk (*) below are available in the TIP Data Tool.</p> <ul style="list-style-type: none"> Does this project close a gap or extend a facility on a Regional Active Transportation Corridor or locally-defined priority corridor?* Does this project improve pedestrian accessibility and connectivity in a pedestrian focus area?* Does this project improve active transportation choices in a short trip opportunity zone?* Does this project include a high-comfort bikeway (like a sidepath, shared-use path, separated bike lane, bicycle boulevard)? 		
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe in your response.		
Bicycle Use <i>NOTE: if constructing a new facility, report bike usage along closest existing alternative route</i>		
1. Current Average Single Weekday Bicyclists:		0
Bicycle Use Calculations	Year of Opening	2050 Weekday Estimate
2. Enter estimated additional average weekday one-way bicycle trips on the facility after project is completed.	2,500	3,500
3. Enter number of the bicycle trips (in #2 above) that will be diverting from a different bicycling route. (Example: {#2 X 50%} or other percent, if justified on line 10 below)	75	115
4. = Initial number of new bicycle trips from project (#2 – #3)	2,425	3,385
1. Enter number of the new trips produced (from #4 above) that are replacing a trip made by another non-SOV mode (bus, carpool, vanpool, bike, etc.). (Example: {#4 X 30%} or other percent, if justified on line 10 below)	500.00	675.00
5. = Number of SOV trips reduced per day (#4 - #5)	1,925.00	2,710.00
6. Enter the value of {#6 x 2 miles}. (= the VMT reduced per day) (Values other than 2 miles must be justified by sponsor on line 10 below)	3,850.00	5,420.00
7. = Number of pounds GHG emissions reduced (#7 x 0.95 lbs.)	3,657.50	5,149.00
8. If values would be distinctly greater for weekends, describe the magnitude of difference: N/A		
9. If different values other than the suggested are used, please explain here: N/A		
Pedestrian Use <i>NOTE: if constructing a new facility, report pedestrian usage along closest existing alternative route</i>		
2. Current Average Single Weekday Pedestrians (including users of non-pedaled devices such as scooters and wheelchairs):		0
Pedestrian Use Calculations	Year of Opening	2050 Weekday Estimate
3. Enter estimated additional average weekday pedestrian one-way trips on the facility after project is completed	1,000	1,400
4. Enter number of the new pedestrian trips (in #2 above) that will be diverting from a different walking route (Example: {#2 X 50%} or other percent, if justified on line 10 below)	25	35
5. = Number of new trips from project (#2 – #3)	975	1,365
6. Enter number of the new trips produced (from #4 above) that are replacing a trip made by another non-SOV mode (bus, carpool, vanpool, bike, etc.). (Example: {#4 X 30%} or other percent, if justified on line 10 below)	0.00	0.00
7. = Number of SOV trips reduced per day (#4 - #5)	975.00	1,365.00

8. Enter the value of {#6 x .4 miles}. (= the VMT reduced per day) (Values other than .4 miles must be justified by sponsor on line 10 below)	390.00	546.00
9. = Number of pounds GHG emissions reduced (#7 x 0.95 lbs.)	370.50	518.70
10. If values would be distinctly greater for weekends, describe the magnitude of difference: N/A		
11. If different values other than the suggested are used, please explain here: N/A		

Describe how this project will expand the active transportation network, close gaps, improve comfort, and/or improve connections to key destinations, *include quantitative information, including any items referenced above, in your response:*

As shown in Figure 1, the project corridor directly overlaps with the Highline Canal Active Transportation Corridor in the vicinity of the Tower Road / Smith Road intersection. The improvements will also provide a new connection between the Highline Corridor and the Smith-Peoria Urban Center and the Peoria Station. Recent data suggests that over 500,000 people a year use the Highline Canal Trail for recreation (<https://highlinecanal.org/about-canal/>).

Similarly, but not as directly, the improvements will enhance access to the Sand Creek Regional Greenway Trail (via the Star K Ranch Park), which is also an Active Transportation Corridor.

In addition, the project will intersect with the city's designated bike route on Sable Boulevard and two Proposed Active Transportation Corridors on Gun Club Road (paralleling E-470) and Powhatan Road.

All told, the improvements that will be designed for this project will add approximately 2 miles of cycle track, 4.75 miles of new sidewalk, and 5 miles of continuous, 4-foot shoulder, and up to seven new crosswalks along Smith Road.

In regard to the comfort of vulnerable users (modes), the project will significantly improve the level of comfort for pedestrians and bicylists across ages and abilities on the corridor. Whereas several sections of the project corridor provide limited or no separation from the adjacent travel lanes, where heavy truck traffic is common, the improvements will provide a dedicated cycle track, continuous sidewalk facilities, a continuous shoulder, and a shared use path. While the facilities west of I-70 will be attached to the roadway, the width of the facilities will provide adequate separation from the lanes of travel. Those walking and bicycling will have wide, continuous, dedicated facilities whereas they are currently absent or discontinuous.

C. Project Leveraging		WEIGHT	10%
What percent of outside funding sources (non-Subregional Share funding) does this project have? <i>(number will automatically calculate based on values entered in the Funding Request table)</i>	10.00%	60%+ outside funding sources 5 pts 50-59.9% 4 pts 40-49.9% 3 pts 20-39.9% 2 pts 10.1-19.9% 1 pt 10%..... 0 pts	
D. Project Readiness		WEIGHT	10%
<i>Provide responses to the following items to demonstrate the readiness of the project. DRCOG is prioritizing those projects that have a higher likelihood to move forward in a timely manner and are less likely to experience a delay.</i>			
Section 1. Avoiding Pitfalls and Roadblocks			
<p>a. Has a licensed engineer (CDOT, consultant, local agency, etc.) reviewed the impact the proposed project will have on utilities, railroads, ROW, historic and environmental resources, etc. and have those impacts and pitfalls been mitigated as much as possible to date before this submittal?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A (for projects which do not require engineering services)</p> <p>If yes, please type in the engineer's name below which certifies their review and that impacts have been evaluated and mitigated as much as possible before your application is submitted:</p> <p>Please describe the status to date on each, including 1) anticipated/known pitfalls/roadblocks, and 2) mitigation activities taken to date:</p> <ul style="list-style-type: none"> • Utilities: • Railroad: • Right-of-Way: • Environmental/Historic: • Other: 			
<p>b. Is this application for a single project phase only (i.e., design, environmental, ROW acquisition, construction only, study, bus service, equipment purchase, etc.)?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, are the other prerequisite phases complete? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p> <p>If this project is for construction, please note the NEPA status: Choose an item</p>			
<p>c. Has all required ROW been identified? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p> <p>Has all required ROW already been acquired and cleared by CDOT? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p>			
<p>d. Based on the current status provided in Project Information, question 11, do you foresee being able to execute your IGA by October 1 of your first year of funding (or if requesting first year funding, beginning discussions on your IGA as soon as possible), so you can begin your project on time?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Does your agency have the appropriate staff available to work on this project? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, are they knowledgeable with the federal-aid process? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>			
<p>e. Have other stakeholders in your project been identified and involved in project development?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p> <p>If yes, who are the stakeholders?</p>			

Please provide any additional details on any of the items in Section 1, if applicable.

Section 2. Local Match

- a. Is all the local match identified in your application currently available, and if a partnering agency is also committing match, do you have a commitment letter?

☒ Yes ☐ No

Please describe:

The local match has been set aside by the City's Budget Manager.

- b. Is all funding for this project currently identified in the sponsor agency's Capital Improvement Program (CIP)?

☒ Yes ☐ No

Please describe:

Section 3. Public Support

- a. Has the proposed project previously been through a public review process (public comment period, public hearing, etc.)?

☐ Yes ☒ No

- b. Has the public had access to translated project materials in relevant languages for the local community?

☐ Yes ☒ No

Please describe:

- c. Have any adjacent property owners to the proposed project been contacted and provided with the initial project concept?

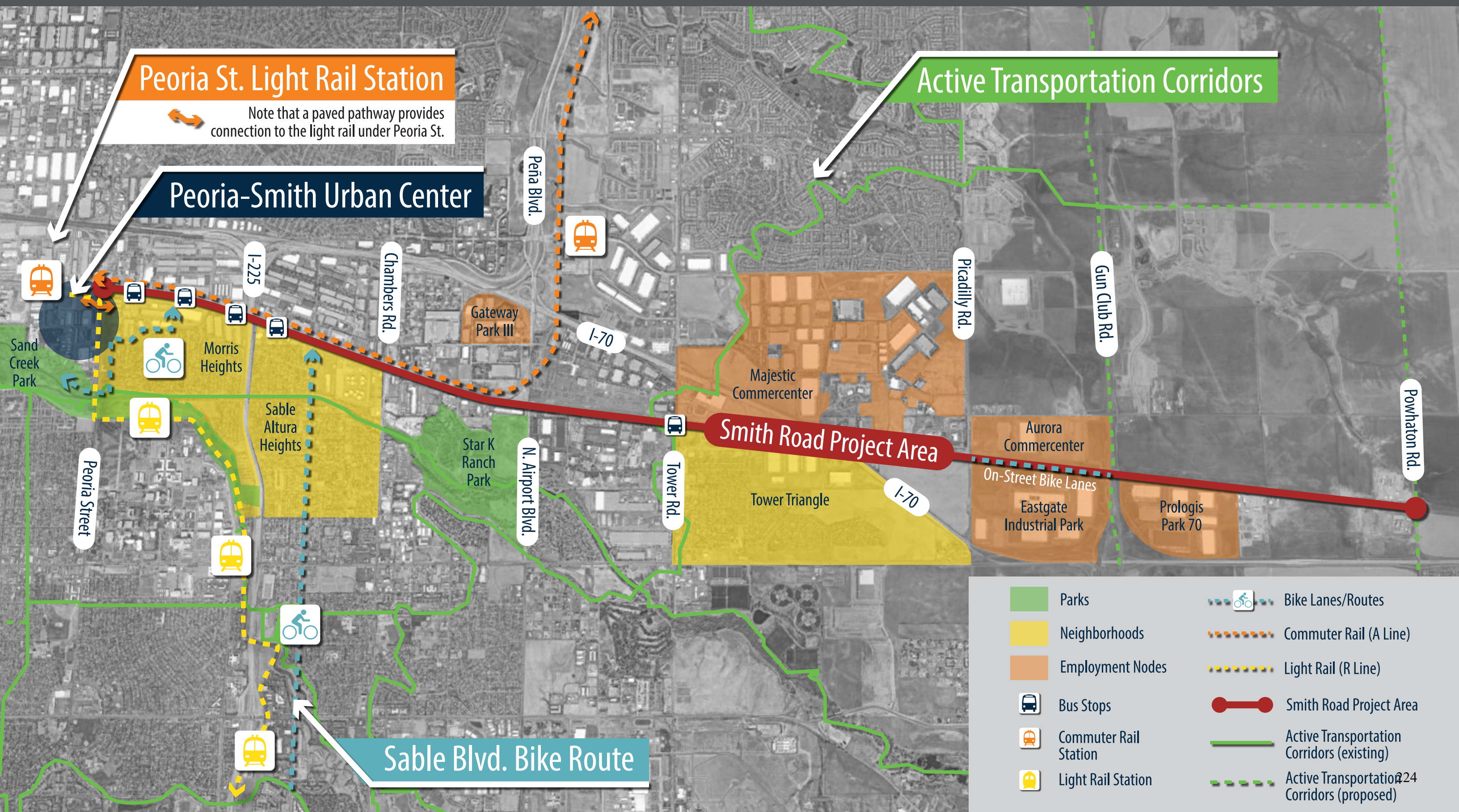
☒ Yes ☐ No ☐ N/A

Please provide any additional details on the items in Section 3, if applicable.

Submit completed applications through the [TIP Data Hub](#) no later than 3pm on June 24, 2022.

B: Project Location Graphic

Attachment 1 - Project Area Key Features



C: Cost Estimate

Smith Road Multimodal Design - Cost Estimate

Smith Rd		Length (Miles)	Est. Construction Cost	\$/Mile
From	To			
Peoria St	N Chambers Rd	2.04	\$10,003,000	\$4,911,274
N Chambers Rd	Tower Rd	2.06	\$9,736,000	\$4,726,127
Tower Rd	Picadilly Rd	2.01	\$10,973,000	\$5,449,858
Picadilly	E-470	0.95	\$1,783,000	\$1,871,618
E-470	N Gun Club Rd	0.57	\$2,738,068	\$4,819,000
Gun Club Powhatton	Powhatton Rd	1.50	\$11,100,000	\$7,400,000
Total		9.13	\$46,333,068	

Preliminary Design Fee Estimate	
Construction (2022 Dollars)	\$46,333,068
60% Design (% of Construction)	10%
60% Design (2022 Dollars)	\$4,633,306.82
Annual Escalation	8%
60% Design (2023 Dollars)	\$5,000,000

10% Match	\$500,000
FY 2023	\$75,000
FY 2024	\$425,000

90% Funding Request	\$4,500,000
FY 2023	\$750,000
FY 2024	\$3,750,000

Project Cost Estimate

Smith Road Widening - Peoria to Chambers

Project Name: Smith Road Widening Grant Application

Project Number: N/A

County: Adams

Sub-Account Number: N/A

Route: Smith Rd

Region: N/A

Begin MP:

Project Description

End MP:

PROJECT MAJOR CONSTRUCTION ITEMS

Major Construction Items	Unit	Unit Cost	Quantity	Cost
202-00200 Removal of Sidewalk	SY	\$18.00	0	\$0.00
202-00220 Removal of Asphalt Mat	SY	\$4.20	3,585	\$15,055.60
202-00240 Removal of Asphalt Mat (Planing)	SY	\$2.40	54,444	\$130,666.67
203-00010 Unclassified Excavation (Complete In Place)	CY	\$14.40	7,848	\$113,012.93
304-06000 Aggregate Base Course (Class 6)	CY	\$57.60	3,135	\$180,576.00
403-34721 Hot Mix Asphalt (Grading SX) (75) (PG 58-28) 2" Overlay	TON	\$108.00	7,200	\$777,600.00
403-34721 Hot Mix Asphalt (Grading SX) (75) (PG 58-28) Full Depth	TON	\$108.00	5,580	\$602,640.00
608-00010 Concrete Curb Ramp	SY	\$72.00	120	\$8,640.00
609-21020 Curb and Gutter Type 2 (Section II-B)	LF	\$36.00	14,900	\$536,400.00
608-00006 Concrete Sidewalk (6 Inch)	SY	\$80.00	19,280	\$1,542,400.00
603-01245 24 Inch Reinforced Concrete Pipe (Complete In Place)	LF	\$168.00	4,340	\$729,120.00
604-19105 Inlet Type R L 5 (5 Foot)	EA	\$8,880.00	43	\$381,840.00
604-30005 Manhole Slab Base (5 Foot)	EA	\$6,840.00	25	\$171,000.00
Estimated Cost: Remaining Major Items			5.00%	\$259,447.56
			Estimated Cost Major Items	\$5,448,399
Other Structures	Unit	Unit Cost	Quantity	Cost
Walls	SF	\$60	12,700	\$762,000.00
Traffic Items				
Signalized Intersection Modification	LS	\$10,000	1	\$10,000.00
RRFB	EA	\$20,000	3	\$60,000.00
Striping	LS	\$65,000	1	\$65,000.00
			0	\$0.00
Other				
			0	\$0.00
			A. Total Major Items	\$6,345,399

	Major Item Cost	%	Category Cost
B-1 Drainage/Water Quality	10.0%	of A	\$634,540
B-2 Earthwork	1.0%	of A	\$63,454
B-3 Environmental	1.0%	of A	\$63,454
B-5 Miscellaneous	2.5%	of A	\$158,635
B-6 Mobilization	1.8%	of A	\$112,314
B-7 Removals/Resets	5.0%	of A	\$317,270
B-8 Roadway	5.0%	of A	\$317,270
B-9 Signing and Striping	1.0%	of A	\$63,454
B-10 Traffic/Lighting/ITS	0.0%	of A	\$0
B-11 Traffic Control/Detour	10.0%	of A	\$634,540
B-12 Structural - Minor Structural/Walls	2.0%	of A	\$126,908
B-13 Bid Force Accounts	2.0%	of A	\$126,908
B. TOTAL OF BID CONSTRUCTION ITEMS			\$8,964,145
C-1 Force Account - Misc.	2.0%	of B	\$179,283
C-2 Minor Contract Revisions	2.0%	of B	\$179,283
C. TOTAL BID CONSTRUCTION & FORCE ACCOUNT ITEMS			\$9,322,711
D-1 Design Engineering (Includes Design, SUE, Survey, ROW Acquisition)	0.0%	of C	\$0
D-2 Construction Engineering	2.0%	of C	\$186,454
D. TOTAL PROJECT DESIGN AND CONSTRUCTION			\$9,509,165
E-1 Right-of-Way	2.0%	of D	\$190,183
E-2 Utilities	2.0%	of D	\$190,183
E. TOTAL PROJECT DESIGN AND CONSTRUCTION			\$9,889,531
F. CONTINGENCY	20.0%	of D1,D2,E1,E2	\$113,364
G. TOTAL PROJECT COST ESTIMATE			\$10,003,000

Project Cost Estimate

Smith Road Widening - Chambers to Tower

Project Name: Smith Road Widening Grant Application

Project Number: N/A

County: Adams

Sub-Account Number: N/A

Route: Smith Rd

Region: N/A

Begin MP:

Project Description

End MP:

PROJECT MAJOR CONSTRUCTION ITEMS

Major Construction Items	Unit	Unit Cost	Quantity	Cost
202-00200 Removal of Sidewalk	SY	\$18.00	244	\$4,400.00
202-00220 Removal of Asphalt Mat	SY	\$4.20	3,626	\$15,227.80
202-00240 Removal of Asphalt Mat (Planing)	SY	\$2.40	55,778	\$133,866.67
203-00010 Unclassified Excavation (Complete In Place)	CY	\$14.40	9,575	\$137,881.20
304-06000 Aggregate Base Course (Class 6)	CY	\$57.60	6,420	\$369,792.00
403-34721 Hot Mix Asphalt (Grading SX) (75) (PG 58-28) 2" Overlay	TON	\$108.00	7,420	\$801,360.00
403-34721 Hot Mix Asphalt (Grading SX) (75) (PG 58-28) Full Depth	TON	\$108.00	12,062	\$1,302,696.00
608-00010 Concrete Curb Ramp	SY	\$72.00	50	\$3,600.00
609-21020 Curb and Gutter Type 2 (Section II-B)	LF	\$36.00	4,393	\$158,148.00
608-00006 Concrete Sidewalk (6 Inch)	SY	\$80.00	3,520	\$281,600.00
603-01245 24 Inch Reinforced Concrete Pipe (Complete In Place)	LF	\$168.00	7,850	\$1,318,800.00
604-19105 Inlet Type R L 5 (5 Foot)	EA	\$8,880.00	13	\$115,440.00
604-30005 Manhole Slab Base (5 Foot)	EA	\$6,840.00	16	\$109,440.00
Estimated Cost: Remaining Major Items			5.00%	\$237,612.58
			Estimated Cost Major Items	\$4,989,864
Other Structures	Unit	Unit Cost	Quantity	Cost
Walls	SF	\$60	0	\$0.00
Traffic Items				
Signalized Intersection Modification	LS	\$375,000	1	\$375,000.00
Full Signalized Intersection Rebuild	LS	\$750,000	1	\$750,000.00
RRFB	EA	\$20,000	0	\$0.00
Striping	LS	\$61,000	1	\$61,000.00
Other				
			0	\$0.00
			A. Total Major Items	\$6,175,864

	Major Item Cost	%	Category Cost
B-1 Drainage/Utilities	10.0%	of A	\$617,586
B-2 Earthwork	1.0%	of A	\$61,759
B-3 Environmental	1.0%	of A	\$61,759
B-5 Miscellaneous	2.5%	of A	\$154,397
B-6 Mobilization	1.8%	of A	\$109,313
B-7 Removals/Resets	5.0%	of A	\$308,793
B-8 Roadway	5.0%	of A	\$308,793
B-9 Signing and Striping	1.0%	of A	\$61,759
B-10 Traffic/Lighting/ITS	0.0%	of A	\$0
B-11 Traffic Control/Detour	10.0%	of A	\$617,586
B-12 Structural - Minor Structural/Walls	2.0%	of A	\$123,517
B-13 Bid Force Accounts	2.0%	of A	\$123,517
B. TOTAL OF BID CONSTRUCTION ITEMS			\$8,724,643
C-1 Force Account - Misc.	2.0%	of B	\$174,493
C-2 Minor Contract Revisions	2.0%	of B	\$174,493
C. TOTAL BID CONSTRUCTION & FORCE ACCOUNT ITEMS			\$9,073,629
D-1 Design Engineering (Includes Design, SUE, Survey, ROW Acquisition)	0.0%	of C	\$0
D-2 Construction Engineering	2.0%	of C	\$181,473
D. TOTAL PROJECT DESIGN AND CONSTRUCTION			\$9,255,102
E-1 Right-of-Way (28,466sf @ \$6/sf)	2.0%	of D	\$185,102
E-2 Utilities	2.0%	of D	\$185,102
E. TOTAL PROJECT DESIGN AND CONSTRUCTION			\$9,625,306
F. CONTINGENCY	20.0%	of D1,D2,E1,E2	\$110,335
G. TOTAL PROJECT COST ESTIMATE			\$9,736,000

Project Cost Estimate

Smith Road Widening - Tower to Picadilly

Project Name: Smith Road Widening Grant Application

Project Number: N/A

County: Adams

Sub-Account Number: N/A

Route: Smith Rd

Region: N/A

Begin MP:

Project Description

End MP:

PROJECT MAJOR CONSTRUCTION ITEMS

Major Construction Items	Unit	Unit Cost	Quantity	Cost
202-00200 Removal of Sidewalk	SY	\$18.00	267	\$4,800.00
202-00220 Removal of Asphalt Mat	SY	\$4.20	4,605	\$19,340.53
202-00240 Removal of Asphalt Mat (Planing)	SY	\$2.40	38,222	\$91,733.33
203-00010 Unclassified Excavation (Complete In Place)	CY	\$14.40	16,352	\$235,463.60
304-06000 Aggregate Base Course (Class 6)	CY	\$57.60	11,450	\$659,520.00
403-34721 Hot Mix Asphalt (Grading SX) (75) (PG 58-28) 2" Overlay	TON	\$108.00	5,080	\$548,640.00
403-34721 Hot Mix Asphalt (Grading SX) (75) (PG 58-28) Full Depth	TON	\$108.00	20,350	\$2,197,800.00
608-00010 Concrete Curb Ramp	SY	\$72.00	100	\$7,200.00
609-21020 Curb and Gutter Type 2 (Section II-B)	LF	\$36.00	8,230	\$296,280.00
608-00006 Concrete Sidewalk (6 Inch)	SY	\$80.00	6,970	\$557,600.00
603-01245 24 Inch Reinforced Concrete Pipe (Complete In Place)	LF	\$168.00	9,770	\$1,641,360.00
604-19105 Inlet Type R L 5 (5 Foot)	EA	\$8,880.00	18	\$159,840.00
604-30005 Manhole Slab Base (5 Foot)	EA	\$6,840.00	25	\$171,000.00
Estimated Cost: Remaining Major Items			5.00%	\$329,528.87
			Estimated Cost Major Items	\$6,920,106
Other Structures	Unit	Unit Cost	Quantity	Cost
Walls	SF	\$60	0	\$0.00
Traffic Items				
Signalized Intersection Modification	LS	\$385,000	0	\$0.00
RRFB	EA	\$20,000	0	\$0.00
Striping	LS	\$41,000	1	\$41,000.00
			0	\$0.00
Traffic Items				
			0	\$0.00
			A. Total Major Items	\$6,961,106

	Major Item Cost	%	Category Cost
B-1 Drainage/Utilities	10.0%	of A	\$696,111
B-2 Earthwork	1.0%	of A	\$69,611
B-3 Environmental	1.0%	of A	\$69,611
B-5 Miscellaneous	2.5%	of A	\$174,028
B-6 Mobilization	1.8%	of A	\$123,212
B-7 Removals/Resets	5.0%	of A	\$348,055
B-8 Roadway	5.0%	of A	\$348,055
B-9 Signing and Striping	1.0%	of A	\$69,611
B-10 Traffic/Lighting/ITS	0.0%	of A	\$0
B-11 Traffic Control/Detour	10.0%	of A	\$696,111
B-12 Structural - Minor Structural/Walls	2.0%	of A	\$139,222
B-13 Bid Force Accounts	2.0%	of A	\$139,222
B. TOTAL OF BID CONSTRUCTION ITEMS			\$9,833,955
C-1 Force Account - Misc.	2.0%	of B	\$196,679
C-2 Minor Contract Revisions	2.0%	of B	\$196,679
C. TOTAL BID CONSTRUCTION & FORCE ACCOUNT ITEMS			\$10,227,313
D-1 Design Engineering (Includes Design, SUE, Survey, ROW Acquisition)	0.0%	of C	\$0
D-2 Construction Engineering	2.0%	of C	\$204,546
D. TOTAL PROJECT DESIGN AND CONSTRUCTION			\$10,431,859
E-1 Right-of-Way (28,466sf @ \$6/sf)	2.0%	of D	\$208,637
E-2 Utilities	2.0%	of D	\$208,637
E. TOTAL PROJECT DESIGN AND CONSTRUCTION			\$10,849,134
F. CONTINGENCY	20.0%	of D1,D2,E1,E2	\$124,364
G. TOTAL PROJECT COST ESTIMATE			\$10,973,000

Project Cost Estimate

Smith Road Widening - Picadilly to E-470

Project Name: Smith Road Widening Grant Application

Project Number: N/A

County: Adams

Sub-Account Number: N/A

Route: Smith Rd

Region: N/A

Begin MP:

Project Description:

End MP:

PROJECT MAJOR CONSTRUCTION ITEMS

Major Construction Items	Unit	Unit Cost	Quantity	Cost
202-00200 Removal of Sidewalk	SY	\$18.00	0	\$0.00
202-00220 Removal of Asphalt Mat	SY	\$4.20	1,118	\$4,694.67
202-00240 Removal of Asphalt Mat (Planing)	SY	\$2.40	0	\$0.00
203-00010 Unclassified Excavation (Complete In Place)	CY	\$14.40	291	\$4,193.65
304-06000 Aggregate Base Course (Class 6)	CY	\$57.60	2,341	\$134,841.60
403-34721 Hot Mix Asphalt (Grading SX) (75) (PG 58-28) 2" Overlay	TON	\$108.00	0	\$0.00
403-34721 Hot Mix Asphalt (Grading SX) (75) (PG 58-28) Full Depth	TON	\$108.00	4,170	\$450,360.00
608-00010 Concrete Curb Ramp	SY	\$72.00	0	\$0.00
609-21020 Curb and Gutter Type 2 (Section II-B)	LF	\$36.00	0	\$0.00
608-00006 Concrete Sidewalk (6 Inch)	SY	\$80.00	2,236	\$178,844.44
603-01245 24 Inch Reinforced Concrete Pipe (Complete In Place)	LF	\$168.00	0	\$0.00
604-19105 Inlet Type R L 5 (5 Foot)	EA	\$8,880.00	0	\$0.00
604-30005 Manhole Slab Base (5 Foot)	EA	\$6,840.00	0	\$0.00
Estimated Cost: Remaining Major Items			5.00%	\$38,646.72
			Estimated Cost Major Items	\$811,581
Other Structures	Unit	Unit Cost	Quantity	Cost
Walls	SF	\$60		\$0.00
Traffic Items				
Signalized Intersection Modification	LS	\$385,000		\$0.00
RRFB	EA	\$20,000		\$0.00
Striping	LS			\$0.00
			0	\$0.00
Traffic Items				
			0	\$0.00
			A. Total Major Items	\$811,581

	Major Item Cost	%	Category Cost
B-1 Drainage/Utilities	5.0%	of A	\$40,579
B-2 Earthwork	1.0%	of A	\$8,116
B-3 Environmental	2.0%	of A	\$16,232
B-5 Miscellaneous	2.5%	of A	\$20,290
B-6 Mobilization	3.0%	of A	\$24,347
B-7 Removals/Resets	2.0%	of A	\$16,232
B-8 Roadway	5.0%	of A	\$40,579
B-9 Signing and Striping	5.0%	of A	\$40,579
B-10 Traffic/Lighting/ITS	0.0%	of A	\$0
B-11 Traffic Control/Detour	5.0%	of A	\$40,579
B-12 Structural - Minor Structural/Walls	0.0%	of A	\$0
B-13 Bid Force Accounts	2.0%	of A	\$16,232
B. TOTAL OF BID CONSTRUCTION ITEMS			\$1,075,345
C-1 Force Account - Misc.	2.0%	of B	\$21,507
C-2 Minor Contract Revisions	2.0%	of B	\$21,507
C. TOTAL BID CONSTRUCTION & FORCE ACCOUNT ITEMS			\$1,118,359
D-1 Design Engineering (Includes Design, SUE, Survey, ROW Acquisition)	18.0%	of C	\$201,305
D-2 Construction Engineering	8.0%	of C	\$89,469
D. TOTAL PROJECT DESIGN AND CONSTRUCTION			\$1,409,132
E-1 Right-of-Way (28,466sf @ \$6/sf)	12.1%	of D	\$170,796
E-2 Utilities	5.0%	of D	\$70,457
E. TOTAL PROJECT DESIGN AND CONSTRUCTION			\$1,650,385
F. CONTINGENCY	25.0%	of D1,D2,E1,E2	\$133,006
G. TOTAL PROJECT COST ESTIMATE			\$1,783,000

	<u>TABLE 2B</u> <u>ITEM</u>	<u>UNIT COST</u>	<u>SECTION</u> <u>WIDTH</u>	<u>QTY PER LF</u>	<u>COST PER LF</u>
	CLEAR & GRUB	\$0.18 /SF	86 FT	86.00 SF	\$15.48
	GRADING / COMPACTION (assume 36" avg cut/fill w/ 3:1 side-slopes)	\$25.00 /CY	86 FT	5.33 CY	\$133.33
	SCARIFY & RECOMPACT (12")	\$20.00 /CY	62 FT	2.30 CY	\$45.93
	ASPHALT PAVEMENT (7.5")	\$108.00 /TON	62 FT	2.97 TONS	\$320.85
	AGGREGATE BASE COURSE (14")	\$57.60 /CY	62 FT	2.68 CY	\$154.31
	CURB & GUTTER	\$42.00 /LF	2 FT	4.00 LF	\$168.00
	CONCRETE SIDEWALK (6") ON SCARIFY & RECOMPACT (6")	\$80.00 /SY	14 FT	1.56 SY	\$124.44
	MEDIAN LANDSCAPING (irrigation, planting, trees)	\$10.00 /SF	8 FT	7.50 SF	\$75.00
	TREE LAWN LANDSCAPING	\$7.00 /SF	8 FT	7.50 SF	\$52.50
	EROSION CONTROL / SEEDING	\$0.63 /SF	8 FT	7.50 SF	\$4.73
	ROADWAY LIGHTING	\$133.00 /EA		1.00 EA	\$133.00
	SIGNING / STRIPING/ INTERCONNECT				\$0.00
	WORK ZONE TRAFFIC CONTROL	\$31.25 /EA		1.00 EA	\$31.25
	TYPICAL ROADWAY DRAINAGE	\$87.00 /EA		1.00 EA	\$87.00
	TYPICAL 8" WATER LINE, FITTINGS AND HYDRANTS				\$0.00
	TYPICAL 8" SANITARY SEWER AND MANHOLES				\$0.00
	MOBILIZATION / CONSTRUCTION SURVEY	\$37.50 /EA		1.00 EA	\$37.50
	BUS STOP PADS/ SHELTER				\$0.00
TOTAL ROADWAY COST/LF					\$1,383.32
TOTAL ROADWAY COST PER MILE					\$7,303,928.62
TOTAL ROADWAY COST PER MILE ROUNDED UP TO NEAREST \$100K					\$7,400,000.00

D: CDOT/RTD Concurrence



COLORADO

Department of Transportation

Region 1

June 10, 2022

Carlie Campuzano
Traffic Manager
City of Aurora
15151 E. Alameda Parkway
Aurora, CO 80012

RE: CDOT Region 1 Support Request for DRCOG TIP Subregional Call FY22-FY25

Dear Ms. Campuzano,

This letter is to inform you that the Colorado Department of Transportation (CDOT) Region 1 concurs with the following City of Aurora application for the Denver Regional Council of Governments (DRCOG) Subregional FY22-25 Transportation Improvement Program (TIP) Call. This concurrence applies only for the Smith Road Bicycle Pedestrian Multiuse Path between Peoria Station and Powhatan Road project, in the event this project is selected by DRCOG as a subregional project on or around August/September 2022. If this subregional project is awarded DRCOG funds at a later date, the local agency will need to submit a separate request for CDOT's concurrence at that time. The project as constructed will be maintained by the local agency, and not by CDOT.

Projects impacting state highways should assume that CDOT will manage the project and that the local agency is responsible for payment of CDOT's work, including indirect charges. An accurate project cost estimation, that accounts for cost escalation, is vital to the success of a project. Please note that per the DRCOG TIP Policy, if project costs increase on DRCOG-selected projects or the cost estimate is low, sponsors must make up any shortfalls. Regardless of CDOT's concurrence or support, sponsors should have no expectation of CDOT funding being available to help cover any funding shortfalls.

This concurrence is conditionally granted based on the scope as described. CDOT does however retain final decision-making authority for all improvements and changes within CDOT's right of way. As the project progresses the local agency will need to work closely with CDOT Region staff to ensure CDOT's continued concurrence.

This project must comply with all CDOT and/or Federal Highway Administration (FHWA) requirements including those associated with clearance for Right of Way, Utilities, and Environmental. All costs associated with clearances including right of way acquisition, utilities relocation, and environmental mitigation measures must be included in the project costs. CDOT staff will assist you in determining which clearances are required for your project. The CDOT Local Agency Manual includes project requirements to assist with contracting, design, and construction, which can be accessed at:

https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual

Should you have any questions regarding this concurrence or if your agency would like to schedule time to meet with CDOT specialty units, please contact JoAnn Mattson at (303) 757-9866.

Sincerely,

Jessica Myklebust
CDOT Region 1 Transportation Director



From: [Christopher Quinn](#)
To: [Worker-Braddock, Tom](#)
Cc: tipapplications@drcog.org; [Callison, Mac](#); [Campuzano, Carlie](#); [Liu, Huiliang](#); [Todd Cottrell](#)
Subject: RE: City of Aurora RTD Concurrence letter requests
Date: Thursday, May 26, 2022 3:27:29 PM
Attachments: [image002.jpg](#)
[image003.png](#)

Hi Tom,

This email is to provide RTD's concurrence with the City of Auroras TIP applications for:

- Aurora Citywide Multimodal Transportation Master Plan
- Citywide Sidewalk Multimodal Access Improvement
- Smith Road Bicycle Pedestrian Multiuse Path between Peoria Station and Powhaton Road

Please continue to coordinate with RTD on any project components that might impact an existing RTD facility.

Let me know if I can provide any additional information.

Thanks

Chris

Chris Quinn

Project Manager

Planning

he | him | his

o. 303.299.2439

chris.quinn@rtd-denver.com

rtd-denver.com



Regional Transportation District
1660 Blake Street, BLK-21
Denver, CO 80202

We make lives better through connections.

From: Worker-Braddock, Tom <tworker@auroragov.org>
Sent: Friday, May 13, 2022 12:14 PM
To: Christopher Quinn <Chris.Quinn@RTD-Denver.com>
Cc: tipapplications@drcog.org; Callison, Mac <Mcalliso@auroragov.org>; Campuzano, Carlie <ccampuza@auroragov.org>; Liu, Huiliang <hliu@auroragov.org>
Subject: City of Aurora RTD Concurrence letter requests

Hi Chris,

Please see the 3 attached requests for RTD concurrence from the City of Aurora. Please let me know if you have any questions.

Thanks,

Tom

Tom Worker-Braddock, AICP, PTP
Senior Transportation Planner | City of Aurora
Direct 303-739-7340 | tworker@auroragov.org

Core 4



[Facebook](#) | [Twitter](#) | [Instagram](#) | [Nextdoor](#) | [AuroraTV.org](#)

E: Emissions Calculations

Bicycle and Pedestrian Improvements

Navigator

Bicycle and Pedestrian Improvements

This calculator will estimate the reduction in emissions resulting from improvements to bicycle and pedestrian infrastructure and associated mode shift from passenger vehicles to bicycling or walking, including but not limited to sidewalks, dedicated bicycle infrastructure, improved wayfinding, mid-block crossing installations, bike share systems, and bike parking improvements.

INPUT

(1) What is your project evaluation year?

(2) Estimate the shift in daily motorized passenger vehicle trips to non-motorized travel due to the bicycle and pedestrian project.

Daily Passenger Vehicle Trips

Before	After	Change
<input type="text" value="100,000"/>	<input type="text" value="93000"/>	<input type="text" value="7000"/>

(3a) Select the data type used for entering the typical one-way trip distance of passenger vehicles below:

Trip Distance Source

(3b) If you selected "Average" above, enter the typical one-way trip distance. If you selected "Distribution" above, enter the typical distribution of one-way trip distances.

Typical Trip Distance (miles one way)

Distribution of Trip Distances (daily fraction per mileage bin)

$x < 1$	$1 \leq x < 2$	$2 \leq x < 3$	$3 \leq x < 4$	$4 \leq x \leq 5$	Sum
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

OUTPUT

EMISSION REDUCTIONS

Pollutant	Total
Carbon Monoxide (CO)	140.208
Particulate Matter <2.5 μm (PM _{2.5})	0.577
Particulate Matter <10 μm (PM ₁₀)	2.484
Nitrogen Oxide (NOx)	8.389
Volatile Organic Compounds (VOC)	4.404
Carbon Dioxide Equivalent (CO ₂ e)	20747.623
Total Energy Consumption (MMBTU/day)	272.310

*Units in kg/day unless otherwise noted

F: Project Support Letters



June 21, 2022

Adams County Subregional Forum
4430 S. Adams County Pkwy.
Brighton, CO 80601-8204

**Re: Project Support of Denver Regional Council of Governments (DRCOG) Grant
Application for Smith Road Multiuse Path**

Dear Members of the TIP Evaluation Committee,

The Adams County Board of Commissioners of Colorado fully supports the City of Aurora's DRCOG Transportation Improvement Program (TIP) application for the Smith Road Bicycle-Pedestrian Multiuse Path project. The path will run from Peoria Station and Powhatan Rd. and will address a critical gap in the area's active transportation network. Smith Rd. is a freight corridor, and this multiuse path will improve safety and increase comfort for pedestrians and bicyclists traveling in the area. The city will be developing final design plans for the multiuse path to improve first/last mile connections to transit and provide access to different transportation modal options for area travelers. This project will serve multiple manufacturing, distribution, and logistics centers in north central Aurora (Aerotropolis).

Adams County actively promotes improving facilities to include all modes of transportation. The Smith Road multiuse path will support the local community, as well as provide reliable transportation options for employees at growing logistics and distribution centers in the City of Aurora. The TIP grant application provides a great opportunity to improve area mobility and air quality by focusing on improving bicycle and pedestrian facilities on Smith Road.

Sincerely,

Lynn Baca
Chair, Adams County Board of Commissioners

BOARD OF COUNTY COMMISSIONERS

Eva J. Henry
DISTRICT 1

Charles "Chaz" Tedesco
DISTRICT 2

Emma Pinter
DISTRICT 3

Steve J. O'Dorisio
DISTRICT 4

Lynn E. Baca
DISTRICT 5 239

CC: Adams County Board of Commissioners
Alisha Reis, Interim County Manager
Byron Fanning, Interim Deputy County Manager
Brian Staley, Director, Public Works
Janet Lundquist, Deputy Director, Public Works

FY2022-2027 TIP PROCESS: REQUEST FOR PEER AGENCY SUPPORT

Complete the sections with green headers below, then provide this form to the agency you are requesting support from. That agency will complete the blue section and return the form. Providing additional project materials and attending meetings of the agency/forum from whom support is requested is encouraged.

☐ 22-25 Regional Call ☒ 22-25 Subregional Call ☐ 24-27 Regional Call ☐ 24-27 Subregional Call

APPLICANT INFORMATION

1. Who is requesting support?	Subregional Forum: Adams County Forum	Local Agency: City of Aurora
-------------------------------	---------------------------------------	------------------------------

2. Project Sponsor: City of Aurora

3. Current Supporting Agency(ies):

4. Contact Person: Carlie Campuzano
Email: ccampuza@auroragov.org

Title: Traffic Manager
Phone: 303.739.7309

PROJECT DESCRIPTION

5. Project Title: Smith Road Bicycle - Pedestrian Multiuse Path between Peoria Station and Powhatan Road

Total Project Cost: \$5,000,000

Project Location: Smith Road

Project Limits: (mileposts, intersecting roads, rivers, etc.) Between Peoria Station and Powhatan Road

County: Adams County

Municipality(ies): City of Aurora, CO

Project Length: 9.3 Miles

Brief Description of Project: Develop final design plans for a multiuse path along Smith Road between Peoria Station and Powhatan Road to improve first / last mile connections to transit, and increase multi-modal access to the manufacturing, distribution and logistics centers and the general Aerotropolis area in north central Aurora. This multiuse path, when constructed in the future will improve safety and comfort for pedestrians and bicyclists traveling along Smith Road currently with only soft shoulders and heavy freight traffic.

SUPPORT REQUEST

6. Based on who is requesting support (see #1), from whom are you requesting support? *If you are requesting support from multiple forums or local agencies, please fill out and send a separate form to each.*

☐ Subregional Forum, Specify: Arapahoe County Forum

☐ Local Agency, Specify:

7. Type of Support Requested:

☒ Support Only

☐ Financial Pledge: ☐ Subregional Funds: Amount:

☐ Local (non-DRCOG) Funds: Amount:

8. Please type your name and date below which certifies the above information is accurate and complete:

Name: Tom Worker-Braddock

Date: May 25th, 2022

RESPONSE (to be completed by agency/subregion from whom support is requested)

9. The forum/agency in #1 above has requested for you to support their project. Who are you?
Subregional Forum: Arapahoe County Local Agency:

10. Contact person at supporting forum/agency: Bryan Weimer

Title: ArapCo Forum TC

Email: bweimer@arapahogov.com

Phone: 720-874-6521

Chair

11. Does your subregion/agency support this project? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
12. Does your subregion/agency pledge financial support to this project, if requested?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	
If yes, provide amount: \$ Fiscal year(s) funds are provided in:	
If yes, where are funds coming from:	
<input type="checkbox"/> Local Agency (i.e., non-DRCOG funds)	
<input type="checkbox"/> Subregional Funding Target (forum must approve)	
13. Please enter your name and date below which certifies the above information is accurate and complete, and your subregion/agency will honor any financial commitments made above:	
Name: Bryan Weimer	Date: 6-16-22



June 14th, 2022

Adams County Subregional Forum – Commissioner Steve O’Dorisio
C/O Chris Chovan
Senior Transportation and Mobility Planner
4430 South Adams County Parkway
Brighton, CO 80601-8204

Dear Adams Subregional Forum TIP Evaluation Committee:

We are writing in support of the City of Aurora’s DRCOG Transportation Improvement Program (TIP) application for the “Smith Road Bicycle – Pedestrian Multiuse Path between Peoria Station and Powhaton Road” project. The city proposes to address a critical gap in the city’s active transportation network by developing final design plans for a multiuse path to improve first/last mile connections to transit, modal options, and transportation choice to the manufacturing, distribution and logistics centers and the general Aerotropolis area in north central Aurora. This multiuse path, when constructed in the future will improve safety and comfort for pedestrians and bicyclists traveling along Smith Road, which experiences heavy freight traffic and currently only has soft shoulders.

Our organization supports any project that makes it safer and more comfortable for employees to walk or bike to any number of the businesses in the still growing concentration of logistics and distribution centers in this part of Aurora. The addition of a pedestrian and bicycle multiuse path on Smith Road will increase access to jobs for persons who may not currently have a reliable automobile and will assist in increased employee retention for businesses.

Please contact me if you have any questions.

Sincerely,

Kevin Hougen

President/CEO

Aurora Chamber of Commerce

14305 EAST ALAMEDA AVENUE, SUITE 300
AURORA, CO 80012
303-344-1500
Fax 303-344-1564
www.aurorachamber.org



23 June 2022

Adams County Subregional Forum – Commissioner Steve O’Dorisio
C/O Chris Chovan
Senior Transportation and Mobility Planner
4430 South Adams County Parkway
Brighton, CO 80601-8204

Re: City of Aurora’s DRCOG Transportation Improvement Program (TIP) application for the “Smith Road Bicycle – Pedestrian Multiuse Path between Peoria Station and Powhaton Road

Dear Adams Subregional Forum TIP Evaluation Committee:

We are writing in support of the City of Aurora’s DRCOG Transportation Improvement Program (TIP) application for the “Smith Road Bicycle – Pedestrian Multiuse Path between Peoria Station and Powhaton Road” project. The city proposes to address a critical gap in the city’s active transportation network by developing final design plans for a multiuse path to improve first/last mile connections to transit, modal options, and transportation choice to the manufacturing, distribution and logistics centers and the general Aerotropolis area in north central Aurora. This multiuse path, when constructed in the future will improve safety and comfort for pedestrians and bicyclists traveling along Smith Road, which experiences heavy freight traffic and currently only has soft shoulders.

Our organization supports any project that makes it safer and more comfortable for employees to walk or bike to any number of the businesses in the still growing concentration of logistics and distribution centers in this part of Aurora. The addition of a pedestrian and bicycle multiuse path on Smith Road will increase access to jobs for persons who may not currently have a reliable automobile and will assist in increased employee retention for businesses.

Please contact me if you have any questions.

Sincerely,

Tom Tobiassen, President
Bicycle Aurora
tjtobiassen@gmail.com
303-915-2351

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

June 2, 2022

Members Present: Council Member (CM) Juan Marcano, Chair; Council Member (CM) Alison Coombs, Vice-Chair; Council Member (CM) Crystal Murillo (absent)

Others Present: Jack Bajorek, Daniel Brotzman, Traci Burton, Mac Callison, Carlie Campuzano, Lynne Center, Cindy Colip, Michelle Gardner, Karen Hancock, Huiliang Liu, Matthew Kozakowski, Daniel Krzyzanowski, Julie Patterson, Mindy Parnes, Victor Rachael, Jeannine Rustad, Elly Watson, Tom Worker-Braddock

1. WELCOME AND INTRODUCTION

2. APPROVAL OF MINUTES

The minutes for the April 28, 2022 TAPS meeting were approved as written.

3. CONSENT ITEMS (None)

4. GENERAL BUSINESS

4.a. DRCOG 2022-2027 Transportation Improvement Program (TIP) Project Application Update and Infrastructure Investment & Jobs Act Overview**Summary of Issue and Discussion:**

Mac Callison, Matt Kozakowski, Cindy Colip, and Huiliang Liu presented an update on the Denver Regional Council of Governments (DRCOG) 2022 to 2027 TIP Project application and an overview of the Infrastructure Investment and Jobs Act (IIJA). For Call 2, the TIP is providing \$451 million from varying sources from both state and federal funding for transportation projects in the Metroplex. It provides regional funding for regionally and sub-regionally significant projects. Aurora is within the Adams County and Arapahoe County Subregions.

The Infrastructure Investment and Jobs Act (IIJA) created 25% additional funding from the prior authorization act. This bill is a five-year authorization bill with annual appropriation bills attached to it. There are additional discretionary grant opportunities available at two regional agencies, the State Department of Transportation (DOT), and local jurisdictions. Adams County represents 15.5% of the total regional shares with \$23.9 million available and Arapahoe County covers 18.5% with \$28.9 million in available funding. The funding amounts will ebb and flow slightly as additional formula finalization of numbers from the US DOT come through to the Colorado Department of Transportation (CDOT) and CDOT disseminates those to the Metropolitan Planning Organizations (MPOs) such as DRCOG. Call 2 projects need to be submitted because the Congestion Mitigation and Air Quality Improvement Program (CMAQ) and Senate Bill 21-260 multimodal transportation and mitigation options fund (MTMOF) have a completion date of 2026.

Call 2 consists of four selection criteria: sub regional impact for 30%, Metro Vision Regional Transportation Plan (RTP) priorities for 50%, leveraging for 10%, and project readiness for 10%. Sub regional impact addresses environmental justice, marginalized populations, jurisdictions, beneficiaries, and shared outcomes. The Metro Vision RTP priorities include multimodal options, air quality outcomes, transit system support, safety, freight systems, goods movements, and active transportation infrastructure and programs. There is a higher criterion point award for projects matched above the minimum 10% for the Multimodal Options Fund and 20% for the Surface Transportation Block Grant (STBG) Funding. Project readiness accounts for design and construction projects with National Environmental Policy Act (NEPA) clearance, railroad, waters, wetland involvement, etc. Applications for Call 2 are due on June 24, 2022. Once they are submitted, DRCOG will review them in terms of project eligibility and provide a scoring. The DRCOG scoring is advisory. Then, it will be placed within the Arapahoe and Adams County Forums. The forums will then render a recommendation to the DRCOG Committees and present the projects to the Transportation Advisory Committee, the Regional Transportation Committee, and the DRCOG Board.

Call 1 was a regional project call for \$40.3 million from the CMAQ and MTMOF. Through this call, the Denver East Colfax Bus Rapid Transit (BRT) was awarded \$12 million to support continued NEPA clearance and design. Call 3 will allocate \$47.5 million for regional projects. For Call 4, Adams County will have \$29.5 million, and Arapahoe County will allocate \$35.4 million. Calls 3 and 4 have multiple funding sources compared to Calls 1 and 2 which are sourced from CMAQ and MTMOF. For Calls 3 and 4, the 40% from CMAQ and MTMOF requires a 10% match while the 60% will be from STBG with a 20% match.

Call 3 is expected to open in August or September 2022 while Call 4 will open in December 2022

Call 2 focuses on multimodal transit and supportive projects, transportation demand management, transportation management associations and organizations (TMA/TMO), and greenhouse gas mitigation projects. CDOT Policy Directive 1610.0 talks about the greenhouse gas mitigation action plans. A presentation will be coming to the board for consideration of possible actions focused on local agencies relative to zoning density regarding parking considerations and policies.

Aurora has three projects that are qualified for Call 2 which are the City-wide Multimodal Transportation Master Plan, the Sidewalk Multimodal Access Improvements, and Smith Road Bicycle/Pedestrian Multi-use Path.

The City-wide Multimodal Transportation Master Plan will define the city's goals in terms of transportation, mobility networks, policies, and programs with prioritized projects and phasing levels. This will be an interdepartmental effort with the support of the city council and city management. There will be an emphasis on a multimodal transit, bike/ped, and vehicular transportation system which will provide an array of choices for mobility and provide safe environments for constituents. A citywide safety study is also recommended. Freight transport systems and the vision zero safety element will also be addressed in addition to mobility hubs and TMA/TMOs. New technology autonomous vehicles will be studied for safety aspects as well as future trends. There will be a focus on implementation strategies, funding opportunities, partnerships with adjacent jurisdictions and federal and state partners, and identifying priorities in terms of phasing. Systemic performance metrics and monitoring systems will be put in place. Staff is looking into providing mobility annual or biannual reports that will present the trends, benefits, and return of investments. The master plan will link

mobility modes and provide residents with community clarity and consistency. Community engagement programs will be done through surveys, focus groups, and other outreach platforms. The plan will continue to be updated to be relevant in terms of investment and meeting goals and objectives.

The Sidewalk Multimodal Access Improvements project will be a continuation of efforts to enhance pedestrian and bicycle access. This is in conjunction with the current Sidewalk Gap Closure TIP project which emphasized missing or substandard sidewalks. In the Havana Corridor Transportation Study, multiple areas were identified that needed improvements for transit. Havana Street, Yale Avenue, Chambers Road, and Colfax Avenue were identified as areas in need of transit stop connectivity. This project will serve vulnerable populations, provide safer access to all users, and implement ADA compliance. On the east side of Havana, there are no sidewalks that people who need wheelchairs can navigate safely. In the area, there are obstructions, unpaved sidewalks, and high-speed and high-volume traffic. North of Colfax Ave, locations were identified to improve access to transit stops at 13th Avenue, 17th Avenue, and Montview. In the southern part of Yale Avenue, there is no sidewalk. Bus access will also be a focus on the segment east of Peoria. Bus stops are standing in the middle of grassy areas which causes difficulty to access. On Chambers Road, there is also an area with bus stops serviced by Bus 153 in the middle of grassy areas which causes safety and accessibility concerns. In the area serviced by Bus 15, the segment of the corridor is unpaved. The city staff is in the process of developing cost estimates for the upcoming grant application.

The Smith Road Corridor is approximately eight miles long and is an important corridor for transit and jobs. There is a large presence of logistics-driven businesses that have lower-wage jobs that rely on transit. The project will produce a safe multimodal facility to allow for connections along the corridor. It proposes to install regional protected and separated bike and pedestrian facilities. Staff is looking into a varied approach for different segments of the 9-mile corridor due to the heavy rail & commuter rail presence as well as high volume of traffic and turning movements associated with the logistics uses. The installation of drainage infrastructure is also being considered. This varied approach with context-sensitivity throughout the corridor will drive construction costs. The proposed application in Call 2 is to utilize the federal funding and the 10% MMOF funding match to develop a 60% design effort for the entire corridor to address different factors that will affect the design and cost. This will allow the city to better prepare and move forward with future projects and applications with accurate costs. The 60% design allows the city to untether the bike and pedestrian facilities from the road. From this, different areas will be prioritized according to what needs to be improved first.

Staff is also proposing potential projects for Calls 3 and 4. The 13th Avenue Study will be used to identify constraints and opportunities and conduct NEPA preparations to have the 13th Avenue Multimodal Improvements queued for construction. Arapahoe County is fostering an initiative to look at Highline Canal Underpass crossing opportunities with one at Sable and another location on Colfax Avenue west of Airport Boulevard. The Alameda Bridge over I-225 is also proposed for an enhanced bridge replacement to advance the concept design and conduct NEPA preparations to be competitive for federal funding in the future. Concept design and NEPA preparations are also needed for the Chambers Road Grade Separation over Smith Road and Union Pacific Railroad where tanker trucks and semis frequently cross. The Peoria Bridge over Sand Creek is functionally and structurally at its limits and lacks sufficient bike/ped facilities. This bridge is urgently needed to be replaced and enhanced. Assessments will be done relative to discretionary grant opportunities as well as Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grants. The Montview Boulevard on the Anschutz Medical Campus's final design is close to being completed. The next step is advancing it with partners on the campus for implementation. This project is a multimodal corridor improvement to serve the entire campus.

For discretionary grants, there is a match ratio of 30 to 50% in terms of the local match versus the federal share. For the RAISE Grant, there is funding from \$10 million to upwards of \$25 million. The next notice of funding (NOFO) for this is estimated to be in Q1 of 2023. The Peoria Bridge Project, Alameda Bridge Project, and Montview Boulevard Project are great candidates for this grant. The Chambers Grade Separation will be a candidate for the INFRA Grant Program geared toward freight and regionally significant projects that enhance goods movement. The NOFOs for the Citywide Traffic Transportation Safety Study came out in May with due dates in September 2022. This is a prerequisite to competing for actual design and construction project improvements and the next rounds of funding. Locations in Aurora that need safety improvements have been identified. Requests for funding to address those locations will be seen in the 2023 budget process. This will be supplemented by the safety study and implementation grant.

Committee Discussion:

Council Member (CM) Marciano asked if the grants for reducing vehicle miles traveled (VMT) only include infrastructure improvements or if they could also apply to the redevelopment of certain areas to reduce VMT. M. Callison said that they are principally focused on initiatives that will realize a mode shift in trip making such as fuel-efficient and sustainable energy transit, micro-transit, or human-powered active transportation options. He added that DRCOG briefed the board on what may be considered to meet greenhouse emission targets. DRCOG believes that the increasing densification around transit stations and telework will be quantified in the emissions estimation process as per the 2050 Regional Transportation Plan (RTP). However, he added that there is still a 20 to 30% gap, which calls into play the Greenhouse Gas Rule and the CDOT policy directive 1610.0 (Greenhouse Gas Mitigation Measures). The directive offers choices. One is that the region identifies resources in the current RTP and directs those in capacity or operational improvement projects into advancing and bringing BRT corridors sooner and reprogramming funds. Another option is to develop a regional mitigation action plan. M. Callison added that the board will have further conversations regarding what credits and reductions in emissions can be reasonably accounted for by the management parking system, actions, policies, and programs. He mentioned that they will assess allowing density bonuses in areas near fixed guideway transit, BRT lines, high-frequent transit, and bus lines. In addition, they will also assess the ability to move the needle from an emissions perspective and how they will fit within the plan.

CM Marciano asked for clarification on whether there is potential given that that is the direction that DRCOG is taking. M. Callison confirmed this. He mentioned that it must be context and jurisdictional-sensitive. CM Marciano said that he hopes that they will be able to densify underperforming commercial areas and use those to create transit hubs and walkable and bikeable environments. Over the long term, this will create a network throughout the city while preserving existing housing stock.

CM Marciano asked for clarification regarding Smith Road. He asked if they can pre-design a portion of the corridor to get a better idea of where to put the separated protected bike infrastructure. M. Kozakowski clarified that it would go through the entire strip and not just a portion. CM Marciano expressed that he is happy to have that separated. He thanked staff for including Yale in the sidewalk multi-modal access improvements.

CM Coombs thanked staff for including Chambers in the sidewalk improvement. She highlighted areas near bus transit that are difficult to access for people in wheelchairs and areas along Peoria that have narrow sidewalks. CM Coombs stressed the importance of sidewalks that provide access to people

with mobility impairments or those that need mobility devices. She asked what financial contributions the Anschutz Medical Campus is making for the project. M. Callison said that they participated in the cost of the design effort. C. Colip said that there has not been any contribution to date, but they are working with city management to start those discussions. CM Coombs said that it's important for them to be contributing financially given that they have more resources than the city in some cases.

CM Coombs asked if they could get funding support if they wanted to design a city-level version of the Employer Based Trip Reduction Program (ETRP) for the city of Aurora employees and in partnership with large employers within the city. M. Callison said that they have a Transportation Demand Management (TDM) study that is about to start as the Federal Highway Administration is reviewing the scope and the city was awarded a grant from DRCOG in 2021. The study will focus on the I-70 corridor, the Aerotropolis Area, Smith Road, and logistics and distribution centers. They would be in partnership with the Northeast Transportation Connections (NETC) or TMA/TMO. He said that it would be competitive in Call 4 for sub regional. He added that there is an almost equal mix between Surface Transportation Block Grant and Air Quality and Mitigation Funds in Call 4. He said that it makes sense to have a focused TMA/TMO whose business is to address alternative opportunities in the I-225 Corridor. He mentioned that they will learn from the Smith Road I-70 East Corridor perspective regarding scalability and use those learnings moving forward. CM Coombs said that she would like to have more conversations about it specifically for city employees and other opportunities for TMA/TMO. She added that she hopes that many or all projects will get funded. CM Marciano agreed with CM Coombs.

Outcome: The Committee approved the item to move forward to Study Session.

Follow-up Action: Staff will move the item forward to Study Session.

5. MISCELLANEOUS MATTERS (None)

6. ANTICIPATED TOPICS FOR NEXT MEETING


- 13th Avenue Study Update
- 2021 to 2022 Snow and Ice Report

Karen Hancock mentioned that Centennial Airport requested to make a presentation to the TAPS Committee. She said that they could put it on the agenda for the July or August meeting. CM Marciano said that he is happy to accommodate them for the next month's agenda if possible. K. Hancock said that she will work with C. Colip and V. Rachael regarding the scheduling.

7. CONFIRM NEXT MEETING

The next meeting was confirmed for June 30, 2022, at 1:00 PM. It will be a virtual meeting.

Approved: _____


CM Juan Marciano, Committee Chair

07.01.2021

Date

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

October 27, 2022

Members Present: Council Member (CM) Juan Marcano, Chair; Council Member (CM) Alison Coombs, Vice-Chair, Council Member (CM) Crystal Murillo

Others Present: Scott Bauman, Daniel Brotzman, Traci Burton, Haley Busch-Johansen, Mac Callison, Carlie Campuzano, Lynne Center, Cindy Colip, Michelle Gardner, Matthew Kozakowski, Huiliang Liu, Christina McClelland, James Paral, Mindy Parnes, Julie Patterson, Laura Perry, Victor Rachael, Jeannine Rustad, Elly Watson, Tom Worker-Braddock

Guest: Michael King (Colorado Department of Transportation), Sarah Thorne (Colorado Energy Office Transportation Fuels and Technology)

1. WELCOME AND INTRODUCTION

2. APPROVAL OF MINUTES

The minutes for the September 22, 2022 TAPS meeting were approved as written.

3. CONSENT ITEMS (None)

4. GENERAL BUSINESS**4.a. Briefing from Colorado Energy Office (CEO) on Statewide eBike Initiatives****Summary of Issue and Discussion:**

Sarah Thorne, Senior Program Manager from the Colorado Energy Office, provided an overview of the statewide eBike programming including the eBike rebate, Can Do Colorado Full-Service Program, and eCargo Bike Commercial Delivery Program. The programs were funded by SB 22-193 which allocated \$12 million, with \$10 million going to eBike rebates and \$2 million for the full-service program. The eBike Rebates will be set up as a point-of-sale rebate to reduce eBike prices and allow more people to take advantage of the program. It is targeted at low and moderate-income individuals. A third-party administrator will process rebate applications. The RFP will be out soon with the hope of starting the program by March 2023. Discussions are still being had for possible incentive differences for low versus moderate income and qualifications based on the area median income. The Can Do Colorado eBike Pilot Program is currently running and was launched last year. 156 bikes were given to low-income essential workers in addition to locks, helmets, training, etc. The participants were asked to log their trip data to log the emissions avoided by riding the eBike versus driving a car. The pilot was done to inform the Full-Service Program which will be available to local governments, non-profits, community-based organizations, and tribal governments. The RFP will require applications to have a targeted population. \$1 million of funding will be for this fiscal year and another

\$1 million for FY 2024. The eCargo Bike Commercial Delivery Pilot does not have a program design yet. It is funded through the community access enterprise through the retail delivery fee. The current plan is to have cargo bikes available for gig workers driving for Door Dash, Uber Eats, or similar businesses or focused on working with local businesses for delivery. \$240,000 is available for the pilot.

Committee Discussion:

CM Coombs asked if there are other requirements in terms of program administration from the city and where the bikes would be procured. S. Thorne explained that for the pilots, eBikes were purchased through a bike shop in the community. The program manager then screened applicants and handed out the eBikes from their office. They also included training and events to encourage people to ride their bikes. She added that there was more admin time and collaborative effort needed between participants and the program. CM Coombs asked if they have a list of metro region organizations that might be interested in collaborating on the program. S. Thorne answered that they are partnering with Bicycle Colorado which will be providing technical assistance. CM Coombs asked what the local match would be. S. Thorne said that there is a small non-defined match. She mentioned that staff time could be provided in lieu of.

CM Marciano asked what the challenges of widespread adoption of the program would be. S. Thorne stated that cost is the biggest challenge. They are looking at ways to continue the program after the funding runs out. She added that having bicycle infrastructure, especially in rural areas, would be an issue. CM Marciano asked if bicycle infrastructure would be used to evaluate interested jurisdictions. S. Thorne said no. CM Marciano asked if there is a potential for long-term transportation method behavioral changes. S. Thorne said that there is a shift in people using their eBikes over car travel. Participants mentioned that their co-workers are also now exploring how to finance their own eBikes due to a ripple effect. CM Marciano mentioned that the current bike infrastructure in Aurora consists mostly of sharrows, and there are few protected bike lanes.

Outcome: Information only.

Follow-up Action: No follow-up needed.

4.b. Resolution for the IGA between City and CDOT for Funding of the Aurora Aerotropolis / I-70 Corridor TDM Program Development and Implementation Project

Summary of Issue and Discussion:

Tom Worker-Braddock, the Senior Transportation Planner, presented this item. In 2021, an application for the DRCOG Transportation Demand Management (TDM) grant to develop a TDM program for the Aerotropolis area was submitted. The grant was awarded, and the city will now enter an intergovernmental agreement (IGA) with Colorado Department of Transportation (CDOT) to initiate the project. TDM is the encouragement of travel behavior that makes more efficient use of the transportation network. It encourages people to travel using modes and times of day where the transportation system has more capacity. This benefits employees by providing more options and choices of transportation and benefits employers by providing more reliable employee attendance, and a greater pool from which to draw potential employees. The project came about from conversations in 2019 about employee transportation needs with business stakeholders from Amazon and other companies in the I-70 logistics and distribution center.

There is a high demand from employees in that area for alternative commuting options. Due to the development pressure at Aerotropolis Parkway, CDOT is requiring a rollout of a separate TDM program funded by Aerotropolis Regional Transportation Authority (ARTA). As part of the initial outreach in 2019 and 2022, city staff worked with Denver Regional Council of Governments (DRCOG) to administer a survey. It showed that more than 60% of employees can't afford car repair, 40% are interested in better transit service, and more than 60% have a household income of less than \$46,500. In this TDM grant project being presented today, the city will work with Northeast Transportation Connections, ARTA, CDOT, Regional Transportation District (RTD), DRCOG, and Adams and Arapahoe Counties to develop a TDM program for the area. This includes defining an organizational structure, working with stakeholders, identifying program goals, objectives, and plans, and implementing near-term strategies. The team will work with businesses, employees, and agencies to determine a structure to work together in a long-term sustainable manner to deliver transportation choices to users. The project will also evaluate the program implementation to determine success. It will cost \$130,000 with Aurora providing a 15% local match of \$20,000. It will be approximately two years from the start of the contract. The area will be between Peoria Street on the West, Monaghan Road on the East, and north of 6th Ave.

Committee Discussion:

CM Coombs asked if there are conversations being had around augmenting the light rail infrastructure to increase access through other modes from light rail to the area. T. Worker-Braddock said that they had extensive discussions with RTD in 2019 and 2020 about the need to expand a transit service by extending existing routes or providing flex route service. However, RTD would not be able to provide these due to budgetary constraints and limited driver availability. T. Worker-Braddock explained that the TDM provides an organizational structure to set up a transportation management association for businesses to hire a private shuttle and expand connections. A business operating this by itself would be challenging and cost-prohibitive.

Outcome: The Committee unanimously approved moving this item to Study Session.

Follow-up Action: This item will move forward to Study Session.

4.c. Arapahoe Countywide Transit and Micromobility Study

Summary of Issue and Discussion:

Mac Callison, Transportation Planning Supervisor, presented this item which was brought to the Executive Committee of the Arapahoe Transportation Forum in May and June 2021. The proposed Arapahoe Countywide Transit and Micromobility Study was successful in being awarded \$1.295 million in federal funding for DRCOG Transportation Improvement Program (TIP) Call #2. The DRCOG Board approved Calls #1 and #2 recommended projects and finalized those into the DRCOG FY2022-2025 TIP on September 21st. The overall study will be concentrated on urban areas throughout the county focusing on commuter trips, origins and destinations, travel patterns, and existing transit services. The study will conduct a robust public outreach and engagement process, document existing conditions, and provide recommendations to address current and future unmet transit needs. The efforts include implementing a pilot project which will be funded with approximately 50% of the total grant funds. In addition, the RTD sponsored Sub regional Service Councils will be activated and study findings can be conveyed to the Councils. Recommendations will be tiered as near-term for 1 to 5 years, mid-term for 5 to 10 years, and long-term for 10 to 20 years. First and final-mile connections and mobility hubs will also be addressed. Seven jurisdictions will be participating. The project will have \$1.455 million in total funding with a 90-10 federal-local split with the requested Aurora

proportional local match share being \$40,000. There are discussions and agreements underway to provide proportional local match funds from the other local jurisdictions and the transportation management association (TMA) based on population and employment.

Committee Discussion:

CM Coombs mentioned that they were looking at applying for Department of Local Affairs (DOLA) funds for local matches for transportation projects. She asked if these would apply to DRCOG TIP study matches or only to projects for which the DOLA local match funding is targeted. M. Callison explained that the city is applying for some DOLA funds to help in meeting the city's \$12 million local match for station enhancements on the Bus Rapid Transit project for the East Colfax Corridor. The Federal Transit Administration to local jurisdiction match ratio is 49/51%. He added that the \$1 million request in DOLA funds would cover a portion of the approximately \$12 million local match responsibility. L. Perry added that the DOLA funding has been put out for matching opportunities to support the Infrastructure Investment and Jobs Act (IIJA) opportunities specifically. There is approximately \$80 million approved by the state legislature. The funding flow related to the DRCOG TIP is not yet clear and defined. She clarified that the DOLA matching funds are available only for the federal infrastructure bill grant opportunities with a focus on the discretionary grant programs. CM Coombs asked if the city will be looking to provide the local match with grant applications that are being developed. L. Perry said yes.

CM Marcano asked for further information regarding public engagement and outreach strategies. M. Callison said that Arapahoe County staff is developing the detailed study scope in preparation for issuing a request for proposals (RFP). County staff is available to discuss our focus and interests and we will provide input as the final scope for the RFP is being drafted. CM Marcano suggested doing community engagement like the one for 13th Avenue with door-to-door community canvassing to get genuine input. M. Callison said that this study effort anticipates using a blend of techniques and methods of securing engagement since the initiative is countywide.

The Committee unanimously supports participating in this Study and providing the proportional local match in the amount of \$40,000.

Outcome: The Committee unanimously approved moving this item to Study Session.

Follow-up Action: This item will move forward to Study Session.

4.d. Strengthening Mobility and Revolutionizing Transportation (SMART) Grant Application

Summary of Issue and Discussion:

Victor Rachael, Deputy Director of Public Works, presented this item. The SMART Grant is a US Department of Transportation (USDOT) grant that came out of the bipartisan infrastructure law with over \$100 billion over the next five years for technology projects related to connected vehicles, signal coordination, etc. In Aurora, connecting the signal system via wireless remains a challenge due to topography and limited bandwidth. Fiber can solve this challenge and provide additional opportunities for the city. In line with this, staff proposes to apply for up to \$2 million in funding from Stage 1 Planning and Prototyping Grant, then Stage 2 following a successful first application. Fiber can improve signal connectivity, connected vehicle technology, and signal priority. It also allows staff to pull traffic signal performance measures and metrics more effectively. In addition, it also supports an

active traffic management program and center. Fiber would allow the city to pursue other smart city applications, which bandwidth is currently not available. There is no local match for this grant.

Committee Discussion:

CM Marcano commented that it is exciting to see funding from the federal level to improve traffic management systems and build out much-needed infrastructure.

Outcome: The Committee unanimously approved moving this item to Study Session.

Follow-up Action: This item will move forward to Study Session.

4.e. Alternative Fuels Corridor Nomination Process

Summary of Issue and Discussion:

Michael King, from the Colorado Department of Transportation, presented the National Electric Vehicle Infrastructure (NEVI) Program. There are three different levels of electric vehicle charging namely Level 1 which uses a regular plug like in houses or buildings and charges electric vehicles (EVs) slowly; Level 2, often seen at public buildings and workplaces and charges EVs in 6 to 8 hours; and Level 3 or DC fast charging which charges EVs in 20 to 40 minutes and is used for long-distance travel. The NEVI program focuses almost exclusively on DC fast charging. Currently, there are several DC fast charging areas in Colorado that provide the ability to travel to and from any part of the state with confidence. However, more are needed. The NEVI program is funded through the Infrastructure Investment and Jobs Act (IIJA) with \$5 billion across the country for DC fast charging installation. In Colorado, the allocation is \$57 million, with \$8.3 million in the first year. Another \$2.5 billion in funds will be available through a discretionary or competitive grant program from the federal government in early 2023. This other program is more flexible in terms of fuel types and geography while the NEVI program is only focused on fast charging and is tied to designated corridors.

Every state was required to develop and submit a plan for the NEVI program to the federal authorities. Colorado received approval on September 14th, 2022. Projects must be within one mile of a federally designated EV corridor to be eligible. The program prioritizes electrifying rural areas, disproportionately impacted communities, and areas with a potential for freight and goods movement since delivery vehicles have bigger impacts on air quality and climate change. The DC fast charging locations will be required to have at least four 150-kilowatt chargers to remain future-proof. Colorado has 13 designated corridors and NEVI compliance stations that meet NEVI standards have been identified. Stations that have yet to meet the NEVI standards might be able to be upgraded as opposed to starting from scratch. Areas without DC fast charging have also been identified. Any of the areas are eligible for NEVI funding; however, it is more attractive to build in an area without one yet or to upgrade an existing site. To seek designation, it must be identified if the site is on a national highway system, if it supports regional or interstate travel, if it serves a disproportionately impacted or rural community, if there is a potential for fast charging, and if it is a priority for Aurora. I-225 is currently on the shortlist.

Colorado also has grant programs for all other types of charging such as the Charge Ahead Colorado. This may be preferable for certain projects as it avoids federal requirements which may be onerous. The NEVI corridor designation process was initiated by the federal office in Q1 of each year. CDOT staff work with communities and stakeholders to identify specific corridors. A nomination packet is submitted as to why the corridors need a designation, then the FHWA responds in the summer. Once

the designation is official, projects could begin to receive NEVI funds. CDOT is working with Colorado Energy Office to set up a specific grant program and all its criteria. Grant solicitation will be done in Q1 of 2023. The NEVI plan will be updated on an annual basis and will be an ongoing program for at least five years.

Committee Discussion:

CM Murillo asked if Colfax would be an eligible roadway. M. King said yes since Colfax is part of the national highway system. CM Murillo said that she would be open to exploring what this program would look like for the Colfax Corridor. CM Marciano highlighted that Colfax and Havana are state highways that run through impacted communities in Aurora. He advocated for the corridors to be flagged through the NEVI or Charge Ahead Colorado Programs. CM Marciano asked if the corridors would be better suited for Charge Ahead or if they should aim for NEVI designation. M. King said that he will work with staff and other stakeholders on talking about I-225, Havana, or Colfax for the next round. He said that the project comes down to the location and the intended user. He explained that DC fast charging would be better to put in existing fueling stations or retail areas while Level 2 chargers would be a better fit for housing, work areas, community areas, etc. He added that the Level 2 chargers would be more affordable and would not have as many federal requirements. He mentioned that Colorado Energy and Xcel Energy have grants and programs to help communities develop an EV readiness plan which provides a roadmap for what funds will be pursued.

CM Marciano commented that Havana has a large shopping center where people spend a lot of time but there is only one rapid charging station. He mentioned that Havana BID may be interested in the conversation and it could bring more business to them. M. King mentioned that the Charge Ahead Colorado Grant Program has rounds three times a year. CM Coombs requested flagging Parker Road. CM Marciano mentioned getting high-voltage chargers in small-town restaurants and museums to general positive economic impact and increase the likelihood that people will adopt EVs.

Outcome: Information only.

Follow-up Action: No follow-up needed.

4.f. Grant Updates- DRCOG FY2022-2027 Transportation Improvement Program and Infrastructure Investment and Jobs Act Discretionary Grant Programs

Summary of Issue and Discussion:

Victor Rachael and Mac Callison presented an update on applications for the DRCOG FY2022-2027 TIP Calls #1-4. Call #1 represented a regional project focus for approximately \$40 million. The DRCOG Board approved the project recommendations which were solely directed for multimodal and transit projects in May 2022. Additionally, the Board approved the Forum(s) recommendations for Call #2, Sub regional Share projects at the September 21st Board Meeting. Call #2 has a total of approximately \$173 million for the entire region focused on multimodal and transit projects. The Forums received funding based on their proportional share of population, employment and vehicle miles traveled. Staff submitted three project applications 2 on this Call. Call #4, Sub regional Share Projects, will open on November 28th and applications are due on January 27, 2023. Total funding across all Forums is approximately \$193 million for multimodal, bridge, safety, and street projects. The Adams Forum is apportioned approximately \$30 million and the Arapahoe Forum funding level is estimated at \$36 million.

The six projects in Call #1 were brought into the FY2022 to 2025 TIP. Approved Call #1 projects includes the Denver-sponsored Colfax BRT Project which requested \$18 million and was awarded \$15 million to support the National Environmental Policy Act (NEPA) process and design activities for the project. Call #2 recommended projects were recently approved at the September 21st DRCOG Board meeting, including the Aurora Multimodal Transportation Master Plan programmed to start in FY 2023. Staff members are currently developing the scope for the RFP with recommendations coming to Council in Q1 of 2023. The notice to proceed is aimed at April 2023. Also moving forward is the Aurora Multimodal Access Improvements Design and Construction for locations on Havana Street, Colfax Avenue, and Yale Avenue focusing on sidewalk connections to bus stops. The Smith Road Multimodal Improvements – Design will also move forward to bring deliver a 60 percent design, including the multimodal side path. All these projects were successful in being awarded full funding as requested.

A total of 19 projects were submitted for Call #3 Regional Share Projects with 13 for the Surface Transportation Block Grant funding track and 6 for the Air Quality and Multimodal Grant funding track. These projects far exceed the available funding. The public comment period has been completed and all proposed project applications will be advancing to DRCOG for scoring. The scores provided are non-binding but serve an informational role. The project review panel is comprised of representatives from all 8 Transportation Forums, CDOT and RTD representatives and will convene on October 31st. The panel will ultimately make recommendations that will be forwarded to the DRCOG Board for approval on November 16th. Prior to Board action, the Call #3, Regional Projects assessment and recommendations will be brought to the Transportation Advisory Committee on November 14th and the Regional Transportation Committee on November 15th.

City staff compiled the Peoria Bridge over Sand Creek Replacement project application which aims to clear it through NEPA and produce a final design. The preliminary design concept at the 25 to 30% will be completed by a consultant team by years end. The project NEPA and final design activities is estimated to cost \$3 million with Aurora providing a 40% local match of \$1.2 million and the remainder, \$1.8 million being requested from available federal TIP funds. The Peoria Bridge has become aged and inadequate and is also a pinch point for traffic. It was constructed in 1996 and carries volumes of over 33,000 vehicles per day including freight traffic. There are concerns about it being structurally deficient, and it also does not provide adequate multimodal pedestrian and bicyclist passage and connectivity.

The Surface Transportation Block Grant funding category for which this proposed project is seeking funding has approximately a total of \$27.7 million apportioned to the Adams Transportation Forum. However, there are a total of \$121 million in applications. Call 4 has approximately \$192 million with a 55-45 split for surface transportation (STP) and Air Quality Multimodal projects. The project package recommendation will advance to the Executive Committee and then Adams County Transportation Forum. Those will be ported to the DRCOG Committees, Transportation Committee, Advisory Committee, RTC, and the DRCOG Board for consideration in March or April 2023. These recommendations will require policy and program changes to the overall TIP.

Call #4, Sub regional Share Projects, applications are anticipated to be made for the 13th Avenue Multimodal Study for NEPA clearance and 60% design. The High Line Canal Trail Underpass at Colfax Avenue, west of Airport Boulevard, a joint project of the PROS Department and Arapahoe County will be assessed for design and construction activities. Alameda Bridge over I-225 is contemplated as a proposed bridge replacement project with focus on NEPA clearance and design activities. In addition, bike/pedestrian facilities and turn lanes on the bridge must be brought to proper

and current standards. Staff may also propose design and potential construction activities for multimodal access improvements for segments of Havana, and other locations throughout the city. and Gun Club Road for NEPA and final design activities.

Potential projects for the IIJA US DOT Discretionary Grant Programs include Montview Boulevard within the Anschutz/Fitzsimons Innovation Community for construction, Alameda Bridge over I-225 – depending on outcome of Call #4, the Chambers Road at Smith Road/A Line/UPRR Grade Separation, a clear freight category project. Gun Club Road NEPA/design/construction, a Citywide Transportation Safety Study, and the ADA Transition Plan Implementation related to the existence of substantial sidewalk gaps and ADA ramp deficiencies within known right of way. An addition, a city Traffic Management Center/Fiber Optic Communications infrastructure – design and construction.

Committee Discussion:

CM Murillo expressed support for seeking additional funding resources for future projects. CM Coombs expressed appreciation for the presentation and is excited to see how funding can be received to address infrastructure needs. CM Marciano thanked the presenters for providing proper context of how much funding comes through DRCOG and the regional transportation forums.

Outcome: Information only.

Follow-up Action: No follow-up needed.

5. MISCELLANEOUS MATTERS

Traffic and Safety Issues in Havana

Carlie Campuzano presented a brief overview of the incidents in Havana. In October 2020, staff received resident outreach regarding a fence crash and a request to repair object marker signs. CDOT assisted in doing a crash review to see if any patterns could be corrected by engineering measures. Signing and striping improvements were then made at 4th and Havana in December 2020. Additional outreach was received in February 2022 for a fence crash at the same corner. Staff worked with CDOT to get another crash history and did additional signing and striping improvements. In the corner, vehicles use the right turn lane to go straight, get across, and cut the queue of traffic. Staff modified the road and emphasized the right-turn lane. In June 2022, a council request was received from CM Medina. A public meeting was held with the residents with CDOT in attendance. All questions were answered thoroughly. More recent requests have been received to look at the area. Staff and CDOT are discussing additional improvements and are setting a meeting with CM Medina.

CM Marciano suggested using a concrete guide or a physical obstruction to change the built environment and eventually change driver behavior. C. Campuzano said that they are collecting a survey and discussing the next steps with CDOT. Signing and striping are the fastest and least expensive ways to address the problem. She also mentioned that there isn't a high or frequent crash pattern. She added that CDOT has extended the lane, added markings, and added signs. They are discussing putting physical barriers. CM Marciano stressed the importance of being proactive as opposed to waiting for a significant pattern to emerge which puts people's lives at risk due to dangerous situations. C. Campuzano explained that they try to be proactive but are also concerned about unintended consequences such as people hitting or swerving more to avoid physical barriers that are put right away.

R-Line Derailment

CM Marciano mentioned that he submitted a council request for a constituent that had concerns regarding the R-Line still being out of service. He requested staff to reach out to RTD and arrange a briefing on the status of the derailment investigation and how they inform residents of schedule changes and disruptions. C. Colip mentioned that a Denver Post Article came out on the R-Line. M. Callison mentioned that they reached out to RTD multiple times but did not receive additional information to what is on the website.


6. ANTICIPATED TOPICS FOR NEXT MEETING

- IGAs with CDOT
 - Streets and Snow Update
-

7. CONFIRM NEXT MEETING

The next meeting was confirmed for November 30th, 2022, at 1:00 PM. It will be a virtual meeting.

Approved: _____


CM Juan Marciano, Committee Chair

2022.11.30

Date



February 23, 2023

Smith Road Multimodal Design Grant

Transportation Improvement Program (TIP) Grant

*Gary Vidlock, Engineering Supervisor – Transportation Project Delivery
Public Works*

Project Selection

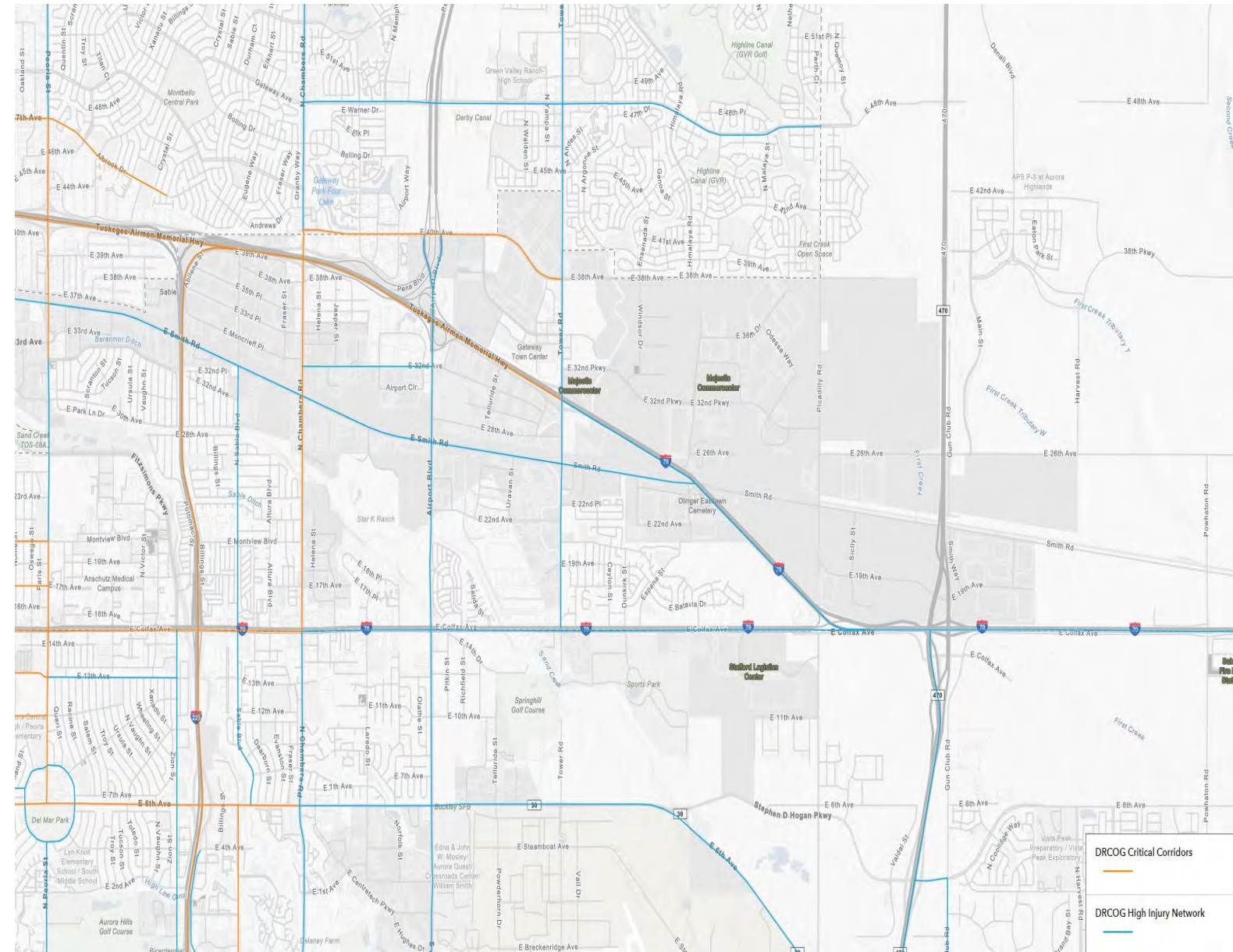
- Funding information:
 - FY 2022-2025 TIP Call for Projects:
Regional and Subregional Share
- Grant criteria:
 - Air Quality and Multimodal (AQ/MM)
projects only
- Project Goals:
 - Provide safe options for multimodal
travel for entire length of corridor



Project Selection

- Corridor identified by DRCOG as part of the High Injury Network
- Corridor intersects with two critical corridors (Peoria and Chambers)
- Several factors lead to safety concerns:
 - Non-contiguous pedestrian facilities
 - High volumes of truck traffic
 - Multiple bus stops without access to sidewalk

High Injury Network Source: Denver Regional Council of Governments



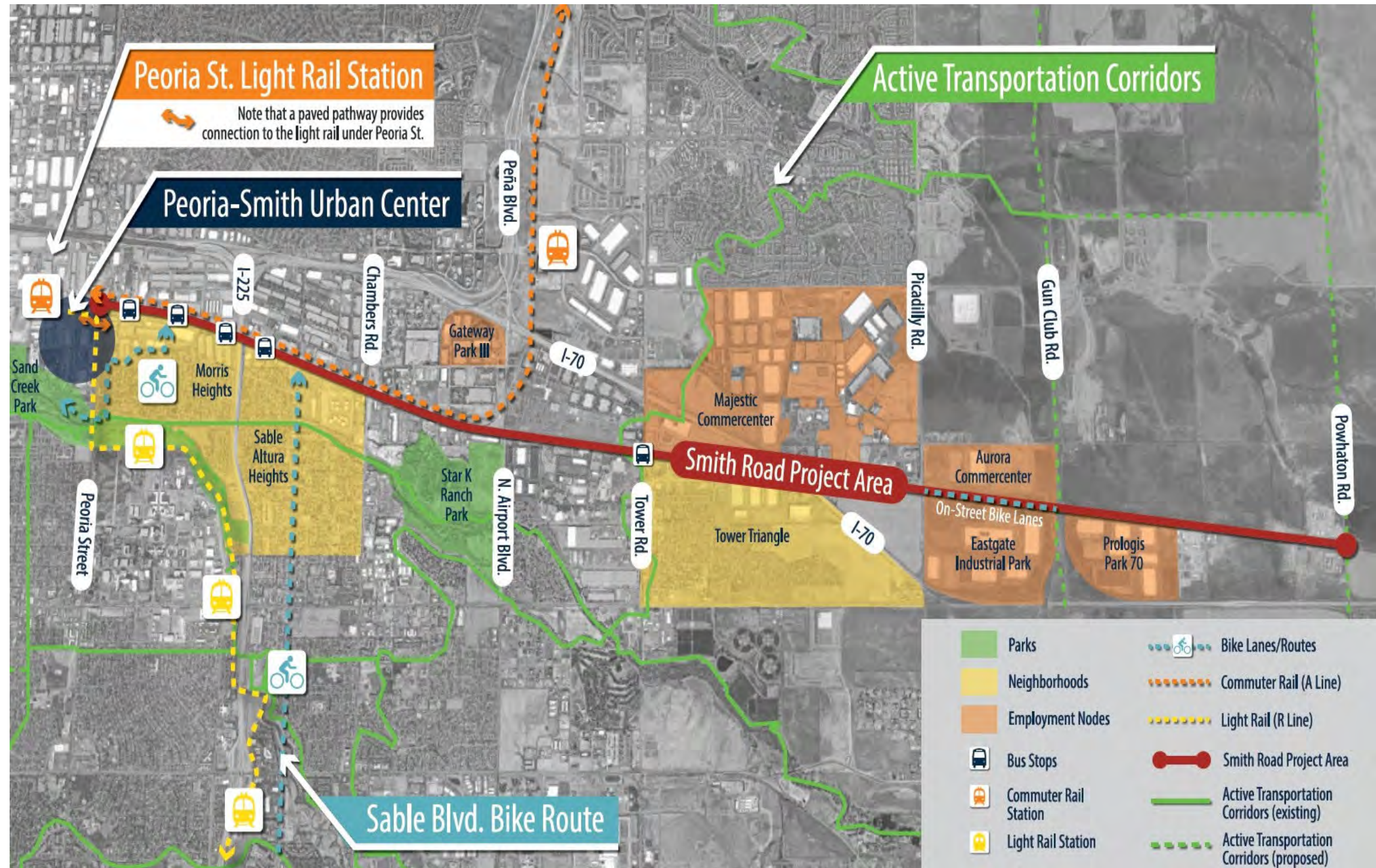
Project Scope

- Confirm corridor programing for land uses
- Public outreach to stakeholders
- NEPA Resource evaluation and compliance
- Progress conceptual design (10%) to 60% design plans
- Determine phasing and priority of Smith Road corridor segments



Project Area

- Project spans from Peoria Street to Powhaton Road

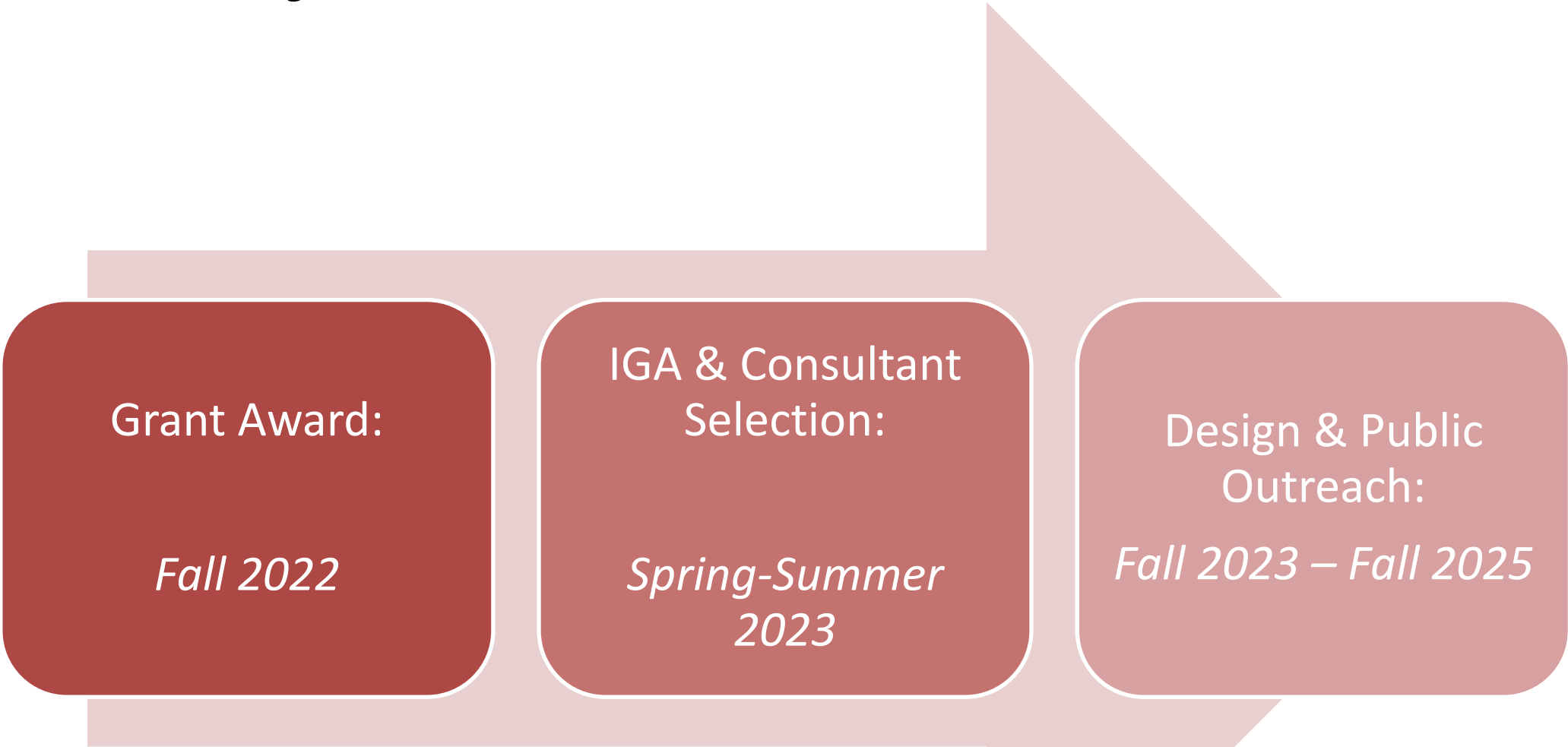


Grant Award

- **12** applications submitted to DRCOG for Adams County Subregion
 - **59** applications submitted statewide
 - All projects awarded funding
- **Smith Road Multimodal Design Project awarded \$4,500,000** grant funds
 - **\$500,000** City Match



Anticipated Project Timeline



Questions?

Question for the Committee: Does the Committee support moving the IGA forward to the next available Study Session?

Transportation, Airports and Public Works (TAPS) Policy Committee Meeting

February 23, 2023

Members Present: Council Member (CM) Juan Marcano, Chair; Council Member (CM) Angela Lawson, Vice-Chair, Council Member (CM) Ruben Medina

Others Present: Traci Burton, Mac Callison, Haley Johansen, Elly Watson, Huiliang Liu, Lynne Center, Cindy Colip, Matt Kozakowski, Mindy Parnes, Rachel Allen, Scott Bauman, Julie Patterson, Nicholas Johnson, Gary Vidlock, Brian Rulla, Tom Worker-Braddock, Jim Paral, Steve Durian, Laura Perry

1. WELCOME AND INTRODUCTION

2. APPROVAL OF MINUTES

The minutes for the January 26, 2023 TAPS meeting were approved as written.

3. CONSENT ITEMS (None)

4. GENERAL BUSINESS

4.a. Consideration to Approve a Resolution for the IGA with CDOT for Smith Road Multimodal Design

Consideration to APPROVE A RESOLUTION by the City Council of the City of Aurora for the Intergovernmental Agreement between City of Aurora and Colorado Department of Transportation for the Smith Road Multimodal Design Project

Summary of Issue and Discussion:

Gary Vidlock, Engineering Supervisor, and Matt Kozakowski, Transportation Project Delivery Manager, presented this item. As a recap, there were four TIP (Transportation Improvement Program) calls for projects from DRCOG last year. The second TIP call utilized ARPA funds for a portion of the funding and focused on projects with air quality and multimodal components. The Smith Road Multimodal Design project application was submitted to DRCOG for funding under the Adams County subregion. This project application was for 60% design of Smith Road, for a length of nine miles from Peoria Street to Powhaton Road. The goal for the Smith Road Multimodal Project is to provide safe options for multimodal travel for the entire length of the corridor. The application was approved for funding by DRCOG for a total amount of \$5,000,000. The project only requires a 10% match from the City.

The Smith Road corridor has been identified by DRCOG as part of the High Injury Network. It also intersects with Peoria and Chambers, which were also identified as two critical corridors. Several safety factors that led to the concerns along the corridor include: (1) non-contiguous pedestrian facilities. Many segments do not have sidewalks or bike trail on either side of the road. The project aims to provide connectivity along the entire corridor; (2) high volume of truck traffic; and (3) multiple bus stops without any direct access to the sidewalk along Smith Road.

The scope of the project includes: (1) confirming corridor programming for the existing and proposed land uses to make sure that the type of roadway section the City plans to use would be congruent with the existing and anticipated uses; (2) Public outreach to hear and address stakeholder concerns; (3) coordination with CDOT to determine the NEPA clearances that will be required; (3) progressing the 10% conceptual design submitted with the application to 60% design plan level; (4) breaking up the corridor into segments to determine how to phase and prioritize improvements as some sections of the corridor will be prioritized higher than others.

The project area is approximately nine miles long. It is bound on the west by Peoria Street and it goes east to Powhatan Road. There were twelve applications submitted to DRCOG for the Adams County Sub region and fifty-nine applications submitted statewide; all of these projects were awarded funding. The Smith Road Multimodal Design Project was awarded \$4.5 million in grant funds, \$2.5 million of which was ARPA funds. There's a 10% city match of \$500,000.

Regarding the project timeline, the grant award was announced last fall and the City is concurrently working through the IGA process with CDOT and putting together the RFP for consultant selection. It is anticipated we will have a consultant on board by the summer. The design and public outreach will occur from fall 2023 to fall 2025.

Committee Discussion:

CM Lawson asked about the number of engagement sessions that are planned during the duration of the project in order to collect information from stakeholders. G. Vidlock stated he hasn't identified an exact number yet. The City currently has typical sections specifically for this corridor in the roadway criteria manual. G. Vidlock had a conversation with the transportation planning group and there has been a good amount of public outreach in the past along the corridor. The intention of the project is to confirm that the previously designed sections would work with what is occurring in the corridor today. CM Lawson stated she was fine with moving the IGA forward.

CM Medina did not have any questions and he approved the IGA as well.

CM Marcano stated he was excited to see this project move forward. He stated that he discussed this in the subcommittee for Arapahoe County. Even though this project was in Adams, it's still an area that is very important for the city and the region. He also commended the team for doing a lot with the match they had. He further added that he would strongly support this moving forward.

Outcome: The Committee supports moving the IGA forward to the next Study Session.

Follow-up Action: No follow-up needed.

DRAFT



CITY OF AURORA

Council Agenda Commentary

Item Title: Monument Signs
Item Initiator: Jeannine Rustad, Planning and Development Services Director
Staff Source/Legal Source: Jeannine Rustad, Planning and Development Services Director / Daniel L. Money, Senior Assistant City Attorney / Kim Skaggs, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 5.0--Be a great place to locate, expand and operate a business and provide for well-planned growth and development

COUNCIL MEETING DATES:

Study Session: N/A

Regular Meeting: N/A

2nd Regular Meeting (if applicable): N/A

Item requires a Public Hearing: ☐ Yes ☒ No

ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time for Study Session

Sponsor: Danielle Jurinsky, Council Member

Jeannine Rustad, Planning and Development Services Director / Daniel L. Money, Senior Assistant City Attorney

Outside Speakers: Steve Cecil, Real Estate Manager, Market Manager for Lamar / Brent Window, Senior Vice President, Territory Manager

Estimated time: 30 mins

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field above. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Planning & Economic Development

Policy Committee Date: 2/8/2023

Action Taken/Follow-up: (Check all that apply)

- | | |
|--|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input checked="" type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input checked="" type="checkbox"/> Minutes Attached | <input type="checkbox"/> Minutes Not Available |

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

The Wall Group/Lamar Central Outdoor, LLC have asked to present a concept of digital billboards to be located on city parks, public right of way and other properties. This item was presented to PED at its February 8, 2023 meeting (minutes attached).

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

The signs proposed for city property are, essentially, digital billboards. Staff from Planning & Development Services, Public Works and legal have met and identified issues that will need to be addressed should PED want to advance the concept, as proposed. Such issues include:

- Right of way constraints
 - From meeting with Lamar: None of the potential sites are in ROW
- Contracting – Licensing Agreement
 - **While Lamar's style of sign** is proprietary, it is, in essence, a billboard and other outdoor promotion providers offer such products and would want the same access. This situation could result in the requirement for an RFP process.
- Zoning and sign restrictions
 - Billboards/digital signs are restricted in the city. Need to see impact citywide if we allow on city property.
 - There is no distinction between a digital and a standard billboard, so both would be allowed if the restriction is removed.
- Constitutional issues on restricting messages on the signs.
 - If the city does not have complete editorial control of the signs, which their proposal does not contemplate, we would have to allow others to advertise—even those with inappropriate and undesirable content.
 - From meeting with Lamar – city would have full control over content. Need to see license agreement for details.
- Display of objectionable content without means to remove.
 - From meeting with Lamar – city can terminate license agreement at any time. Lamar would need to recoup costs.

FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- | | | |
|--|--|---|
| <input type="checkbox"/> Revenue Impact | <input type="checkbox"/> Budgeted Expenditure Impact | <input checked="" type="checkbox"/> Non-Budgeted Expenditure Impact |
| <input type="checkbox"/> Workload Impact | <input type="checkbox"/> No Fiscal Impact | |

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

City would gain income from signs. Amount to be determined based on size and number of signs. Income may be offset by additional staff time needed to implement and monitor program.

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

TBD

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

Impact is yet to be determine. Positive impact could be lease of city land. Other impacts could be staff time to update codes and implement. If the committee choses to move forward, full fiscal impact will be determined.

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A

QUESTIONS FOR COUNCIL

Does the city want to consider exploring allowing billboards in the city? If so, would they like to proceed with a pilot program?

LEGAL COMMENTS

The council shall have all legislative powers of the city and all other powers of a home rule city not specifically limited by the Constitution of the State of Colorado and not specifically limited or conferred upon others by this Charter. It shall have the power to enact and provide for the enforcement of all ordinances necessary to protect life, health and property. (City Charter Sec. 3-9). Local governments are granted broad authority to plan and regulate the use of land within their jurisdiction. (C.R.S. Sec. 29-20-102(a)). (Money)

**PLANNING AND ECONOMIC DEVELOPMENT POLICY COMMITTEE MEETING
MINUTES**

Date: February 8, 2023

Time: 8:30 am

Members Present Chair: Council Member Francoise Bergan, Vice Chair: Council Member Steve Sundberg, Council Member Angela Lawson

Others Present Council Member Jurinsky, Adrian Botham, Alicia Montoya, Andrea Amonick, Andrea Barnes, Austin Kane, Becky Hogan, Brad Pierce, Brandon Cammarata, Brent Window, Brian Rulla, Bruce Dalton, Cathy DeWolf, Cesarina Dancy, Chad Argentar, Crystal Vigil, Daniel Brotzman, Daniel Krzyzanowski, Daniel Money, Darcy Dodd, David Schoonmaker, Gayle Jetchick, Hector Reynoso, Jason Batchelor, Jeannine Rustad, Jeffrey Moore, Jennifer Orozco, Julie Patterson, Kim Skaggs, Kim Stuart, Leah Ramsey, Marcia McGilley, Marisa Noble, Mark Smith, Mark Witkiewicz, Megan Waldschmidt, Melissa Rogers, Melvin E. Bush, Michelle Gardner, Mindy Parnes, Peter Wall, Rachel Allen, Robert Oliva, Sandra Youngman, Scott Berg, Stephen Rodriguez, Steve Cecil, Tod Kuntzelman, Tom Clark, Wendy Mitchell, Yuriy Gorlov

1. CALL TO ORDER

2. APPROVAL OF JANUARY 11, 2023, DRAFT MINUTES–COUNCIL MEMBER BERGAN

2.a. The minutes were approved.

3. GENERAL BUSINESS

3.a. Monument Signs

Summary of Issue and Discussion:

Jeannine Rustad, Planning and Development Services Director

Steve Cecil, Real Estate Manager of Lamar Advertising, presented this item. S. Cecil introduced Parquee, the partnership opportunity that they hoped to have with Aurora City. Parquee is a digital city communication device located on municipal properties. It is uniquely designed to promote and complement the surrounding

Draft – Subject to Approval

areas, which would become the source of civic pride for the community. Parquee provides an attractive medium to promote the vision and provide passive income to the local governments.

Jurisdictions, such as Aurora, were searching for new and innovative ways to increase revenue without overburdening their constituents with additional taxes. The Parquee Program was designed specifically that would address the issue.

Parquee was owned, operated, maintained, and constructed by Lamar Advertising at zero cost to the taxpayers. It was designed to promote the city's vision with enhancements that would complement the surrounding areas. Lamar Advertising would be open to any ideas on the designs presented by S. Cecil.

Each design had the Aurora logo. They have incorporated some of Aurora's campaigns that they have used to convey the messages for certain events. Aurora has also partnered with Lamar on traditional advertising space to promote events.

Parquee's benefits would include a dedicated slot that would promote civic events and announcements. Dedicated slots can be used for many sponsorships. Lamar has operated with eight sponsorship opportunities. After the city's messaging, seven sponsorships would go through the digital communication device, and then the cities would populate on the eighth one.

Parquee would provide a steady revenue stream to the city through these sales and sponsorships. Aurora has control over the messaging. Lamar was also open to potential locations that would be a good fit to get their messaging out to the residents. For size options, the poster option is a 10 by 21 feet small size. However, there were larger sizes depending on location. Aurora City was allocated to one full slot in the digital cycle. It could be used for many services. Lamar has used the digital faces to promote AMBER Alert.

Parquee has over 150 years of combined experience in the outdoor digital sign industry. Brent Window, Territory General Manager, and Steve Cecil were just one of the support team. On the company side, Lamar had a corporate office that would help monitor these signs and help maintain them.

Aurora City would receive licensing fee and revenue share to be agreed upon by both the city and Lamar. In addition, the city would receive one of the eight sponsorships to communicate the events. The projected annual would be close to a million based on six locations in Aurora City. LEDs were replaced every seven years. A team of people were constantly viewing these monitors for maintenance at zero cost to the city. Lamar would be open to training a staff member(s) and a pilot program. Parquee would be custom-made depending on what the city needs at zero cost to taxpayers.

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CM Sundberg acknowledged the presentation and the item. He thought that Parquee and Lamar would help fill the gap on the lack of reach for messaging and announcements throughout the city. CM Sundberg asked the types of advertising and companies placed across the screen. S. Cecil stated the partnership varies across entities who would need advertising, however, it would have to be within the city's guidelines. CM Sundberg also asked for clarification on the dedicated slot. S. Cecil explained that each digital face was programmed to have eight sponsorships. Lamar had removed one slot and dedicated that slot to Aurora City. Each slot messaging would stay for 8 seconds until it would come back to the slot dedicated for the Aurora City. The dedicated slot could have different messages at different times of the day. S. Cecil also stated that each sponsorship has a library. Normally, clients cannot access the library, but the city would have that option.

CM Lawson asked if the advertising could be used for hazard signs, warning signs, or road signs that would be a detriment for the community. S. Cecil stated that the slot could be used for those. They already have a template ready for the city to use as they saw fit. CM Lawson followed-up a question regarding the cameras on the digital slot. S. Cecil clarified that the cameras they used to monitor would be directly angled towards the screen and not towards the sidewalk or out to the street.

CM Bergan asked on the permanent monument sign presented on the slide. S. Cecil stated that the structure would be permanent. It would only be removed if the partnership would end, as the monuments were heavy. He also stated that the monuments would comply with the architectural standards in Aurora City.

CM Bergan appreciated the 8-second display as the 4-second display would only be fast for drivers driving by. She asked the location on where the digital face would be situated if the advertisement involved traffic-related messages, as these are city-owned property while road signs were situated on public properties. S. Cecil discussed that it would be typically on a parcel close to the sidewalk or curb. It could be located in places where it was visible for traffic.

CM Bergan acknowledged the pilot program idea to see how it would work. She asked for the period for the pilot program. S. Cecil stated the pilot program would require the local city approval and it would be around the six-month range before they would get the materials needed for building it.

Jeannine Rustad, Director of Planning and Development Services presented the update on the concerns on the item. The UDO placed restrictions on location, size, and type of signs. Lamar Group shared with them the draft UDO language and certain government signs. Public Works had concerns on the right of way, however, none of the locations suggested were right of way, and they would construct the UDO to make sure that they would not allow these in the right of way.

They have worked with the real estate and were recommended a lease over a license. They would coordinate between Public Works, Real Estate, Planning, and

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other departments on locations. Any lease proposal would come back to Council for approval.

K. Skaggs discussed that there would be a public forum for the public to put their messages for the signs to set limited restrictions on what those messages might be. Any limits they would set on the content of the messages would potentially open up to liability for constitutional violations. On the other hand, if they would not exercise control over messages, they would face potential PR and political issues.

J. Rustad explained that they would have to dive deeper on how they would carve out an exception to allow the signs on the right of way and billboards throughout the city, as several years ago, the Council decided they did not want billboards throughout the city. They would then look into the staff and legal time in monitoring the messages and would make sure that they would be staying above board.

CM Bergan asked if there was anything in the city allowing advertisers to advertise with them on the website. K. Stuart stated they would not take advertising for that. The only exception was with Channel Eight. Beyond limited public service-type announcements, they would not take advertising, as they cannot choose the content and have control over that. K. Skaggs added that they could set up a limited public forum and have a forum with a very specific purpose. They would have to look very closely at the content. S. Cecil also added that Lamar would not advertise negative messaging. They've been in business since 1902 and they're here to help the municipalities and cities they partnered with.

D. Money asked who the decision-maker would be of what's negative and whether or not they get to advertise. S. Cecil stated it would be their general manager and their territory manager. They would get the corporate officials if there would be a gray area.

CM Lawson asked the difference between the messaging in Arapahoe Road and in the city. CM Bergan clarified that in Centennial, the messaging was all Centennial content. J. Rustad stated that the slot would stay revenue neutral or they would only get money from the seven other advertising slots, whereas, if they were to install a sign that just had city messaging, they would shoulder the full cost and not get any revenue. S. Cecil further clarified that Lamar can agree to not put certain things on the slot.

CM Sundberg asked for the guidelines they had within the city for what they would post on their social media outlets and its applicability on the advertisements. K. Stuart stated that what they post on social media would be city-generated and city referenced. They did have a policy on their website and social media. They had a strict practice of never to remove interaction with social media. What they post would be either from the city, quasi-governmental agencies, city, and formal city partners. K. Skaggs stated they control the message 100%. They may promote partners, but they would also have full editorial control. With these signs, it would

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have to be extremely limited. K. Stuart added this would also echo on their Aurora TV. They have full editorial control on the stories and contents, and these would apply on their social media and websites as well.

K. Stuart asked the liability on the city if the Lamar Group would be the one making the decisions. S. Cecil stated it would be a supply and demand. Messages, sponsorships, or campaigns would have to follow Lamar's guidelines. CM Bergan followed-up on monopolization and if Lamar had multiple competitors on the same cycle. S. Cecil stated there would be multiple sales options that they provide to help generate revenue for the city and some of those were called preemptible. They would try to be as fair as possible, as they would not want any conflicts with their advertisers and sponsorships. Their goal was to not be a burden to these sponsorships. They also had the side-by-side signs, where they would not put side-by-side the same type of business.

CM Jurinsky suggested having their legal team converse with other legal teams in other cities to see how they were able to do the advertisements without the negative advertising. S. Cecil agreed and stated that their team is available for the Aurora City staff and attorneys. They would be open for conversation.

CM Jurinsky stated that Aurora City missed many opportunities. She asked her colleagues to consider moving forward the item for further discussions. She stated she would be happy to work with Lamar to coordinate meetings and discussions with other legal departments in the city. CM Bergan echoed CM Jurinsky's suggestion.

Outcome:

The Committee unanimously approves this item to move forward to Study Session.

Follow-up Action:

Staff will add this item to the March 6th Study Session.



Monument Signs/Digital Billboards on City Property

A horizontal bar composed of five colored segments: teal, yellow, purple, red, and green.

City Council Study Session

Monday, March 20, 2023

Staff Concerns

- **Zoning and sign restrictions**
- **Right of way constraints**
- **Contracting**
- **Constitutional issues on restricting messages on the signs**
- **Display of objectionable content**



Zoning & Sign Restrictions

- UDO places restrictions on types, size and locations of signs
- Could draft amendments to accommodate signs on city-owned property



Right of Way Constraints

- City can continue to restrict signs in ROW
- No locations proposed are ROW



Contracting

- Lease recommended
- Departments will coordinate for locations
- Competitive process required
- Council approval of lease/contract



First Amendment/Content Concerns

- The signs would likely be viewed as a public forum, meaning only very limited restrictions can be set, and they must be content-neutral and viewpoint-neutral.
- Any limits set on the content or the speakers for these signs potentially opens us up to liability for constitutional violations.
- Alternatively, the City could decline to exercise control over the content but may be faced with City-associated content it does not like.



Questions for Council

- Does Council want to move forward with exploring options for digital signs on city property?
- Does Council want to proceed with a pilot program?



Questions/Comments?



CITY OF AURORA

Council Agenda Commentary

Item Title: Consideration to Update City Code that Governs Purchasing (City Code Chapter 2 Administration, Article VI Purchases and Contracts).

Item Initiator: Bryn Fillinger, Manager of Purchasing Services

Staff Source/Legal Source: Bryn Fillinger, Manager of Purchasing Services, Finance / Dave Lathers, Senior Assistant City Attorney

Outside Speaker: N/A

Council Goal: 2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interests

COUNCIL MEETING DATES:

Study Session: 3/20/2023

Regular Meeting: 3/27/2023

2nd Regular Meeting (if applicable): 4/10/2023

Item requires a Public Hearing: ☐ Yes ☒ No

ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

Bryn Fillinger, Manager of Purchasing Services, Finance / Dave Lathers, Senior Assistant City Attorney

Estimated time: 20 mins

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field above. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Management & Finance

Policy Committee Date: 2/28/2023

Action Taken/Follow-up: *(Check all that apply)*

- | | |
|--|--|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
|--|--|

☒ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

This item was presented to the Management & Finance Committee on February 28, 2023. The Committee supported moving the item to Study Session.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

This item will update City Code governing Purchasing to match current practices and the updated Business Policy Memorandum (BPM) 2-08. The proposed updates are attached to this commentary and are redlined.

FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

☐ Revenue Impact

☐ Budgeted Expenditure Impact

☐ Non-Budgeted Expenditure Impact

☐ Workload Impact

☒ No Fiscal Impact

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

N/A

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A

QUESTIONS FOR COUNCIL

Does City Council approve the updated City Code governing Purchasing?

LEGAL COMMENTS

The Council shall have all legislative powers of the City and all other powers of a home rule city not specifically limited by the Constitution of the State of Colorado and not specifically limited or conferred upon others by this Charter. It shall have the power to enact and provide for the enforcement of all ordinances ... (Article 3-9 of the City Charter)(Lathers).

ORDINANCE NO. 2023- ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING IN ITS ENTIRETY ARTICLE VI OF CHAPTER 2 OF THE CITY CODE PERTAINING TO CONTRACTS AND PURCHASING TO ACCOMMODATE AND INCORPORATE CURRENT CITY ORGANIZATIONAL CHART POSITION TITLES, TO CONFORM TO LONGSTANDING CITY PURCHASING PRACTICES AS REFLECTED IN ADOPTED PURCHASING PROCEDURE LETTERS AND TO REFLECT ADOPTED CITY BUSINESS PRACTICES MEMORANDA, AND REMOVING REFERENCES TO DISCARDED PURCHASING PRACTICES, AND GENERALLY CLARIFYING THE LANGUAGE OF THE ARTICLE

WHEREAS, a comprehensive review of Article VI of Chapter 2 of the City Code has not been performed in many years; and

WHEREAS, the City has amended its organizational structure since the last time Article VI of chapter 2 of the City Code was reviewed; and

WHEREAS, contracting and purchasing expectations of vendors and service providers have evolved over the years to expect a contracting process accommodating electronic dissemination of contracting opportunities with the City of Aurora and electronic submission of bids on City contracts; and

WHEREAS, the City has adopted Business Policy Memoranda and Purchasing Procedure letters defining procedures and practices for the Purchasing Division to follow in contracting on behalf of the City of Aurora and Article VI of the City code needs to reflect those practices;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO THAT:

Section 1. City Council does hereby amend and repromulgate Article VI of Chapter 2 of the City Code pertaining to Contracting and Purchasing to read as follows:

Article VI. Contracts and Purchases

Sec. 2-666

Administration.

Sec. 2-667

General procedures.

Sec. 2-668

Prohibitions.

Sec. 2-669

Adequate funding required.

Sec. 2-670

Formal competitive bidding and requests for proposal.

Sec. 2-671

Awards to lowest responsive bidder or most advantageous proposal (best value).

Sec. 2-672

Authority to make awards.

Sec. 2-673

Informal bidding.

Sec. 2-674

Negotiated "non-competitive" purchases.

Sec. 2-675

Emergency purchases.

Sec. 2-676

Change orders and amendments.

Sec. 2-677

Inspection and testing.

Sec. 2-678

Surplus stock.

Sec. 2-679

Cooperative purchasing and contracting.

Sec. 2-680

Mandatory requirements in city contracts.

Sec. 2-681

Report to city council.

Sec. 2-682

Minority, women and small business enterprise participation.

Sec. 2-683

Longterm rental and leaseholds.

Sec. 2-684

Confidential police department contracts.

Sec. 2-685

Use of pilot programs.

Sec. 2-686

Obsolete or unusable property.

Sec. 2-687 through 2-720

Reserved.

Sec. 2-666.

Administration.

(a) *Administrative authority.* The ~~d~~Director of the internal services **Finance d**Department shall have

administrative authority to implement this article by establishing and promulgating rules and procedures in accordance with section 2-3 of the City Code.

(b) *Responsibilities of ~~p~~Purchasing and ~~e~~Contracts ~~m~~Manager.* The ~~p~~Purchasing and ~~e~~Contracts ~~m~~Manager shall have general supervision of the ~~p~~Purchasing and ~~e~~Contracts ~~s~~Services ~~d~~Division within the ~~internal-services~~ **Finance** ~~d~~Department. The ~~p~~Purchasing and ~~e~~Contracts ~~m~~Manager shall perform the duties required by state statutes and this Code, shall maintain official records and files of transactions, and shall ensure that proper forms are accurately processed.

(c) *Procurement ~~a~~Advisory ~~e~~Committee.* A ~~p~~Procurement ~~a~~Advisory committee shall be established to be comprised of five members selected from various user departments. Each ~~d~~Deputy ~~e~~City ~~m~~Manager will appoint one member from within their group, and the ~~e~~City ~~m~~Manager will appoint the remaining members. The ~~m~~Manager of ~~p~~Purchasing and ~~e~~Contracts shall be a permanent nonvoting member and chairperson of the committee. The ~~e~~City ~~a~~Attorney shall provide legal advice to the committee. Responsibilities of the ~~p~~Procurement ~~a~~Advisory ~~e~~Committee shall be to review unusual procurement actions as requested by the ~~d~~Director of the ~~internal-services~~ **Finance Department or their designee**. The ~~p~~Procurement ~~a~~Advisory ~~e~~Committee shall establish and promulgate policies and procedures to implement the responsibilities and duties of the committee.

Sec. 2-667.

General procedures.

(a) *Purpose.* All purchasing and contracting shall be accomplished in the best interests of the ~~e~~City using the prudent person's standard of care. Purchasing or contracting shall be performed so as to secure for the ~~e~~City the greatest value considering cost, quality, delivery, service and other considerations which reflect overall value comparisons.

(b) *Full and open competition.* Full and open competition shall be encouraged.

(c) *Competitive bidding.* Contracts shall be based on competitive bids or request for proposals except where this article authorizes non-competitive awards. The ~~p~~Purchasing ~~m~~Manager or designee shall determine the type of procurement process to be used for each award.

(d) *Bulk purchases.* Whenever feasible, purchasing **of commodities** shall be done in bulk to take full advantage of discounts. Departments shall be responsible for anticipating needs in a timely fashion in order to consolidate and expedite procurement of the same type of commodities.

~~(e) *Vendors and contractors list.* Information on vendors and contractors shall be maintained according to commodity or service areas. It shall be the vendor's responsibility to contact the purchasing and contract services division and request instruction on how they can be placed on the appropriate commodity/service list.~~

~~(f)~~ *Disqualified vendor or contractor.* Vendors or contractors who have performed unsatisfactorily under published rules or procedures of the purchasing and contracting division as contained within the ~~e~~City's purchasing procedure letters, who have defaulted on terms of their bids/proposals, or who have contacted ~~e~~City ~~e~~Council members, ~~e~~City management and ~~e~~City staff other than in the ~~p~~Purchasing and ~~e~~Contracting ~~d~~Division, 290

about a pending contract award during the evaluative period between submittal of bids or proposals and the award, and against specific written direction in the requests for proposals may be declared debarred or suspended bidders/offerors and may be precluded from participation in future contracting opportunities and disqualified from receiving any business from the eCity for a specified time period. No vendor or contractor shall be declared a debarred or suspended bidder until an opinion regarding such has been obtained from the eCity Attorney's office.

(gf) *Exception for real property and water related acquisitions and leases.* Notwithstanding any provision to the contrary, this article shall not be applicable to the leasing, rental or acquiring of real property and water, including improvements thereon.

(hg) *Subdivision prohibited.* No contract or purchase shall be subdivided to avoid the requirements of this article.

(ih) *Record.* A record shall be maintained, in accordance with state statutes, of all open market bids solicited and submitted to competition thereon, and such records shall be open to public inspection.

(ji) *Payments.* Payments to vendors or contractors shall be expedited whenever possible in order to realize discounts and enhance the City's reputation as a responsible customer.

Sec. 2-668.

Prohibitions.

(a) *Interests in contracts.* City officers and employees shall not be interested in any contract made by them in their official capacity or by any body, agency, or board of the City of which they are members or employees. Within six months following the termination of his or her employment or retirement, a former employee may not contract with or be employed by an employer who contracts with the eCity involving matters with which he or she was directly involved during his or her employment.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Be interested in includes a financial interest held by an individual which is:

1. An ownership interest in a business;
2. A creditor interest in an insolvent business;
3. An employment or prospective employment for which negotiations have begun;
4. An ownership interest in real or personal property;
5. A loan or other debtor interest; or
6. A directorship or officership in a business.

The term "be interested in" does not include holding a minority interest in a corporation.

Business means a corporation, partnership, sole proprietorship, trust or foundation or any other individual or organization carrying on a business, whether or not operated for profit.

City officer means an elected or appointed officer of the City but does not include an employee.

Compensation means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or herself or another.

Contract does not include:

1. Contracts awarded to the lowest responsible bidder based on competitive bidding procedures.
2. Merchandise sold to the highest bidder at public auctions.
3. Investments or deposits in financial institutions which are in the business of loaning or receiving monies.
4. A contract with an interested party if, because of geographic restrictions, the eCity could not otherwise reasonably afford itself of the subject of the contract. It shall be presumed that the eCity could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the City of using a non-interested party is greater than ten percent of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.
5. A contract with respect to which any eCity officer or employee has disclosed a personal interest and has not voted thereon and which appropriate approving body or person has approved in accordance with subsection (f) of this section. All disclosures shall be made in writing to the appropriate approving body or person.

Employee means any temporary or permanent employee of the City, except an employee under contract to the City.

Official act or *official action* means a vote, decision, recommendation, approval, disapproval or other action, including inaction, which involves the use of discretionary authority.

(c) *Interest in sales or purchases.* City officers and employees shall not be purchasers at any sale or vendors at any purchase made or authorized by them in their official capacity.

(d) *Voidable contracts.* Every contract made in violation of subsections (a), (b) and (c) of this section shall be voidable at the instance of any party to the contract, except the officer or employee interested therein.

(e) *Dealings in warrants and other claims prohibited.* City officers, their deputies and clerks are prohibited from purchasing or selling or in any manner receiving to their own use or benefit or to the use or benefit of any person whatever any state, county, city and county, city or town warrants, scrip, orders, demands, claims or other evidences of indebtedness against the state or any county, city and county, town or city thereof, except evidences of indebtedness issued to or held by them for services rendered as a member of eCity eCouncil and evidences of the funded indebtedness of such state, county, city and county, city or town.

(f) *Disclosure.* A eCity officer or employee who has an interest in any contract with the eCity shall disclose such

interest to the appropriate approving body or person who approves the contract pursuant to section 2-672 and shall refrain from attempting to influence the approval of the contract. If the disclosed interest is with a ~~e~~City ~~e~~Councilmember, he or she shall not vote thereon. The contract shall be approved pursuant to the award limits of section 2-672. The ~~e~~City ~~e~~Council may authorize any contract upon finding a compelling reason despite any provision of subsections (a) and (b) of this section.

(g) *Withholding of settlements.* The following procedure shall be followed if it is believed an officer of the City or employee has violated any provision of this section:

(1) The ~~e~~City ~~a~~Attorney, upon being informed by affidavit establishing probable cause that any ~~e~~City officer or employee has violated any of the provisions of this section, shall recommend to the ~~d~~Director of ~~f~~Finance that settlement or payment be ceased. The ~~e~~City ~~a~~Attorney shall report such officer or employee to the district attorney of the appropriate jurisdiction for investigation for the purpose of prosecution. During the district attorney's investigation, action may be taken against the officer or employee pursuant to ~~e~~City ~~e~~Council rules or the City's personnel policies and procedures.

(h) *Gifts or rebates.* Every ~~e~~City officer and employee is expressly prohibited from seeking or accepting, directly or indirectly, from any person to which any purchase order or contract is ~~or might be awarded~~ **or any request for bids or proposals currently under processing by the City**, any rebate, gift or money, except as provided for in the City's personnel policies and procedures manual or given for the use and benefit of the City as approved by the ~~e~~City ~~m~~Manager or his or her designee.

(i) *Standards of conduct.* Every ~~e~~City officer and employee is expressly prohibited from knowingly:

(1) Underestimating or exaggerating requirements to certain prospective bidders for the purpose of influencing bids.

(2) Misrepresenting competitor's prices, quality, or service to obtain concessions.

(j) *Unauthorized purchases.* Except as provided in this section, it shall be ~~unlawful~~ **prohibited** for any ~~e~~City officer ~~or~~ employee to order the purchase of any supplies or make any contract within the purview of this article other than through the ~~p~~Purchasing and ~~e~~Contract ~~s~~Services ~~d~~Division **and persons violating this provision shall be subject to disciplinary action**. This shall not serve as the basis for civil liability of the City or any of its officers or employees.

Sec. 2-669.

Adequate funding required.

No funded purchase order or contract shall be awarded until an authorized written request has been signed by the funding department and authorized by the appropriate ~~d~~Deputy ~~e~~City ~~m~~Manager if the amount is over \$25,000.00. Every purchase order or contract is subject to the appropriation of necessary funds by the ~~e~~City ~~e~~Council on an annual basis, notwithstanding automatic renewal clauses or any other provisions extending the purchase or contract beyond the calendar year in which it is executed.

Sec. 2-670.

Formal competitive bidding and requests for proposal.

(a) *Purchase orders and contracts.* Purchase orders and contracts, except as otherwise provided in this article, with an estimated cost ~~in excess of \$25,000.00 or more~~, shall be awarded through formal, written bid or negotiated requests for proposals procedures. **All purchases regardless of dollar amount shall comply with the City's Business Policy Memoranda (BPM).**

(b) *Bid/solicitation time.* The eCity shall allow a reasonable time for bidders/offerors to review the bid/request for proposal documents and examine the job site prior to the deadline for submission of bids or offers. ~~Absent of special circumstances, a~~ **A minimum of two weeks shall be allowed for this process unless otherwise approved by the Department Director.**

~~(c) Notice inviting bids. The director of internal services shall adopt regulations for providing reasonable notice for bid invitations and requests for proposals.~~

~~(dc) Bid deposits bonds. When deemed necessary by the purchasing manager, b~~ **Bid bonds or deposits may totaling 5% of the base bid amount shall be required for construction projects of \$25,000.00 or more and other projects as determined by the Purchasing Manager.** ~~If the bid is not accepted or a bidder is unsuccessful, bid deposits shall be returned. When a purchase order or contract is awarded and the successful bidder fails to enter into a contract within ten days~~ **under the terms of the contract as put forward in the solicitation for bids and under the terms of the bid, unless the City has affirmatively, in writing, agreed to amend the terms of the contract prior to bids being submitted** ~~after the date of the notice of award to proceed to another contractor, the deposit or bid bond shall may be forfeited at the sole discretion of the City.~~

~~(ed)~~ Bid opening/proposal submissions.

(1) Bid opening for competitive bids.

a. Bids shall be submitted ~~sealed and shall be identified as bids on the envelope. Should the city elect to require bids electronically,~~ **through the bidding site as identified in the solicitation.** ~~†The system will be designed to employ electronic lock boxes that prevent access by anyone until after the bid opening time and date. The locked bids will be linked to the bid number assigned by the eCity ensuring the clear identity of each bid.~~

b. Bids shall be opened in public at the time ~~and place~~ **and through the medium** stated in the ~~public notice~~ **solicitation** unless all bidders are notified of a change by written addendum. ~~When electronic bid systems are employed, information about the bid results will be immediately displayed electronically and accessible to all bidders.~~

c. A tabulation of all bids received shall be available for public inspection ~~either in hard copy or electronically. In the event an electronic system is being used to tabulate the bids.~~

(2) Submission for request for proposal.

a. Proposals shall be submitted **electronically through the bidding site as identified in the solicitation.** ~~sealed and shall be identified as proposals on the envelope if sent through the mail. Should the city elect to require proposals electronically, †The system will be designed to employ~~

electronic lock boxes that prevent access by anyone until **after the proposal due date and time.**

~~p~~**P**roposals will be linked to the request for proposal number assigned by the ~~e~~**C**ity ensuring the clear identity of each proposal.

b. Proposals shall be opened so as to avoid disclosure of contents to competing offerors, and evaluated based on the criteria and process identified in the solicitation document. ~~Should the city elect to require proposals electronically, the lock boxes will provide the same disclosure protection, and the evaluation process remains unchanged.~~

c. Proposals shall be **electronically** available for public inspection upon request after contract award.

~~(fe)~~ *Rejection of bids or proposals.* Any or all bids, proposals, or parts thereof may be rejected when the public interest will be served thereby. A statement of the reasons for such rejection shall be prepared by the ~~p~~**P**urchasing ~~m~~**M**anager and reviewed and approved in writing by the ~~e~~**D**irector of ~~f~~**F**inance ~~internal services~~ and the ~~e~~**C**ity ~~a~~**A**ttorney's Office.

~~(gf)~~ *Bid bond or performance and payment bond default.* Sureties who have defaulted on bid bonds or performance and payment bonds may be disqualified from submitting such bonds on future ~~contracts,~~ **solicitations or contracts.** No surety shall be disqualified until an opinion regarding such has been obtained from the ~~e~~**C**ity ~~a~~**A**ttorney. **Sureties who have been disqualified may appeal the decision through written correspondence to the Purchasing Manager.**

Sec. 2-671.

Awards to lowest responsive bidder or most advantageous proposal (best value).

Contracts for the purchase of supplies, services, and construction shall be awarded to the lowest responsive bidder or **to the** most advantageous proposal as specified by project in the ~~request for proposal~~ **solicitation document** for each ~~project contract~~ except as otherwise provided in this article. Among the factors to be considered in determining the lowest responsive bidder **or most advantageous proposal** are the following:

(1) ~~Value analysis~~ **Determination of Responsiveness.** Awards shall be made in the best interests of the City as determined by a prudent value analysis, including but not limited to:

(a) *Capability.* The ability, capacity and skill of the bidder to perform the contract or furnish the supplies required and sufficiency of financial resources and ability of the bidder to perform the contract or furnish the supplies.

(b) *Timeliness.* Whether the bidder can perform the contract or furnish the supplies promptly or within the time specified, without delay or interference.

(c) *Previous performance.* The character, integrity, reputation, judgment, experience and efficiency of the bidder **while performing past agreements with the City of Aurora as well as other entities if that performance can be confirmed, reasonably, by the City of Aurora.**

(d) *Quality.* The quality of supplies or performance on previous purchases or contracts, including known quality based on previous use, and the quality, availability and adaptability of the supplies or contractual 295

services to the particular use required.

(e) *Legal compliance.* Previous and existing compliance by the bidder with laws and ordinances relating to the contract or services.

(f) *Conditions.* The number and scope of conditions attached to the bid by the bidder **or preferably whether no such conditions have been attached by the bidder unless those conditions have been preapproved for all bidders and transmitted to all bidders as scope of work or scope of services addendums to the solicitation.**

(g) *Services.* The availability, accessibility and cost of repair or replacement parts and the ability of the bidder to provide **timely and effective** future maintenance and service.

(h) *Value.* The cost as determined by relevant formulae based on the efficiency, life cycle or other relevant data of the items to be purchased.

(i) *Inquiry into responsiveness of bid.* The unreasonable failure of a bidder to promptly supply information in connection with an inquiry with respect to responsiveness may be grounds for a determination of non-responsiveness with regard to such bidder, **if a reasonable response is not received within five (5) business days or less of the request for information being electronically transmitted.**

(2) *Tie bids.* Tie bids shall be awarded by drawing lots in public, except that if bids received are for the same total amount or unit price and the quality and services, as described in subsection (1) of this section, are equal, the contract shall be awarded to a bidder having a place of business in the City of Aurora.

(3) *Award to other than low bidder (sealed bid process).* When using a competitive sealed bid process and it appears appropriate not to make the award to the lowest dollar bidder, because the lowest dollar bidder is nonresponsive **to the terms of the bid or found to be nonresponsive by the City of Aurora under the factors set forth in subsection (1), above,** a full and complete statement and documentation of the reasons shall be prepared by the ~~p~~Purchasing ~~m~~Manager and **shall be reviewed and approved** by the ~~d~~Director of ~~internal services~~ Finance and the ~~e~~City ~~a~~Attorney's ~~e~~Office.

(4) *Award to the most advantageous proposal (negotiated request for proposal).* Each request for proposal shall define the method of evaluation to be used to select the most advantageous proposal. The factors to be considered in determining the most advantageous proposal ~~shall~~**may** include but not be limited to the following:

- (a) Technical ability;
- (b) Previous experience and performance;
- (c) Qualifications of personnel;
- (d) Ability to meet schedule; and
- (e) Price.

(5) Most Advantageous Proposal or Lowest Bidder - Abridged Process.

completion and positive evaluation of an open competitive solicitation for Job Order Engineering Services (JOES), Master Engineering Service Agreements (MESA) or other Job Order Contracts. Firms shall be evaluated for inclusion on the preapproval list for JOES, MESA and Job Order Contract opportunities using the criteria set forth in subsections (1) and (4), above. The Purchasing Manager shall be authorized to establish additional criteria for placement on the preapproval list, including criteria related to qualification to bid on contract awards of various values based upon prior satisfactory performance of JOES, MESA or Job Order projects of lesser dollar value.

Upon award of a Master On-Call Contract, the Purchasing Manager shall be authorized to award job specific task orders of various values not to exceed the contract limit of the contract value. Consideration shall be given by departments for use of an additional, but accelerated, competitive proposal solicitation to the Master On-Call firms for job specific task orders. Departments shall provide written justification to the Purchasing Manager for job specific task orders to be awarded directly to any firm with a Master On-Call Contract.

Sec. 2-672.

Authority to make awards.

(a) Authority to award a contract or purchase order under this article shall be as follows:

(1) *Contracts and purchase orders for less than \$25,000.00.* For purchase orders or contracts of less than \$25,000.00, the award shall be authorized by the ~~p~~Purchasing ~~m~~Manager or **their** designee.

(2) *Contracts and purchase orders for at least \$25,000.00 but less than \$50,000.00.* For purchase orders or contracts of at least \$25,000.00 but less than \$50,000.00, the award shall be authorized by the ~~e~~City ~~m~~Manager or designee. A report of actions that includes those transactions from \$25,000.00 to \$50,000.00 will be forwarded to the ~~e~~Council prior to award. If ~~e~~Council approval is desired, a ~~e~~Councilmember will notify the ~~e~~City ~~m~~Manager and the item will be placed on the ~~e~~Council agenda.

(3) *Contracts and purchase orders for at least \$50,000.00 but less than \$2,000,000.00.*

a. For purchase orders or contracts of at least \$50,000.00 but less than \$2,000,000.00 for which formal competitive bidding, or competitive proposals have been required, the award shall be authorized by the ~~e~~City ~~m~~Manager or designee, provided that all of the following conditions have been met:

1. The lowest responsive bidder for competitive bidding, or most advantageous offer for competitive proposals has been selected.
2. Formal competitive solicitation procedures have resulted in at least three responsive bids, or offers; and
3. No bid protest has been received by the ~~d~~Director of ~~internal services~~ **Finance**.

A report of all such actions will be forwarded to the ~~e~~Council prior to award. If ~~c~~Council approval is desired, a ~~e~~Council ~~m~~Member will notify the ~~e~~City ~~m~~Manager and the item will be placed on the ~~e~~Council agenda.

b. For all other negotiated purchase orders or contracts of at least \$50,000.00 but less than \$2,000,000.00 which were not subject to any open, public, solicitation process; and for all purchase orders or contracts of at least \$50,000.00 but less than \$2,000,000.00 for which formal competitive bidding is required but which have not met the conditions set forth in subsection (a) above, the award shall be authorized by eCity eCouncil.

(4) *Extensions of existing competitively solicited contracts.*

a. When a vendor/contractor offers to extend an existing competitively solicited contract under the same conditions of the original contract at the same or lower price in accordance with subsection 2-674(2), the award shall be authorized by the eCity mManager or designee when the base award has met the conditions set forth in subsection (3)a. above. Funding shall have been appropriated in the annual budget for such contract.

b. Such actions shall be included in the report of actions in accordance with subsection (3)a. above.

(5) *Contracts and purchase orders for \$2,000,000.00 or more.* For purchase orders or contracts of \$2,000,000.00 or more, the award shall be authorized by the eCity eCouncil.

(6) *Construction contracts.* For construction contracts only, the award amount includes both the contract amount plus the contingency amount that is to be encumbered at the time of award.

(b) The eDirector of ~~internal services~~ **Finance** or designee shall have the authority to execute, on behalf of the City, all contracts and purchase orders awarded pursuant to this section.

(c) Reserved.

Sec. 2-673.

Informal bidding.

The pPurchasing mManager shall establish **written and published** procedures for using solicitations to award purchase orders and contracts when the estimated cost is less than \$25,000.00. **Publication of the same shall be on the City's website.**

Sec. 2-674.

Negotiated "non-competitive" purchases.

Purchase orders and contracts in any amount may be awarded on a noncompetitive basis in one or more of the following cases when the pPurchasing mManager approves the use of negotiation as a means to procure the goods and services prior to award. Authority to award negotiated purchases shall be in accordance with the limitations established in section 2-672, except as stated in subsection (3) of this section.

~~(1) City share contracts. City share contracts which include contracts with developers for the construction of public improvements whereby the city shares in the cost of construction as may be required by this Code or as~~ 298

~~the result of an annexation agreement or a similar agreement in kind or a determination is made that it is in the best interest of the City to share in the cost. The city reserves the right to be present at the bid opening, to inspect all bids received by the developer and for good cause to reject such bid. Additionally, the city reserves the right to perform or contract for the work to be accomplished.~~

(21) *Extension of existing competitively solicited contract.* A vendor/contractor offers to extend an existing competitively solicited contract under the same conditions of the original contract, and at the same or lower price, and such extension is in the best interest of the eCity and is in accordance with the solicitation document. As used in this subsection, the term "price" may be deemed "the same or lower" if the price from the previous contract will be increased in the extension only in an amount equal to an inflationary factor as determined by acceptable indices or criteria.

(32) *Used, discontinued, unique purchases.* Used, discontinued or otherwise unique equipment or commodities which become available or are offered only for a limited time and may be acquired below the cost of similar new or regular items. The eCity mManager or his or her designee shall have the authority to award purchase of used, discontinued or unique equipment or purchases with a report of such purchases above \$25,000.00 to be forwarded to the eCouncil prior to award. If eCouncil approval is desired, a eCouncil mMember will notify the eCity mManager and a review of the item will be placed on a council agenda.

(43) *Service on existing equipment.* It is ~~to be in the eCity's advantage~~ **best interest** to obtain parts, repair or service on existing equipment from a local factory-authorized dealer or distributor.

(54) *Perishable supplies.* Supplies that are perishable or cannot be purchased by ordinary procedures because of imminent spoilage or decay.

(65) *Reduced total cost.* Closer location, more advantageous time allowances or similar variable factors can reduce the total cost of the product or service.

(76) *Standardization.* Standardization of parts, modules, accessories or additions will minimize excessive inventory or maintain compatibility with existing furnishings or installations.

(87) *Lack of specifications or testing.* It is not feasible to prepare definite, certain and precise written specifications or testing is desired to better define requirements.

(98) *No response.* Formal competitive bidding procedures have failed to provide ~~sufficient~~ **at least two** responsive bidders.

(109) *Sole source.* Only one specific source is known to exist **after reasonable inquiry by the Purchasing Manager or their staff** for the required supplies or services (sole source). **Departmental assertions of a sole source shall not be determinative upon the Purchasing Manager's determination but shall be given due consideration.**

(110) *Priority.* In order to reduce down time of procuring equipment and contracts when circumstances warrant, purchase orders may be negotiated with selected vendors or contractors.

(1211) *Exceptions to purchasing.* Exceptions identified in purchasing and procedures letter 1-3 promulgated pursuant to section 2-3, rules and regulations, are not subject to standard purchasing procedures

Sec. 2-675.

Emergency purchases.

In an apparent emergency which requires immediate purchase of supplies, services, or award of a construction contract, change order or amendment, regardless of cost, the ~~eCity mManager~~ or the ~~eDeputy eCity mManager~~ of ~~administrative services~~ **the department, or the General Manager of Aurora Water** shall be empowered to authorize the ~~eDirector of internal services~~ **fFinance** to procure such emergency needs as expeditiously as possible considering cost and other factors. The circumstances necessitating immediate action shall be fully documented in the ~~eCity mManager's~~ report to the ~~eCouncil~~, except where the immediate action does not require expenditure in excess of \$50,000.00.

Sec. 2-676.

Change orders and amendments.

(a) Definitions--

(1) The term "change order" shall apply to any modification of an existing contract. ~~with the exception of any modification of an existing professional service contract.~~

~~(2) The term "amendment" shall apply only to any modification of an existing professional service contract.~~

~~(b) May not exceed appropriations.~~ In no event shall any change order ~~or amendment~~ be approved where such change order ~~or amendment~~ would increase the total contract cost to an amount exceeding the funds appropriated by the ~~eCity eCouncil~~.

~~(c) Authority to approve change orders and amendments.~~ Subject to the limitation set forth in subsection 2-676

~~(b)(4)(a),~~ authority to approve change orders ~~and amendments~~ shall be as follows:

(1) Change orders ~~and amendments~~ for less than \$25,000.00. For change orders ~~and amendments~~ of less than \$25,000.00, by the ~~pPurchasing mManager~~ or designee, as long as such approval does not cause the cumulative total of all change orders ~~and amendments~~ to a contract to exceed \$100,000.00.

(2) Change orders ~~and amendments~~ for at least \$25,000 but less than \$100,000. For change orders ~~and amendments~~ of at least \$25,000.00 but less than \$100,000.00, by the ~~eCity mManager~~ or designee, as long as such approval does not cause the cumulative total of all change orders and amendments to a contract to exceed \$100,000.00. A report of actions from \$25,000 to \$100,000 will be forwarded to the ~~eCouncil~~ prior to approval. If ~~eCouncil~~ approval is desired, a ~~eCouncil mMember~~ will notify the ~~eCity mManager~~ and the item will be placed on the ~~eCouncil~~ agenda.

(3) Change orders and amendments that would cause the total amount of change orders ~~and amendments~~ to a contract to exceed \$100,000. Any change order ~~or amendment~~, regardless of amount, that would cause the cumulative total of all change orders ~~and amendments~~ to a contract to exceed \$100,000.00 may only be approved by ~~eCity eCouncil~~.

(4) *Construction and design-build contracts.* The above change order requirements shall not apply to the 300

construction and design-build contracts for work required to complete the project. ~~e~~City ~~e~~Council approval shall be required on change orders that would cause the cumulative amount of change orders to exceed the contingency awarded by ~~e~~City ~~e~~Council. Change orders issued within the contingency amount will be reported to ~~e~~City ~~e~~Council in the "~~p~~Purchasing ~~s~~Services ~~w~~Weekly ~~r~~Report of ~~a~~Actions".

(d) *Administrative orders.* Change orders and amendments that are administrative in nature, such as a decrease in cost, change in performance time, etc., may be approved by the ~~p~~Purchasing ~~m~~Manager or designee.

(e) *Request by ~~e~~Council ~~m~~Members.* Any ~~e~~Council ~~m~~Member can request that any change order ~~or amendment~~ be submitted for full ~~e~~Council review and approval.

(f) *Authority to execute change orders and amendments.* The ~~d~~Director of ~~internal services~~ **Finance** or designee shall have the authority to execute on behalf of the ~~e~~City all change orders and amendments approved pursuant to this section.

Sec. 2-677.

Inspection and testing.

The ~~p~~Purchasing ~~m~~Manager shall have the authority to require chemical and physical tests of commodities or construction work to determine the quality and conformance with specifications pursuant to this article. **The Purchasing Manager has the authority to order stop payment of purchase orders and invoices if work or commodities are found to be substandard or non-conforming to the Statement of Work or Services in the contract. The Purchasing Manager shall immediately report that determination to the Director of Finance to have review and oversight of this determination.**

Sec. 2-678.

Surplus stock.

(a) *Department authority.* Departments may sell, trade or transfer fixed assets no longer needed in their departments to other ~~e~~City departments for their official use. Proceeds from any sales to other ~~e~~City departments would be reimbursed to the selling department's capital outlay accounts.

(b) *Reports of surplus stock.* Departments shall submit to the ~~p~~Purchasing ~~m~~Manager, at such times and on such forms as prescribed, reports showing stocks of all commodities or fixed assets which are no longer used or sold or traded to another department or which have become obsolete, worn out or scrapped.

(c) *Transfer to other departments.* The ~~p~~Purchasing ~~m~~Manager shall have the authority to transfer surplus stock to other departments.

(d) *Sale of surplus stock.* The ~~p~~Purchasing ~~m~~Manager shall have the authority to sell all commodities which have become unsuitable for public use or to exchange such for or trade in such on new commodities. Sales shall be made to the highest responsive bidder ~~as prescribed in section 2-670 of this article~~. Such sales shall be preceded by a formal advertisement either electronically or in a newspaper if the total estimated sale of items

exceeds \$10,000.00.

(e) *Auction or written bids.* Sale by public or electronic auction may be used in lieu of acceptance of written bids.

(f) *Sale other than by bid or auction.* Surplus items may be sold, based on a price equal to or higher than past bid or auction prices for similar items, if the best interests of the eCity are served. The sale price must be approved by the eCity mManager or designee.

(g) *Donations.* Items **that the donating department has with an estimated the value of as being** \$500.00 or less may be donated to charitable or nonprofit organizations with approval of the pPurchasing mManager. Items **that the donating department has with an estimated the value as being over** \$500.00 may be donated to charitable or nonprofit organizations with approval of the eCity mManager or his or her designee. The eCity mManager shall notify the eCity eCouncil of the intent to donate an item with a value over \$500.00 no less than ten days prior to the transfer of title.

Sec. 2-679.

Cooperative purchasing and contracting.

The pPurchasing mManager shall have the authority to join with other units of government in cooperative purchasing and contracting plans when the best interests of the eCity would be served thereby.

Sec. 2-680.

Mandatory requirements in city contracts.

Every contract executed by the eCity shall contain the following to be complied with by the person or entity entering into the contract with the City:

(1) *Compliance with laws.* The contracting party shall comply with applicable federal, state and local statutes, ordinances, rules, regulations and standards pertaining to safety, whichever is more restrictive.

(2) *Performance and payment bonds.* A bond for the proper performance of any contract as authorized by C.R.S. § 24-105-202, as amended, may be required. The form and legal sufficiency of a bond shall be subject to the approval of the eCity aAttorney **and Risk Manager**. For contracts which do not exceed \$25,000.00, the pPurchasing mManager may waive the requirement of a performance or payment bond. The eCity may be liable for the payment of any valid liens claimed, when it awards a contract without bond requirements, in an amount equal to the contract amount, but not to exceed \$25,000.00.

(3) *Equal opportunity.* The contracting party shall commit to compliance as an equal opportunity employer.

(4) *Insurance.* The contracting party shall provide evidence of worker's compensation coverage, comprehensive general liability insurance and professional errors and omissions insurance, as described in this section. The required insurance will be considered primary and, for loss covered by such insurance, such insurance shall first be exhausted before any other insurance or funds are applied to pay the loss.

- (5) *General liability insurance.* The contracting party shall carry a comprehensive general liability insurance policy, including broad form property damage, completed operations and broad form contractual liability.
- (6) *Automobile liability insurance.* The contracting party shall carry a comprehensive automobile liability insurance policy including coverage for all owned motor vehicles and hired or nonowned vehicles used in the performance of the purchase order or contract.
- (7) *Professional liability insurance.* The contracting party providing engineering or architectural and design services to the eCity shall provide evidence of professional liability insurance.
- (8) *Factors determining sufficiency of insurance.* The Risk Manager, will set the amount and conditions of required insurance and the following factors shall be applied:
- (a) The risk or loss involved in performance of the contract.
 - (b) Terms of the contract.
 - (c) The cost of the project.
 - (d) Known conditions at the site of the project which increase risk.
 - (e) Complexity of the project.
 - (f) Any other factor which may be considered in accordance with good risk management policy.
 - (g) Necessity for making the City an additional named insured on any policy.

Sec. 2-681.

Report to city council.

The Purchasing Manager shall submit a weekly report of purchasing and contracting activities to the eCity eCouncil. The report shall include information on competitively solicited purchase orders and contracts under \$2,000,000.00 that meet the requirements set forth in 2-672(a)(3)a. and all other purchase orders and contracts under \$50,000.00 during the reporting period. The weekly report shall also include non-construction contract change orders and amendments of less than \$100,000.00 and construction contract change orders in any amount that are within the previously approved contingency during the reporting period.

Sec. 2-682.

Minority, women and small business enterprise participation.

- (a) The eCity Manager or his or her designee shall have the authority to establish and administer a minority, women, Aurora small business, and small business enterprise program. The eCity Manager or his or her designee shall develop policies and procedures which are designed to implement this program.
- (b) The eCity Manager or his or her designee shall utilize metropolitan as well as national resources in

establishing this program.

Sec. 2-683.

Longterm rental and leaseholds.

In recognition of the home rule powers granted unto certain municipal corporations within the state by section 6 of article XX of the state constitution, the eCity eCouncil enacts this section with the intention of superseding the provisions found in C.R.S. § 31-15-801 relating to longterm rentals and leaseholds. The eCity eCouncil declares that any longterm rentals and leaseholds may be accomplished by action of the eCity eCouncil without the necessity of passage of an ordinance. Such longterm rentals and leaseholds may, at the discretion of the City, exceed 30 years **but may not exceed 80 years.**

Sec. 2-684.

Confidential police department contracts.

(a) The eChief of pPolice or his or her designee shall have the authority, subject to the approval of the eCity mManager or his or her designee, to enter into contracts for the purchase and sale of supplies, services and commodities and to enter into real estate contracts relating to rentals and leaseholds on behalf of the pPolice eDepartment when the nature of those sales, purchases and real estate contracts require that confidentiality be maintained. To the extent any of the requirements contained in this article would thwart the police purposes due to the confidential nature of the contract or, due to the need for prompt action, the pPolice eDepartment is expressly exempted from the requirements of this article. All such contracts shall be subject to legal review by the eCity aAttorney's eOffice prior to execution and to the extent practicable, with maximum economy to the City.

(b) The eChief of pPolice or his or her designee shall keep records of any and all expenditures of eCity funds under this section, which records shall be maintained according to generally accepted accounting principles and shall be audited at least once per year.

Sec. 2-685.

Use of pilot programs.

Notwithstanding the requirements of this chapter, the eCity mManager shall have authority to implement pilot programs for various procurement processes upon receiving an authorization to proceed on a specific process from the eCity eCouncil. Such authorization may be given by eCity eCouncil at sStudy sSession. The pilot programs shall be for opportunities for the City to evaluate savings through new streamlined or more effective and efficient procurement processes. This authority will support the testing of new procurement processes that have the potential of saving the City in time, effort, or actual monetary amounts. Each approved program will contain an automatic sunset provision with a date specific for expiration.

Sec. 2-686.

Obsolete or unusable property.

Sales of obsolete or unusable property with an estimated cumulative value in excess of \$10,000.00 shall be sold through ~~formal written bid or by~~ public auction, to the highest responsible bidder, after due notice inviting bids, except when a negotiated price may be based on a price higher than past bid or auction as set forth in section 2-678.

Sec. 2-687 through 2-720.
Reserved.

Section 2. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 3. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this day of _____, 2023.

PASSED AND ORDERED PUBLISHED this _____ day of _____, 2023.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

David Lathers *gk*

DAVE LATHERS, Senior Assistant City Attorney



CITY OF AURORA

Council Agenda Commentary

Item Title: FSIR Legislative Update
Item Initiator: Liz Rogers, Intergovernmental Relations Manager
Staff Source/Legal Source: Liz Rogers, Intergovernmental Relations Manager / George Koumantakis, Client Services Manager, City Attorney
Outside Speaker: n/a
Council Goal: 2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interests

COUNCIL MEETING DATES:

Study Session: 3/20/2023

Regular Meeting: N/A

2nd Regular Meeting (if applicable): 3/20/2023

Item requires a Public Hearing: ☐ Yes ☒ No

ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time for Study Session

Liz Rogers, Intergovernmental Relations Manager / George Koumantakis, Client Services Manager, City Attorney
Estimated time: 5 mins

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- ☐ Approve Item and Move Forward to Study Session ☒ Approve Item as proposed at Study Session
- ☐ Approve Item and Move Forward to Regular Meeting ☐ Approve Item as proposed at Regular Meeting
- ☐ Information Only
- ☐ Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field above.

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Federal, State & Intergovernmental Relations

Policy Committee Date: N/A

Action Taken/Follow-up: (Check all that apply)

- | | |
|---|---|
| <input checked="" type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> Minutes Not Available |

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

The Federal, State and Intergovernmental Relations Committee is the standing committee that oversees Aurora's relationships with our state legislative and federal congressional delegations. As empowered by Council Rules, the FSIR committee shall debate and take positions on proposed state legislation on behalf of the city of Aurora. Staff will answer questions as needed under the request of Council Members or the Mayor.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

The FSIR committee held a regular committee meeting on March 10, 2023 to discuss legislation before the Colorado General Assembly. The committee discussed and took active positions on five bills.

FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

- | | | |
|--|--|--|
| <input type="checkbox"/> Revenue Impact | <input type="checkbox"/> Budgeted Expenditure Impact | <input type="checkbox"/> Non-Budgeted Expenditure Impact |
| <input type="checkbox"/> Workload Impact | <input checked="" type="checkbox"/> No Fiscal Impact | |

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

N/A

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

N/A

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A

QUESTIONS FOR COUNCIL

Does City Council wish to adjust the official city position on the following:

Support if Asked:

- HB23-1223: Task Force to Prioritize Grants Target Population
- SB23-031: Improve Health Care Access for Older Coloradans

Actively Oppose:

- HB23-1222: Cases of Domestic Violence in Municipal Court
- SB23-105: Ensure Equal Pay for Equal Work
- SB23-172: Protecting Opportunities and Workers' Rights Act
- Colorado Air Quality Control Commission (AQCC) Proposed Rule

LEGAL COMMENTS

The city manager shall be responsible to the council for the proper administration of all affairs of the city placed in his charge, and to that end he shall have the power and duty to attend council meetings and participate in discussions with the council in an advisory capacity and inform the public concerning plans and activities of the council and of the city administration. (City Charter Art. 7-4). The Federal, State and Intergovernmental Relations Committee shall recommend objectives and initiatives in the State and Federal Legislature. (Council Rules, Appendix A) (Koumantakis).



FEDERAL, STATE, AND INTERGOVERNMENTAL RELATIONS COMMITTEE

Colorado's 2023 Legislative Session began on January 9th and there has subsequently been several bills identified that may impact the City of Aurora. Below, please find the bill, summary, impact, and position as recommended by the City Department(s) impacted. Legislation is separated by position recommendation.

Support if Asked

Bill Name	HB23-1223: Task Force To Prioritize Grants Target Population
Sponsors	House: J. Bacon (D) R. English (D)
Summary	The bill creates a task force (task force) to establish shared goals, objectives, and guidelines for entities to utilize in prioritizing new and existing grant money to achieve maximum impact to reduce youth violence, suicide, and delinquency risk factors. The task force shall identify target communities with the highest rates of youth violence, suicide, and delinquency risk factors. The task force shall create shared goals, objectives, and guidelines for governmental and community-based organizations to prioritize the use of new and existing grant money, as well as help community-based organizations reduce youth violence, suicide, and delinquency risk factors in the target communities by using the shared goals, objectives, and guidelines when working in intervention, prevention, and tracking statistics. The task force shall make a preliminary "SMART Act" report in January 2024 followed by a final report in January 2025.
Position Recommendation	Support If Asked – Finalized 3/10
Rationale	While this bill will not immediately affect the City, when the final recommendations are made by the task force in 2025 the City may see financial resources or other resources from the General Assembly to reduce youth violence, suicide and delinquency.

Bill Name	SB23-031: Improve Health Care Access for Older Coloradans
Sponsors	Senate: Danielson and Cutter
Summary	The bill creates the Colorado multidisciplinary health-care provider access training program (program) to improve the health care of medically complex, costly, compromised, and vulnerable older Coloradans. The university of Colorado Anschutz medical campus shall develop, implement, and administer the program.
Position Recommendation	Support If Asked – Finalized 3/10
Rationale	This bill creates a training program and an advisory committee to coordinate and expand geriatric training opportunities for clinical health professions graduate students. The bill does not affect the City but could lead to better geriatric care for our citizens.

Actively Oppose

Bill Name	HB23-1222: Cases Of Domestic Violence In Municipal Court
Sponsors	House: Weissman (D) Duran (D) Senate: Roberts (D)
Summary	Beginning January 1, 2024, the bill prohibits the prosecution of an alleged act of domestic violence in municipal courts. The county and district courts retain jurisdiction over such cases.
Position Recommendation	Actively Oppose – Finalized 3/10
Rationale	The City of Aurora is very concerned about protecting victims. This Bill will significantly impact the Aurora Municipal Court and will take away all local control of Domestic Violence prosecution.



	Often, domestic violence cases filed in a municipal court are precursors to more violent incidents that can include strangulation and death. Limiting the prosecution of these crimes puts victims in greater danger. Prosecuting domestic violence crimes in municipal court makes it more accessible for victims by reducing the long distances they must travel to be present during the many stages of the case.
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Bill Name	SB23-105: Ensure Equal Pay For Equal Work
Sponsors	House: Gonzales-Gutierrez (D), Bacon (D) Senate: Buckner (D) Danielson (D)
Summary	<p>Current law authorizes the director of the division of labor standards and statistics in the department of labor and employment (director) to create and administer a process to accept and mediate complaints, to provide legal resources concerning alleged wage inequity, and to promulgate rules as necessary for this purpose. The bill changes these authorizations to requirements. Additionally, the bill requires the director to:</p> <ul style="list-style-type: none">• Investigate complaints or other leads concerning wage inequity;• Upon finding of a violation, order compliance and relief; and• Promulgate rules to enforce the bill. <p>The bill also requires an employer to:</p> <ul style="list-style-type: none">• For each job opportunity or promotional opportunity where the employer is considering more than one candidate, follow specific guidelines for posting the opportunity;• For all job opportunities and promotional opportunities, provide specific information to employees regarding the candidate selected for the opportunity; and• For all objectively defined career progressions, disclose the requirements for career progression and the terms of compensation, benefits, status, duties, and access to further advancement.
Position Recommendation	Actively Oppose – Finalized 3/10
Rationale	<p>This bill adds definitions of “Career Development”, “Career Progression”, “Promotional Opportunity”, “Job Opportunity”, and “Vacancy.” Some of these were previously defined in regulations. The definitions of career development and career progression may be helpful to add clarity, particularly as they are excluded from the definition of promotional opportunity.</p> <ul style="list-style-type: none">• Allows for up to 6 years of backpay for a violation (previously 3) - Potential increase to City liability.• Codifies posting requirements that were previously found in regulations, such as posting the salary range and benefits, but adds that a closing date must be included and it must be at least 5 days from the announcement.• Requires a competitive selection process for each job opportunity and promotional opportunity. “Competitive selection process” is not defined and may lead to litigation or extensive regulation by the state.• After a candidate has been chosen for a job opportunity or promotional opportunity, the bill would require a notification to those the person will be working with regularly: name, former job title, new job title, and information on how individuals can express interest in such opportunities in the future. This requirement creates an extensive burden on employers with little benefit. Every time an employer hires or promotes someone, an employer would be required to send this notification out to each person they would work with regularly. Which means identifying who those people are, gathering this information, and then disseminating.• For positions with career progression, information on the requirements for career progression as well as terms of compensation, benefits, full-time or part-time status, duties, and access to



	further advancement would also have to be distributed. Though this information exists, staff would need to gather it together, post it, and keep it updated which would create additional administrative burden.
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Bill Name	SB23-172: Protecting Opportunities And Workers' Rights Act
Sponsors	House: Weissman (D) Bacon (D) Senate: Winter (D) Gonzales (D)
Summary	<p>For purposes of addressing discriminatory or unfair employment practices pursuant to Colorado's anti-discrimination laws, the bill enacts the "Protecting Opportunities and Workers' Rights (POWR) Act", which: Directs the Colorado civil rights division (division) to include "harassment" as a basis or description of discrimination on any charge form or charge intake mechanism; Adds a new definition of "harass" or "harassment" and repeals the current definition of "harass" that requires creation of a hostile work environment; Adds protections from discriminatory or unfair employment practices for individuals based on their "marital status"; Specifies that in harassment claims, the alleged conduct need not be severe or pervasive to constitute a discriminatory or unfair employment practice; For purposes of the exception to otherwise discriminatory practices for an employer that is unable to accommodate an individual with a disability who is otherwise qualified for the job, eliminates the ability for the employer to assert that the individual's disability has a significant impact on the job as a rationale for the employment practice; Specifies that it is a discriminatory or an unfair employment practice for an employer to fail to initiate an investigation of a complaint or to fail to take prompt, reasonable, and remedial action; Specifies the requirements for an employer to assert an affirmative defense to an employee's proven claim of unlawful harassment by a supervisor; and Specifies the requirements that must be satisfied for a nondisclosure provision in an agreement between an employer and an employee or a prospective employee to be enforceable.</p>
Position Recommendation	Actively Oppose – Finalized 3/10
Rationale	<ul style="list-style-type: none">• The Act adds “marital status” as a protected class, which potentially affects how employers provide health benefits and other benefits. For example, if the city provides health benefits to spouses but not unmarried cohabiting couples, that would appear to be a discriminatory practice under this Act.• The bill also adds a new definition of "harassment" that expands the definition and is very broad. It specifically rejects the longstanding “severe or pervasive” standards in current law. This means employers could be held liable for what amounts to trivial slights in the workplace.• It also modifies the “reasonable person” standard to “a reasonable person in the same actual or perceived protected class or who shares the same or similar characteristics as the individual subjected to the conduct, and the conduct was offensive to the individual.” This raises questions as to how courts and juries would determine whether this standard has been met.• It also removes language providing a defense for employers where the employee fails to bring the alleged harassment to the employer’s attention and/or once the employer becomes aware it investigates and takes prompt remedial action. This means that employers can be liable for harassment that they knew nothing about and had no chance to address. Also, even if they did quickly and effectively stop the bad conduct, they can be liable regardless. With the change to what constitutes “harassment” as what can be perceived as very minor behavior, that the employee never complained about, and the employer was not aware of, can lead to liability.



- The bill adds a subsection that makes it a discriminatory practice to fail to conduct a reasonable investigation or to take prompt remedial action. While on the surface this seems innocuous, this is likely to lead to much litigation as to whether a specific claim required an investigation and whether the investigation was reasonable. Even if no discrimination, harassment, or retaliation is proved, there could be liability from this alone. This would likely lead to an increase in investigation costs for the City as the City investigates even the most minor complaints that do not appear to meet the legal definition of harassment, discrimination, or retaliation in order to reduce the risk of liability under this section.
- It allows for an affirmative defense of harassment by supervisor claim only where: (1) employer has a program reasonably designed to prevent and deter harassment and protect employees; communicates it to all employees; the employee unreasonably failed to take advantage of the program; (2) employer maintains all written and oral complaints of discrimination, harassment, retaliation for the entire time the employer operates plus one year; and (3) within 5 years immediately previous to raising the defense, no employee has complained of discrimination, harassment, or retaliation by a “relevant” supervisory employee. There are several issues here. To begin, negating the affirmative defense whenever any employee has filed a complaint within 5 years would effectively remove the affirmative defense. Employers receive complaints all the time that are unsubstantiated, but receiving even a frivolous complaint would remove the defense. The Act doesn’t also define what a “relevant” supervisory employee is. Requiring an employer to maintain all written/oral complaints indefinitely is a big record-keeping burden. Moreover, the effect of these provisions together would likely result in employers having to turn over that entire database for a plaintiff to review in a lawsuit so that it can be reviewed for any relevant complaints, which raises confidentiality concerns.
- The bill also declares as void NDAs that restrict discussing alleged unfair employment practices, unless: (1) It applies to both parties; (2) there are certain exception on the employee side; (3) it states that disclosure of the facts if not disparagement; (4) it states that if any party makes a material representation about another party, the NDA cannot be enforced; and (5) restrictions on damages if breached. This is a severe restriction on such agreements, would interfere with municipalities’ home-rule authority, and, in practice, makes such provisions difficult to use. Also, the City generally cannot agree to an NDA due to CORA provisions. The bill also allows for recovery of penalties where an employer presents an NDA that does not comply with the above, even where the employee does not sign it and the employer does not enforce it.
- Another section states that where an employer had previously entered into an NDA relating to alleged conduct by a supervisor, if sued in the future that NDA can be considered in support of an award of punitive damages. Even where no prior misconduct has been proved, mere existence of an NDA could lead to punitive damages in a successful lawsuit.

Overall, this Act is heavily weighted in favor of plaintiffs and greatly increases the risks of liability for employers, to include the City. The expanded definition of harassment means that very minor, one-time comments could lead to liability. Failing to investigate complaints that appear frivolous on their face could lead to liability. Affirmative defenses for employers who implement best practices to prevent and respond to harassments are effectively taken away. It takes the onus off employees to inform their employers when they believe they are being harassed.



Colorado Air Quality Control Commission (AQCC) Proposed Rules	At the February 24 th FSIR meeting, staff brought forward an informational item regarding the Colorado Air Quality Control Commission (AQCC) proposed rule. At the March, 10 th meeting, the FSIR Committee took an actively oppose position on the proposed regulation due to the negative impact it may have on business and developers in the City of Aurora.
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CITY OF AURORA

Fiscal Impact Form

Item Title: State Legislative Update: Legislative Position Discussion

Staff contact: Liz Rogers, Intergovernmental Relations Manager

Staff Source/Legal Source: George Koumantakis, Manager of Client Services, City Attorney

TYPE OF FISCAL IMPACT

Select all that apply.

- ☐ Revenue Impact ☐ Budgeted Expenditure Impact ☐ Non-Budgeted Expenditure Impact
☐ Workload Impact ☒ No Fiscal Impact

FISCAL SUMMARY

Provide a plain language summary of the fiscal impact. (List program and/or service fund(s) affected. Is this request due to an internal/external audit need or mandated by State, Federal, or legal action? List all departments affected; such as IT, Fleet, HR, etc. What are the implications on performance measures in the city? Provide additional detail as necessary.)

N/A

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

N/A

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

N/A

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A

`First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0352.02 Jane Ritter x4342

HOUSE BILL 23-1223

HOUSE SPONSORSHIP

Bacon and English,

SENATE SPONSORSHIP

(None),

House Committees

Public & Behavioral Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A TASK FORCE TO ESTABLISH SHARED**
102 **GUIDANCE FOR ENTITIES TO UTILIZE IN PRIORITIZING GRANT**
103 **MONEY TO ACHIEVE MAXIMUM IMPACT TO REDUCE NEGATIVE**
104 **OUTCOMES FOR YOUTH.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates a task force (task force) to establish shared goals, objectives, and guidelines for entities to utilize in prioritizing new and existing grant money to achieve maximum impact to reduce youth

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

violence, suicide, and delinquency risk factors. The task force shall identify target communities with the highest rates of youth violence, suicide, and delinquency risk factors. The task force shall create shared goals, objectives, and guidelines for governmental and community-based organizations to prioritize the use of new and existing grant money, as well as help community-based organizations reduce youth violence, suicide, and delinquency risk factors in the target communities by using the shared goals, objectives, and guidelines when working in intervention, prevention, and tracking statistics.

Membership in the task force is outlined.

The task force shall make a preliminary "SMART Act" report in January 2024 followed by a final report in January 2025.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 25-1-137 as follows:

25-1-137. Task force to establish shared goals, objectives, and guidelines for entities to achieve maximum impact to reduce youth violence, suicide, and delinquency risk factors - creation - membership - reporting - definitions. (1) ON OR BEFORE DECEMBER 31, 2023, THE DEPARTMENT SHALL CONVENE A TASK FORCE TO ESTABLISH SHARED GOALS, OBJECTIVES, AND GUIDELINES FOR GOVERNMENTAL AGENCIES AND COMMUNITY-BASED AGENCIES TO ACHIEVE MAXIMUM IMPACT IN REDUCING YOUTH VIOLENCE, SUICIDE, AND DELINQUENCY RISK FACTORS FOR TARGET COMMUNITIES WITH THE HIGHEST RATES OF YOUTH VIOLENCE, SUICIDE, OR DELINQUENCY RISK FACTORS.

(2) THE PURPOSE OF THE TASK FORCE IS TO BRING TOGETHER DIVERSE GROUPS AND PERSPECTIVES FROM GOVERNMENTAL AGENCIES AND COMMUNITY-BASED ORGANIZATIONS TO:

(a) IDENTIFY TARGET COMMUNITIES IN THE STATE WHERE DISPROPORTIONATELY HIGH LEVELS OF YOUTH VIOLENCE, SUICIDE, AND DELINQUENCY RISK FACTORS EXIST. THE TARGET COMMUNITIES MAY

1 INCLUDE ANY ZIP CODE OR CONTIGUOUS ZIP CODES WITH THE TOP FIVE
2 RATES OF YOUTH VIOLENCE, SUICIDE, OR DELINQUENCY RISK FACTORS,
3 INCLUDING, BUT NOT LIMITED TO, SCHOOL PERFORMANCE, AVERAGE
4 EDUCATION LEVEL, INCOME LEVEL, EMPLOYMENT LEVELS, CRIME
5 STATISTICS, AND HOUSING AND FOOD INSECURITY.

6 (b) ESTABLISH CLEAR AND SHARED GOALS, OBJECTIVES, AND
7 GUIDELINES TO PRIORITIZE, ALIGN, AND POOL AGENCY RESOURCES,
8 INCLUDING NEW AND EXISTING GRANT MONEY, TO GUIDE INTERVENTION,
9 PREVENTION, AND TRACKING STATISTICS TO ACHIEVE THE MAXIMUM
10 IMPACT ON REDUCING YOUTH VIOLENCE, SUICIDE, AND DELINQUENCY RISK
11 FACTORS; AND

12 (c) ESTABLISH CLEAR SHARED GOALS, OBJECTIVES, AND
13 GUIDELINES TO PRIORITIZE THE DISTRIBUTION OF EXISTING AND NEW
14 GRANT MONEY ACROSS MULTIPLE GOVERNMENTAL AGENCIES TO GUIDE
15 INTERVENTION, PREVENTION, AND TRACKING STATISTICS TO ACHIEVE THE
16 MAXIMUM IMPACT ON REDUCING YOUTH VIOLENCE, SUICIDE, AND
17 DELINQUENCY RISK FACTORS. THIS INCLUDES CREATING:

18 (I) A PROCESS FOR STREAMLINING GRANT APPLICATIONS ACROSS
19 AGENCIES;

20 (II) A COMMON APPLICATION FORM;

21 (III) A CLEARINGHOUSE OF RESOURCES FOR APPLICANTS; AND

22 (IV) A JOB DESCRIPTION FOR THE FULL-TIME EMPLOYEE SUPPORT
23 FOR THE FIVE AGENCIES OF THE TASK FORCE.

24 (3) THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS, AT
25 A MINIMUM:

26 (a) TWO REPRESENTATIVES FROM THE DEPARTMENT OF PUBLIC
27 HEALTH AND ENVIRONMENT. ONE REPRESENTATIVE MUST HAVE

1 EXPERIENCE IN SUBSTANCE USE AND BE APPOINTED BY THE EXECUTIVE
2 DIRECTOR. THE OTHER REPRESENTATIVE MUST BE FROM THE OFFICE OF
3 GUN VIOLENCE PREVENTION AND BE APPOINTED BY THE DIRECTOR OF THE
4 OFFICE OF GUN VIOLENCE PREVENTION.

5 (b) A REPRESENTATIVE FROM THE DEPARTMENT OF EARLY
6 CHILDHOOD, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE
7 DEPARTMENT OF EARLY CHILDHOOD;

8 (c) TWO REPRESENTATIVES FROM THE DEPARTMENT OF
9 EDUCATION, ONE WITH EXPERTISE IN WORKFORCE DEVELOPMENT AND ONE
10 WITH EXPERTISE IN POST-SECONDARY PATHWAYS, BOTH APPOINTED BY
11 THE COMMISSIONER OF EDUCATION;

12 (d) TWO REPRESENTATIVES FROM THE BEHAVIORAL HEALTH
13 ADMINISTRATION IN THE DEPARTMENT OF HUMAN SERVICES AND
14 APPOINTED BY THE BEHAVIORAL HEALTH COMMISSIONER. ONE
15 REPRESENTATIVE MUST HAVE EXPERIENCE IN SUBSTANCE USE AND DRUG
16 PREVENTION AND ONE REPRESENTATIVE MUST HAVE EXPERIENCE WITH
17 MENTAL HEALTH ISSUES.

18 (e) A REPRESENTATIVE FROM THE DIVISION OF CRIMINAL JUSTICE
19 IN THE DEPARTMENT OF PUBLIC SAFETY, APPOINTED BY THE EXECUTIVE
20 DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY; AND

21 (f) FIVE REPRESENTATIVES FROM COMMUNITY-BASED
22 ORGANIZATIONS, AS WELL AS CURRENT AGENCY GRANTEEES, WORKING IN
23 THE TARGET COMMUNITIES, AS IDENTIFIED BY THE TASK FORCE PURSUANT
24 TO SUBSECTION (2)(a) OF THIS SECTION AND APPOINTED BY THE TASK
25 FORCE.

26 (4) THE TASK FORCE MUST HAVE A FULL-TIME EMPLOYEE TO
27 SUPPORT WORK OF THE TASK FORCE.

1 (5) THE MEMBERS OF THE TASK FORCE SHALL SERVE ON A
2 VOLUNTARY BASIS WITHOUT COMPENSATION, EXCEPT FOR THE
3 REPRESENTATIVES FROM NONGOVERNMENTAL AGENCIES, WHO MAY
4 RECEIVE A PER DIEM STIPEND. ALL MEMBERS ARE ENTITLED TO
5 COMPENSATION FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE
6 PERFORMANCE OF THE TASK FORCE MEMBERS' DUTIES.

7 (6) (a) THE TASK FORCE SHALL PRESENT ITS PRELIMINARY
8 FINDINGS, GOALS, OBJECTIVES, AND GUIDELINES TO THE JUDICIARY
9 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE AND
10 TO THE PUBLIC AND BEHAVIORAL HEALTH AND HUMAN SERVICES
11 COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE HEALTH AND
12 HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR
13 COMMITTEES, DURING THE DEPARTMENT'S "SMART ACT" HEARINGS HELD
14 IN JANUARY 2024.

15 (b) IN JANUARY 2025, THE TASK FORCE SHALL PRESENT ITS FINAL
16 REPORT THAT ESTABLISHES CLEAR AND SHARED GOALS, OBJECTIVES, AND
17 GUIDELINES TO PRIORITIZE, ALIGN, AND POOL AGENCY RESOURCES,
18 INCLUDING NEW AND EXISTING GRANT MONEY, THAT WOULD GUIDE
19 INTERVENTION, PREVENTION, AND TRACKING STATISTICS TO ACHIEVE THE
20 MAXIMUM IMPACT ON REDUCING YOUTH VIOLENCE, SUICIDE, AND
21 DELINQUENCY RISK FACTORS IN PRIORITY COMMUNITIES. THE TASK FORCE
22 SHALL MAKE ITS PRESENTATION TO THE JUDICIARY COMMITTEES OF THE
23 HOUSE OF REPRESENTATIVES AND THE SENATE AND TO THE PUBLIC AND
24 BEHAVIORAL HEALTH AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
25 REPRESENTATIVES AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF
26 THE SENATE, OR ANY SUCCESSOR COMMITTEES, DURING THE
27 DEPARTMENT'S "SMART ACT" HEARINGS HELD IN JANUARY 2025.

1 (7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
2 REQUIRES:

3 (a) "COMMUNITY-BASED ORGANIZATION" MEANS A PERSON,
4 PRIVATE NONPROFIT AGENCY, CORPORATION, ASSOCIATION, OR OTHER
5 NONGOVERNMENTAL AGENCY.

6 (b) "GOVERNMENTAL UNIT" MEANS ANY COUNTY, CITY AND
7 COUNTY, CITY, TOWN, DISTRICT ATTORNEY'S OFFICE, OR SCHOOL DISTRICT.

8 (c) "TARGET COMMUNITIES" MEANS THE COMMUNITIES IDENTIFIED
9 BY THE TASK FORCE AS PART OF THE TASK FORCE'S DUTIES PURSUANT TO
10 SUBSECTION (2)(a) OF THIS SECTION.

11 (d) "TASK FORCE" MEANS THE TASK FORCE CREATED IN
12 SUBSECTION (1) OF THIS SECTION TO ESTABLISH SHARED GOALS,
13 OBJECTIVES, AND GUIDELINES FOR ENTITIES TO UTILIZE IN PRIORITIZING
14 NEW AND EXISTING GRANT MONEY TO ENSURE ACHIEVING A MAXIMUM
15 IMPACT IN REDUCING YOUTH VIOLENCE, SUICIDE, AND DELINQUENCY RISK
16 FACTORS FOR TARGET COMMUNITIES WITH THE HIGHEST RATES OF YOUTH
17 VIOLENCE, SUICIDE, OR DELINQUENCY RISK FACTORS.

18 **SECTION 2. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0005.01 Alana Rosen x2606

SENATE BILL 23-031

SENATE SPONSORSHIP

Danielson and Cutter,

HOUSE SPONSORSHIP

(None),

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING IMPROVING OLDER COLORADANS' ACCESS TO TRAINED**
102 **GERIATRIC SPECIALIST HEALTH-CARE PROVIDERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the Colorado multidisciplinary health-care provider access training program (program) to improve the health care of medically complex, costly, compromised, and vulnerable older Coloradans. The university of Colorado Anschutz medical campus shall develop, implement, and administer the program. The program may be offered to Colorado institutions of higher education with clinical health

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

professions graduate degree programs. The program coordinates and expands geriatric training opportunities for clinical health professions graduate students (students) enrolled in participating Colorado institutions of higher education (participating institutions) across Colorado studying to become advanced practice providers; dentists; nurses; occupational therapists; pharmacists; physicians, including medical doctors and doctors of osteopathy; physical therapists; psychologists; social workers; and speech-language therapists. Students who successfully complete the program are awarded certificates and issued letters authorizing those students to become trainers for the program in clinics across the state.

The bill creates the Colorado multidisciplinary health-care provider access training program advisory committee (committee) to ensure that the training for the program is consistent and collaborative across the fields of study. The committee is required to:

- Appoint a program chair;
- Set the program's standards for training and delivery of multidisciplinary medical care to medically complex, costly, compromised, and vulnerable older Coloradans;
- Establish requirements for the program;
- Identify and invite institutions of higher education that offer appropriate clinical health professions graduate degree programs to become participating institutions;
- Collaborate with participating institutions of higher education across Colorado to enhance recruitment of students to enter a field specific to geriatrics and select students with an interest in geriatric care to participate in the program;
- Assist with updating the program's curricula;
- Analyze data collected by the program;
- Build a multidisciplinary network of trained geriatric clinicians to collaborate and provide opportunities for clinicians to work together to better understand the roles of each health-care discipline in urban, rural, and underserved communities when caring for older Coloradans;
- Improve placement of students in experiential clinical training opportunities, prioritizing rural and underserved communities;
- Coordinate with graduates of the program to become geriatric trainers for future students; and
- Increase the number of clinical training sites across Colorado, specifically in rural and underserved communities.

1 **SECTION 1.** In Colorado Revised Statutes, **add** part 11 to article
2 21 of title 23 as follows:

3 PART 11
4 COLORADO MULTIDISCIPLINARY
5 HEALTH-CARE PROVIDER ACCESS
6 TRAINING PROGRAM

7 **23-21-1101. Legislative declaration.** (1) THE GENERAL
8 ASSEMBLY FINDS AND DECLARES THAT:

9 (a) OVER THE PAST DECADE, COLORADO HAS HAD THE
10 SECOND-FASTEST-GROWING RATE OF RESIDENTS OVER SIXTY-FIVE YEARS
11 OF AGE IN THE UNITED STATES, GROWING AT ROUGHLY FIFTY-ONE
12 PERCENT;

13 (b) CURRENTLY, TWENTY-ONE PERCENT OF THE POPULATION IN
14 COLORADO IS OVER SIXTY-FIVE YEARS OF AGE;

15 (c) BY 2030, COLORADO WILL HAVE MORE RESIDENTS OVER
16 SIXTY-FIVE YEARS OF AGE THAN RESIDENTS UNDER EIGHTEEN YEARS OF
17 AGE;

(d) THERE ARE ONLY NINETY-SIX PHYSICIANS TRAINED IN GERIATRICS ACROSS THE STATE, AND TWO HUNDRED EIGHTY-NINE PHYSICIANS TRAINED IN GERIATRICS ARE NEEDED BY 2050 TO SERVE TEN PERCENT OF COLORADANS OVER SIXTY-FIVE YEARS OF AGE;

(e) ONLY TWENTY-THREE PERCENT OF DENTAL SCHOOLS ACROSS
THE UNITED STATES OFFER CLINICAL TRAINING SPECIFIC TO DENTAL CARE
FOR OLDER ADULTS;

(f) THERE IS A SEVERE SHORTAGE IN THE UNITED STATES OF
GERIATRIC-TRAINED CLINICIANS ACROSS ALL HEALTH-CARE DISCIPLINES;

27 (g) THE NUMBER OF OLDER COLORADANS PLACES HIGH RESOURCE

1 DEMANDS ON THE STATE'S HEALTH-CARE SYSTEM;

2 (h) DURING A HEALTH-CARE STUDY CONDUCTED BETWEEN 1993
3 AND 1997, OLDER PATIENTS WHO WERE ADMITTED TO THE HOSPITAL WERE
4 PLACED EITHER IN AN ACUTE CARE FOR ELDERS UNIT OR A USUAL-CARE
5 CONTROL UNIT. ON AVERAGE, THE LENGTH OF STAY FOR OLDER PATIENTS
6 TREATED BY A GERIATRIC-TRAINED INTERDISCIPLINARY TEAM, INCLUDING
7 GERIATRICIANS, ADVANCED PRACTICE NURSES, SOCIAL WORKERS,
8 PHARMACISTS, AND PHYSICAL THERAPISTS, WAS SIGNIFICANTLY SHORTER,
9 AT JUST OVER SIX DAYS PER PATIENT FOR THOSE RECEIVING CARE IN THE
10 ACUTE CARE FOR ELDERS UNIT VERSUS JUST OVER SEVEN DAYS PER
11 PATIENT FOR THOSE IN THE USUAL-CARE CONTROL UNIT. THE DIFFERENCE
12 IN CARE PRODUCED LOWER TOTAL INPATIENT COSTS FROM NINE THOUSAND
13 FOUR HUNDRED SEVENTY-SEVEN DOLLARS PER PATIENT FOR THOSE
14 PATIENTS IN THE ACUTE CARE FOR ELDERS UNIT VERSUS TEN THOUSAND
15 FOUR HUNDRED FIFTY-ONE DOLLARS PER PATIENT FOR THOSE PATIENTS IN
16 THE USUAL-CARE CONTROL UNIT. THE DIFFERENCE IN CARE FOR THOSE
17 PATIENTS IN THE ACUTE CARE FOR ELDERS UNIT MAINTAINED PATIENTS'
18 FUNCTIONAL ABILITIES AND DID NOT INCREASE HOSPITAL READMISSION
19 RATES.

20 (i) THE STUDY DESCRIBED IN SUBSECTION (1)(h) OF THIS SECTION
21 RESULTED IN FIFTY-EIGHT FEWER DAYS OF HOSPITALIZATION FOR EVERY
22 ONE HUNDRED PATIENTS ADMITTED TO THE ACUTE CARE FOR ELDERS UNIT
23 VERSUS THE USUAL-CARE CONTROL UNIT. OVER THE COURSE OF THE
24 STUDY, THIS RESULTED IN SAVINGS OF NINETY-SEVEN THOUSAND FOUR
25 HUNDRED DOLLARS FOR EVERY ONE HUNDRED PATIENTS ADMITTED TO THE
26 ACUTE CARE FOR ELDERS UNIT VERSUS THE USUAL-CARE CONTROL UNIT.

27 (j) HOSPITAL READMISSION RATES FOR PATIENTS RELEASED FROM

1 HOSPITALS WITH ACUTE CARE FOR ELDERLY UNITS WERE NEARLY TEN
2 PERCENT LESS COMPARED TO READMISSION RATES FOR PATIENTS
3 RELEASED FROM HOSPITALS WITHOUT ACUTE CARE FOR ELDERLY UNITS;

4 (k) COLORADO ACCOUNTS FOR TWELVE PERCENT OF THE NATIONAL
5 MEDICARE BUDGET AS MEASURED BY MEDICARE PART A OR PART B
6 PROGRAM PAYMENTS. PAYMENTS FROM THE MEDICARE PROGRAM FOR
7 COLORADO EQUAL FOUR BILLION FIVE HUNDRED EIGHTY MILLION FOUR
8 THOUSAND FIVE HUNDRED NINE DOLLARS, WHICH COVERS FIVE HUNDRED
9 TWENTY-EIGHT THOUSAND MEDICARE ENROLLEES.

10 (l) MEDICAID COVERS ONE IN FIVE AMERICANS AND ACCOUNTS
11 FOR SEVENTEEN PERCENT OF THE NATIONAL HEALTH EXPENDITURES.
12 MEDICAID SPENDING GROWTH IS EXPECTED TO BE A SUBSTANTIAL
13 CONTRIBUTOR TO NATIONAL HEALTH SPENDING INCREASES OVER THE
14 NEXT TEN YEARS, PRIMARILY DUE TO A POPULATION OF OLDER ADULTS
15 WHO ARE ENROLLING IN MEDICAID WITH LONG-TERM SERVICES AND
16 SUPPORTS AND HEALTH-CARE NEEDS.

17 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT BY
18 ESTABLISHING A MULTIDISCIPLINARY HEALTH-CARE PROVIDER ACCESS
19 TRAINING PROGRAM TO TRAIN AND SUPPORT CLINICAL HEALTH
20 PROFESSIONS GRADUATE STUDENTS IN ADVANCED PRACTICE PROVIDER
21 PROGRAMS; DENTISTRY; MEDICINE, INCLUDING OSTEOPATHIC MEDICINE;
22 NURSING; OCCUPATIONAL THERAPY; PHARMACY; PHYSICAL THERAPY;
23 PSYCHOLOGY; SOCIAL WORK; AND SPEECH-LANGUAGE THERAPY, FUTURE
24 CLINICIANS TRAINED SPECIFICALLY IN GERIATRICS WILL BETTER MEET THE
25 NEEDS OF MEDICALLY COMPLEX, COSTLY, COMPROMISED, AND
26 VULNERABLE OLDER COLORADANS. THE MULTIDISCIPLINARY
27 HEALTH-CARE PROVIDER ACCESS TRAINING PROGRAM IS CORE TO THE

1 FUTURE EXPANSION OF MULTIDISCIPLINARY GERIATRIC PRACTICES AMONG
2 EACH HEALTH-CARE DISCIPLINE. MEETING THE NEEDS OF COLORADO'S
3 OLDER ADULTS WILL SAVE THE STATE MILLIONS OF DOLLARS IN
4 HEALTH-CARE COSTS EACH YEAR. THE GENERAL ASSEMBLY FURTHER
5 DECLARES THAT COLLABORATION BETWEEN PARTICIPATING INSTITUTIONS
6 OF HIGHER EDUCATION, COMMUNITIES, AND HEALTH-CARE PROVIDERS
7 WILL ALLOW COLORADO TO PROVIDE THE HIGHEST STANDARD MEDICAL
8 CARE TO MEDICALLY COMPLEX, COSTLY, COMPROMISED, AND VULNERABLE
9 OLDER COLORADANS AND TO BETTER FILL THE PRESENT AND FUTURE NEED
10 FOR GERIATRIC CARE IN URBAN, RURAL, AND UNDERSERVED COMMUNITIES
11 ACROSS THE STATE.

12 **23-21-1102. Definitions.** AS USED IN THIS PART 11, UNLESS THE
13 CONTEXT OTHERWISE REQUIRES:

14 (1) "CLINICAL HEALTH PROFESSIONS GRADUATE DEGREE
15 PROGRAM" MEANS A PROGRAM OF STUDY THAT PREPARES GRADUATE
16 STUDENTS TO BECOME HEALTH-CARE PROFESSIONALS.

17 (2) "CLINICAL HEALTH PROFESSIONS GRADUATE STUDENT" OR
18 "STUDENT" MEANS A CLINICAL HEALTH PROFESSIONS GRADUATE STUDENT
19 STUDYING AT A PARTICIPATING INSTITUTION OF HIGHER EDUCATION WHO
20 IS TRAINING AS AN ADVANCED PRACTICE PROVIDER; DENTIST; NURSE;
21 OCCUPATIONAL THERAPIST; PHARMACIST; PHYSICAL THERAPIST;
22 PHYSICIAN, INCLUDING A MEDICAL DOCTOR OR DOCTOR OF OSTEOPATHY;
23 PSYCHOLOGIST; SOCIAL WORKER; OR SPEECH-LANGUAGE THERAPIST.

24 (3) "COLORADO MULTIDISCIPLINARY HEALTH-CARE PROVIDER
25 ACCESS TRAINING PROGRAM" OR "PROGRAM" MEANS THE COLORADO
26 MULTIDISCIPLINARY HEALTH-CARE PROVIDER ACCESS TRAINING PROGRAM
27 CREATED IN SECTION 23-21-1103.

1 (4) "COLORADO MULTIDISCIPLINARY HEALTH-CARE PROVIDER
2 ACCESS TRAINING PROGRAM ADVISORY COMMITTEE" OR "COMMITTEE"
3 MEANS THE COLORADO MULTIDISCIPLINARY HEALTH-CARE PROVIDER
4 ACCESS TRAINING PROGRAM ADVISORY COMMITTEE CREATED IN SECTION
5 23-21-1104.

6 (5) "PARTICIPATING COLORADO INSTITUTION OF HIGHER
7 EDUCATION" MEANS A PRIVATE OR PUBLIC INSTITUTION OF HIGHER
8 EDUCATION THAT OFFERS CLINICAL HEALTH PROFESSIONS GRADUATE
9 DEGREE PROGRAMS AND PARTICIPATES IN THE COLORADO
10 MULTIDISCIPLINARY HEALTH-CARE PROVIDER ACCESS TRAINING PROGRAM.

11 **23-21-1103. Colorado multidisciplinary health-care provider**
12 **access training program - created.** (1) THERE IS CREATED THE
13 COLORADO MULTIDISCIPLINARY HEALTH-CARE PROVIDER ACCESS
14 TRAINING PROGRAM LOCATED AT THE UNIVERSITY OF COLORADO
15 ANSCHUTZ MEDICAL CAMPUS. THE PURPOSE OF THE PROGRAM IS TO
16 DEVELOP, IMPLEMENT, AND ADMINISTER GERIATRIC TRAINING
17 OPPORTUNITIES THAT WILL ATTRACT CLINICAL HEALTH PROFESSIONS
18 GRADUATE STUDENTS FROM PARTICIPATING COLORADO INSTITUTIONS OF
19 HIGHER EDUCATION WHO ARE STUDYING IN THE GRADUATE FIELDS OF
20 ADVANCED PRACTICE PROVIDER PROGRAMS; DENTISTRY; MEDICINE,
21 INCLUDING OSTEOPATHIC MEDICINE; NURSING; OCCUPATIONAL THERAPY;
22 PHARMACY; PHYSICAL THERAPY; PSYCHOLOGY; SOCIAL WORK; OR
23 SPEECH-LANGUAGE THERAPY TO GERIATRIC TRAINING OPPORTUNITIES.

24 (2) (a) BEGINNING IN STATE FISCAL YEAR 2024-25, THE
25 COMMITTEE, PROGRAM CHAIR APPOINTED PURSUANT TO SECTION
26 23-21-1104 (2)(a), OR THE PROGRAM CHAIR'S DESIGNEE, AND
27 PARTICIPATING INSTITUTIONS OF HIGHER EDUCATION THROUGHOUT

1 COLORADO SHALL SELECT TWO CLINICAL HEALTH PROFESSIONS GRADUATE
2 STUDENTS PER YEAR FROM EACH FIELD OF STUDY DESCRIBED IN
3 SUBSECTION (2)(b) OF THIS SECTION TO PARTICIPATE IN THE PROGRAM'S
4 GERIATRIC CLINICAL TRAINING OPPORTUNITIES. THE COMMITTEE, IN
5 COLLABORATION WITH THE PARTICIPATING INSTITUTIONS OF HIGHER
6 EDUCATION, SHALL PLACE STUDENTS IN GERIATRIC CLINICAL SETTINGS FOR
7 HANDS-ON EXPERIENTIAL TRAINING. THE COMMITTEE SHALL CREATE A
8 ROTATION SCHEDULE TO ALLOW STUDENTS ENROLLED IN PARTICIPATING
9 INSTITUTIONS OF HIGHER EDUCATION THAT OFFER THE SAME CLINICAL
10 HEALTH PROFESSIONS GRADUATE DEGREE PROGRAMS TO PARTICIPATE IN
11 THE PROGRAM'S CLINICAL TRAINING OPPORTUNITIES.

12 (b) TWO STUDENTS FROM EACH OF THE FOLLOWING FIELDS OF
13 STUDY ARE INCLUDED IN THE PROGRAM:

14 (I) ADVANCED PRACTICE PROVIDER PROGRAMS;

15 (II) DENTISTRY;

16 (III) MEDICINE;

17 (IV) NURSING;

18 (V) OCCUPATIONAL THERAPY;

19 (VI) OSTEOPATHIC MEDICINE;

20 (VII) PHARMACY;

21 (VIII) PHYSICAL THERAPY;

22 (IX) PSYCHOLOGY;

23 (X) SOCIAL WORK; AND

24 (XI) SPEECH-LANGUAGE THERAPY.

25 (3) THE PROGRAM IS ENCOURAGED TO PROVIDE UPDATED TRAINING
26 EACH YEAR FOR STUDENTS, GERIATRIC-TRAINED FACULTY, AND
27 HEALTH-CARE PROVIDERS TO REVIEW NEW PATIENT-CENTERED GERIATRIC

1 APPROACHES, INNOVATIONS, TECHNOLOGIES, NEW CLINICAL HEALTH-CARE
2 PROCESSES TO CARE FOR OLDER ADULTS, TEAM TRAINING EXERCISES, AND
3 LEADERSHIP TRAINING.

4 (4) THE PROGRAM CHAIR, OR THE PROGRAM CHAIR'S DESIGNEE,
5 SHALL COLLABORATE WITH PARTICIPATING INSTITUTIONS OF HIGHER
6 EDUCATION AND HEALTH-CARE PROVIDERS TO PLACE STUDENTS IN
7 GERIATRIC CLINICAL SETTINGS FOR HANDS-ON EXPERIENTIAL TRAINING.

8 (5) THE PROGRAM CHAIR, OR THE PROGRAM CHAIR'S DESIGNEE,
9 SHALL AWARD A CERTIFICATE TO A STUDENT WHO SUCCESSFULLY
10 COMPLETES THE PROGRAM. THE PROGRAM CHAIR, OR THE PROGRAM
11 CHAIR'S DESIGNEE, SHALL ISSUE A LETTER TO A STUDENT WHO
12 SUCCESSFULLY COMPLETES THE PROGRAM AUTHORIZING THE STUDENT TO
13 BECOME A TRAINER FOR THE PROGRAM IN A CLINIC IN THE STATE.

14 (6) THE PROGRAM CHAIR, OR THE PROGRAM CHAIR'S DESIGNEE,
15 SHALL GATHER DATA ON THE FOLLOWING:

16 (a) THE NUMBER OF STUDENTS PARTICIPATING IN THE PROGRAM
17 FROM EACH PARTICIPATING INSTITUTION OF HIGHER EDUCATION;

18 (b) THE NUMBER OF STUDENTS WHO SUCCESSFULLY COMPLETE THE
19 PROGRAM;

20 (c) THE SUBSEQUENT LOCATIONS AND JOB PLACEMENTS OF
21 PROGRAM GRADUATES;

22 (d) THE NUMBER OF PROGRAM GRADUATES WHO BECOME
23 TRAINERS; AND

24 (e) THE DESCRIPTION OF FACILITIES WHERE PROGRAM GRADUATES
25 BECOME TRAINERS.

26 **23-21-1104. Colorado multidisciplinary health-care provider**
27 **access training program advisory committee - created - training.**

1 (1) (a) THERE IS CREATED THE COLORADO MULTIDISCIPLINARY
2 HEALTH-CARE ACCESS TRAINING PROGRAM ADVISORY COMMITTEE TO
3 ENSURE THAT TRAINING FOR THE PROGRAM IS CONSISTENT AND
4 COLLABORATIVE ACROSS UNIVERSITY DEPARTMENTS, PARTICIPATING
5 INSTITUTIONS OF HIGHER EDUCATION, AND HEALTH-CARE COMMUNITIES.

6 (b) ON OR BEFORE JULY 1, 2023, THE COMMITTEE SHALL CONVENE
7 AND CONSIST OF THE PROGRAM CHAIR APPOINTED PURSUANT TO
8 SUBSECTION (2)(a) OF THIS SECTION AND MEMBERS INCLUDING BUT NOT
9 LIMITED TO ONE REPRESENTATIVE FROM:

10 (I) AN ADVANCED PRACTICE PROVIDER PROGRAM;

11 (II) A DEPARTMENT OF PSYCHOLOGY;

12 (III) A NURSING PROGRAM;

13 (IV) AN OCCUPATIONAL THERAPY PROGRAM;

14 (V) A PHYSICAL THERAPY PROGRAM;

15 (VI) A SCHOOL OF DENTAL MEDICINE;

16 (VII) A SCHOOL OF MEDICINE;

17 (VIII) A SCHOOL OF OSTEOPATHIC MEDICINE;

18 (IX) A SCHOOL OF PHARMACY;

19 (X) A SOCIAL WORK PROGRAM; AND

20 (XI) A SPEECH-LANGUAGE THERAPY PROGRAM.

21 (2) (a) ON OR BEFORE DECEMBER 1, 2023, THE COMMITTEE SHALL:

22 (I) APPOINT A PROGRAM CHAIR;

23 (II) SET THE PROGRAM'S STANDARDS FOR TRAINING AND DELIVERY
24 OF MEDICAL CARE TO MEDICALLY COMPLEX, COSTLY, COMPROMISED, AND
25 VULNERABLE OLDER COLORADANS;

26 (III) ESTABLISH THE REQUIREMENTS FOR THE PROGRAM; AND

27 (IV) IDENTIFY AND INVITE PRIVATE OR PUBLIC INSTITUTIONS OF

1 HIGHER EDUCATION THAT OFFER APPROPRIATE CLINICAL HEALTH
2 PROFESSIONS GRADUATE DEGREE PROGRAMS TO BECOME PARTICIPATING
3 INSTITUTIONS OF HIGHER EDUCATION.

4 (b) IN ADDITION TO THE DUTIES SET FORTH IN SUBSECTION (2)(a)
5 OF THIS SECTION, THE COMMITTEE SHALL:

6 (I) COLLABORATE WITH THE PROGRAM CHAIR, OR THE PROGRAM
7 CHAIR'S DESIGNEE, AND PARTICIPATING INSTITUTIONS OF HIGHER
8 EDUCATION TO SELECT STUDENTS WHO HAVE AN INTEREST IN GERIATRIC
9 CARE TO PARTICIPATE IN THE PROGRAM;

10 (II) ANALYZE THE DATA COLLECTED IN SECTION 23-21-1103 (6);

11 (III) BUILD A MULTIDISCIPLINARY NETWORK OF TRAINED
12 GERIATRIC CLINICIANS TO COLLABORATE AND PROVIDE OPPORTUNITIES
13 FOR CLINICIANS TO WORK TOGETHER TO BETTER UNDERSTAND THE ROLES
14 OF EACH HEALTH-CARE DISCIPLINE IN URBAN, RURAL, AND UNDERSERVED
15 COMMUNITIES WHEN TREATING OLDER COLORADANS;

16 (IV) IMPROVE PLACEMENT OF CLINICAL GRADUATE STUDENTS IN
17 EXPERIENTIAL CLINICAL TRAINING OPPORTUNITIES, PRIORITIZING RURAL
18 AND UNDERSERVED COMMUNITIES;

19 (V) COORDINATE WITH GRADUATES OF THE PROGRAM TO BECOME
20 TRAINERS FOR FUTURE STUDENTS; AND

21 (VI) INCREASE THE NUMBER OF CLINICAL TRAINING SITES ACROSS
22 COLORADO, SPECIFICALLY IN RURAL AND UNDERSERVED COMMUNITIES.

23 **23-21-1105. Reporting.** (1) BY JULY 1, 2025, AND NO LATER
24 THAN JULY 1 EACH YEAR THEREAFTER, A REPRESENTATIVE OF THE
25 PROGRAM SHALL SUBMIT A REPORT CONTAINING THE DATA COLLECTED
26 PURSUANT TO SECTION 23-21-1103 (6) AND RECOMMENDATIONS FOR
27 LEGISLATIVE OR REGULATORY CHANGES TO FACILITATE EFFECTIVE

1 IMPLEMENTATION OF THE PROGRAM TO THE HEALTH AND HUMAN SERVICES
2 COMMITTEE OF THE SENATE, THE HEALTH AND INSURANCE COMMITTEE OF
3 THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES.

4 (2) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
5 REPORTING REQUIREMENT IN THIS SECTION CONTINUES INDEFINITELY.

6 **SECTION 2.** In Colorado Revised Statutes, 23-18-308, **add**
7 (1)(k) as follows:

8 **23-18-308. Fee-for-service contracts - limited purpose - repeal.**

9 (1) Subject to available appropriations, the department shall enter into
10 fee-for-service contracts for the following purposes:

11 (k) THE COLORADO MULTIDISCIPLINARY HEALTH-CARE PROVIDER
12 ACCESS TRAINING PROGRAM CREATED IN SECTION 23-21-1103.

13 **SECTION 3. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety.

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0431.01 Shelby Ross x4510

HOUSE BILL 23-1222

HOUSE SPONSORSHIP

Duran and Weissman,

SENATE SPONSORSHIP

Roberts,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE JURISDICTION OF MUNICIPAL COURTS TO HEAR**
102 **DOMESTIC VIOLENCE OFFENSES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Beginning January 1, 2024, the bill prohibits the prosecution of an alleged act of domestic violence in municipal courts. The county and district courts retain jurisdiction over such cases.

1 *Be it enacted by the General Assembly of the State of Colorado:*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

1 **SECTION 1.** In Colorado Revised Statutes, **amend** 13-10-103 as
2 follows:

3 **13-10-103. Applicability.** This article 10 applies to and governs
4 the operation of municipal courts in the cities and towns of this state.
5 Except for the provisions relating to the method of salary payment for
6 municipal judges, the incarceration of children pursuant to sections
7 19-2.5-305 and 19-2.5-1511, the appearance of the parent, guardian, or
8 lawful custodian of any child under eighteen years of age who is charged
9 with a municipal offense as required by section 13-10-111, the right to a
10 trial by jury for petty offenses pursuant to section 16-10-109, relief from
11 improperly entered guilty pleas pursuant to section 18-1-410.6, THE
12 PROSECUTION OF AN ALLEGED ACT OF DOMESTIC VIOLENCE, AS DEFINED
13 IN SECTION 18-6-800.3, rules of procedure promulgated by the supreme
14 court, and appellate procedure, this article 10 may be superseded by
15 charter or ordinance enacted by a home rule city.

16 **SECTION 2.** In Colorado Revised Statutes, **amend** 13-10-104 as
17 follows:

18 **13-10-104. Municipal court created - jurisdiction.** The
19 municipal governing body of each city or town shall create a municipal
20 court to hear and try all alleged violations of ordinance provisions of such
21 city or town; EXCEPT THAT A MUNICIPAL COURT DOES NOT HAVE
22 JURISDICTION TO HEAR AND TRY AN ALLEGED ACT OF DOMESTIC VIOLENCE,
23 AS DEFINED IN SECTION 18-6-800.3.

24 **SECTION 3. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect January 1, 2024; except that, if a
26 referendum petition is filed pursuant to section 1 (3) of article V of the
27 state constitution against this act or an item, section, or part of this act

1 within the ninety-day period after final adjournment of the general
2 assembly, then the act, item, section, or part will not take effect unless
3 approved by the people at the general election to be held in November
4 2024 and, in such case, will take effect on the date of the official
5 declaration of the vote thereon by the governor.

6 (2) This act applies to domestic violence offenses committed on
7 or after the applicable effective date of this act.

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0061.01 Kristen Forrestal x4217

SENATE BILL 23-105

SENATE SPONSORSHIP

Danielson and Buckner, Coleman, Cutter, Exum, Fields, Gonzales, Hinrichsen, Jaquez
Lewis, Marchman, Rodriguez, Sullivan, Winter F.

HOUSE SPONSORSHIP

Gonzales-Gutierrez and Bacon, Boesenecker, deGruy Kennedy, Froelich, Garcia, Jodeh,
Joseph, Mabrey, Martinez, Michaelson Jenet, Ortiz, Story, Vigil, Willford, Woodrow

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE IMPLEMENTATION OF MEASURES TO ENSURE EQUAL**
102 **PAY FOR EQUAL WORK.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law authorizes the director of the division of labor standards and statistics in the department of labor and employment (director) to create and administer a process to accept and mediate complaints, to provide legal resources concerning alleged wage inequity, and to promulgate rules as necessary for this purpose. The bill changes these authorizations to requirements.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

Additionally, the bill requires the director to:

- Investigate complaints or other leads concerning wage inequity;
- Upon finding of a violation, order compliance and relief; and
- Promulgate rules to enforce the bill.

The bill also requires an employer to:

- For each job opportunity or promotional opportunity where the employer is considering more than one candidate, follow specific guidelines for posting the opportunity;
- For all job opportunities and promotional opportunities, provide specific information to employees regarding the candidate selected for the opportunity; and
- For all objectively defined career progressions, disclose the requirements for career progression and the terms of compensation, benefits, status, duties, and access to further advancement.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 8-5-101, **add** (1.3),
3 (1.5), (5.5), (7.5), and (8.5) as follows:

4 **8-5-101. Definitions.** As used in this article 5, unless the context
5 otherwise requires:

6 (1.3) "CAREER DEVELOPMENT" MEANS A CHANGE TO AN
7 EMPLOYEE'S TERMS OF COMPENSATION, BENEFITS, FULL-TIME OR
8 PART-TIME STATUS, DUTIES, OR ACCESS TO FURTHER ADVANCEMENT IN
9 ORDER TO UPDATE THE EMPLOYEE'S JOB TITLE OR COMPENSATE THE
10 EMPLOYEE TO REFLECT WORK PERFORMED OR CONTRIBUTIONS ALREADY
11 MADE BY THE EMPLOYEE.

12 (1.5) "CAREER PROGRESSION" MEANS A REGULAR OR AUTOMATIC
13 MOVEMENT FROM ONE POSITION TO ANOTHER BASED ON TIME IN A SPECIFIC
14 ROLE OR OTHER OBJECTIVE METRICS.

15 (5.5) (a) "JOB OPPORTUNITY" MEANS A CURRENT OR ANTICIPATED
16 VACANCY FOR WHICH THE EMPLOYER IS CONSIDERING A CANDIDATE OR

1 CANDIDATES OR INTERVIEWING A CANDIDATE OR CANDIDATES OR THAT
2 THE EMPLOYER EXTERNALLY POSTS.

3 (b) "JOB OPPORTUNITY" DOES NOT INCLUDE CAREER DEVELOPMENT
4 OR CAREER PROGRESSION.

5 (7.5) (a) "PROMOTIONAL OPPORTUNITY" MEANS A CURRENT OR
6 ANTICIPATED VACANCY THAT COULD BE CONSIDERED A PROMOTION FOR
7 ONE OR MORE EMPLOYEES IN TERMS OF COMPENSATION, BENEFITS,
8 FULL-TIME OR PART-TIME STATUS, DUTIES, OR ACCESS TO FURTHER
9 ADVANCEMENT.

10 (b) "PROMOTIONAL OPPORTUNITY" DOES NOT INCLUDE CAREER
11 DEVELOPMENT OR CAREER PROGRESSION.

12 (8.5) "VACANCY" MEANS AN OPEN POSITION, WHETHER AS A
13 RESULT OF A NEWLY CREATED POSITION OR A VACATED POSITION.

14 **SECTION 2.** In Colorado Revised Statutes, 8-5-103, **amend** (1)
15 and (3) as follows:

16 **8-5-103. Enforcement - rules - complaints.** (1) (a) The director
17 ~~is authorized to~~ SHALL:

18 (I) Create and administer a process to accept and mediate
19 complaints and ~~to~~ provide legal resources concerning alleged violations
20 of section 8-5-102 and ~~to~~ SHALL promulgate rules as necessary for this
21 purpose;

22 (II) INVESTIGATE COMPLAINTS OR OTHER LEADS CONCERNING
23 VIOLATIONS OF SECTION 8-5-102 THAT, IN THE DIRECTOR'S GOOD FAITH
24 DISCRETION AND JUDGMENT, WARRANT INVESTIGATION;

25 (III) UPON FINDING OF A VIOLATION OF SECTION 8-5-102, ORDER
26 COMPLIANCE AND RELIEF AS AUTHORIZED BY THIS PART 1; AND

27 (IV) PROMULGATE RULES TO ENFORCE THIS ARTICLE 5.

1 (b) FOR THE PURPOSE OF INVESTIGATING A VIOLATION OF THIS
2 PART 1, THE DIRECTOR MAY APPLY THE INFORMATION-GATHERING
3 PROVISIONS OF THIS PART 1 TO AN EMPLOYER, EMPLOYEE, OR OTHER
4 PERSON.

5 (c) The process created and administered by the director,
6 INCLUDING THE RULES FOR THE INVESTIGATION OF ALLEGED COMPLAINTS
7 FOR VIOLATIONS OF SECTION 8-5-102 AND ANY FINES LEVIED OR
8 CORRECTIVE ACTION TAKEN BY THE DIRECTOR, does not affect or prevent
9 the right of an aggrieved person from commencing a civil action pursuant
10 to subsection (2) of this section.

11 (3) A person aggrieved by a violation of section 8-5-102 may
12 obtain relief for back pay for the entire time the violation continues, not
13 to exceed ~~three~~ SIX years.

14 **SECTION 3.** In Colorado Revised Statutes, **amend** 8-5-201 as
15 follows:

16 **8-5-201. Employment opportunities - opportunities for**
17 **promotion or advancement - pay rates in job listings.** (1) (a) An
18 employer shall make reasonable efforts to announce, post, or otherwise
19 make known ~~all opportunities for promotion~~ EACH JOB OPPORTUNITY AND
20 PROMOTIONAL OPPORTUNITY to all ~~current~~ employees on the same
21 calendar day and prior to ~~making a promotion decision~~ THE DATE ON
22 WHICH THE EMPLOYER MAKES A SELECTION DECISION.

23 (b) THE EMPLOYER MUST IN GOOD FAITH DISCLOSE THE FOLLOWING
24 IN THE NOTIFICATION OF EACH JOB OPPORTUNITY AND PROMOTIONAL
25 OPPORTUNITY:

26 (I) THE HOURLY OR SALARY COMPENSATION OR THE RANGE OF THE
27 HOURLY OR SALARY COMPENSATION;

1 (II) A GENERAL DESCRIPTION OF THE BENEFITS AND OTHER
2 COMPENSATION APPLICABLE TO THE JOB OPPORTUNITY OR PROMOTIONAL
3 OPPORTUNITY; AND

4 (III) FOR EACH JOB OPPORTUNITY OR PROMOTIONAL OPPORTUNITY
5 FOR WHICH THE EMPLOYER IS INTERVIEWING CANDIDATES OR IS EITHER
6 INFORMALLY OR FORMALLY CONSIDERING MORE THAN ONE CANDIDATE,
7 THE EARLIEST DATE THE APPLICATION WINDOW WILL CLOSE, WHICH SHALL
8 NOT BE LESS THAN FIVE BUSINESS DAYS AFTER THE NOTIFICATION DATE.

9 (c) AN EMPLOYER SHALL CONSIDER, IN GOOD FAITH, THE
10 APPLICANTS FOR EACH JOB OPPORTUNITY OR PROMOTIONAL OPPORTUNITY
11 THROUGH A COMPETITIVE SELECTION PROCESS.

12 (2) An employer shall ~~disclose in each posting for each job~~
13 ~~opening the hourly or salary compensation, or a range of the hourly or~~
14 ~~salary compensation, and a general description of all of the benefits and~~
15 ~~other compensation to be offered to the hired applicant.~~ MAKE
16 REASONABLE EFFORTS TO ANNOUNCE, POST, OR OTHERWISE MAKE KNOWN,
17 WITHIN FIVE BUSINESS DAYS AFTER A CANDIDATE WHO IS SELECTED TO
18 FILL A JOB OPPORTUNITY OR PROMOTIONAL OPPORTUNITY BEGINS
19 WORKING IN THE POSITION, THE FOLLOWING INFORMATION TO THE
20 EMPLOYEES WITH WHOM THE EMPLOYER INTENDS THE SELECTED
21 CANDIDATE TO WORK WITH REGULARLY:

22 (a) THE NAME OF THE CANDIDATE SELECTED FOR THE JOB
23 OPPORTUNITY OR PROMOTIONAL OPPORTUNITY;

24 (b) THE SELECTED CANDIDATE'S FORMER JOB TITLE IF SELECTED
25 WHILE ALREADY EMPLOYED BY THE EMPLOYER;

26 (c) THE SELECTED CANDIDATE'S NEW JOB TITLE; AND

27 (d) INFORMATION ON HOW EMPLOYEES MAY DEMONSTRATE

1 INTEREST IN SIMILAR JOB OPPORTUNITIES AND PROMOTIONAL
2 OPPORTUNITIES IN THE FUTURE, INCLUDING IDENTIFYING INDIVIDUALS OR
3 DEPARTMENTS TO WHOM THE EMPLOYEES CAN EXPRESS INTEREST IN
4 SIMILAR JOB OPPORTUNITIES OR PROMOTIONAL OPPORTUNITIES.

5 (3) FOR POSITIONS WITH CAREER PROGRESSION, AN EMPLOYER
6 SHALL DISCLOSE AND MAKE AVAILABLE TO ALL ELIGIBLE EMPLOYEES THE
7 REQUIREMENTS FOR CAREER PROGRESSION, IN ADDITION TO EACH
8 POSITION'S TERMS OF COMPENSATION, BENEFITS, FULL-TIME OR PART-TIME
9 STATUS, DUTIES, AND ACCESS TO FURTHER ADVANCEMENT.

10 (4) NOTHING IN THIS SECTION REQUIRES AN EMPLOYER TO
11 IDENTIFY A SELECTED CANDIDATE FOR A JOB OPPORTUNITY OR
12 PROMOTIONAL OPPORTUNITY IN ANY MANNER THAT VIOLATES THE
13 CANDIDATE'S PRIVACY RIGHTS UNDER APPLICABLE LOCAL, STATE, OR
14 FEDERAL LAW OR IN A MANNER THAT WOULD PLACE AT RISK THE
15 SELECTED CANDIDATE'S HEALTH OR SAFETY.

16 **SECTION 4. Act subject to petition - effective date -**
17 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
18 the expiration of the ninety-day period after final adjournment of the
19 general assembly; except that, if a referendum petition is filed pursuant
20 to section 1 (3) of article V of the state constitution against this act or an
21 item, section, or part of this act within such period, then the act, item,
22 section, or part will not take effect unless approved by the people at the
23 general election to be held in November 2024 and, in such case, will take
24 effect on the date of the official declaration of the vote thereon by the
25 governor.

26 (2) Section 8-5-201, Colorado Revised Statutes, as amended in

1 section 3 of this act, applies to promotions, career progressions, and
2 career developments that take place on or after the applicable effective
3 date of this act.

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0705.01 Christy Chase x2008

SENATE BILL 23-172

SENATE SPONSORSHIP

Winter F. and Gonzales, Buckner, Cutter, Danielson, Jaquez Lewis, Marchman, Moreno, Sullivan

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Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTIONS FOR COLORADO WORKERS AGAINST**
102 **DISCRIMINATORY EMPLOYMENT PRACTICES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

For purposes of addressing discriminatory or unfair employment practices pursuant to Colorado's anti-discrimination laws, the bill enacts the "Protecting Opportunities and Workers' Rights (POWR) Act", which:

- Directs the Colorado civil rights division (division) to include "harassment" as a basis or description of discrimination on any charge form or charge intake

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- mechanism;
- Adds a new definition of "harass" or "harassment" and repeals the current definition of "harass" that requires creation of a hostile work environment;
- Adds protections from discriminatory or unfair employment practices for individuals based on their "marital status";
- Specifies that in harassment claims, the alleged conduct need not be severe or pervasive to constitute a discriminatory or unfair employment practice;
- For purposes of the exception to otherwise discriminatory practices for an employer that is unable to accommodate an individual with a disability who is otherwise qualified for the job, eliminates the ability for the employer to assert that the individual's disability has a significant impact on the job as a rationale for the employment practice;
- Specifies that it is a discriminatory or an unfair employment practice for an employer to fail to initiate an investigation of a complaint or to fail to take prompt, reasonable, and remedial action;
- Specifies the requirements for an employer to assert an affirmative defense to an employee's proven claim of unlawful harassment by a supervisor; and
- Specifies the requirements that must be satisfied for a nondisclosure provision in an agreement between an employer and an employee or a prospective employee to be enforceable.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the
3 "Protecting Opportunities and Workers' Rights (POWR) Act".

4 **SECTION 2.** In Colorado Revised Statutes, 24-34-306, **amend**
5 (1)(a) as follows:

6 **24-34-306. Charge - complaint - hearing - procedure -**
7 **exhaustion of administrative remedies.** (1) (a) (I) Any person claiming
8 to be aggrieved by a discriminatory or AN unfair practice as defined by
9 parts 4 to 7 of this ~~article~~ ARTICLE 34 may, by ~~himself or herself~~ ONESELF
10 or through ~~his or her attorney-at-law~~ THE PERSON'S ATTORNEY, make,

1 sign, and file with the division a verified written charge stating the name
2 and address of the respondent alleged to have committed the
3 discriminatory or unfair practice, setting forth the particulars of the
4 alleged discriminatory or unfair practice, and containing any other
5 information required by the division.

6 (II) THE DIVISION SHALL INCLUDE ON ANY CHARGE FORM OR
7 CHARGE INTAKE MECHANISM AN OPTION TO SELECT "HARASSMENT" AS A
8 BASIS OR DESCRIPTION OF THE TYPE OF DISCRIMINATORY OR UNFAIR
9 EMPLOYMENT PRACTICE THAT IS THE SUBJECT OF THE CHARGE.

10 **SECTION 3.** In Colorado Revised Statutes, **add** 24-34-400.2 as
11 follows:

12 **24-34-400.2. Legislative declaration.** (1) THE GENERAL
13 ASSEMBLY FINDS THAT:

14 (a) ALL COLORADANS SHOULD HAVE AN EQUAL OPPORTUNITY TO
15 SUCCEED IN THE WORKPLACE AND ARE ENTITLED TO A WORKPLACE THAT
16 IS SAFE AND FREE FROM DISCRIMINATION AND HARASSMENT BASED ON
17 THEIR PROTECTED STATUS;

18 (b) WHEN EMPLOYEES HAVE A SAFE WORKPLACE THAT IS FREE
19 FROM DISCRIMINATION AND HARASSMENT, THOSE EMPLOYEES ARE MORE
20 PRODUCTIVE AND ARE MORE INCLINED TO REMAIN IN THEIR JOBS, AND
21 THEIR EMPLOYERS BENEFIT FROM INCREASED EMPLOYEE PRODUCTIVITY
22 AND RETENTION;

23 (c) WHILE MANY EMPLOYERS HAVE MADE GREAT STRIDES IN
24 IMPROVING WORKPLACE ENVIRONMENTS BY MAKING THEM FREE FROM
25 DISCRIMINATION AND HARASSMENT SINCE THIS PART 4 WAS FIRST
26 ENACTED IN 1951, MANY EMPLOYEES IN THIS STATE STILL EXPERIENCE
27 DISCRIMINATION AND HARASSMENT IN THE WORKPLACE, RESULTING IN

1 MENTAL, PHYSICAL, AND ECONOMIC HARM;

2 (d) IT IS CRITICAL THAT EMPLOYERS ENGAGE IN PREVENTIVE AND
3 CORRECTIVE ACTIONS TO ELIMINATE WORKPLACE DISCRIMINATION AND
4 HARASSMENT AND ENSURE A SAFE WORKPLACE ENVIRONMENT FOR ALL
5 THEIR EMPLOYEES; AND

6 (e) COURTS SHOULD APPLY THE LAW CONSISTENTLY TO ALL
7 WORKPLACES.

8 (2) ADDITIONALLY, THE GENERAL ASSEMBLY:

9 (a) FINDS THAT THE "SEVERE OR PERVASIVE" STANDARD CREATED
10 BY COURTS TO DETERMINE IF HARASSMENT AT WORK IS A DISCRIMINATORY
11 OR AN UNFAIR EMPLOYMENT PRACTICE DOES NOT TAKE INTO ACCOUNT
12 THE REALITIES OF THE WORKPLACE OR THE HARM THAT WORKPLACE
13 HARASSMENT CAUSES; AND

14 (b) REJECTS THE "SEVERE OR PERVASIVE" STANDARD FOR PROOF
15 OF WORKPLACE HARASSMENT IN FAVOR OF A STANDARD THAT PROHIBITS
16 UNWELCOME HARASSMENT.

17 (3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

18 (a) IT IS THE PUBLIC POLICY OF THE STATE TO ENCOURAGE:

19 (I) EMPLOYERS TO ADOPT EQUAL EMPLOYMENT OPPORTUNITY
20 POLICIES TO PREVENT AND DISINCENTIVIZE ILLEGAL HARASSMENT AND
21 DISCRIMINATION; AND

22 (II) THE FREE REPORTING, DISCUSSION, AND EXPOSURE OF
23 DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICES IN ORDER TO
24 BETTER PROTECT EMPLOYEES AND DISCOURAGE DISCRIMINATORY OR
25 UNFAIR EMPLOYMENT PRACTICES; AND

26 (b) ATTEMPTS TO INTERFERE WITH EMPLOYEES' ABILITY TO
27 COMMUNICATE ABOUT AND REPORT ALLEGED DISCRIMINATORY OR UNFAIR

1 EMPLOYMENT PRACTICES ARE CONTRARY TO THE PUBLIC POLICY OF THE
2 STATE.

3 **SECTION 4.** In Colorado Revised Statutes, 24-34-401, **add** (4.5)
4 as follows:

5 **24-34-401. Definitions.** As used in this part 4, unless otherwise
6 defined in section 24-34-301 or unless the context otherwise requires:

7 (4.5) (a) "HARASS" OR "HARASSMENT" MEANS TO SUBJECT AN
8 INDIVIDUAL TO UNWELCOME VERBAL, WRITTEN, OR PHYSICAL CONDUCT,
9 WHERE THE FOLLOWING FACTORS ARE MET:

10 (I) THE CONDUCT IS RELATED TO THE INDIVIDUAL'S ACTUAL OR
11 PERCEIVED MEMBERSHIP IN A PROTECTED CLASS BASED ON DISABILITY,
12 RACE, CREED, COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY,
13 GENDER EXPRESSION, MARITAL STATUS, RELIGION, AGE, NATIONAL ORIGIN,
14 OR ANCESTRY; AND

15 (II) (A) SUBMISSION TO THE CONDUCT IS MADE EITHER EXPLICITLY
16 OR IMPLICITLY A TERM OR CONDITION OF THE INDIVIDUAL'S EMPLOYMENT;

17 (B) SUBMISSION TO, OBJECTION TO, OR REJECTION OF THE
18 CONDUCT IS USED AS A BASIS FOR EMPLOYMENT DECISIONS AFFECTING THE
19 INDIVIDUAL; OR

20 (C) WHEN TAKEN AS A WHOLE, THE CONDUCT WOULD BE
21 OFFENSIVE TO A REASONABLE PERSON IN THE SAME ACTUAL OR PERCEIVED
22 PROTECTED CLASS OR WHO SHARES THE SAME OR SIMILAR
23 CHARACTERISTICS AS THE INDIVIDUAL SUBJECTED TO THE CONDUCT, AND
24 THE CONDUCT WAS OFFENSIVE TO THE INDIVIDUAL.

25 (b) WHETHER THE CONDUCT WOULD BE OFFENSIVE TO A
26 REASONABLE PERSON IN THE SAME ACTUAL OR PERCEIVED PROTECTED
27 CLASS OR WHO SHARES THE SAME OR SIMILAR CHARACTERISTICS AS THE

1 INDIVIDUAL SUBJECTED TO THE CONDUCT MUST BE DETERMINED BY A
2 REVIEW OF THE TOTALITY OF THE CIRCUMSTANCES OF THE CONDUCT,
3 INCLUDING:

4 (I) THE TYPE OF CONDUCT;

5 (II) THE NATURE OF THE CONDUCT; AND

6 (III) THE FREQUENCY OF THE CONDUCT, RECOGNIZING THAT A
7 SINGLE ACT OF HARASSMENT MAY BE OFFENSIVE TO A REASONABLE
8 PERSON UNDER THE TOTALITY OF THE CIRCUMSTANCES.

9 (c) WHETHER THE CONDUCT WAS OFFENSIVE TO THE INDIVIDUAL
10 MUST BE DETERMINED BY A REVIEW OF THE TOTALITY OF THE
11 CIRCUMSTANCES OF THE CONDUCT, INCLUDING WHETHER THE INDIVIDUAL
12 WHO WAS SUBJECTED TO THE CONDUCT FELT EXPLICIT OR IMPLICIT
13 PRESSURE TO CONDONE, ENCOURAGE, OR PARTICIPATE IN THE CONDUCT.

14 **SECTION 5.** In Colorado Revised Statutes, 24-34-402, **amend**
15 (1) introductory portion, (1)(a), (1)(b), (1)(c), (1)(d), and (1)(f); and **add**
16 (1)(j) and (1.5) as follows:

17 **24-34-402. Discriminatory or unfair employment practices -**
18 **affirmative defense.** (1) It is a discriminatory or AN unfair employment
19 practice:

20 (a) (I) For an employer to refuse to hire, to discharge, to promote
21 or demote, to harass during the course of employment, or to discriminate
22 in matters of compensation, terms, conditions, or privileges of
23 employment against any individual otherwise qualified because of
24 disability, race, creed, color, sex, sexual orientation, gender identity,
25 gender expression, MARITAL STATUS, religion, age, national origin, or
26 ancestry. ~~but,~~

27 (II) With regard to a disability, it is not a discriminatory or an

1 unfair employment practice for an employer to act as provided in this
2 ~~subsection (1)(a)~~ SUBSECTION (1)(a)(I) OF THIS SECTION if there is no
3 reasonable accommodation that the employer can make with regard to the
4 disability AND the disability actually disqualifies the individual from the
5 job. ~~and the disability has a significant impact on the job. For purposes of~~
6 ~~this subsection (1)(a), "harass" means to create a hostile work~~
7 ~~environment based upon an individual's race, national origin, sex, sexual~~
8 ~~orientation, gender identity, gender expression, disability, age, or religion.~~
9 ~~Notwithstanding the provisions of this subsection (1)(a), harassment is~~
10 ~~not an illegal act unless a complaint is filed with the appropriate authority~~
11 ~~at the complainant's workplace and the authority fails to initiate a~~
12 ~~reasonable investigation of a complaint and take prompt remedial action~~
13 ~~if appropriate.~~

14 (III) FOR A HARASSMENT CLAIM UNDER THIS SUBSECTION (1)(a):

15 (A) THE LEGAL STANDARD FOR HARASSMENT DOES NOT VARY BY
16 TYPE OF WORKPLACE. IT IS IRRELEVANT THAT A PARTICULAR OCCUPATION
17 MAY HAVE BEEN CHARACTERIZED BY A GREATER FREQUENCY OF
18 DISCRIMINATORY COMMENTS OR CONDUCT IN THE PAST.

19 (B) THE CONDUCT DOES NOT NEED TO BE SEVERE OR PERVASIVE TO
20 CONSTITUTE A DISCRIMINATORY OR AN UNFAIR EMPLOYMENT PRACTICE
21 UNDER THIS SUBSECTION (1)(a).

22 (b) (I) For an employment agency to:

23 (A) Refuse to list and properly classify for employment or REFUSE
24 to refer an individual for employment in a known available job for which
25 the individual is otherwise qualified because of disability, race, creed,
26 color, sex, sexual orientation, gender identity, gender expression,
27 MARITAL STATUS, religion, age, national origin, or ancestry; or ~~for an~~

1 ~~employment agency to~~

2 (B) Comply with a request from an employer for referral of
3 applicants for employment if the request indicates either directly or
4 indirectly that the employer discriminates in employment on account of
5 disability, race, creed, color, sex, sexual orientation, gender identity,
6 gender expression, MARITAL STATUS, religion, age, national origin, or
7 ancestry. ~~but,~~

8 (II) With regard to a disability, it is not a discriminatory or an
9 unfair employment practice for an employment agency to refuse to list
10 and properly classify for employment or to refuse to refer an individual
11 for employment in a known available job for which the individual is
12 otherwise qualified if there is no reasonable accommodation that the
13 employer can make with regard to the disability AND the disability
14 actually disqualifies the applicant from the job. ~~and the disability has a~~
15 ~~significant impact on the job;~~

16 (c) For a labor organization to exclude any individual otherwise
17 qualified from full membership rights in the labor organization, to expel
18 an individual from membership in the labor organization, or to otherwise
19 discriminate against any of its members in the full enjoyment of work
20 opportunity because of disability, race, creed, color, sex, sexual
21 orientation, gender identity, gender expression, MARITAL STATUS,
22 religion, age, national origin, or ancestry;

23 (d) For any employer, employment agency, or labor organization
24 to print or circulate or cause to be printed or circulated any statement,
25 advertisement, or publication, or to use any form of application for
26 employment or membership, or to make any inquiry in connection with
27 prospective employment or membership that expresses, either directly or

1 indirectly, any limitation, specification, or discrimination as to disability,
2 race, creed, color, sex, sexual orientation, gender identity, gender
3 expression, MARITAL STATUS, religion, age, national origin, or ancestry or
4 intent to make any such limitation, specification, or discrimination, unless
5 based ~~upon~~ ON a bona fide occupational qualification or required by and
6 given to an agency of government for security reasons;

7 (f) For any employer, labor organization, joint apprenticeship
8 committee, SPONSOR OF AN APPRENTICESHIP PROGRAM REGISTERED
9 PURSUANT TO ARTICLE 15.7 OF TITLE 8, or vocational school providing,
10 coordinating, or controlling apprenticeship programs or providing,
11 coordinating, or controlling on-the-job training programs or other
12 instruction, training, or retraining programs:

13 (I) (A) To deny to or withhold from any qualified individual
14 because of disability, race, creed, color, sex, sexual orientation, gender
15 identity, gender expression, MARITAL STATUS, religion, age, national
16 origin, or ancestry the right to be admitted to or participate in an
17 apprenticeship training program, an on-the-job training program, or any
18 other occupational instruction, training, or retraining program. ~~but,~~

19 (B) With regard to a disability, it is not a discriminatory or an
20 unfair employment practice to deny or withhold the right to be admitted
21 to or participate in any such program if there is no reasonable
22 accommodation that can be made with regard to the disability AND the
23 disability actually disqualifies the individual from the program. ~~and the~~
24 ~~disability has a significant impact on participation in the program;~~

25 (II) To discriminate against any qualified individual in pursuit of
26 such programs or to discriminate against ~~such an~~ THE individual in the
27 terms, conditions, or privileges of such programs because of disability,

1 race, creed, color, sex, sexual orientation, gender identity, gender
2 expression, MARITAL STATUS, religion, age, national origin, or ancestry;
3 OR

4 (III) To print or circulate or cause to be printed or circulated any
5 statement, advertisement, or publication, or to use any form of application
6 for such programs, or to make any inquiry in connection with such
7 programs that expresses, directly or indirectly, any limitation,
8 specification, or discrimination as to disability, race, creed, color, sex,
9 sexual orientation, gender identity, gender expression, MARITAL STATUS,
10 religion, age, national origin, or ancestry or any intent to make any such
11 limitation, specification, or discrimination, unless based on a bona fide
12 occupational qualification;

13 (j) FOR AN EMPLOYER TO FAIL TO CONDUCT A REASONABLE
14 INVESTIGATION OF, OR FAIL TO TAKE PROMPT, REASONABLE, AND
15 REMEDIAL ACTION IN RESPONSE TO, A COMPLAINT OF HARASSMENT,
16 DISCRIMINATION, RETALIATION, OR ANY COMBINATION OF HARASSMENT,
17 DISCRIMINATION, OR RETALIATION. NOTHING IN THIS SUBSECTION (1)(j)
18 REQUIRES AN INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION
19 23-5-146 (1)(d), TO VIOLATE FEDERAL LAW OR REGULATION OR TO
20 FOREGO ACCESS TO FEDERAL MONEY AVAILABLE TO THE INSTITUTION OR
21 ITS STUDENTS.

22 (1.5) WHEN AN EMPLOYEE PROVES THAT A SUPERVISOR
23 UNLAWFULLY HARASSED THAT EMPLOYEE, THE EMPLOYER MAY ASSERT AN
24 AFFIRMATIVE DEFENSE TO THE HARASSMENT CLAIM ONLY IF THE
25 EMPLOYER ESTABLISHES THAT:

26 (a) THE EMPLOYER HAS ESTABLISHED A PROGRAM THAT IS
27 REASONABLY DESIGNED TO PREVENT HARASSMENT, DETER FUTURE

1 HARASSERS, AND PROTECT EMPLOYEES FROM HARASSMENT;

2 (b) AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (1.5), THE
3 EMPLOYER:

4 (I) MAINTAINS A DESIGNATED REPOSITORY OF ALL WRITTEN OR
5 ORAL COMPLAINTS OF DISCRIMINATION, HARASSMENT, OR RETALIATION
6 THAT INCLUDES THE DATE OF THE COMPLAINT, THE IDENTITY OF THE
7 COMPLAINING PARTY, THE IDENTITY OF THE ALLEGED PERPETRATOR, AND
8 THE SUBSTANCE OF THE COMPLAINT; AND

9 (II) RETAINS THE RECORDS IN A DESIGNATED REPOSITORY FOR THE
10 DURATION OF THE EMPLOYER'S OPERATIONS AND FOR AT LEAST ONE YEAR
11 AFTER THE EMPLOYER CEASES OPERATIONS;

12 (c) THE EMPLOYER HAS COMMUNICATED THE EXISTENCE AND
13 DETAILS OF THE PROGRAM SPECIFIED IN SUBSECTION (1.5)(a) OF THIS
14 SECTION TO BOTH ITS SUPERVISORY AND NONSUPERVISORY EMPLOYEES;

15 (d) WITHIN THE FIVE YEARS IMMEDIATELY PRECEDING THE
16 EMPLOYER RAISING THE AFFIRMATIVE DEFENSE, NO EMPLOYEE HAS
17 SUBMITTED A CHARGE OR COMPLAINT INTERNALLY OR TO A GOVERNMENT
18 AGENCY THAT ASSERTS DISCRIMINATION, HARASSMENT, OR RETALIATION
19 BY A RELEVANT SUPERVISORY EMPLOYEE; AND

20 (e) THE EMPLOYEE HAS UNREASONABLY FAILED TO TAKE
21 ADVANTAGE OF THE EMPLOYER'S PROGRAM SPECIFIED IN SUBSECTION
22 (1.5)(a) OF THIS SECTION, AS ESTABLISHED BY THE TOTALITY OF THE
23 CIRCUMSTANCES.

24 **SECTION 6.** In Colorado Revised Statutes, **add** 24-34-407 as
25 follows:

26 **24-34-407. Nondisclosure agreements - requirements for**
27 **enforcement - penalties for noncompliance.** (1) A PROVISION IN AN

1 AGREEMENT ENTERED INTO OR RENEWED ON OR AFTER THE EFFECTIVE
2 DATE OF THIS SECTION BETWEEN AN EMPLOYER AND AN EMPLOYEE OR A
3 PROSPECTIVE EMPLOYEE THAT LIMITS THE ABILITY OF THE EMPLOYEE OR
4 PROSPECTIVE EMPLOYEE TO DISCLOSE OR DISCUSS, EITHER ORALLY OR IN
5 WRITING, ANY ALLEGED DISCRIMINATORY OR UNFAIR EMPLOYMENT
6 PRACTICE, WHICH PROVISION IS REFERRED TO IN THIS SECTION AS A
7 "NONDISCLOSURE PROVISION", IS VOID UNLESS:

8 (a) THE NONDISCLOSURE PROVISION APPLIES EQUALLY TO ALL
9 PARTIES TO THE AGREEMENT;

10 (b) THE NONDISCLOSURE PROVISION EXPRESSLY STATES THAT IT
11 DOES NOT RESTRAIN THE EMPLOYEE OR PROSPECTIVE EMPLOYEE FROM
12 DISCLOSING THE UNDERLYING FACTS OF ANY ALLEGED DISCRIMINATORY
13 OR UNFAIR EMPLOYMENT PRACTICE:

14 (I) TO THE EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S IMMEDIATE
15 FAMILY MEMBERS, RELIGIOUS ADVISOR, MEDICAL OR MENTAL HEALTH
16 PROVIDER, LEGAL COUNSEL, FINANCIAL ADVISOR, OR TAX PREPARER;

17 (II) TO ANY LOCAL, STATE, OR FEDERAL GOVERNMENT AGENCY
18 FOR ANY REASON, INCLUDING DISCLOSING THE EXISTENCE AND TERMS OF
19 A SETTLEMENT AGREEMENT, WITHOUT FIRST NOTIFYING THE EMPLOYER;

20 (III) IN RESPONSE TO LEGAL PROCESS, SUCH AS A SUBPOENA TO
21 TESTIFY AT A DEPOSITION OR IN A COURT, INCLUDING DISCLOSING THE
22 EXISTENCE AND TERMS OF A SETTLEMENT AGREEMENT, WITHOUT FIRST
23 NOTIFYING THE EMPLOYER; AND

24 (IV) FOR ALL OTHER PURPOSES AS REQUIRED BY LAW;

25 (c) THE NONDISCLOSURE PROVISION EXPRESSLY STATES THAT
26 DISCLOSURE OF THE UNDERLYING FACTS OF ANY ALLEGED
27 DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICE WITHIN THE

1 PARAMETERS SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION DOES NOT
2 CONSTITUTE DISPARAGEMENT;

3 (d) THE AGREEMENT INCLUDES A CONDITION THAT IF ANY PARTY
4 TO THE AGREEMENT MAKES A MATERIAL MISREPRESENTATION ABOUT
5 ANOTHER PARTY TO THE AGREEMENT, THE PARTY MAKING THE MATERIAL
6 MISREPRESENTATION MAY NOT ENFORCE ANY NONDISCLOSURE PROVISION
7 OR ASSOCIATED LIQUIDATED DAMAGES PROVISION IN THE AGREEMENT
8 AGAINST ANY OTHER PARTY, BUT ALL REMAINING TERMS OF THE
9 AGREEMENT REMAIN ENFORCEABLE;

10 (e) ANY LIQUIDATED DAMAGES PROVISION IN THE AGREEMENT
11 DOES NOT CONSTITUTE A PENALTY OR PUNISHMENT, AND, TO BE
12 ENFORCED, A LIQUIDATED DAMAGES PROVISION MUST PROVIDE FOR AN
13 AMOUNT OF LIQUIDATED DAMAGES THAT IS:

14 (I) REASONABLE AND PROPORTIONATE IN LIGHT OF THE
15 ANTICIPATED ACTUAL ECONOMIC LOSS THAT A BREACH OF THE
16 AGREEMENT WOULD CAUSE; AND

17 (II) NOT PUNITIVE; AND

18 (f) AN ADDENDUM, SIGNED BY ALL PARTIES TO THE AGREEMENT
19 AND ATTESTING TO COMPLIANCE WITH THIS SUBSECTION (1), IS ATTACHED
20 TO THE AGREEMENT.

21 (2) (a) EACH INSTANCE WHEN AN EMPLOYER INCLUDES IN AN
22 AGREEMENT A NONDISCLOSURE PROVISION THAT VIOLATES SUBSECTION
23 (1) OF THIS SECTION CONSTITUTES A VIOLATION OF THIS SECTION. AN
24 EMPLOYER IS LIABLE FOR ACTUAL DAMAGES AND A PENALTY OF FIVE
25 THOUSAND DOLLARS PER VIOLATION.

26 (b) THE COMMISSION AND ANY EMPLOYEE OR PROSPECTIVE
27 EMPLOYEE WHO IS PRESENTED WITH AN AGREEMENT THAT INCLUDES A

1 NONDISCLOSURE PROVISION THAT VIOLATES SUBSECTION (1) OF THIS
2 SECTION MAY IMMEDIATELY BRING AN ACTION FOR INJUNCTIVE RELIEF
3 AND TO RECOVER PENALTIES. IN ADDITION TO PENALTIES, AN EMPLOYEE
4 OR A PROSPECTIVE EMPLOYEE MAY RECOVER ACTUAL DAMAGES,
5 REASONABLE COSTS, AND ATTORNEY FEES IN ANY PRIVATE ACTION
6 BROUGHT PURSUANT TO THIS SECTION.

7 (3) IN ANY CIVIL ACTION INVOLVING A CLAIM OF A
8 DISCRIMINATORY OR AN UNFAIR EMPLOYMENT PRACTICE, A PLAINTIFF MAY
9 PRESENT EVIDENCE THAT THE EMPLOYER AGAINST WHOM THE ACTION WAS
10 FILED ENTERED INTO ONE OR MORE AGREEMENTS THAT INCLUDED A
11 NONDISCLOSURE PROVISION INVOLVING THE CONDUCT OF THE SAME
12 INDIVIDUAL OR INDIVIDUALS WHO ARE ALLEGED IN THE ACTION TO HAVE
13 ENGAGED IN THE DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICE. IF
14 SUCH EVIDENCE IS PRESENTED, THE EVIDENCE SHALL BE CONSIDERED
15 EVIDENCE IN SUPPORT OF AN AWARD OF PUNITIVE DAMAGES.

16 **SECTION 7. Act subject to petition - effective date -**
17 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
18 the expiration of the ninety-day period after final adjournment of the
19 general assembly; except that, if a referendum petition is filed pursuant
20 to section 1 (3) of article V of the state constitution against this act or an
21 item, section, or part of this act within such period, then the act, item,
22 section, or part will not take effect unless approved by the people at the
23 general election to be held in November 2024 and, in such case, will take
24 effect on the date of the official declaration of the vote thereon by the
25 governor.

26 (2) This act applies to employment practices occurring on or after
27 the applicable effective date of this act.



CITY OF AURORA

Council Agenda Commentary

Item Title: Ordinance to Amend A.M.C Section 134
Item Initiator: Veronica Garza, Legal Secretary
Staff Source/Legal Source: Carrigan Bennett, Police Lieutenant / Megan Platt, Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 1.0--Assure a safe community for people

COUNCIL MEETING DATES:

Study Session: 3/20/2023

Regular Meeting: 3/27/2023

2nd Regular Meeting (if applicable): 4/10/2023

Item requires a Public Hearing: ☒ Yes ☐ No

ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

- Agenda long title
- Waiver of reconsideration requested, and if so, why
- Sponsor name
- Staff source name and title / Legal source name and title
- Outside speaker name and organization
- Estimated Presentation/discussion time for Study Session

Carrigan Bennett, Police Lieutenant / Megan Platt, Assistant City Attorney
Estimated time: 10 mins

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|---|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field above. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: Public Safety, Courts & Civil Service

Policy Committee Date: 3/9/2023

Action Taken/Follow-up: *(Check all that apply)*

☒ Recommends Approval

☐ Does Not Recommend Approval

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

Approved to Move Forward with Consolidation to a Single Ordinance by the Public Safety Committee on 3/9/2023

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

Ordinance to Amend Section 134 of the Aurora Municipal Code in order to support the initiation of the Photo Speed Enforcement Pilot program and for hearings to be conducted by the Aurora Traffic and Parking Magistrate

FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

☐ Revenue Impact

☐ Budgeted Expenditure Impact

☐ Non-Budgeted Expenditure Impact

☐ Workload Impact

☒ No Fiscal Impact

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

QUESTIONS FOR COUNCIL

Does Council Approve the item to move forward to the Regular Meeting?

LEGAL COMMENTS

City Charter Section 3-9 authorizes the City Council to enact ordinances necessary to protect life, health and property and to preserve and enforce good government, general welfare, order and security of the city and the inhabitants thereof. (Platt)

ORDINANCE NO. 2023- ____

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING ARTICLE X CHAPTER 134 OF THE CITY CODE PERTAINING TO THE AURORA PARKING AND TRAFFIC ENFORCEMENT BUREAU AND AUTOMATED VEHICLE IDENTIFICATION SYSTEM CITATIONS

WHEREAS, Council approved a pilot program for Photo Speed Enforcement on June 13, 2022 and approved changes to A.M.C 134-451 to allow for civilian review of violations in addition to peace officers; and

WHEREAS, C.R.S. 42-4-110.5 permits municipalities to enact ordinances around photo speed enforcement and to use civilian employees to review violations and;

WHEREAS, the City intends to include photo speed enforcement violations in the administrative parking magistrate process pursuant to the process authorized in A.M.C. 134-426 to hear disputes arising from photo speed enforcement violations; and

WHEREAS, the violations will be referred to as “penalty assessment notices;” and

WHEREAS, appeals from the magistrate process will be referred to the Aurora Municipal Court; and

WHEREAS, violations that appear to be traffic offenses will be referred to a sworn police officer for investigation in accordance with state statute.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. Section 134-426 of the City Code of the City of Aurora, Colorado is hereby amended to read as follows:

Section 134-426. The Aurora Parking **and Traffic Bureau**

(a) *Aurora Parking Bureau established.* The Aurora Parking **and Traffic Bureau** is hereby established as an administrative unit of the Aurora Municipal Court.

(b) *Designation of magistrate.* The Aurora Parking **and Traffic Bureau** shall be composed of one or more persons who shall serve as administrative parking magistrate for a term of one year and shall be appointed by the city manager. Such person(s) shall not be a city employee or contractor associated with, or have a financial interest in, the parking and mobility program.

(c) *Authority of magistrate.* The administrative **parking and traffic** magistrate shall have the authority to conduct informal dispositions and final hearings for parking citations **and photo speed enforcement violations issued pursuant to section 134-451.** The administrative **parking and traffic** magistrate shall have the discretion to uphold, reduce, or dismiss a parking **or photo speed enforcement** citations based on any and all evidence and arguments submitted.

(d) *Responsibilities of magistrate.* The administrative parking **and traffic** magistrate shall:

- (1) Conduct informal dispositions and render decisions on matters concerning alleged parking violations, ~~and~~ immobilized vehicles, **and photo speed enforcement violations;**
- (2) Provide an orderly process for hearing testimony, taking sworn testimony, ruling on evidence presented, questioning witnesses and preparing recordings of proceedings to determine the validity of a parking **or photo speed enforcement** violation;
- (3) Conduct non-judicial administrative vehicle impoundment hearings;
- (4) Issue written decisions containing findings of facts and conclusions of law to all parties involved in vehicle impoundment hearings;
- (5) Review and evaluate testimony and evidence presented by parties; analyze ~~parking~~ histories and violations to determine if fines or fees are reduced or waived;
- (6) Perform administrative activities, ~~and~~ functions, **and record keeping** related to parking citations and **photo speed enforcement violations;**
- (7) Impose fines on parking tickets **and photo speed enforcement violations**, sign waivers of immobilization fees, authorize reasonable towing delays;
- (8) Explain city ordinances, rules and regulations, and any procedures that may apply without providing legal advice; and
- (9) Educate and assist the public through knowledge of applicable policy, procedure and city ordinances.

Section 2. Section 134-430 of the City Code of the City of Aurora, Colorado is hereby amended to read as follows:

Section 134-430. Hearing to challenge the validity of a parking violation **or photo speed enforcement penalty notice**.

(a) *Generally.* Any person cited by the police department or director of public works for a parking violation **or photo speed enforcement penalty notice** may contest the determination that a violation occurred by requesting in writing a hearing before the Aurora Parking Bureau. Such hearing shall be held no later than 20 days from the date of issuance of the parking citation unless an extension is otherwise authorized.

(b) *Notice.* No less than seven days prior to the date set for the hearing, the Aurora Parking Bureau shall notify the registered owner of the vehicle of the date, time and place of the hearing. Any person requesting a hearing who fails to appear at the time and place set for the hearing shall be deemed to have waived the option for a hearing before the Aurora Parking Bureau and all civil penalties shall become due as indicated on the issued parking citation **or photo speed enforcement penalty notice**.

(c) *Review of dispute.* The Aurora Parking **and Traffic Bureau** shall review all relevant documentation on file with the City in the case, including, but not limited to, the parking citation **or photo speed enforcement penalty notice**, reports, and written statements, if any. All documents may be submitted electronically. In lieu of the police officer's or parking enforcement officer's personal appearance at the hearing, the Aurora Parking Bureau may consider the parking citation and any other written report by the police officer or parking enforcement officer who issued the citation.

(d) *Hearing recorded.* The Aurora Parking **and Traffic Bureau** shall electronically record and maintain all parking **citation and photo speed enforcement penalty notice** ~~citation~~ hearings pursuant to this article.

(e) *Determination.* At the hearing and after consideration of the evidence, the Aurora Parking **and Traffic Bureau** shall determine whether a violation was committed. Where it has not been established that the violation was committed, the citation shall be dismissed. Where it has been established that a violation was committed, the Aurora Parking **and Traffic Bureau** shall uphold the citation **or photo speed enforcement penalty notice** and order the registered owner of the vehicle to pay the citation within seven days. A copy of such order shall be issued to the registered owner of the vehicle.

(f) Failure to pay; penalty. Any person ordered to pay the civil penalty who fails to do so within seven days following the hearing shall be deemed to have refused to pay the civil penalty levied by the citation **or photo speed enforcement penalty notice** and shall be liable for the payment of the original violation and any additional civil penalties.

Section 3. Section 134-451 of the City Code of the City of Aurora, Colorado is hereby amended to read as follows:

Section 134-451. Automated Vehicle Identification System Citations **Penalty Assessment Notices**

(a) Except as specified in subsection (d) of this section, ~~When~~ **when** a peace officer **or designated civilian employee**, based on evidence obtained in whole or in part by means of an automated vehicle identification system has probable cause to believe that a traffic violation has been committed, the peace officer **or designated civilian employee** may issue, or cause to be issued through a contractor designated by the city manager, a ~~summons and complaint~~ **penalty assessment notice** charging the person in whose name the vehicle is registered based on the license plate or any other identification of the vehicle with violation of the applicable section, or the person designated by the owner as being the driver of the vehicle when the violation occurred. If, however, the vehicle is registered in more than one person's name, the ~~summons and complaint~~ **penalty assessment notice** shall be issued to the registrant whom the issuing peace officer **or designated civilian employee** determines, under all the facts and circumstances, was the person most likely depicted in the image produced by the camera.

(b) Any ~~summons and complaint~~ **penalty assessment notice** issued as part of an automated vehicle identification system program shall contain the name and address of the defendant; the license number of the vehicle involved; a citation of the code section alleged to have been violated; a brief description of the infraction or violation; the date and approximate place of the infraction or violation; the amount of any prescribed penalty, the number of points, if any, prescribed for such infraction or violation pursuant to Colorado Revised Statutes; and the date the ~~summons and complaint~~ **penalty assessment notice** is issued. The ~~summons and complaint~~ **penalty assessment notice** shall direct the defendant to ~~appear in the municipal court at a specified date and time in the event the prescribed penalty is not previously paid~~ **a website portal where, prior to a date and time specified on the penalty assessment notice, the defendant can pay the penalty, submit evidence to dispute the identity of the driver as permitted by Colorado Revised Statutes and this code, or request a hearing before the Aurora Parking and Traffic Bureau Magistrate to dispute the penalty assessment notice.** The ~~summons and complaint~~ **penalty assessment notice** shall also contain a line on which the defendant may elect to execute a signed acknowledgement of liability and an agreement to pay the penalty on or before the ~~appearance~~ **date on the notice.** The **penalty assessment notice shall also contain information on how the defendant can**

request a hearing before the Aurora Parking and Traffic Bureau Magistrate pursuant to section 134-426 to dispute the penalty assessment notice.

(c) A copy of the ~~summons and complaint~~ **penalty assessment notice** may be personally served upon the defendant in compliance with Colorado Municipal Court Rules of Procedure no later than 90 days after the date the alleged violation occurred. **If a penalty assessment notice or notice of such violation was mailed to the defendant prior to personal service, and the defendant did not dispute the identity of the driver prior to personal service, then the defendant shall not be able to dispute the identity of the driver without a hearing.**

(d) When a peace officer or designated civilian employee, based on evidence obtained in whole or in part by means of an automated vehicle identification system has probable cause to believe that a vehicle was traveling twenty-five miles per hour or more in excess of the posted speed limit, the violation will be investigated as a traffic offense. The traffic offense will be referred to a sworn police officer for investigation.

Section 4. Section 134-452 of the City Code of the City of Aurora, Colorado is hereby amended to read as follows:

Section 134-452. Payment of Automated Vehicle Identification System Citations ~~Penalty Assessment Notices~~

The fine or penalty specified in the automated vehicle identification system ~~summons and complaint~~ **penalty assessment notice** may be paid ~~in person~~ on or before the ~~appearance~~ **penalty assessment notice due date** or through the United States Postal Service by first class mail **to an address specified on the penalty assessment notice, through a website portal, or drop box.** Acceptance of a ~~summons and complaint~~ **penalty assessment notice** and payment of the prescribed penalty and costs, if any, to the **city cashier through one of the methods specified on the penalty assessment notice** ~~clerk of the court~~ shall be deemed a judgment and satisfaction of the judgment for the violation.

Section 5. Section 134-453 of the City Code of the City of Aurora, Colorado is hereby amended to read as follows:

Section 134-453. Appearances for Automated Vehicle Identification System ~~Violations~~ **Penalty Assessment Notices**

(a) In the event that the defendant having been served with a ~~summons and complaint~~ **penalty assessment notice** fails to pay the penalty on or before the ~~appearance~~ **due date**, **fails to request a hearing before the Aurora Parking and Traffic Bureau magistrate, or fails to submit evidence to dispute the identity of the driver,** ~~on the date and time specified in the summons and complaint issued pursuant to section 134-451 and answer~~

~~the complaint. If the defendant answers that he or she is liable, judgment shall be entered. If the defendant fails to appear, judgment shall be entered~~ **a default judgment shall be entered and a penalty assessed with any applicable fees and costs in accordance with section 134-456.**

(b) In the event the defendant disputes the allegations in a ~~summons and complaint~~ **penalty assessment notice** issued pursuant to section 134-451 **and requests a hearing prior to the entry of a default judgment, a trial hearing before the Aurora Parking and Traffic Bureau magistrate** shall be held. If the defendant is found guilty or fails to appear at such ~~trial or final~~ hearing, judgment shall be entered and a penalty assessed with any applicable fees and costs shall be assessed as provided in section 134-456 **unless the judgment is appealed to the Aurora Municipal Court pursuant to section 134-431.**

Section 6. Section 134-454 of the City Code, of the City of Aurora, Colorado is hereby amended to read as follows:

Section 134-454. Presumption in Reference to Automated Vehicle Identification System Violations-Penalty Assessment Notices

In any proceeding alleging a traffic violation, proof through the use of an automated vehicle identification system that the particular vehicle described in the ~~summons and complaint~~ **penalty assessment notice** used by one in such violation, together with proof that the person named in the ~~summons and complaint~~ **penalty assessment notice** was at the time of the violation the registered owner of the vehicle or the designated operator of the vehicle, shall constitute prima facie evidence that the registered owner of the vehicle was the person who was committing the violation at the point where, and for the time during which, the violation occurred. This presumption may be rebutted if the finder of fact determines that there is probative evidence that the registered owner of the vehicle or the operator designated by the registered owner of the vehicle was not operating the vehicle at the time the violation was committed.

Section 7. That subsection (b) (3) (c) of section 134-455 of the City Code of the City of Aurora, Colorado is hereby amended as follows:

Section 134-455. Payment of Automated Vehicle Identification System Citations

(b) In any prosecution for traffic violation(s), the results of any automated vehicle identification system shall be admitted into evidence to show the speed of the motor vehicle, the location of the vehicle with respect to an intersection, street, stop line, crosswalk, or traffic signal at any particular instant, the color or condition of any traffic signal at any particular instant, the identity of the operator of the motor vehicle, and the identity of the motor vehicle, if the following foundation is established in evidence:

(3) In any case involving the speed of a motor vehicle, accuracy of the automated vehicle identification system with respect to speed measurements was checked or calibrated through one or more of the following means:

- a. The use of two external tuning forks with or without an annual calibration of those tuning forks; or
- b. The use of one external tuning fork which was calibrated within one year before or after the photo-radar speed measurement at issue in the particular case; or
- c. Calibration or certification of the accuracy of the device by the manufacturer within one year before or after the photo-radar or **Light Detection and Ranging Device (LiDAR)** speed measurement at issue in the particular case.

Section 8. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 9. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this Ordinance shall be by reference, utilizing the ordinance title. Copies of this Ordinance are available at the Office of the City Clerk.

Section 10. Repealer. All orders, resolutions, or ordinances in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ AND ORDERED PUBLISHED this ____ day of _____, 2023.

PASSED AND ORDERED PUBLISHED this ____ day of _____, 2023.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:

^{PS}
Megan Platt
(MEGAN PLATT, Assistant City Attorney)



CITY OF AURORA

Council Agenda Commentary

Item Title: Interview and Appointment Schedule for Civil Service Commission Vacancy
Item Initiator: Kadee Rodriguez, City Clerk
Staff Source/Legal Source: Kadee Rodriguez, City Clerk / Dave Lathers, Senior Assistant City Attorney
Outside Speaker: N/A
Council Goal: 2012: 4.0--Create a superior quality of life for residents making the city a desirable place to live and work

COUNCIL MEETING DATES:

Study Session: 3/20/2023

Regular Meeting: N/A

ITEM DETAILS:

Kadee Rodriguez, City Clerk / Dave Lathers, Senior Assistant City Attorney
Estimated time: 5 minutes

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|---|---|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input checked="" type="checkbox"/> Approve Item as proposed at Study Session |
| <input type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input checked="" type="checkbox"/> Information Only | |
| <input type="checkbox"/> Approve Item with Waiver of Reconsideration
Reason for waiver is described in the Item Details field. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: *(Check all that apply)*

- | | |
|---|---|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
| <input type="checkbox"/> Forwarded Without Recommendation | <input type="checkbox"/> Recommendation Report Attached |
| <input type="checkbox"/> Minutes Attached | <input type="checkbox"/> Minutes Not Available |

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

The Civil Service Commission is composed of five (5) members appointed by City Council. Each member is appointed for a term of three (3) years, and may only serve three (3) consecutive terms.

City Council has sole discretion and final approval concerning appointments. Council may choose to initiate an interview regimen **or** reappoint members seeking to serve another term.

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

The Civil Service Commission has 1 current vacancy. Below are two interview/appointment schedules for Council to consider.

- Harold Johnson – Resigned December 2022

Proposed Schedule 1:

- April 14, 2023 - Last day for potential candidates to submit an application.
- April 21, 2023 - Due date for Council to submit their rankings. The top __ candidates will be interviewed.
- May 1, 2023 - Council interviews the candidates during a study session.
- May 8, 2023 - Council appoints member during a regular council meeting.

Proposed Schedule 2:

- May 19, 2023 - Last day for potential candidates to submit an application.
- May 26, 2023 - Due date for Council to submit rankings. The top __ candidates will be interviewed.
- June 5, 2023 - Council interviews the candidates during a study session.
- June 12, 2023 - Council appoints member during a regular council meeting.

QUESTIONS FOR COUNCIL

Interview and appointment schedule

LEGAL COMMENTS

All appointments shall be for a three-year period. No person may serve more than three consecutive terms. Commissioners shall be selected and appointed by a majority vote of the city council. All members of the civil service shall serve at the pleasure of council and may be removed at any time, with or without cause, upon an affirmative vote of eight members of city council. (Code 1979, § 8-111; Ord. No. 2017-01, § 1, 1-23-2017; Ord. No. 95-53, exhibit A (§ 8-111), 9-11-1995)



Civil Service Commission Vacancy

TO: Mayor and Council Members
FROM: Kadee Rodriguez, City Clerk
DATE: February 24, 2023

Commission Member Roster

Name	Term Ending
Harold Johnson (resigned Dec. 2022)	2024
Barbara Shannon-Banister	2026
Barb Cleland	2025
Matt Snider	2025
Desmond McNeal	2025

Commission Composition

- **Composition:** Five (5) members
- **Term Length:** Three (3) year overlapping terms.
- **Term Expiration Date:** February 14th
- **Term Limit:** Three (3) consecutive terms. Members who are term limited must wait one full term before reapplying.

References

City Code, Chapter 120, Article III – Civil Service Commission Appointment, Terms and Service:
https://aurora.municipal.codes/Code/102_ArtIII



CITY OF AURORA

Council Agenda Commentary

Item Title: Preventing Certain Social Media Applications/Websites from Being Installed or Accessed on City Owned Devices and Personal Devices (Resolution)

Item Initiator: Council Member Dustin Zvonek

Staff Source/Legal Source: George Koumantakis, Manager of Client Services, City Attorney

Outside Speaker: N/A

Council Goal: 2012: 2.1--Work with appointed and elected representatives to ensure Aurora's interests

COUNCIL MEETING DATES:

Study Session: 3/20/2023

Regular Meeting: N/A

2nd Regular Meeting (if applicable): N/A

Item requires a Public Hearing: ☐ Yes ☒ No

ITEM DETAILS *(Click in highlighted area below bullet point list to enter applicable information.)*

Sponsor: Dustin Zvonek, Council Member

George Koumantakis, Manager of Client Services, City Attorney

Estimated time: TBD

The Sponsor is requesting a Waiver of Reconsideration. Motion to approve shall include a waiver of reconsideration.

ACTIONS(S) PROPOSED *(Check all appropriate actions)*

- | | |
|--|--|
| <input type="checkbox"/> Approve Item and Move Forward to Study Session | <input type="checkbox"/> Approve Item as proposed at Study Session |
| <input checked="" type="checkbox"/> Approve Item and Move Forward to Regular Meeting | <input type="checkbox"/> Approve Item as proposed at Regular Meeting |
| <input type="checkbox"/> Information Only | |
| <input checked="" type="checkbox"/> Approve Item with Waiver of Reconsideration | |
| Reason for waiver is described in the Item Details field above. | |

PREVIOUS ACTIONS OR REVIEWS:

Policy Committee Name: N/A

Policy Committee Date: N/A

Action Taken/Follow-up: *(Check all that apply)*

- | | |
|--|--|
| <input type="checkbox"/> Recommends Approval | <input type="checkbox"/> Does Not Recommend Approval |
|--|--|

☐ Forwarded Without Recommendation

☐ Recommendation Report Attached

☐ Minutes Attached

☐ Minutes Not Available

HISTORY *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

N/A

ITEM SUMMARY *(Brief description of item, discussion, key points, recommendations, etc.)*

This resolution bans and directs that all City devices and personal devices that access City networks will be prohibited from downloading and using TikTok, Douyin, WeChat, Weixin or accessing any website developed by ByteDance Ltd. or Tencent Holdings Ltd.

FISCAL IMPACT

Select all that apply. (If no fiscal impact, click that box and skip to "Questions for Council")

☐ Revenue Impact

☐ Budgeted Expenditure Impact

☐ Non-Budgeted Expenditure Impact

☐ Workload Impact

☒ No Fiscal Impact

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

N/A

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

N/A

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

This Resolution will require the Information Security Office, Risk Management, Finance, and the City Attorney's Office to jointly coordinate, develop or refine policies and standards to fulfill the intent of the Resolution. These groups already frequently meet, but this will add some overhead for the initial reviews and development.

QUESTIONS FOR COUNCIL

Does City Council wish to approve the resolution?

LEGAL COMMENTS

A Resolution may be used for a statement of policy or other matters which are not required to be adopted by Ordinance. (Section F, Paragraph 2, Rules of Order and Procedure for the Aurora City Council)

Article III, Section 8 of the City Charter of the City of Aurora, Colorado, authorizes City Council to “prescribe rules of procedure to govern meetings. A City Council member may place items on the Study Session and Regular/Special Meeting agendas. Each such item shall indicate the party requesting the item. (Rules of Order and Procedure for the Aurora City Council, B.2.)
This is an appropriate item for Council's consideration as, under City Charter §1-3, this is necessary and proper for the administration of local and municipal matters. Additionally, under City Charter §5-1, Council is authorized to act by resolution.

Motion to approve shall include a waiver of reconsideration. (Koumantakis)

RESOLUTION NO. R2023- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, EXPRESSING THE AURORA CITY COUNCIL'S DESIRE TO BAN AND PREVENT THE DOWNLOAD OR USE OF TIKTOK, DOUYIN, WECHAT, WEIXIN, OR ACCESSING ANY WEBSITE DEVELOPED BY BYTEDANCE LTD. OR TENCENT HOLDINGS LTD. ON ANY CITY-ISSUED DEVICE OR ON ANY PERSONAL DEVICE THAT IS USED TO ACCESS CITY NETWORKS.

WHEREAS, TikTok, Douyin, WeChat, Weixin, and websites developed by ByteDance Ltd., and Tencent Holding Ltd., are media platforms with known affiliation to the government of the People's Republic of China; and

WHEREAS, TikTok and WeChat are owned by ByteDance Ltd., a Chinese company that employs Chinese Communist Party members; and

WHEREAS, Douyin and Weixin are owned by Tencent Holdings Ltd., a Chinese company that also employs Chinese Communist Party members; and

WHEREAS, China has a history of amassing large amounts of data on their own citizens and those around the world including individuals in the United States; and

WHEREAS, it is critical that the City of Aurora (City) and its networks are protected from the vulnerabilities presented by the use of these platforms; and

WHEREAS, these platforms and websites harvest significant amounts of data from a user's device, including details about a user's internet activity even when the platforms are not in use; and

WHEREAS, these platforms and websites can also harvest significant amounts of data from the City's networks; and

WHEREAS, this data can reveal sensitive information that can be leveraged or exploited against the City; and

WHEREAS, the security and privacy risk to the City extends beyond these applications and companies.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, THAT:

Section 1.

To benefit and protect the residents of the City of Aurora, the City Council directs the City Manager and other Council Appointees to ban and prevent the download or use of TikTok, Douyin, WeChat, Weixin, or accessing any website developed by ByteDance Ltd or Tencent Holdings Ltd on any City-issued device or on any personal device that is used to access City networks. The City Council directs all Council Appointees and their staff and those who report to City Council including staff and volunteers to implement and support this effort. However, if a City Department has a valid reason to access these platforms, the department will need to request approval for that use through

the Information Security Office (ISO). That request must be limited to a small number of end user devices to have access to these platforms. Once approved by the ISO it must then be sent to the City Manager for approval.

Section 2.

To benefit and protect the residents of the City of Aurora from further risk, the City Council directs the City Manager and other Council Appointees to coordinate with the ISO, Risk Management, Finance, and the City Attorney's Office to develop a program that will address third-party security and privacy risk in the City's technology supply chain through the formal adoption of policies and standards, and active monitoring for compliance with those policies and standards.

Section 3.

This resolution shall not be interpreted to impact Resolution No. R2022-81 pertaining to compliance with security policy which was resolved and passed on April 11, 2022.

Section 4.

This Resolution shall take effect immediately without reconsideration.


RESOLVED AND PASSED this _____ day of _____, 2023.

MIKE COFFMAN, MAYOR

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



GEORGE KOUMANTAKIS, Manager of Client Services