



# SOUTHWEST COLORADO COUNCIL OF GOVERNMENTS

## Regular Meeting Agenda

Thursday, 6 September, 1:30 pm

Carnegie Building

1188 East 2<sup>nd</sup> Avenue, Durango, CO

- I. Introductions
- II. Consent Agenda
  - a. August 2018 SWCCOG Meeting Minutes
  - b. July 2018 Financials
- III. Reports (Staff will be available for questions on the written reports)
  - a. Director's Report
  - b. Broadband Report
  - c. Legislative Report
  - d. Transportation Report
  - e. VISTA Report
- IV. Discussion Items
  - a. Review of 2018 Goals, 2018 Retreat, and 2019 Goal Setting, TPR
  - b. 2019 Preliminary Budget
- V. Decision Items
  - a. Executive Committee Meeting Minutes from July 19, 2018
  - b. DOLA EIAF 8573 Grant Extension Request
  - c. SWIMT 2018-2019 Contract
  - d. DOLA 2019 TA Grant Request
- VI. Other Items
- VII. Community Updates (if time permits)

# Consent Agenda

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**Southwest Colorado Council of Governments  
August Board Meeting  
Thursday, 2 August, 1:30pm  
1188 E. 2nd Ave., Carnegie Bldg., Durango, CO 81301**

In Attendance:

Chris La May – Town of Bayfield  
Willy Tookey – San Juan County  
Chris Tookey – Town of Silverton  
Steve Garchar – Dolores County  
Mark Garcia – Town of Ignacio  
Ron LeBlanc – City of Durango  
Karen Sheek – City of Cortez  
John Dougherty – City of Cortez  
Kari Distefano – Town of Rico  
Melissa Youssef – City of Durango  
Heather Alvarez – Town of Mancos (via phone)

Staff in Attendance:

Miriam Gillow-Wiles – Southwest Colorado Council of Governments  
Sara Trujillo – Southwest Colorado Council of Governments  
Dylan Lucas – Southwest Colorado Council of Governments

Guests in Attendance:

Peyton Heitzman – City of Cortez  
Ashely Greco – Representative Tipton’s Office  
Ann McCoy-Herald – Senator Gardner’s Office  
Nita Purkat – Dolores County Senior Services  
Chuck Stevens – La Plata County  
Adam Wilkes – Haynie & Company (via phone)

**I. Introductions**

The meeting was called to order at 1:34 pm, everyone introduced themselves.

**II. 2017 Budget Amendment and 2017 Audit Presentation**

Miriam said the 2017 budget amendment information is in the board packet. An amendment was needed as there were two adjusting entries having to do with payroll and software that changed the 2017 expenses. Miriam asked for questions. There were none.

**Willy Tookey motioned to approve the 2017 budget amendment, Mark Garcia seconded, unanimously approved.**

Adam Wilkes introduced himself and said the audit went well. Adam went through each section of the audited financials pointing out there were no disagreements between the auditor team and management. There were no questions.

**Willy Tookey motioned to approve the 2017 audited financial statements, Karen Sheek seconded, unanimously approved.**

**III. Consent Agenda**

- a. June 2018 SWCCOG Meeting Minutes
- b. June 2018 Financials

**Mark Garcia motioned to approve the consent agenda, Chris Tookey seconded, unanimously approved.**

#### **IV. Reports**

Director's Report:

Miriam reported that the USAC funding request has wrapped up and been submitted giving staff a broadband break. CCI and CML are working on broadband legislation development for the respective organizations to potentially incorporate into their legislative docket for 2019. Miriam said a document included in the board packet is a letter to Senator Gardner about the STREAMLINE Act, which is attempting to help the adoption of 5G wireless technology. However, the legislation has a number of challenges, including preemption of state and local control, shot clocks, and other such things that make it a very industry favorable bill. Miriam said in regards to transportation funding the state is still working on two proposed ballot measures to increase transportation funding, one is only bonds, the other is bonds with a tax increase to pay back the bonds. Miriam wrapped up her report thanking Dylan for his VISTA work as he will be rotating out and the new VISTA rotating in later in August 2018.

Broadband Report:

Miriam said funding requests for the USAC Rural Health were submitted on June 28th for self-provisioned fiber for the following routes:

- Dove Creek to Cortez
- Cortez to Durango
- Durango to Silverton

Award information will be announced sometime between December and February 2019. Miriam said that CDOT has finalized their Statewide Fiber Plan and will publish it in mid-August. This will help when communities, counties, and regions that need to develop broadband within a CDOT corridor, and outline where those priorities fall and how public agencies can work with CDOT.

Transportation Report:

Miriam said the TPR elected a new board chair, Amber Blake. There were no questions.

VISTA Report:

Dylan said he is wrapping up his work and getting ready to pass down to the new VISTA. He thanked all for the support and opportunity.

#### **V. Discussion Items**

#### **VI. Decision Items**

Executive Committee Meeting Minutes from June 14, 2018:

**Karen Sheek motioned to approve the Executive Committee meeting minutes from June 14, 2018, Chris La May seconded, unanimously approved.**

Water Quality Improvement Act Letter of Support Ratification

Miriam said the National Association of Regional Councils (NARC) and other organizations have been working with Congressman Bob Gibbs (R-Ohio) to develop bipartisan water quality improvement legislation. Members of NARC, including the SWCCOG, were asked to encourage their Representatives to co-sponsor this legislation. The board packet included the letter SWCCOG sent to Congressman Tipton on July 13, 2018.

**Willy Tooked motioned to ratify the Letter of Support, Karen Sheek seconded, unanimously approved.**

## STREAMLINE Small Cell Deployment Act Letter

Miriam said the STREAMLINE Small Cell Deployment Act, S. 3157, was recently introduced. As currently written, this legislation includes a number of elements that limit local control while increasing expectations upon local agencies. Senator Gardner is a member of the Senate Commerce Committee and sits on the subcommittee that will first hear this bill. The purpose of this letter is to share a number of concerns about the bill and encourage Senator Gardner to oppose it as currently written.

**Willy Tookey motioned to approve the letter be sent to Senator Gardner, Mark Garcia seconded, unanimously approved.**

## 2019 COG Dues

Miriam said that staff sends out an annual dues estimation letters to help communities with their budgets and would like to get these letters out soon. Staff suggests keeping dues the same as 2018. As has been done in the past, staff will ask that member match be held in the member's budget unless needed. Miriam said there were minor changes due to population changes provided from the DoLA website. Ron asked if Montezuma County paid TPR contributions in 2018. Miriam said no, that the COG cannot force TPR contributions and cannot oust a community for not paying as these are federal funds passed through CDOT and the SWCCOG simply acts as the fiscal agent with no rule-making authority. Some board members feel this unfair and requested that staff research more about what other COGs have done in this situation and gather more information from CDOT.

**Mark Garcia motioned for staff to send out the 2019 dues letters at staff recommendation amounts, Karen Sheek seconded, unanimously approved.**

## VII. Other Items

None

## VIII. Community Updates

Mark Garcia – Town of Ignacio

- Hiring new staff in Public Works and Administration
- Recently had a meeting with the Southern Ute Tribe; working on rate analysis with Tribe
- There have been a lot of improvements to facilities

Ron LeBlanc – City of Durango

- Working on the broken sewer line, hoping to have traffic back to the usual pattern by Tuesday next week
- The fire closed the train for 41 days; significant impact on sales tax
- Remainder of 2018 budget will be a challenge; budget cuts are being made

Willy Tookey – San Juan County

- Working on affordable housing project; end of September apartment install; open for rent in November
- June was devastating with mud slides
- 2019 budget will be difficult

Chris Tookey – Town of Silverton

- The town is maintaining; many folks coming from Durango and Grand Junction

Chuck Stevens – La Plata County

- 2019 budget is very challenging

- 416 fire 100% contained
- Helping residents with resources as damage to private property has been significant

Keri Distefano – Town of Rico

- A new bed and breakfast is open
- Replaced a failed pump to well
- Preparing ballot to include infrastructure

John Dougherty and Karen Sheek– City of Cortez

- Sales and lodgers tax is down; sales tax a bit up
- Starting into 2019 budget
- Community event held every 3<sup>rd</sup> Thursday at park is growing
- Gathering community input for park on south side of town

Steven Garchar – Dolores County

- Completing parking lot for Pioneer Center; pushing landscaping off due to lack of water

Chris La May – Town of Bayfield

- Schools and roundabout projects continue but are getting close to wrapping up before school starts
- Marijuana will be on the November ballot
- Struggling with the water shortage and preparing for additional water restrictions

Adjourned at 2:58 p.m.

# July 2018 Financials

To: SWCCOG Board of Directors  
From: Sara Trujillo  
Date: 6 September 2018

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Comments: The following attachments include:

- Balance Sheet as of July 31, 2018
- January 1- July 31, 2018 Profit & Loss vs. Budget

Items to Note:

*Balance Sheet:* The prepaid expense is for the Zoom software as the contract goes to 2020.

As the fiscal agent to the SWIMT and the state grant ending June 30, 2018, the best and quickest way to spend grant funds is to utilize the COG credit cards. Therefore, you will see a high balance on both Miriam and Sara's cards. Almost 100% of both Miriam and Sara's card balances were reimbursed by the TPR and SWIMT grants.

*P&L vs Budget:* Information Technology is the only line item at this time straying far from the budget. This is due to the Zoom prepaid expense.

***Fiscal Impact: High, Budget changes throughout the year***

***Staff Recommendation: Approve the July 2018 Financials allowing staff to move forward with the 2018 budget.***

***Legal Review: Not Applicable***

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## Southwest Colorado Council of Governments

## Balance Sheet

As of July 31, 2018

|                                 | Jul 31, 18        |
|---------------------------------|-------------------|
| <b>ASSETS</b>                   |                   |
| Current Assets                  |                   |
| Checking/Savings                |                   |
| Alpine Bank                     |                   |
| Alpine Bank Account (UR)        | 100,788.11        |
| Total Alpine Bank               | 100,788.11        |
| Petty Cash                      |                   |
| AmeriCorps VISTA                | 224.49            |
| Petty Cash - Other              | 22.97             |
| Total Petty Cash                | 247.46            |
| Total Checking/Savings          | 101,035.57        |
| Accounts Receivable             |                   |
| Accounts Receivable             | 19,248.82         |
| Total Accounts Receivable       | 19,248.82         |
| Other Current Assets            |                   |
| Prepaid Expense                 | 5,997.00          |
| Total Other Current Assets      | 5,997.00          |
| Total Current Assets            | 126,281.39        |
| <b>TOTAL ASSETS</b>             | <b>126,281.39</b> |
| <b>LIABILITIES &amp; EQUITY</b> |                   |
| Liabilities                     |                   |
| Current Liabilities             |                   |
| Accounts Payable                |                   |
| Accounts Payable                | 3,072.39          |
| Total Accounts Payable          | 3,072.39          |
| Credit Cards                    |                   |
| Credit Cards                    |                   |
| Miriam                          | 1,560.65          |
| Sara                            | 4,741.16          |
| Total Credit Cards              | 6,301.81          |
| Total Credit Cards              | 6,301.81          |
| Other Current Liabilities       |                   |
| Accrued Wages                   | 6,689.00          |
| Total Other Current Liabilities | 6,689.00          |
| Total Current Liabilities       | 16,063.20         |
| <b>Total Liabilities</b>        | <b>16,063.20</b>  |

Southwest Colorado Council of Governments

Balance Sheet

As of July 31, 2018

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|                                       | <u>Jul 31, 18</u> |
|---------------------------------------|-------------------|
| Equity                                |                   |
| Retained Earnings                     | 67,835.72         |
| Net Income                            | 42,382.47         |
|                                       | <hr/>             |
| Total Equity                          | 110,218.19        |
|                                       | <hr/>             |
| <b>TOTAL LIABILITIES &amp; EQUITY</b> | <b>126,281.39</b> |
|                                       | <hr/> <hr/>       |

**Southwest Colorado Council of Governments**  
**Profit & Loss Budget vs. Actual**  
 January through July 2018

|                                | Jan - Jul 18 | Budget       | % of Budget |
|--------------------------------|--------------|--------------|-------------|
| <b>Ordinary Income/Expense</b> |              |              |             |
| <b>Income</b>                  |              |              |             |
| <b>All Hazards</b>             |              |              |             |
| 2015 SHSP                      | 516.60       |              |             |
| 2016 SHSP                      | 13,251.02    |              |             |
| 2017 SHSP                      | 72,231.17    |              |             |
| All Hazards - Other            | 0.00         | 163,346.00   | 0.0%        |
| <b>Total All Hazards</b>       | 85,998.79    | 163,346.00   | 52.6%       |
| <b>Broadband</b>               |              |              |             |
| CDOT Funding                   | 0.00         | 333,333.00   | 0.0%        |
| DoLA BB Grant                  | 0.00         | 375,000.00   | 0.0%        |
| FCC Grant                      | 0.00         | 3,000,000.00 | 0.0%        |
| Private Equity                 | 0.00         | 1,666,667.00 | 0.0%        |
| <b>Total Broadband</b>         | 0.00         | 5,375,000.00 | 0.0%        |
| <b>CDOT Grants</b>             |              |              |             |
| SWTPR Grant                    | 14,274.96    | 22,100.00    | 64.6%       |
| Transit 5304                   | 13,505.00    | 27,000.00    | 50.0%       |
| <b>Total CDOT Grants</b>       | 27,779.96    | 49,100.00    | 56.6%       |
| <b>DoLA Grants</b>             |              |              |             |
| DoLA 8330                      | 26,448.31    | 28,000.00    | 94.5%       |
| DoLA 8573                      | 3,776.12     | 35,000.00    | 10.8%       |
| <b>Total DoLA Grants</b>       | 30,224.43    | 63,000.00    | 48.0%       |
| <b>Dues Revenue</b>            |              |              |             |
| Admin Position                 | 0.00         | 12,200.00    | 0.0%        |
| COG Dues                       | 150,970.00   | 145,000.00   | 104.1%      |
| SWTPR Contributions            | 6,842.00     | 7,607.00     | 89.9%       |
| <b>Total Dues Revenue</b>      | 157,812.00   | 164,807.00   | 95.8%       |
| <b>Grant Match</b>             |              |              |             |
| COG Member Match               | 14,923.00    |              |             |
| Non-COG Member Match           | 8,000.00     |              |             |
| <b>Total Grant Match</b>       | 22,923.00    |              |             |
| <b>Misc. Income</b>            | 6,118.80     | 0.00         | 100.0%      |
| <b>RHA</b>                     | 10,000.00    | 10,000.00    | 100.0%      |
| <b>SCAN Services</b>           |              |              |             |
| Dark Fiber Leasing             | 25,614.00    | 29,328.00    | 87.3%       |
| Internet & Transport           | 6,210.00     | 8,280.00     | 75.0%       |
| <b>Total SCAN Services</b>     | 31,824.00    | 37,608.00    | 84.6%       |
| <b>SWIMT</b>                   | 13,235.28    |              |             |
| <b>Total Income</b>            | 385,916.26   | 5,862,861.00 | 6.6%        |

**Southwest Colorado Council of Governments**  
**Profit & Loss Budget vs. Actual**  
 January through July 2018

|  | Jan - Jul 18 | Budget       | % of Budget |
|--|--------------|--------------|-------------|
| <b>Gross Profit</b>                      | 385,916.26   | 5,862,861.00 | 6.6%        |
| <b>Expense</b>                           |              |              |             |
| <b>Advertising and Promotion</b>         | 10.92        | 240.00       | 4.6%        |
| <b>All Hazards Projects</b>              |              |              |             |
| <b>All Hazards 2015 SHSP</b>             |              |              |             |
| Grant 2015 Project 2                     | 485.45       |              |             |
| Grant 2015 Project 5                     | 31.98        |              |             |
| <b>Total All Hazards 2015 SHSP</b>       | 517.43       |              |             |
| <b>All Hazards 2016 SHSP</b>             |              |              |             |
| Grant 2016 Project 1                     | 6,677.92     |              |             |
| Grant 2016 Project 6                     | 3,865.00     |              |             |
| <b>Total All Hazards 2016 SHSP</b>       | 10,542.92    |              |             |
| <b>All Hazards 2017 SHSP</b>             |              |              |             |
| Grant 2017 Project 2                     | 14,060.00    |              |             |
| Grant 2017 Project 3                     | 9,408.70     |              |             |
| Grant 2017 Project 5                     | 42,499.49    |              |             |
| Grant 2017 Project 6                     | 6,636.25     |              |             |
| <b>Total All Hazards 2017 SHSP</b>       | 72,604.44    |              |             |
| <b>All Hazards Projects - Other</b>      | 0.00         | 157,346.00   | 0.0%        |
| <b>Total All Hazards Projects</b>        | 83,664.79    | 157,346.00   | 53.2%       |
| <b>Bank Service Charge</b>               | 158.16       | 200.00       | 79.1%       |
| <b>Broadband Expenses</b>                |              |              |             |
| SCAN Dark Fiber Lease                    | 0.00         | 7,332.00     | 0.0%        |
| <b>Total Broadband Expenses</b>          | 0.00         | 7,332.00     | 0.0%        |
| <b>Conference Fee</b>                    | 1,062.70     |              |             |
| <b>Consulting</b>                        | 70,320.53    | 5,313,500.00 | 1.3%        |
| <b>Employee/Board Appreciation</b>       | 125.42       | 100.00       | 125.4%      |
| <b>Information Technology (IT)</b>       |              |              |             |
| Internal IT Consulting                   | 0.00         | 50.00        | 0.0%        |
| Software                                 | 5,208.75     | 1,324.00     | 393.4%      |
| <b>Total Information Technology (IT)</b> | 5,208.75     | 1,374.00     | 379.1%      |
| <b>Insurance Expense</b>                 |              |              |             |
| General Liability                        | 3,644.75     | 8,000.00     | 45.6%       |
| Health                                   | 14,994.00    | 36,720.00    | 40.8%       |
| Worker's Compensation                    | 0.00         | 1,750.00     | 0.0%        |
| <b>Total Insurance Expense</b>           | 18,638.75    | 46,470.00    | 40.1%       |
| <b>Internet Connectivity</b>             |              |              |             |
| Fast Track                               | 7,200.00     | 10,800.00    | 66.7%       |
| Internet Connection (AT&T)               | 229.92       | 390.00       | 59.0%       |

**Southwest Colorado Council of Governments**  
**Profit & Loss Budget vs. Actual**  
 January through July 2018

|                                    | Jan - Jul 18     | Budget           | % of Budget   |
|------------------------------------|------------------|------------------|---------------|
| <b>Total Internet Connectivity</b> | 7,429.92         | 11,190.00        | 66.4%         |
| <b>Meetings</b>                    | 815.85           | 5,000.00         | 16.3%         |
| <b>Memberships</b>                 | 6,423.00         | 6,048.00         | 106.2%        |
| <b>Misc. Expense</b>               | 522.00           |                  |               |
| <b>Office Equipment</b>            | 1,536.73         | 6,000.00         | 25.6%         |
| <b>Office Supplies</b>             | 712.41           | 850.00           | 83.8%         |
| <b>Office Telephone</b>            | 0.00             | 980.00           | 0.0%          |
| <b>Postage and Delivery</b>        | 55.40            | 80.00            | 69.3%         |
| <b>Professional Development</b>    | 0.00             | 4,000.00         | 0.0%          |
| <b>Professional Fees</b>           |                  |                  |               |
| <b>Accounting Software</b>         | 0.00             | 200.00           | 0.0%          |
| <b>Audit</b>                       | 3,000.00         | 5,900.00         | 50.8%         |
| <b>Legal</b>                       | 5,407.96         | 7,000.00         | 77.3%         |
| <b>Misc.</b>                       | 24.43            | 500.00           | 4.9%          |
| <b>Total Professional Fees</b>     | 8,432.39         | 13,600.00        | 62.0%         |
| <b>Rent</b>                        | 0.00             | 95.00            | 0.0%          |
| <b>Salary and Wages</b>            |                  |                  |               |
| <b>457 Retirement</b>              | 3,975.30         | 9,355.00         | 42.5%         |
| <b>Car Allowance</b>               | 2,100.00         | 3,600.00         | 58.3%         |
| <b>Cell Phone Allowance</b>        | 1,365.00         | 1,560.00         | 87.5%         |
| <b>Housing Allowance</b>           | 0.00             | 2,400.00         | 0.0%          |
| <b>Payroll Processing Fee</b>      | 996.43           | 2,400.00         | 41.5%         |
| <b>Payroll Tax</b>                 | 6,818.80         | 16,783.00        | 40.6%         |
| <b>Salary and Wages - Other</b>    | 86,106.17        | 196,290.00       | 43.9%         |
| <b>Total Salary and Wages</b>      | 101,361.70       | 232,388.00       | 43.6%         |
| <b>SWIMT 2017-2018</b>             | 27,284.91        |                  |               |
| <b>Travel</b>                      | 9,769.46         | 25,000.00        | 39.1%         |
| <b>Total Expense</b>               | 343,533.79       | 5,831,793.00     | 5.9%          |
| <b>Net Ordinary Income</b>         | 42,382.47        | 31,068.00        | 136.4%        |
| <b>Net Income</b>                  | <b>42,382.47</b> | <b>31,068.00</b> | <b>136.4%</b> |

# Reports

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# Director Report

To: SWCCOG Board of Directors  
From: Miriam Gillow-Wiles  
Date: 2 August 2018

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Comments: August has been a nice productive month, including multiple community visits, significant amount of legislative work, offboarding Dylan, onboarding Martina, and working closely with Laura at Region 9 to solve some of the challenges of the former contracted facilitator, and planning for the State Broadband Office visit.

## **Review of 2018 Goals, 2018 Board Retreat, and 2019 Initiatives/Goals**

Staff will review progress on the 2018 Goals, the Board Retreat (which was not well attended) and work through the 2019 Goals. This will be important to discuss the future in 2019 and beyond of the SWCCOG.

## **Legislation**

CCI and CML are tracking the various solutions the interim conference committee has identified as fixes to the Gallagher Amendment. I have attached the most recent document outlining the top identified fixes, out of a whole lot more. Hopefully one or more of these will gain some traction, and will at least start a wholesale discussion at the capitol in 2019. We may or may not see any legislation pass. Staff will keep the Board and Legislative Committee up to date with any updates and changes. The next Conference Committee meeting is Oct 3<sup>rd</sup>. Much thanks to CCI for putting together the information.

Update on the STREAMLINE Act, S.3157, Colorado Communications Utility Alliance, National League of Cities, National Association of Counties, and National Association of Councils of Government are engaged in opposition of the legislation as it stands.

The Legislative Report has a significant amount of information about the various state initiatives that will be on the upcoming ballot. This includes potential Transportation funding.

## **Region 9- SWCCOG Facilitation**

In mid-August the SWCCOG and Region 9 mutually decided the contractor, Place Dynamics, was not fulfilling the terms of the contract. As a result we terminated the contract. Currently we are working with one of the other RFP respondents, Karen Thompson (who also facilitates the SWCCOG Board Retreats), to pick up where Place Dynamics dropped the ball, and to fulfill the requirements of both agencies. We are committed to having preliminary documentation for better regional coordination/collaboration by the December 2018 meeting, with the final report due out in Q1 of 2019.

## Gallagher Interim Committee

August 21<sup>st</sup>

Members of the committee discussed and voted on bill drafts to address Gallagher. The following items were approved for drafting. On October 3<sup>rd</sup>, the committee will meet again to discuss which bills, if any, from the list below to introduce during the 2019 legislative session. The Committee can approve no more than 5 bills at the October 3<sup>rd</sup> meeting. Legislative legal staff will work with legislators on the details of each proposal.

### 1.) Repeal the Gallagher Amendment

This option repeals the required valuation ratio and sets assessment rates (7.2 for residential and 29% for non-residential) in statute.

Many members eluded to this as a 'step 1' in the Gallagher fix and spoke vaguely to other steps that would also need to occur to complement a repeal.

Proposed by: Sen. Tate

Approved: Unanimously

Mechanics: Constitutional measure (unclear if it would be on the 2019 or 2020 ballot) requiring 50% voter approval

### 2.) Reclassify short term rentals as commercial properties

Members asked if this would create a net revenue increase that would require a vote under TABOR. No answer was provided at this time to that question. Others saw this as being a distraction from the current discussions but also recognized it could provide upward pressure on the RAR if coupled with some other solution.

Proposed by: Rep. Rankin

Approved: Unanimously

Mechanics: Statutory change

### 3.) Set the RAR at a TBD rate

Initially, there was discussion of setting the rate at 6.8. Members asked why a draft like this would be necessary since they will have to pass a bill in April 2019 to set the RAR for the property taxes due in 2020. This bill draft will leave a blank space for the 'TBD' RAR

Proposed by: Sen. Court

Approved: 4 to 2 (No votes included Sen. Tate and Sen. Smallwood)

Mechanics: Statutory change

### 4.) Backfill bills for some governmental services

a. Three backfill bills were identified and **each will be a separate bill**:

i. Backfill for fire districts – if a fire district loses more than a certain percentage of its revenue due to a drop in the RAR, the state will backfill. Members would likely include state identified metrics around what are and are not effective fire fighting capacities for districts.

Proposed by: Rep. Rankin

Approved: Unanimously

Mechanics: Statutory

- ii. Backfill for water districts  
Proposed by: Rep. Rankin  
Approved: Unanimously  
Mechanics: Statutory
- iii. Backfill to Libraries  
Rep. Rankin would use k-12 dollars to replace lost dollars to libraries but this revenue source received push back. So, this bill will be drafted with vague references to funding the general assembly might identify.  
Proposed by: Rep. Rankin  
Approved: Unanimously  
Mechanics: Statutory

**5.) Guidelines regarding regional approaches to RAR**

Many members see this as a companion bill to the Repeal Gallagher bill (Bill #1). This bill would create regions for determining and setting RAR and specify other constraints and guardrails.

Proposed by: Rep. Esgar  
Approved: Unanimously  
Mechanics: Statutory

**6.) Combine the three backfill bills into one**

See item #4. This bill will combine all 3 backfill bill proposals into 1.

Proposed by: Rep. Rankin  
Approved: Unanimously  
Mechanics: Statutory

Other concepts that were discussed but will not be drafted include:

- Allow local governments to adjust their mill levies to offset revenue losses AND allow counties to set their own assessment rates (which would apply to all taxing entities within the county). Sen. Smallwood offered this but dialoged with members about the unit of government who could/should determine what the RAR should be locally. Ultimately, no motion was offered. Sen. Smallwood does not support repealing Gallagher from the constitution
- Repeal amendment 73 (should it pass) and move that measure's residential rate (7%) and nonresidential rate (24%) for schools into statute. Given the 'repeal Gallagher amendment' bill draft, some members argued that it did not make sense to repeal Gallagher for all non-school district local governments but leave the school's Amendment 73 rates in the constitution. Ultimately, members felt that it was premature to draft a bill along these lines and suggested that IF Amendment 73 passes, the 'repeal Gallagher' concurrent resolution could be amended as it was moving through the 2019 legislative session.
- Modify ways in which non-residential properties are valued. Following a brief discussion, it was noted that non-residential properties are valued using the market, income and cost approach. Flexibility exists to value non-residential properties differently so this suggestion was dropped.

# Broadband Report

To: SWCCOG Board of Directors  
From: Miriam Gillow-Wiles  
Date: 6 Sept 2018

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Comments Like July, August was a nice reprieve from the first half of the year of all broadband all the time. Below are status updates to various broadband initiatives we have been working on this year.

## **USAC Rural Health Care**

Funding requests were submitted on June 28<sup>th</sup> for self-provisioned fiber (we build fiber instead of leasing existing fiber or circuits) for the following routes:

- Dove Creek to Cortez
- Cortez to Durango
- Durango to Silverton

Staff just received questions and requested updates from the FCC. These are due on Sept 14<sup>th</sup>, staff will be working on these to answer the questions as concisely and clearly as possible. Most of the questions are uneventful – mostly filling in a blank or answering a very specific questions. They should not be too arduous.

## **Aggregation of Services**

The Board approved an aggregation of services contract in June, and to date, NONE of the eligible member jurisdictions have even presented the SWCCOG – Member Jurisdiction contract to their respective Boards. The municipalities and counties eligible are (SWCCOG staff need to prove to the vendor that this is successful before we can reach additional communities). SWCCOG pricing will be as low as \$1.11/mbps (based on existing service levels) on what communities/counties are purchasing now. This is a savings of \$1000s/year in budgets.

- Bayfield
- Durango
- La Plata County
- Ignacio
- Mancos
- Dolores
- Cortez

## **CDOT Fiber Plan**

CDOT has finalized their Statewide Fiber Plan and will publish it in mid August. This will help when communities, counties, and regions need to develop broadband within a CDOT corridor, and outline where those priorities fall, and how public agencies can work with CDOT. Staff will send out to the Board when it is finalized, as well as have it presented at the October TPR Board Meeting.

# Broadband Report

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## **Regional Broadband Work**

SWCCOG reviewed the regional Community Development Action Plans (CDAPs) for Region 9. While projects listed for each county (and communities within) vary across the region, there is a cohesive need for broadband to do any of the facilities development, land use planning, and telehealth needs identified. However, NONE of the facilities development, land use planning, or utility needs identified the need for, or option to increase broadband. Not a single one. While I added this to the CDAPs, it is disappointing to expect the SWCCOG to solve broadband issues, when the members do not prioritize or even list the need for connectivity in these projects.

# Legislative Update

To: SWCCOG Board of Directors  
From: Miriam Gillow-Wiles, Jessica Laitsch  
Date: 31 August, 2018

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Comments: There are a number of issues that will appear on the 2018 Statewide ballot. The following is the list of citizen initiatives on the November 2018 ballot:

- Amendment 73/Initiative #93 – Funding for Public Schools
  - Initiative #97 – Setback requirement for Oil and Gas Development
    - CML opposes this proposition.
  - Initiative #108 – Just compensation for Reduction in Fair Market Value by Government Law or Regulation
    - Legislative Council draft analysis is attached. CML opposes this amendment.  
This would require that the state or a local government compensate property owners any time a law or regulation reduces the fair market value of private property.
  - Initiative #126 – Payday Loans
  - Proposition 109/Initiative #167 – Authorize Bonds for Transportation Projects
    - Legislative Council draft analysis and initial fiscal impact statement are attached. CML opposes this proposition.  
This would require the state to raise \$3.5 billion in bonds, without raising taxes or fees. The initiative does not identify how the State would finance the bond payments. The proceeds would go solely to state road and bridge expansion, construction, maintenance, and repair on a specified list of 66 projects across the state. For the projects listed in the measure the estimated funding need is \$5.6 billion. The list of projects identified for Southwest Colorado (CDOT Region 5) is attached.
  - Proposition 110/Initiative #153 – Transportation Funding
    - Legislative Council draft analysis and initial fiscal impact statement are attached. CML and Club 20 support this proposition.  
This would increase the state sales tax rate by .62 percent, from 2.9% to 3.52%, between January 1, 2019 and January 1, 2039. The initiative would allow CDOT to issue bonds up to \$6.0 billion. The revenue from the tax increase would be used as follows:
-

# Legislative Update

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- 45 percent for bond repayment and state transportation funding;
- 15 percent for multimodal transportation; and
- 40 percent for municipal and county transportation projects.

The following legislative referred measures will also appear on the ballot:

- Amendment A – Prohibit Slavery and Involuntary Servitude in All Circumstances
  - Amendment V – Lower Age Requirement for Members of the State Legislature
  - Amendment W – Election Ballot Format for Judicial Retention Elections
  - Amendment X – Industrial Hemp Definition
  - Amendment Y – Congressional Redistricting
  - Amendment Z – Legislative Redistricting
-

**Initiative #108  
Compensation for Reduction in Fair Market Value by Government Law or  
Regulation**

1 **Amendment ? proposes amending the Colorado Constitution to:**

- 2     ◆ require the state or a local government to compensate a property owner if a law  
3     or regulation reduces the fair market value of his or her property.

4 **Summary and Analysis**

5     **Background.** Both the Colorado Constitution and state law specify that a  
6     government may not take or damage private property without providing compensation to  
7     the owner. Procedures in law exist to evaluate and challenge government decisions that  
8     lead to takings or cause damages, including asking for public and property owner input  
9     and establishing the amount of compensation owed.

10     **Takings and damages.** There are three primary ways that the state or a local  
11     government can take or damage private property. Governments in Colorado are  
12     generally required to compensate a property owner in these cases. The first type of  
13     taking is called “eminent domain.” A government may take land from a private property  
14     owner for a public use or benefit. For example, a government may take land from a  
15     property owner to expand a highway. The second type of taking occurs if a government  
16     causes damage to private property, whether intentional or accidental. For example, a  
17     government may build a road that limits access to an individual’s property. The third  
18     type of taking is a “regulatory taking,” which occurs when a government enacts a law or  
19     regulation that deprives a property owner of the use or value of his or her property, even  
20     though he or she usually maintains ownership of the property. For example, a  
21     government may prohibit a property owner from constructing buildings on his or her  
22     property, leaving the property with almost no value.

23     **Changes under Amendment ?.** Amendment ? expands the circumstances under  
24     which the state or a local government is required to provide compensation to a property  
25     owner for a regulatory taking. Under this measure, a law or regulation that results in any  
26     decrease in the fair market value of a property, as opposed to the current standard of an  
27     almost total loss in value or use, becomes a regulatory taking. For example, if a  
28     government limits natural gas development, the owner of the mineral rights could file a  
29     claim for the reduced value of his or her property.

*For information on those issue committees that support or oppose the  
measures on the ballot at the **November 6, 2018**, election, go to the  
Colorado Secretary of State's elections center web site hyperlink for ballot  
and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

1 **Argument For**

2 1) Amendment ? ensures that when a property's value is harmed by government  
3 action, the owner of that property is fairly compensated for the loss. For many  
4 Coloradans, property is the most significant asset they own. If a law or regulation  
5 causes any loss of value, it is only right that the property owner be fairly  
6 compensated by the state or a local government. However, current law does not  
7 require a government to compensate an owner unless the loss in value to the  
8 property is near total.

9 **Argument Against**

10 1) Amendment ? has potentially far-reaching and costly consequences for  
11 taxpayers and governments. Under the measure, taxpayers will be responsible  
12 for payments to property owners for any loss in property value resulting from a  
13 change in law or regulation, regardless of whether the property retains a  
14 profitable use or the owner has been paid for prior claims of lost value. The  
15 potential liability for large payouts to private property owners may discourage  
16 governments from making decisions that benefit communities and protect vital  
17 public resources, such as water, air, and infrastructure.

18 **Estimate of Fiscal Impact**

19 The measure requires that the state or a local government compensate property  
20 owners any time a law or regulation reduces the fair market value of private property.  
21 The measure will increase state and local expenditures to compensate private property  
22 owners as a result of regulatory or legislative action.

## Initiative #167 Authorize Bonds for Highway Projects

1 **Proposition ? proposes amending the Colorado statutes to:**

- 2 ♦ require the state to borrow up to \$3.5 billion in 2019 to fund up to 66 specific  
3 highway projects;
- 4 ♦ direct the state to identify a source of funds to repay the borrowed amount  
5 without raising taxes or fees; and
- 6 ♦ limit the total repayment amount, including principal and interest, to \$5.2 billion  
7 over 20 years.

### 8 **Summary and Analysis**

9 This analysis outlines current state highway funding and describes the bond sale and  
10 repayment authorized by the measure for a specific list of statewide road and bridge  
11 projects. The analysis also describes transportation funding commitments that are  
12 conditional on the outcome of this measure.

13 **Current state highway funding.** Maintenance and construction of state highways  
14 are funded through the Colorado Department of Transportation (CDOT). CDOT receives  
15 most of its revenue from federal and state gasoline and diesel fuel taxes and from state  
16 vehicle registration fees, as shown in Figure 1. For state budget year 2017-18, CDOT  
17 spent approximately \$1.2 billion, or roughly 85 percent of its revenue, on state highway  
18 maintenance and operations and \$220.5 million, or 15 percent, on construction.

19 **Figure 1**  
20 **State Transportation Funding Sources and Uses**  
21 *Budget Year 2017-18*

| <b>Sources</b><br>Total: \$1.4 Billion | <b>Uses</b><br>Total: \$1.4 Billion |
|--|-------------------------------------|
| Other*<br>\$241.8 million              | Construction<br>\$220.5 million     |
| Federal Gas Tax<br>\$526.8 million     | Maintenance<br>\$875.5 million      |
| Registration Fees<br>\$339.5 million   |                                     |
| State Gas Tax<br>\$321.6 million       | Operations<br>\$333.6 million       |

Source: Colorado Department of Transportation.

\*Other funding sources include federal grants, tolls, and other state and local funds.

1        **Bond sale and repayment.** Proposition ? directs CDOT to borrow up to \$3.5 billion  
2 by selling transportation revenue bonds. The total repayment amount, including  
3 principal and interest, is limited to \$5.2 billion. The bonds must be repaid in 20 years,  
4 and the state must reserve the right to repay the bonds ahead of schedule without  
5 penalty. Assuming the repayment schedule is for the full \$5.2 billion over 20 years, the  
6 average annual repayment cost will be \$260 million. Actual repayment amounts will vary  
7 depending on the terms of the revenue bonds.

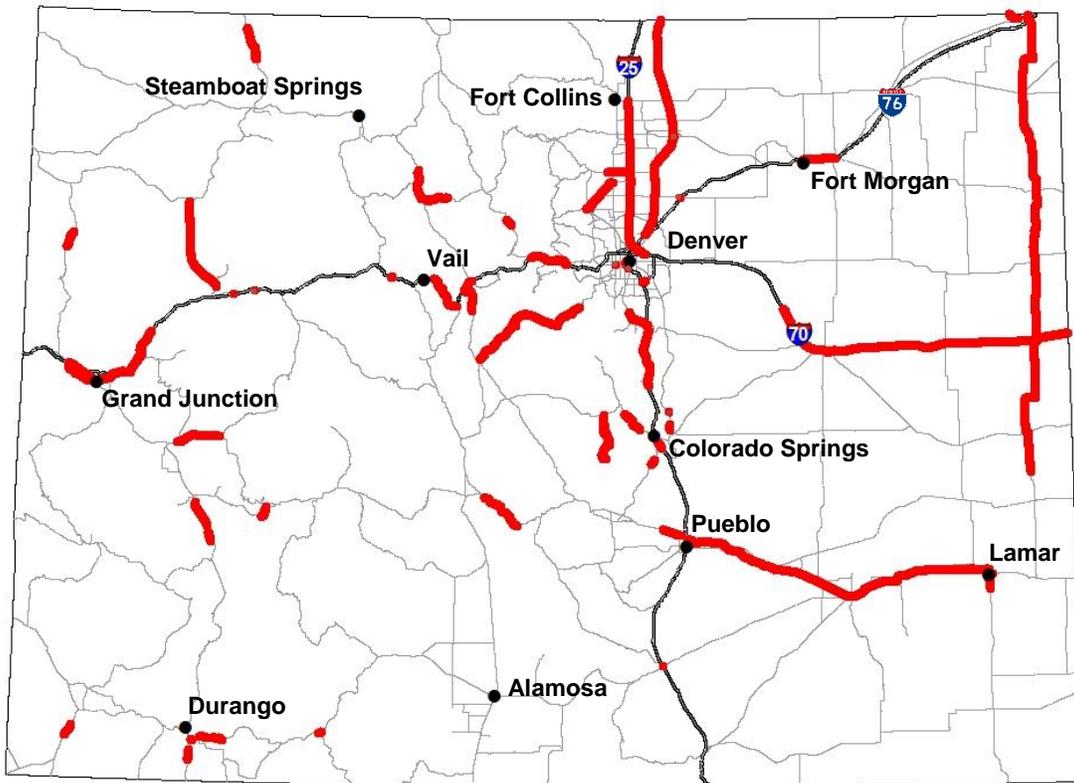
8        **Past bond sale and repayment for transportation projects.** In 1999, voters  
9 approved the sale of \$1.5 billion worth of bonds for transportation projects. The state  
10 was required to use the borrowed money to pay for up to 24 transportation projects  
11 across the state. Repayment costs for the 1999 bonds totaled \$2.3 billion. The debt  
12 was fully repaid through various state and federal sources in December 2016.

13        **Transportation funding commitments conditional on the outcome of**  
14 **Proposition ?.** In the last two years, the state legislature passed two laws to increase  
15 funding for future transportation projects. In 2017, the state committed \$1.5 billion for  
16 transportation projects through the sale and lease-back of state buildings. In 2018, the  
17 state devoted another \$1.0 billion over a 20-year period for transportation projects from  
18 existing state revenues. Under current law, the \$3.5 billion in proposed borrowing will  
19 replace these commitments, resulting in a net increase of \$1.0 billion for transportation.

20        **Road and bridge projects.** Borrowed money under Proposition ? may only be used  
21 for road and bridge expansion, construction, maintenance, and repair on the  
22 66 transportation projects identified in the measure. These projects are located  
23 throughout the state as shown in Figure 2. The funding provided through the measure is  
24 not enough to pay for all the projects identified in the measure; the estimated cost of the  
25 projects is \$5.6 billion. The final selection and order of construction will be determined  
26 by CDOT and the Transportation Commission, an 11-member body appointed by the  
27 Governor to prioritize statewide transportation needs.

1  
2

**Figure 2**  
**Map Highlighting State Highway System Projects Included in Proposition ?**



*For information on those issue committees that support or oppose the measures on the ballot at the **November 6, 2018**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

3

**Arguments For**

4  
5  
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12

- 1) Proposition ? accelerates the construction of essential highway projects without raising taxes or fees. Building and maintaining a highway system are core functions of government. The state has failed to invest sufficient funds to maintain and expand the highway system. The measure corrects this by directing the state to prioritize highway projects ahead of other programs.
  
- 2) The lack of highway capacity is the most significant contributor to traffic congestion in the state and causes delays, increases business costs, and reduces driver and passenger safety. The measure requires the state to invest more money in transportation, improving the state's economy and quality of life.

## 1     **Arguments Against**

- 2           1) Proposition ? commits up to \$5.2 billion to repay borrowing without creating a  
3           new source of revenue. This commitment diverts money from other programs,  
4           which may include education, health care, and routine transportation  
5           maintenance. Furthermore, the measure would pay for only a portion of the  
6           projects and fails to address the cost of ongoing maintenance of these projects.
- 7           2) In 2018, the state demonstrated its commitment to transportation funding by  
8           pledging \$1.0 billion from existing revenue sources. If Proposition ? passes, it  
9           replaces this commitment with borrowed money. Borrowing is expensive. Under  
10          this measure, approximately \$1.7 billion in taxpayer money will be spent on  
11          interest payments.

## 12    **Estimate of Fiscal Impact**

13          Proposition ? makes changes to transportation finance over 20 years. Its effects on  
14          state revenue and expenditures are summarized below.

15          **State revenue.** The measure requires the state to sell revenue bonds, which will  
16          increase state revenue by up to \$3.5 billion. Under current law, bond revenue collected  
17          under Proposition ? will replace \$1.5 billion in state revenue from the sale and  
18          lease-back of state buildings. On net, Proposition ? increases state revenue by up to  
19          \$2.0 billion.

20          **State expenditures.** The measure authorizes \$3.5 billion in state revenue from the  
21          sale of bonds to be spent on transportation projects. However, current state law directs  
22          other funding commitments to be cancelled if the measure passes, resulting in a net  
23          increase in spending on transportation of up to \$1.0 billion.

24          The measure commits up to \$5.2 billion to the repayment of debt. These financing  
25          costs will replace the \$2.25 billion in financing costs related to the sale and lease-back of  
26          state buildings, resulting in a net increase in financing costs of up to \$2.95 billion.



**Colorado  
Legislative  
Council  
Staff**

**Initiative # 167**

**INITIAL FISCAL  
IMPACT STATEMENT**

**Date:** April 3, 2018

**Fiscal Analyst:** Erin Reynolds (303-866-4146)

**LCS TITLE:** AUTHORIZE BONDS FOR TRANSPORTATION PROJECTS

| Fiscal Impact Summary  | FY 2019-2020                                 | FY 2020-2021 |
|--|--|--------------|
| <b>State Revenue</b><br>Cash Funds                                       | Increase.<br>See State Revenue section.      |              |
| <b>State Expenditures</b><br>General Fund<br>Cash Funds<br>Federal Funds | Increase.<br>See State Expenditures section. |              |

**Note:** This *initial* fiscal impact estimate has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the Blue Book Voter Guide if new information becomes available.

**Summary of Measure**

The measure requires the executive director of the Colorado Department of Transportation (CDOT) to issue Transportation Revenue Anticipation Notes (TRANs) no later than July 1, 2019, in a maximum amount of \$3.5 billion with a maximum repayment cost of \$5.2 billion over 20 years.

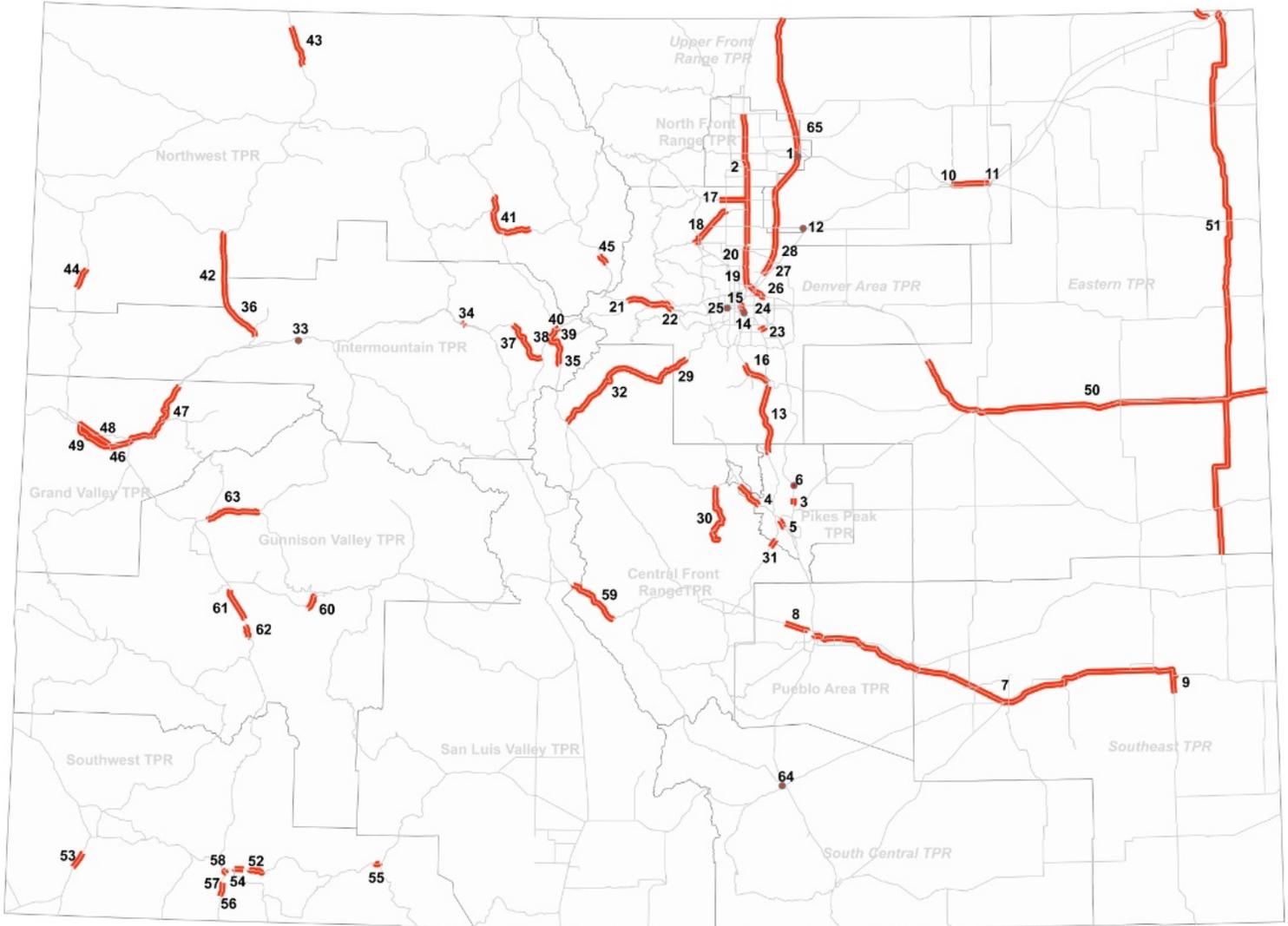
Voter-approved proceeds from TRANs are TABOR-exempt and must be used exclusively for road and bridge expansion, construction, maintenance, and repair on the 66 projects identified in the measure, which include projects in each of the state's 15 transportation planning regions. Transit projects are excluded from the list.

The measure requires the principal and interest on the borrowed money to be paid without raising taxes or fees. The state must reserve the right to repay the TRANs ahead of schedule without penalty.

The 66 highway projects included in the measure are shown in Figure 1 and listed in Table 1.

# Initiative # 167

**Figure 1**  
**Map of Highway Construction Projects Included in Initiative #167**  
*(Project descriptions and costs are listed in Table 1)*



Prepared by: Colorado Legislative Council  
Data provided by: Colorado Department of Transportation

**Table 1**  
**Descriptions and Costs of Projects Included in Initiative #167**

| Map Label   | CDOT Project ID | Project Description from Measure  | Funding Need*        |
|---|-----------------|---|----------------------|
| <b>(a) In the North Front Range Transportation Planning Region:</b>   |                 |   |                      |
| 1   | 58              | (I) US 34/US 85 Interchange Reconfiguration, improvements to the safety and capacity of the interchange and corridor improvements based off Hwy 85 planning and environmental linkages.                       | \$113,000,000        |
| 2   | 52              | (II) I-25 North, State Highway 7 to State Highway 14, add a lane in each direction, interchange reconstruction, mainline reconstruction, safety and Intelligent Transportation Safety improvements.           | \$653,000,000        |
| <b>Subtotal</b>   |                 |   | <b>\$766,000,000</b> |
| <b>(b) In the Pikes Peak Transportation Planning Region:</b>          |                 |   |                      |
| 3   | 116             | (I) State Highway 21, Constitution to North Carefree, construction of interim continuous flow intersection.   | \$143,650,000        |
| 4   | 20              | (II) US 24 West, I-25 to Woodland Park, drainage and intersection improvements on US 24 from I-25 to Woodland Park.   | \$25,000,000         |
| 5   | 19              | (III) I-25 South, Widening S. Academy to Circle/Lake (I-25 EA through Colorado Springs), widening of roadway to six lanes.  | \$369,804,000        |
| 6   | 28              | (IV) State Highway 21, Research Parkway Interchange (phase of the State Highway 21 Woodmen to State Highway 83 EA), construction of new grade-separated interchange at State Highway 21 and Research Parkway. | \$39,896,000         |
| <b>Subtotal</b>   |                 |   | <b>\$578,350,000</b> |
| <b>(c) In the Pueblo Area Transportation Planning Region:</b>         |                 |   |                      |
| 7   | 24              | (I) US 50B, widen to four lanes, shoulders, passing lanes and other safety improvements to the Kansas border.   | \$50,000,000         |
| 8   | 23              | (II) US 50, West of Pueblo, widen the divided highway from two lanes to three lanes.  | \$45,895,000         |
| <b>Subtotal</b>   |                 |   | <b>\$95,895,000</b>  |
| <b>(d) In the Southeast Transportation Planning Region:</b>           |                 |   |                      |
| 9   | 25              | US 287 Lamar Reliever Route, construction of reliever route, realignment of US 50 to future US 50/US 287 interchange.   | \$211,071,000        |
| <b>Subtotal</b>   |                 |   | <b>\$211,071,000</b> |
| <b>(e) In the Upper Front Range Transportation Planning Region:</b>   |                 |   |                      |
| 10  | 54              | (I) I-76, Fort Morgan to Brush, Phase 4 reconstruction of roadway and interchanges between Ft. Morgan and Brush.  | \$41,200,000         |
| 11  | 114             | (II) I-76, Fort Morgan to Brush, Phase 5 reconstruction of roadway and interchanges between Ft. Morgan and Brush.   | \$65,000,000         |
| 12  | 69              | (III) State Highway 52 Interchange in Hudson, reconstruction of interchange.  | \$14,000,000         |
| <b>Subtotal</b>   |                 |   | <b>\$120,200,000</b> |
| <b>(f) In the Greater Denver Area Transportation Planning Region:</b> |                 |   |                      |
| 13  | 1               | (I) I-25 South, Monument to Castle Rock, expand capacity monument to Castle Rock as outlined in planning and environmental linkages study.  | \$350,000,000        |

# Initiative # 167

| Map Label   | CDOT Project ID | Project Description from Measure  | Funding Need*          |
|---|-----------------|---|------------------------|
| 14  | 2               | (II) I-25 Central, Santa Fe to Alameda, Valley Highway Phase 2.0 improvements, complete Alameda interchange including reconstruction of Lipan, reconstruction of Alameda Bridge over the South Platte and finalize ramp configuration. <i>Note: This project has been funded.</i> | -                      |
| 15  | 3               | (III) I-25, Valley Highway Phase 3.0, Santa Fe to Bronco Arch, replacement of bridges and interchanges and roadway widening, congestion relief, safety, and mobility improvements.  | \$57,140,000           |
| 16  | 14              | (IV) US 85, widening from C-470 to I-25 in Castle Rock (Louviere to Meadows), reconstruction of two lane roadway to four lanes with a divided median, acceleration/deceleration lanes and foot trail.   | \$49,500,000           |
| 17  | 70              | (V) State Highway 66 Corridor Improvements West, widening, safety, and intersection improvements.   | \$1,500,000            |
| 18  | 74              | (VI) State Highway 119, expand capacity.  | \$160,000,000          |
| 19  | 4               | (VII) I-25 North, US 36 to 120th, improvements on I-25 between US 36 and 120th. Potential improvements include auxiliary lanes, additional lane between 84th Ave. and Thornton parkway and reconstruction of 88th Ave. bridge.  | \$85,285,000           |
| 20  | 5               | (VIII) I-25 North, US 36 to State Highway 7, Tolle Express Lane improvements, expand Tolle Express Lanes from current planned end at E-470 to State Highway 7. Combine with local funds to rebuild I-25/State Highway 7 interchange.  | \$101,750,000          |
| 21  | 6               | (IX) I-70 West, westbound peak period shoulder lane, mirror eastbound peak period shoulder lane from Twin Tunnels (Exit 241) to Empire Junction.  | \$80,000,000           |
| 22  | 7               | (X) I-70 West, Floyd Hill, reconstruct westbound bridge at Kermit's and construct third lane down Floyd Hill to bridge. Construction of third lane to twin tunnels, either peak period shoulder lanes or permanent.   | \$550,000,000          |
| 23  | 10              | (XI) I-225, I-25 to Yosemite, complete National Environmental Policy Act design, removing bottleneck at Yosemite, ramps, lanes, interchanges and bridge replacement at Ulster.  | \$61,394,000           |
| 24  | 11              | (XII) I-270, widening from I-76 to I-70, reconstruction to improve capacity, safety, and economic competitiveness. Capacity improvements, replacement of bridges, and reconstruct concrete pavement.  | \$398,774,000          |
| 25  | 13              | (XIII) US 6, Wadsworth Interchange, reconstruct interchange to improve safety and relieve congestion.   | \$68,151,000           |
| 26  | 15              | (XIV) I-270/US 85, I-270 to 62nd Ave. interchange, reconstruct interchange at I-270 intersection at 60th Ave. to improve safety and capacity.   | \$61,184,000           |
| 27  | 121             | (XV) 104th grade separation, construction of grade separated interchange at 10th and 104th/US 85 and railroad crossing grade separation.  | \$102,310,000          |
| 28  | 122             | (XVI) 120th grade separation, construction of a grade separated interchange at 120th and US 85/railroad crossing grade separation 120th.  | \$76,234,000           |
| 29  | 16              | (XVII) US 285, Richmond Hill to Shaffer's Crossing, widen roadway to four lanes with median and construction of grade separated interchange at King's Valley.   | \$70,576,000           |
| <b>Subtotal</b>   |                 |   | <b>\$2,273,798,000</b> |
| <b>(g) In the Central Front Range Transportation Planning Region:</b> |                 |   |                        |
| 30  | 29              | (I) State Highway 67, Divide to Victor, shoulder widening and safety improvements.  | \$25,000,000           |
| 31  | 100             | (II) State Highway 115, replace and widen Rock Creek Bridge.  | \$15,100,000           |
| 32  | 99              | (III) US 285, Fairplay to Richmond Hill, addition of passing lanes and shoulder improvements.   | \$15,000,000           |
| <b>Subtotal</b>   |                 |   | <b>\$55,100,000</b>    |

# Initiative # 167

| Map Label   | CDOT Project ID | Project Description from Measure  | Funding Need*        |
|---|-----------------|---|----------------------|
| <b>(h) In the Intermountain Transportation Planning Region:</b> |                 |   |                      |
| 33  | 132             | (I) I-70, Garfield County/New Castle Interchange upgrade.   | \$15,072,000         |
| 34  | 33              | (II) I-70 West, G Spur Road (Edwards Interchange); Phase 2 of Edwards interchange; interchange and intersection improvements.   | \$23,000,000         |
| 35  | 44              | (III) State Highway 9, Frisco North, completion of corridor including minimal widening, water quality and drainage improvements, and two interchange improvements.  | \$13,817,000         |
| 36  | 45              | (IV) State Highway 13, Rifle North, construction upgrades.  | \$60,000,000         |
| 37  | 35              | (V) I-70 West, Vail Pass auxiliary lanes and wildlife overpass, complete National Environmental Policy Act design and preliminary engineering for recommended third lane (both directions) to increase safety and mobility. Install permanent water quality features, and widen roadway.  | \$225,000,000        |
| 38  | 36              | (VI) I-70 West, Exit 203 interchange improvements.  | \$30,344,000         |
| 39  | 37              | (VII) I-70 West, Frisco to Silverthorne Auxiliary Lane, improvements and upgrades.  | \$16,924,000         |
| 40  | 38              | (VIII) I-70 West, Silverthorne Interchange, reconstruction of Exit 205 interchange and related improvements for four ramps.   | \$24,701,000         |
| <b>Subtotal</b>   |                 |   | <b>\$408,858,000</b> |
| <b>(i) In the Northwest Transportation Planning Region:</b>     |                 |   |                      |
| 41  | 134             | (I) US 40, Kremmling East and West, phased addition of shoulders and passing lanes on 14 miles.   | \$21,002,000         |
| 42  | 46              | (II) State Highway 13, Rio Blanco South to County Line, phased addition of shoulders and passing lanes.   | \$24,680,000         |
| 43  | 47              | (III) State Highway 13, Wyoming South, reconstruction of truck route and related improvements.  | \$48,304,000         |
| 44  | 50              | (IV) State Highway 139, Little Horse South, safety improvements including reconstruction of the surface and addition of 4-8' paved shoulders.   | \$22,789,000         |
| 45  | 41              | (V) US 40, Fraser to Winter Park, capacity improvements (four lane facility).   | \$13,592,000         |
| <b>Subtotal</b>   |                 |   | <b>\$130,367,000</b> |
| <b>(j) In the Grand Valley Transportation Planning Region:</b>  |                 |   |                      |
| 46  | 30              | (I) I-70, Business Loop, I-70 B widening; complete reconstruction and widening to meet current geometric design standards and improve safety, drainage and accesses along the corridor; add lanes in each direction to make a three-lane roadway section and reconstruct frontage roads 5th Street to Exit 26 corridor, new capacity. | \$32,549,000         |
| 47  | 31              | (II) I-70, Palisade to Debeque, reconstruction with realignment of curves and other safety improvements.  | \$71,014,000         |
| 48  | 39              | (III) US 6 improvements Mesa County, completion of intersection studies and preliminary engineering for safety and mobility throughout the corridor; intersection, shoulders, and other safety and mobility improvements at specified locations throughout the corridor.  | \$23,651,000         |
| 49  | 51              | (IV) State Highway 340, safety and capacity improvements including intersection improvements.   | \$16,992,000         |
| <b>Subtotal</b>   |                 |   | <b>\$144,206,000</b> |

# Initiative # 167

| Map Label   | CDOT Project ID | Project Description from Measure   | Funding Need*        |
|---|-----------------|--|----------------------|
| <b>(k) In the Eastern Transportation Planning Region:</b>         |                 |  |                      |
| 50  | 53              | (I) I-70 East, replacement of Alkali-Silica Reactivity pavement and associated safety improvements.  | \$205,000,000        |
| 51  | 66              | (II) US 385 Safety Improvements, intersection, shoulders, and other safety improvements at specified locations.  | \$40,000,000         |
| <b>Subtotal</b>   |                 |  | <b>\$245,000,000</b> |
| <b>(l) Southwest Transportation Planning Region:</b>              |                 |  |                      |
| 52  | 83              | (I) US 160 Mobility Improvements, corridor improvements, passing lanes, and shoulder widening at select locations.   | \$36,000,000         |
| 53  | 81              | (II) US 160 Towaoc, addition of passing lanes and vehicle turnouts.  | \$11,220,000         |
| 54  | 138             | (III) US 160 Elmore's East, completion of specified improvements.  | \$34,528,000         |
| 55  | 84              | (IV) US 160 Pagosa, reconstruction to correct wheel rutting and addition of pedestrian facilities for safety.  | \$23,670,000         |
| 56  | 90              | (V) US 550 South, Sunnyside, major reconstruction requiring widening to a four-lane roadway, including earthwork, drainage, irrigation, utilities, paving, pedestrian bridge, sound wall, animal crossings.  | \$32,620,000         |
| 57  | 91              | (VI) US 550 Corridor South, gap reconstruction to four lanes, including drainage, utilities, animal crossings, and intersection improvements.  | \$31,992,000         |
| 58 (a)  | 92              | (VII) US 550/US 160 Connection, complete the connection of US 550 to US 160 at the Grandview interchange (Phase 2).  | \$99,600,000         |
| 58 (b)  | 92              | (VIII) US 550/US 160 Connection, finalize pre-construction, purchase required rights-of-way, complete final design and prepare advertisement (Phase 1).  | -                    |
| <b>Subtotal</b>   |                 |  | <b>\$269,630,000</b> |
| <b>(m) In the San Luis Valley Transportation Planning Region:</b> |                 |  |                      |
| 59  | 158             | US 50 safety and mobility improvements between Salida and Coaldale, addition of passing lanes and vehicle turnouts.  | \$8,432,000          |
| <b>Subtotal</b>   |                 |  | <b>\$8,432,000</b>   |
| <b>(n) Gunnison Valley Transportation Planning Region</b>         |                 |  |                      |
| 60  | 43              | US 50 Little Blue Canyon, reconstruction and widening of existing roadway template to meet current geometric design standards and improve roadside safety, drainage and access along the corridor; addition of passing lanes and mitigation of geohazard landslide within the project limits; phased implementation. | \$29,500,000         |
| 61  | 137             | US 550 Safety Improvements, specified study to review intersection improvements. US 550 Region 3 only.   | \$22,475,000         |
| 62  | 94              | US 550 Uncompahgre River and Colona, addition of shoulders between Uncompahgre River and Colona (Billy Creek); construction of deer fencing and animal underpasses.  | \$30,537,000         |
| 63  | 49              | State Highway 92, safety improvements including reconstruction of the surface, addition of 4-8' paved shoulders across Rogers Mesa, and other safety improvements including access and intersection improvements.  | \$32,915,000         |
| <b>Subtotal</b>   |                 |  | <b>\$115,427,000</b> |

# Initiative # 167

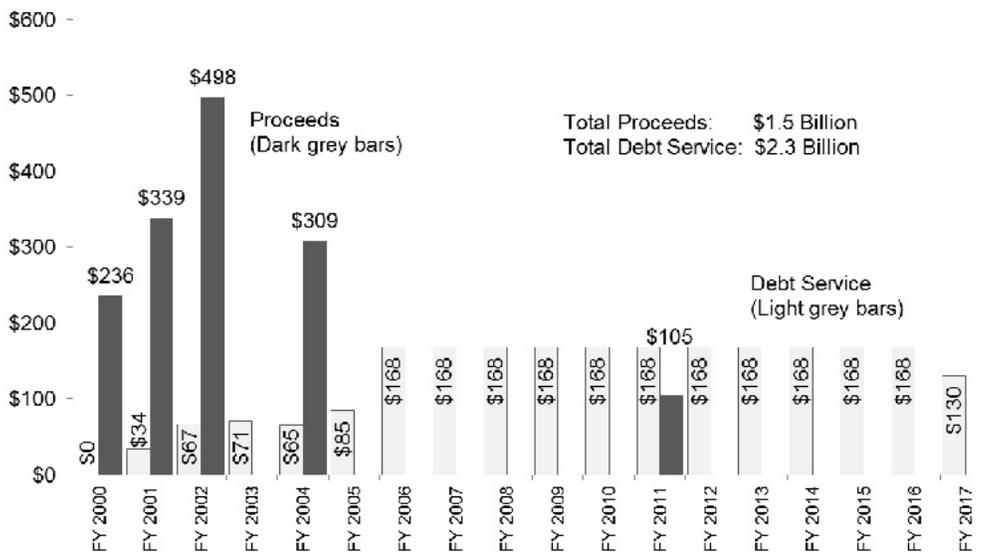
| Map Label   | CDOT Project ID | Project Description from Measure   | Funding Need*          |
|---|-----------------|--|------------------------|
| <b>(o) In the South Central Transportation Planning Region:</b> |                 |  |                        |
| 64  | 123             | I-25, State Highway 10/State Highway 160, interchange reconstruction at Walsenburg.        | \$50,000,000           |
| <b>Subtotal</b>   |                 |  | <b>\$50,000,000</b>    |
| 65  | 60              | <b>(p) US 85 corridor improvements, safety, intersection and interchange improvements.</b> | \$101,840,000          |
| <b>Subtotal</b>   |                 |  | <b>\$101,840,000</b>   |
| <b>Grand Total</b>  |                 |  | <b>\$5,574,174,000</b> |

\* Total funding need does not include anticipated matching funds, subsequent project phases, or tolling revenue.

## Background

**Transportation Revenue Anticipation Notes, 1999.** In 1999, Colorado voters authorized CDOT to borrow up to \$1.7 billion by selling TRANs, with a maximum repayment cost of \$2.3 billion. Debt service on TRANs was paid with money from the federal government and state matching funds. TRANs proceeds were exempt from the TABOR limit and were required to be used for a list of 28 prioritized statewide projects. The use of TRANs allowed CDOT to accelerate construction on these projects, including the widening of I-25 in Denver (T-REX). As shown in Figure 2, CDOT issued a total of \$1.5 billion in installments from 2000 through 2011, with a total repayment cost of \$2.3 billion. The final TRANs debt service occurred in December 2016.

**Figure 2**  
**1999 TRANs Proceeds and Debt Service**  
*(Dollars in Millions)*



Source: Colorado Department of Transportation. Not adjusted for inflation.

## State Revenue

Beginning in FY 2019-20, revenue to the State Highway Fund in CDOT will increase by up to \$3.5 billion over a multi-year period. The timing of the revenue increase is uncertain. Voter-approval of the TRANs make this revenue stream exempt from the TABOR limit.

## State Expenditures

The measure will have the following impacts on state expenditures from FY 2019-20 to FY 2038-2039.

**Project costs.** CDOT will use TRANs to fund some of the projects outlined in the bill. The measure allows TRANs in an amount of up to \$3.5 billion. For the projects listed in the measure, CDOT's current Tier 1 funding need is \$5.6 billion — this amount is subject to change due to inflation, project delays, and the availability of federal and local match funding. Project selection and order will be determined by CDOT and the Transportation Commission.

**Bond repayments.** CDOT and the Colorado General Assembly will be obligated to spend future revenue on TRANs principal and interest payments. Under the measure, the total TRANs repayment costs may not exceed \$5.2 billion and must be repaid within 20 years. Assuming the repayment schedule is for the full \$5.2 billion over 20 years, the average annual repayment cost will be \$260 million. Actual repayment amounts will vary depending on the actual TRANs amount and the terms of the TRANs, including the timing of when TRANs bonds are issued and the interest rate. The expenditure increase will require a decrease in spending on other programs, to be determined by CDOT and the state legislature.

## Economic Impacts

The issuance of TRANs will dedicate up to \$3.5 billion toward accelerating the construction of selected highway projects throughout the state. Where roads and bridges are improved, overall accessibility to goods, services, and workplaces will increase, and transportation costs related to travel time and vehicle operation will decrease, among other benefits to those areas. Replacing older infrastructure also stimulates road construction-related industries in the state. The cost of the TRANs repayment will constrain other aspects of the state budget and reduce government spending on other services by approximately \$260 million on average per year over the next 20 years. Depending on which government services are affected, Coloradans will have reduced access to those services until 2039.

## Effective Date

If approved by voters, the ballot initiative takes effect upon proclamation of the Governor within 30 days of the official canvas of votes at the 2018 general election. TRANs must be issued by July 1, 2019.

## State and Local Government Contacts

Counties  
Revenue

Information Technology  
Secretary of State

Municipalities  
Transportation

## **Abstract of Initiative 167: Fix Our Damn Roads**

**This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of April 2018, identifies the following impacts:**

The abstract includes estimates of the fiscal impact of the initiative. If this initiative is to be placed on the ballot, Legislative Council Staff will prepare new estimates as part of a fiscal impact statement, which includes an abstract of that information. All fiscal impact statements are available at [www.ColoradoBlueBook.com](http://www.ColoradoBlueBook.com) and the abstract will be included in the ballot information booklet that is prepared for the initiative.

**State expenditures.** If the Colorado Department of Transportation (CDOT) issues Transportation Revenue Anticipation Notes (TRANs) for the full \$3.5 billion, the measure will increase state expenditures by up to \$5.2 billion from FY 2019-20 through FY 2038-2039. Expenditures will be dedicated to both project costs and TRANs principal and interest payments.

**State revenue.** Beginning in FY 2019-20, state revenue to the State Highway Fund in CDOT will increase by up to \$3.5 billion over a multi-year period.

**State fiscal liabilities.** The state and its agency, CDOT, will be required to make TRANs principal and interest payments averaging up to \$260 million per year from future revenues without raising taxes or fees.

**Economic impacts.** Where roads and bridges are improved, the measure will increase overall accessibility to goods, services, and workplaces, and reduce transportation costs related to travel time and vehicle operation. Replacing older infrastructure also stimulates road construction-related industries in the state. The cost of the TRANs repayment will constrain other aspects of the state budget and reduce government spending on other services through 2039.

| Project Name  | Development Program ID | Project Description   | Fix Our Roads Proposed Funding Amount | SB 1 & SB 267 (Year 1) | Federal Grants or Other Funding (doesn't count against region allotment) | MPO/TPR         | Region | Also on #153 Project List |
|---|------------------------|---|---------------------------------------|------------------------|--|-----------------|--------|---------------------------|
| US 160: Dry Creek Passing and Mobility Improvements   | 83                     | US 160 Mobility Improvements, corridor improvements, passing lanes, and shoulder widening at select locations.  | \$ 36,000,000                         |                        |  | Southwest       | 5      | Yes                       |
| US 160: Towaoc Passing Lanes  | 81                     | US 160 Towaoc, addition of passing lanes and vehicle turnouts.  | \$ 2,000,000                          | \$ 9,000,000           | \$ 2,200,000   | Southwest       | 5      | Yes                       |
| US 160: Elmore's East   | 138                    | US 160 Elmore's East, completion of specified improvements.   | \$ 66,431,000                         |                        |  | Southwest       | 5      | Yes                       |
| US 160: Pagosa Reconstruction and Multi-Modal Improvements  | 84                     | US 160 Pagosa, reconstruction to correct wheel rutting and addition of pedestrian facilities for safety.  | \$ 22,670,000                         |                        | \$ 3,000,000   | Southwest       | 5      | Yes                       |
| US 550 South: Sunnyside   | 90                     | US 550 South, Sunnyside, major reconstruction requiring widening to a four-lane roadway, including earthwork, drainage, irrigation, utilities , paving, pedestrian bridge, sound wall, animal crossings.  | \$ 32,620,000                         |                        |  | Southwest       | 5      | No                        |
| US 550 South: Gap   | 91                     | US 550 Corridor South, gap reconstruction to four lanes, including drainage, utilities, animal crossings, and intersection improvements.  | \$ 31,992,000                         |                        |  | Southwest       | 5      | Yes                       |
| US 550/US 160 Connection  | 92                     | US 550/US 160 Connection, finalize pre-construction, purchase - required rights-of-way, complete final design and prepare advertisement (Phase 1).<br><br>US 550/US 160 Connection, complete the connection of US 550 to US 160 at the Grandview interchange (Phase 2). |                                       | \$ 54,400,000          | \$ 45,200,000  | Southwest       | 5      | Yes                       |
| US 550: Shoulder Improvements, Deer Fencing and Animal Underpasses between Uncompahgre River and Colona (Billy Creek) | 94                     | US 550 Uncompahgre River and Colona, addition of shoulders between Uncompahgre River and Colona (Billy Creek); construction of deer fencing and animal underpasses.   | \$ 30,537,000                         |                        |  | Gunnison Valley | 3      | Yes                       |
| US 50 Passing Lanes   | 158                    | US 50 safety and mobility improvements between Salida and Coaldale, addition of passing lanes and vehicle turnouts.   | \$ 8,432,000                          |                        |  | San Luis Valley | 5      | Yes                       |
| Fiscal Constraint Target  |                        |   | \$294,082,000                         |                        | \$ 96,968,000  |                 |        |                           |
| Surplus / Deficit   |                        |   | \$0                                   |                        |  |                 |        |                           |
|   |                        |   |                                       |                        |  |                 |        |                           |

**Initiative #153  
 Authorize Sales Tax and Bonds for Transportation Projects**

1 **Proposition ? proposes amending the Colorado statutes to:**

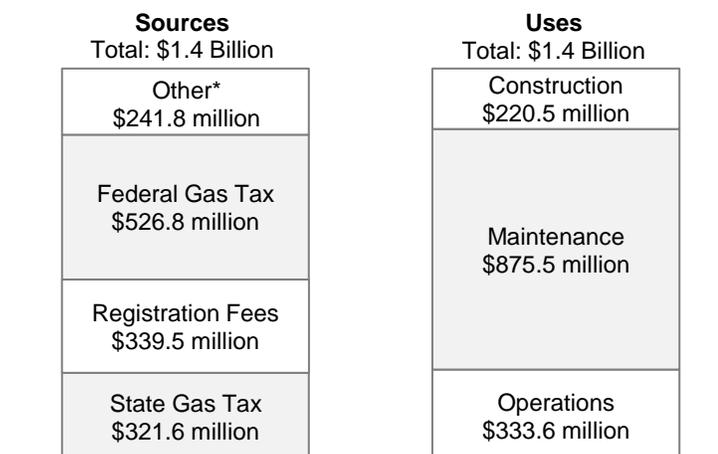
- 2 ♦ increase the state’s sales and use tax rate from 2.9 percent to 3.52 percent for  
 3 20 years;
- 4 ♦ distribute the new tax revenue for transportation as follows: 45 percent to the  
 5 state; 40 percent to local governments; and 15 percent for multimodal  
 6 transportation projects; and
- 7 ♦ permit the state to borrow up to \$6.0 billion for transportation projects and limit  
 8 the total repayment amount, including principal and interest, to \$9.4 billion over  
 9 20 years.

10 **Summary and Analysis**

11 This analysis outlines state highway funding and the state sales and use tax under  
 12 current law. In addition, it describes the sales and use tax increase and the bond sale  
 13 and repayment authorized by the measure.

14 **Current state highway funding.** Maintenance and construction of state highways  
 15 are funded through the Colorado Department of Transportation (CDOT). CDOT receives  
 16 most of its revenue from federal and state gasoline and diesel fuel taxes and from state  
 17 vehicle registration fees, as shown in Figure 1. For state budget year 2017-18, CDOT  
 18 spent approximately \$1.2 billion, or roughly 85 percent of its revenue, on state highway  
 19 maintenance and operations and \$220.5 million, or 15 percent, on construction.

20 **Figure 1**  
 21 **State Transportation Funding Sources and Uses**  
 22 *Budget Year 2017-18*



*Source: Colorado Department of Transportation.  
 \*Other funding sources include federal grants, tolls, and other state  
 and local funds.*



1 The additional tax revenue identified for multimodal transportation projects will mostly  
2 be spent by local governments. Multimodal transportation provides additional  
3 transportation options and includes bike paths, sidewalks, and public transit, such as  
4 buses, rail, and rides for the elderly and disabled.

5 **Bond sale and repayment.** Proposition ? permits CDOT to borrow up to \$6.0 billion  
6 by selling transportation revenue bonds. The total repayment amount, including  
7 principal and interest, is limited to \$9.4 billion over 20 years, and the state must reserve  
8 the right to repay the bonds ahead of schedule without penalty. Assuming the  
9 repayment schedule is for the full \$9.4 billion over 20 years, the average annual  
10 repayment cost will be \$470 million. Actual repayment amounts will vary depending on  
11 the terms of the revenue bonds. The measure creates a citizen oversight commission to  
12 annually report on the use of the bond proceeds.

13 **Past bond sale and repayment for transportation projects.** In 1999, voters  
14 approved the sale of \$1.5 billion worth of bonds for transportation projects. The state  
15 was required to use the borrowed money to pay for up to 24 transportation projects  
16 across the state. Repayment costs for the 1999 bonds totaled \$2.3 billion. The debt  
17 was fully repaid through various state and federal sources in December 2016.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 6, 2018**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

## 18 **Arguments For**

- 19 1) Colorado's highways are deteriorating, and the cost of improvements continues  
20 to increase. The state needs to invest immediately in its infrastructure and  
21 cannot afford to expand and modernize its transportation system without a new  
22 revenue source. Colorado needs a modern transportation system that includes  
23 road, bus, bike, pedestrian, and rail options to address its growing population.  
24 This measure creates a flexible statewide transportation solution, and it lets local  
25 communities identify their own transportation projects and prioritize their most  
26 urgent needs.
- 27 2) Proposition ? creates a sustainable source of funding for Colorado's  
28 transportation needs. Colorado's highway costs outpace collections from the gas  
29 tax. This measure offers a way for the state to increase transportation funding  
30 and repay bonds. This new, dedicated revenue for transportation will allow the  
31 state to continue to meet its obligations to fund education, health programs, and  
32 public safety while also investing heavily in Colorado's roads.

## 1 **Arguments Against**

- 2 1) Proposition ? raises taxes for a fundamental government service that should be  
3 fully funded through the state budget. Any shortfall in transportation funding is a  
4 result of prioritizing state spending in other areas of government. The state can  
5 fund roads with the money it collects in taxes, rather than resorting to expensive  
6 borrowing. Additionally, this measure dedicates too much revenue to multimodal  
7 transportation, money that should be used exclusively for road repair and  
8 improvement. The majority of the workforce use their personal vehicles to  
9 commute daily and depend on quality road and highway maintenance.
- 10 2) Sales taxes, which are already high, provide a poor method of funding  
11 transportation. The total sales tax rate exceeds 10 percent in some areas of  
12 Colorado. Raising the state sales tax disproportionately affects low-income  
13 individuals because they must spend a larger share of their budget buying  
14 taxable necessities.

## 15 **Estimate of Fiscal Impact**

16 Proposition ? makes changes to transportation finance over 20 years. Its effects on  
17 state and local government revenue and expenditures are summarized below.

18 **State revenue.** This measure increases sales and use tax revenue by  
19 \$366.0 million (half-year impact) in state budget year 2018-19, and by \$766.7 million in  
20 state budget year 2019-20. The sales and use tax revenue increase continues for  
21 20 years. In addition, the measure authorizes CDOT to sell bonds, increasing revenue  
22 by up to \$6.0 billion over three years.

23 **State expenditures.** This measure will increase expenditures equal to the amount  
24 of revenue described above for construction and maintenance of transportation projects,  
25 and debt service. The measure commits up to \$9.4 billion to the repayment of debt.

26 **Local government revenue and expenditures.** The measure increases state  
27 distributions to local governments for transportation projects by \$146.4 million (half-year  
28 impact) in state budget year 2018-19, and by \$306.7 million in state budget  
29 year 2019-20. These increases continue for 20 years.



**Colorado  
Legislative  
Council  
Staff**

**Initiative # 153**

**INITIAL FISCAL  
IMPACT STATEMENT**

**Date:** March 20, 2018

**Fiscal Analyst:** Larson Silbaugh (303-866-4720)

**LCS TITLE:** TRANSPORTATION FUNDING

| <b>Fiscal Impact Summary</b>                    | <b>FY 2018-19</b>               | <b>FY 2019-20</b>             |
|---|---------------------------------|-------------------------------|
| <b>State Revenue</b>                            |                                 |                               |
| Total Sales and Use Tax Revenue                 | <b><u>\$366.0 million</u></b>   | <b><u>\$766.7 million</u></b> |
| Sales and Use Tax Revenue in State Highway Fund | \$164.7 million                 | \$345.0 million               |
| Sales and Use Tax Revenue in Other Funds        | \$201.3 million                 | \$421.7 million               |
| Bond Proceeds                                   | <b>Up to \$6.0 billion</b>      |                               |
| <b>State Expenditures</b>                       | <b><u>\$65,127</u></b>          |                               |
| Department of Revenue                           | \$15,127                        |                               |
| Department of Transportation (Bond Consultant)  | \$50,000                        |                               |
| Department of Transportation (Dept Repayment)   | See State Expenditures Section. |                               |

**Note:** This *initial* fiscal impact estimate has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the Blue Book Voter Guide if new information becomes available.

**Summary of Measure**

This measure increases the state sales and use tax rate from 2.9 percent to 3.52 percent between January 1, 2019 and January 1, 2039. In addition, the measure allows the Colorado Department of Transportation to issue bonds totaling up to \$6.0 billion. The total repayment cost may not exceed \$9.4 billion over 20 years. The revenue generated from the tax increase is dedicated for the following purposes:

- 45 percent for bond repayment and state transportation funding;
- 15 percent for multimodal transportation; and
- 40 percent for municipal and county transportation projects.

The measure also creates a citizen oversight commission that must annually report how the bond proceeds have been used.

**State Revenue**

Conditional on voter approval, this measure increases state sales and use tax revenue by \$366.0 million in FY 2018-19 and \$766.7 million in FY 2019-20. In addition, the measure authorizes the Department of Transportation to sell bonds and increase revenue by up to \$6.0 billion starting in FY 2018-19.

**Sales and use tax.** The measure increases the sales and use tax rate 0.62 percent, from 2.9 percent to 3.52 percent, starting January 1, 2019. Based on the March 2018 Colorado Legislative Council Staff revenue forecast, the rate increase will increase state sales and use tax revenue by \$366.0 million in FY 2018-19, and \$766.7 million in FY 2019-20, with continuing increases through FY 2039-40. FY 2018-19 represents a half-year impact.

New state revenue will be distributed to the funds shown in Table 1. The State Highway Fund is used to pay for construction and maintenance of state highways. The measure creates the Multimodal Transportation Options Fund to increase funding on multimodal transportation projects such as bike paths, walking paths, and mass transit designed to reduce the use of passenger vehicles. The measure also creates the Local Transportation Priorities Fund to increase revenue for county and municipal transportation projects.

| <b>Table 1. Tax Revenue Under Initiative #153</b> |                        |                        |
|---|------------------------|------------------------|
| <b>Fund</b>                                       | <b>FY 2018-19</b>      | <b>FY 2019-20</b>      |
| State Highway Fund (45%)                          | \$164.7 million        | \$345.0 million        |
| Multimodal Transportation Options Fund (15%)      | \$54.9 million         | \$115.0 million        |
| Local Transportation Priorities Fund (40%)        | \$146.4 million        | \$306.7 million        |
| <b>TOTAL</b>                                      | <b>\$366.0 million</b> | <b>\$766.7 million</b> |

**Transportation bond proceeds.** The measure authorizes the Colorado Department of Transportation to sell up to \$6.0 billion in bonds starting in FY 2018-19. The total repayment cost may not exceed \$9.4 billion or last longer than 20 years. Selling bonds will increase revenue for state transportation projects and create a 20-year liability for repayment. Table 2 shows the revenue increase from bond proceeds occurring in FY 2018-19 and FY 2019-20, however the timing and actual amount is uncertain.

| <b>Table 2. Bond Revenue Under Initiative # 153</b> |                     |                   |
|---|---------------------|-------------------|
|   | <b>FY 2018-19</b>   | <b>FY 2019-20</b> |
| Bond Proceeds - State Highway Fund                  | Up to \$6.0 billion |                   |

**State Expenditures**

This measure will increase expenditures equal to the amount of revenue described above for construction and maintenance of transportation projects and debt service. The administrative costs of implementing the policies in this ballot measure will increase state expenditures by \$65,127 in FY 2018-19 only. Department of Revenue expenditures will increase by \$15,127, and Department of Transportation expenditures will increase by \$50,000.

**Department of Transportation.** In FY 2018-19 only, Department of Transportation expenditures will increase by \$50,000 for consulting expenses to negotiate new transportation bonds authorized by the measure. Workload will also increase for the department to staff the citizen oversight committee and ensure the information required by the bill is posted on the department's website. This workload can be completed within existing appropriations.

**Bond repayment.** Total transportation bond repayment costs may not exceed \$9.4 billion, and debt must be serviced within 20 years. Based on assumed repayment costs of \$9.4 billion over 20 years, the average annual debt service costs will be \$470.0 million. Table 3 compares the potential bond repayment cost with sales and use tax revenue from the measure.

| <b>Table 3. Comparison of Debt Service and Tax Revenue Allocation Under Initiative #153</b> |                   |                   |
|---|-------------------|-------------------|
|   | <b>FY 2018-19</b> | <b>FY 2019-20</b> |
| <b>Increased Expenditures</b>   |                   |                   |
| Bond debt service (estimated)   | -                 | \$470.0 million   |
| <b>Increased Revenue</b>  |                   |                   |
| Sales and use tax revenue to State Highway Fund   | \$164.7 million   | \$345.0 million   |
| <b>Difference between Revenue and Expenditures</b>  | \$164.7 million   | (\$125.0 million) |

**Department of Revenue.** In FY 2018-19 only, General Fund expenditures will increase by \$15,127. Expenditures will increase by \$13,927 for programming to the state's tax administration software. These costs include 25 hours of programming at \$250 per hour, as well as costs for department staff to perform testing of the program changes. Expenditures will also increase by \$1,200 to change one state tax form.

### **Local Government Impact**

Conditional on voter approval, the ballot measure increases local government revenue and expenditures beginning in FY 2018-19.

**Local government revenue.** Local governments will receive disbursements from the state sales and use tax increase. The local government allocation equals 40 percent of new tax revenue, \$146.4 million in FY 2018-19, and \$306.7 million in FY 2019-20. Sales and use tax disbursements will grow as taxable sales grow over time. Counties and municipalities each receive half of these amounts. Revenue is distributed to individual counties and municipalities according to the current law distribution formula for transportation funding.

**Multimodal Transportation Options Fund.** To receive money from this fund for transportation options projects, counties and municipalities must provide a 50 percent match to money received from the accounts in the fund. The Transportation Commission has the authority to prioritize the funding for multimodal transportation projects paid for through the fund.

**Local government expenditures.** Local governments receiving allocations will have additional amounts to spend for transportation projects. The measure does not alter current law requirements for local government use of current transportation distributions. Under current law, local governments must spend transportation revenue transferred from the state for construction and maintenance of public highways, together with acquisition of rights-of-way and access rights, and for the construction and maintenance of transit-related projects.

## Economic and Taxpayer Impacts

This measure increases sales and use taxes paid when businesses and consumers purchase most goods and some services, reducing consumption, savings, and private investment elsewhere in the economy.

The measure increases transportation funding to accelerate construction on transportation projects, accelerating employment, income, and spending by the construction sector. On the margin, improved transportation infrastructure will save commuters time, improve access to markets for Colorado businesses, and reduce the wear and tear on vehicles.

**Average Taxpayer Impact.** The measure will increase average household sales and use taxes paid by an estimated \$130.63 per year. This amount is based on average sales taxes paid in 2014 published by the Colorado Department of Revenue in the 2016 tax profile and expenditure report.

## Effective Date

If approved by voters, the ballot initiative takes effect upon proclamation of the Governor within 30 days of the official canvas of votes at the 2018 general election. The new sales and use tax rates apply January 1, 2019.

## State and Local Government Contacts

|          |                |         |                |
|----------|----------------|---------|----------------|
| Counties | Municipalities | Revenue | Transportation |
|----------|----------------|---------|----------------|

## **Abstract of Initiative 153: TRANSPORTATION FUNDING**

**This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of March 21, 2018, identifies the following impacts:**

The abstract includes estimates of the fiscal impact of the initiative. If this initiative is to be placed on the ballot, Legislative Council Staff will prepare new estimates as part of a fiscal impact statement, which includes an abstract of that information. All fiscal impact statements are available at [www.ColoradoBlueBook.com](http://www.ColoradoBlueBook.com) and the abstract will be included in the ballot information booklet that is prepared for the initiative.

**State Revenue.** Conditional on voter approval, this measure increases sales and use tax revenue by \$366.0 million in FY 2018-19, and by \$766.7 million in FY 2019-20. The sales and use tax revenue increase continues for 20 years through FY 2039-40. In addition, the measure authorizes the Department of Transportation to sell bonds and increase revenue by up to \$6.0 billion starting in FY 2018-19.

**State Expenditures.** This measure will increase expenditures equal to the amount of revenue described above for construction and maintenance of transportation projects, and debt service. The administrative costs of implementing the policies in this ballot measure will increase state expenditures by \$65,127 in FY 2018-19 only.

**Local Government Revenue and Expenditures.** The ballot measure increases local government revenue and expenditures by \$146.4 million in FY 2018-19, and by \$306.7 million in FY 2019-20. These increases continue for 20 years, through FY 2039-40.

**Economic Impact.** This measure increases sales and use taxes paid when businesses and consumers purchase most goods and some services, reducing consumption, savings, and private investment elsewhere in the economy.

The measure increases transportation funding to accelerate construction on transportation projects, accelerating employment, income, and spending by the construction sector. On the margin, improved transportation infrastructure will save commuters time, improve access to markets for Colorado businesses, and reduce the wear and tear on vehicles.

**Average Taxpayer Impact.** The measure will increase average household sales and use taxes paid by an estimated \$130.63 per year. This amount is based on average sales taxes paid in 2014 published by the Colorado Department of Revenue in the 2016 tax profile and expenditure report.

# Transportation Report

To: SWCCOG Board of Directors  
From: Jessica Laitsch  
Date: 31 August, 2018

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Comments: Transportation:

The last SWTPR meeting was held on 2 August, 2018. The topics included selection of a new Chair and an overview of the proposed ballot initiatives.

The next SWTPR meeting will be held at 9:00 a.m. Thursday, 4 October, 2018 at the Carnegie Building, 1188 E 2nd Ave., Durango.

Following up on the discussion regarding contributions for the SWTPR, CDOT provided the following information:

“First, a definition: what we typically refer to in Colorado as a Transportation Planning Region (TPR) is really the geographic area of the Regional Planning Commission (RPC) - the actual group of county and municipal governments who have chosen to assume transportation planning responsibilities in a given region of the state. When I refer to the RPC below I am indicating what we generally refer to colloquially as the "Southwest TPR".

“The short answer is that because the activities of the Regional Planning Commission (RPC) are funded by the state's Rural Planning Assistance (RPA) grant program using federal State Planning & Research (SPR) funds and are intended to facilitate regional planning activities throughout the state, participation in the RPC may not be restricted for any recognized county or municipality. CDOT's responsibility is to ensure that local governments have an active role in the regional planning process, and this can't be contingent on their paying of dues to any entity (including SWCCOG).

“The SWCCOG is certainly within its rights to require dues in exchange for the benefits and services that accompany membership in the COG, but this does not include the RPC. The COG is a fiscal agent for the RPC, but it cannot determine membership or participation in the RPC since those are defined by federal and state law. So while SWCCOG could limit a county's participation in the other aspects of the COG, it can't exclude them from the RPC.

“We understand that the distinction between the RPC and the COG may be blurry to some of the member communities, but this distinction is important when it comes to payment of dues to the COG and participation in the RPC.”

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# Transportation Report

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## Transit:

5304 Four Corners Coordinated Transit Plan – There was a stakeholder meeting for this project held on 2 August, 2018. The consultant team is continuing to hold stakeholder meetings throughout the region.

NADO Technical Assistance Cortez/Durango fixed route bus – The consultant is working with CDOT to identify potential funding sources for recommended service options.

The next Regional Transit Council meeting will be held 21 September, 2018 at 9:00 a.m. at the Carnegie Building, 1188 E 2nd Ave., Durango.

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# VISTA's Report

To: SWCCOG Board of Directors  
From: Martina Pansze  
Date: 29 Aug. 2018

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Comments: **Learning about VISTA-ship**

Last week I attended the VISTA Pre-Service Orientation in Phoenix where I met other VISTAS serving in the Southwest and attended training seminars on topics such as grant-writing and community organizing.

My first official day here with the SWCCOG was Monday, August 27<sup>th</sup>. Since then I have been busy learning about the functions of this COG and understanding the challenges facing the region. I grew up here in Durango and am enthusiastic to learn more about how a shared services model can serve the needs of Southwest Colorado.

I attended college in Walla Walla, WA where I majored in Film and Media studies, graduating this past May. I hope to use my interest and knowledge of media and communication during my time here to help the SWCCOG engage with the communities it serves on a deeper level.

I am excited for the year ahead and look forward to working with each of you.

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## Discussion Items

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# SWCCOG 2018 Goals, Retreat, and 2019 Initiatives

To: SWCCOG Board of Directors  
From: Miriam Gillow-Wiles  
Date: 6 September 2018

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Comments Staff will be guiding a discussion about the accomplishments, challenges, and work the SWCCOG has done over the last year. Staff will also provide a PowerPoint presentation with various maps of broadband attainment, charts, graphs, and other vital information about membership ROI.

During this discussion I would like the Board members to think about the various types of return on investments. There is the business, dollars in-dollars out ROI, but there is also a social return on investment we do not discuss, that is just as important as strict dollars and cents. Ways to think about social ROI from the following passages:

“The confusion between inputs and outputs stems from one of the primary difference between business and the social sectors. In business, money is both an input (a resource for achieving greatness) *and* an output (a measure of success). In the social sectors, money is *only* an input, not a measure of greatness”<sup>1</sup>

“It doesn’t really matter whether you can quantify your results. What matters is that you rigorously assemble *evidence*-quantitative or qualitative-to track your progress. If the evidence is primarily qualitative, think like a trial lawyer assembling the combined body of evidence. If the evidence is primarily quantitative, then think of yourself as a laboratory scientist assembling and assessing data.”<sup>2</sup>

Thinking about the SWCCOG (and all social sector agencies – such as Region 9 or United Way, as well as the COG Members) not strictly a dollars in-dollars out mechanism will greatly increase the value of the SWCCOG across the Board, this is important as social sector agency, we cannot only strictly assess our value in monetary terms. Much of what the SWCCOG does involves non-monetary returns, some of these include:

- Legislative Work
- Communities and Counties convening and engaging with one another
- Providing access to various resources (model broadband codes, for example)
- Changing the conversation about broadband at a state level

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<sup>1</sup> Jim Collins, Good to Great and the Social Sectors, page 5

<sup>2</sup> Jim Collins, Good to Great and the Social Sectors, page 7

# SWCCOG 2018 Goals, Retreat, and 2019 Initiatives

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- Developing relationships with state and federal elected officials
- Speaking as one voice to the state and federal agencies
- Staff dedicated to providing resources and information to all jurisdictions, equitably
- Advocating for the region
- Aggregation of various services, including trainings

While the member jurisdictions are also social sector agencies, and provide a great deal of resources and programs to their citizens, there is no other agency working across jurisdictional boundaries in the way that Councils of Governments do, especially in southwest Colorado. Think about what would happen to the various projects, programs, and multiple agencies we provide management and administration to if there was no COG. These include, but are not limited to:

- Broadband redundancy
- Reduction of Broadband connectivity costs
- Regional Broadband funding
- Transportation (TPR, Transit Council)
- Homeland Security Funding
- Regional Housing Alliance
- The Southwest Colorado Incident Management Team

Attached is a significant amount of documentation regarding the SWCCOG May 2018 Board Retreat, these include:

- Review of 2018 Goals
- Draft 2018 Board Retreat Review
- 2019 Goals as identified at the Board Retreat.

# Critical Success Factors (CSF) as identified from 2017 SWCCOG Board Retreat

*Updated 6 September 2018*

| Critical Success Factor   | Status  |
|---|---|
| <b>CSF 1: Financial Stability</b>   |   |
| <b>GOAL 1: Optimize SCAN/Dark Fiber income</b>  |   |
| Action Step 1- Identify any unleased SCAN fiber and get it leased                                   | Unleased SCAN fiber has been discussed with the ISPs  |
| Action Step 2 – Review Current leases and make certain all leases are renewed when they expire.     | Existing leases reviewed and when renewed pricing changes applied   |
| <b>GOAL 2: Establish 501(c)_ grant-receiving entity.</b>  |   |
| Action Step 1 – Do the research to determine the appropriate 501(c) designation for COG’s purposes. | SWCCOG can start any 501c entity. However, there are many 501c3s in the area, and Region 9 is a 501c6, leading to the discussion of a 501c4       |
| Action Step 2 – Complete the application for the appropriate 501(c) designation                     | Application for 501c4 has not been completed – <b>SWCCOG formed the Healthcare Consortium to apply for FCC USAC Funding</b>                       |
| Action Step 3 – Submit Application  | Incomplete  |
| Action Step 4 – 501(c) organization approved  | Incomplete  |
| <b>GOAL 3: Broadband Administration Fees – Aggregation of Connectivity</b>                          |   |
| Action Step 1 – Survey CAIs   | Done  |
| Action Step 2 – Negotiate cost/mg with ISPs   | Done  |
| Action Step 3 - Contracts with Providers  | Done – Contracts approved June 2018 – <b>To date, no SWCCOG member has taken SWCCOG – Member Jurisdiction Contract to respective elected body</b> |
| <b>GOAL 4: Middle Mile Construction Funding</b>   |   |
| Action Step 1 – Identify Construction grants available for this purpose                             | Done  |
| Action Step 2 – Develop Steps to write Grant – prioritized by potential revenue                     | Done – FCC USAC Funding   |
| Action Step 3 – Submit the Construction grants to the appropriate granting entity.                  | Done – 15M in FCC USAC Funding applied for in June 2018   |
| <b>GOAL 5: Reconsider Dues Structure including allocation formula</b>                               |   |
| Action Step 1 – Review ROI for each entity  | Done  |
| Action Step 2 – Review Allocation formula   | Done  |
| Action Step 3 – Submit proposed new dues structure to the Board for Approval                        | Discussed in 2017 – Board Opted not to change dues structure  |
| Action Step 4 – Approve new dues structure  | N/A   |
| Action Step 5 – Apply new dues structure increasing income to COG                                   | N/A   |

|   |  |
|---|--|
| <b>CSF 2: Leverage Relationships</b>  |  |
| <b>GOAL 1: Identify areas of leverage/collaboration with each entity: Region 9, Housing Solutions, AAA, 4Core; SJBH</b>   |  |
| Action Step 1 – Review the Mission/Activities/Current State of each potential organization to determine where there might be opportunities for cooperation/leverage | Some reviewed – especially Region 9  |
| Action Step 2 – Develop Leveraging scenarios with the selected organizations.   | Working with Region 9 to develop strategic planning for coordination   |
| Action Step 3 – Take scenario proposal(s) to the full Board for a work session  | In process – Expected Late 2018  |
| Action Step 4 – Take final proposal to the full Board for approval  | Expected Q1 2019   |
| <b>GOAL 2: Proactively identify organizations to work and/or coordinate with to align with them before they are in crisis mode.</b>                                 |  |
| Action Step 1 – Identify those organizations that are potentials.   | Somewhat done  |
| Action Step 2 – Monitor Federal & State legislation and how they impact other regional organizations  | Done/Ongoing – legislation shared with SJBPH, Region 9, and La Plata County Economic Development Alliance    |
| Action Step 3 – SWCCOG convene with impacted organizations and look for regional solutions  | Incomplete – also challenging politically  |
| <b>CSF 3: Broadband Completion</b>  |  |
| <b>GOAL 1: Targeting Funding</b>  |  |
| Action Step 1 – Identify 1 specific scope of the project (from this date forward)   | Done   |
| Action Step 2 – Identify the funding source for the specific scope of the project.  | Done   |
| Action Step 1 – Write Grants  | Done   |
| Action Step 2 – Submit grants to the granting authorities   | Done/In Process – 15M in FCC USAC Funding applied for in June 2018. DOLA Grant Dec 2018 Application expected |
| Action Step 3 – Contract with Grantor/Hire Grant Manager  | Working with Legal and FCC USAC Awardees to finalize contracts   |
| <b>GOAL 2: Engineering Project</b>  |  |
| Action Step 1 – Identify Wired/Wireless: and Aerial/Buried  | Done in conjunction with FCC USAC Funding  |
| Action Step 2 – Create an RFP for Engineers   | Done   |
| Action Step 3 – Award Engineering Proposal  | Done via FCC USAC Funding  |
| <b>GOAL 3: Hire Project Manager</b>   |  |
| Action Step 1 – Write job description for project manager   | Done   |
| Action Step 2 – Post job description  | Need funding before posting position – Potentially DOLA Dec 2018 Grant                                       |
| Action Step 3 – Review Applicants   |  |
| Action Step 4 – Interview Final Applicants  |  |
| Action Step 5 – Select Finalist   |  |
| Action Step 6 – Offer the job to the finalist   |  |

|  |  |
|--|--|
| Action Step 7 – Contract with the Project Manager  |  |
| <b>GOAL 4: Build the designated section of the Broadband</b>   |  |
| Action Step 1 – Break ground on the designated section   | 2019   |
| <b>CSF #4 – Maintain Federal and State Legislation Monitoring and Action – Become a Legislative Powerhouse</b>       |  |
| Action Step 1 – Monitor State and Federal Legislation for issues that impact SWCCOG and other related organizations. | Ongoing process – varies by legislative sessions |
| Action step 2 – Identify External Impact on Regional Organizations – Fed. State and Local                            | Ongoing  |
| Action Step 3 – Monitor Budget Impacts of legislation on Regional Organizations                                      | Done on an as needed basis                       |
| Action Step 4 – Testify when necessary and appropriate   | Done on an as needed basis                       |



SOUTHWEST COLORADO COUNCIL OF GOVERNMENTS

DRAFT

**Report of the  
SWCCOG Board Retreat**

**May 10, 2018**

**Prepared by:  
Karen Thompson**



# SOUTHWEST COLORADO COUNCIL OF GOVERNMENTS

**Board Retreat  
9:00am – 4:00pm  
10 May 2018**

**Durango Recreation Center – Lightener Room  
2700 Main St., Durango, CO 81301**

9:00am - SWCCOG Board meeting

10:00am - Welcome and Introductions for the Board Retreat  
- State of the Organization  
- Innovator

10:30am - Break

10:45am - Review of 2017 Board Retreat

11:30am - Broadband – Short Range  
- Overview of Broadband  
- Broadband Friendly Policies and Ordinances  
- FCC USAC Rural Healthcare Funding Overview

12:30pm - Lunch

1:00pm Broadband – Aggregation of Services

1:30pm - Public Private Partnerships and Broadband Development

2:00pm – Broadband – Long Range Discussions  
- Where are we?  
- If we get FCC Funding  
- Where do we go from with FCC funding  
- How do we get there  
- If we do not get FCC Funding  
- Where do we go from here without FCC funding

3:00pm - Break

3:15pm - Additional/alternative focus(es) for SWCCOG  
- Ageing  
- Environment  
    ○ Recycling  
- Housing  
    ○ Regional Housing Alliance of La Plata County (RHA)

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- Transportation
  - Transportation Planning Region (TPR)
  - Transit Council
- 4 Corners Transit Planning
- Cortez – Durango Transit Technical Assistance
- Telecommunications
- Tourism

4:00pm – Adjourn

## SWCCOG Board Retreat Report

The Board of the Southwest Colorado Council of Governments (SWCCOG) met on May 10, 2018 for their annual Board retreat and planning session. The retreat was held in the Lightner Room at the Durango Recreation Center.

The Board members in attendance were: Gwen Lachelt, La Plata County; Chris LaMay, Town of Bayfield; Ron LeBlanc, City of Durango; Steve Garchar, Dolores County; Karen Sheek, City of Cortez; City of Durango; Dick White, City of Durango; Michael Whiting, Archuleta County; Melissa Youssef, City of Durango; Joanne Spina attended for a short period in the afternoon.

Staff members in attendance were: Miriam Gillow-Wiles, Jessica Laitsch and Dylan Lucas, the AmeriCorps/VISTA intern.

As a kick-off to the meeting, Miriam Gillow-Wiles, Executive Director, provided an overview of Councils of Government (COG) in general and SWCCOG in particular.

### Key Points:

- IGA (Intergovernmental Agreement) in Colorado
- Formed in 2008
- Can be more flexible and creative than some COGs in other states
- In some states, COGs receive state funding. In Colorado that is not the case.
- Regional organizations are 3-legged stools - Transportation, Economic Development and Ageing
- SWCCOG has no tax base; no taxing authority
- Knowledge-based organization that provides resources to other organizations.

Following the background on COGs Miriam provided an overview of the state of the organization outlining the projects in progress that are related to the Goals and action items identified at last year's retreat, as well as what the staff has been working on, what they have accomplished and what the challenges are.

### Key Points:

- Broadband
- Recycling
- Transportation
- Legislative Work
- Engaging in leveraging our partnerships with other agencies including Region 9

### Accomplishments:

- Created an Enterprise Zone for Broadband
- Working on getting FCC Healthcare funding for up to \$50 Million
- Strengthened relations with some of the ISPs
- Working closely with CDOT
  - CDOT is a key partnership of SWCCOG
  - Southwest Colorado is the least connected area of CDOT
- Educational Forum for Cortez elected officials regarding Broadband
- Getting legislative information in advance to make comments and being asked to participate in higher levels of conversation regarding Broadband. Loudest rural voice for Broadband.
- Recycling Education.
  - Working with schools to provide recycling curriculum.
- Transportation and Transit
  - Maintained our TPR funding
  - Working on 4-Corners transit study
  - Progress made despite lack of staff funding
- Written grants
- Working on aggregation of connectivity to bring down the cost/mg.
- Hired an AmeriCorps/VISTA and have another person coming in August as Dylan leaves.

DRAFT

SWCCOG has a small staff addressing major issues. Because we are an 85% grant funded organization, funding future is unknown. Southwest Colorado is a diverse region including diverse populations and diverse population bases with both large and very small agencies working within.

In addition to the general overview of SWCCOG’s activities for the year, Miriam reviewed the goals and action steps from the 2017 planning retreat and showcased the progress that has been made. The table of those activities is provided as Attachment A. **Miriam, we need to add the Attachment.**

The group present agreed that the goals and action steps identified during the prior year’s session were still appropriate and should be continued going forward into the next year. The organizational capacity is limited and the SWCCOG is doing as much as possible with the resources currently available.

**Broadband in the Short Term:**

The next presentation focused on a short-term Broadband timeline. The SWCCOG is currently in the process of applying for a great deal of money from the FCC USAC on behalf of Dolores County, San Juan County, San Miguel County and Southwest Health Systems, Mancos and Dolores –up to \$17 Million for each agency. San Juan Basin Health was not included in the proposal for this round, which could be an advantage in future years.

The SWCCOG has also been working actively on aggregation of services.

Archuleta County is the one jurisdiction that has implemented policies to help advance Broadband. There was a good bit of discussion regarding what these policies/ordinances would look like and some examples of what could be included.

At this point someone asked if Miriam had put into a report the information she provided on what COGs do and accomplishments to date and provide them to the jurisdictions. The information will go into the annual report targeted for August 2018.

During retreat discussions a keypad system called *The Innovator* was utilized to facilitate any prioritization and decision-making. All input using the Innovator was anonymous providing an opportunity for the participants to provide honest feedback regarding sensitive data or opinions.

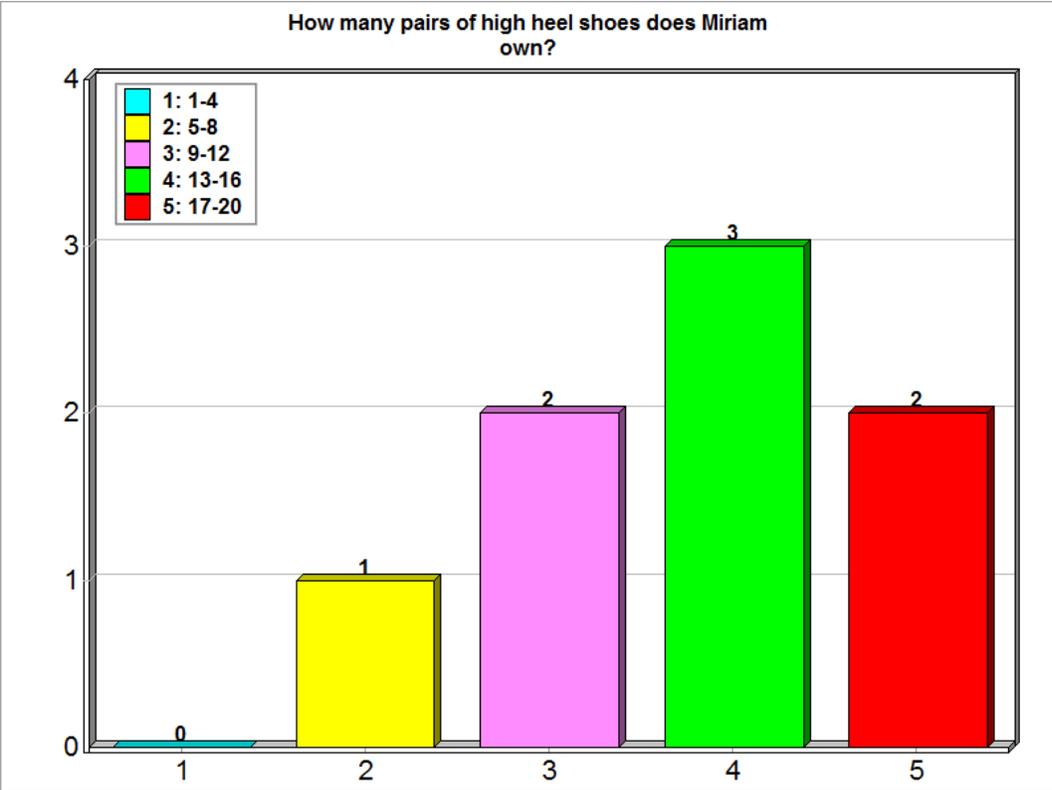
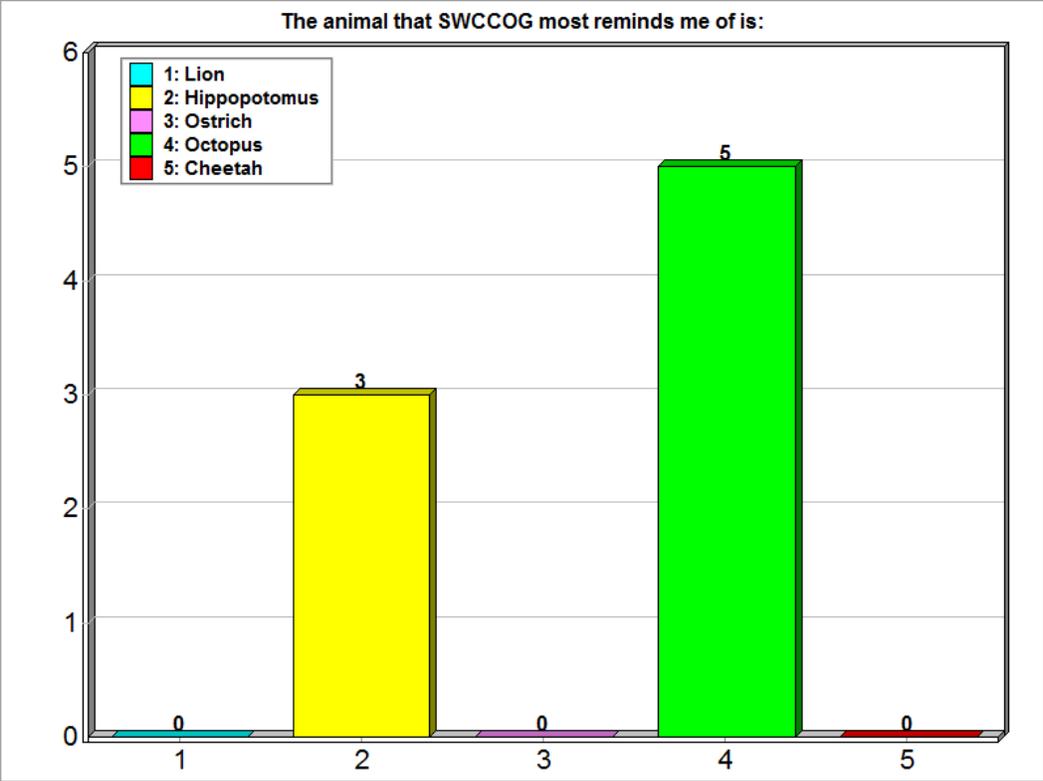
The first questions of the day were just for fun to allow the participants an opportunity to familiarize themselves with the technology. The following five questions provided an assessment of the participants' attitudes regarding the current state of the organization and the final question uncovered whether or not the jurisdictions had made any necessary statute/regulation changes to accommodate Broadband.

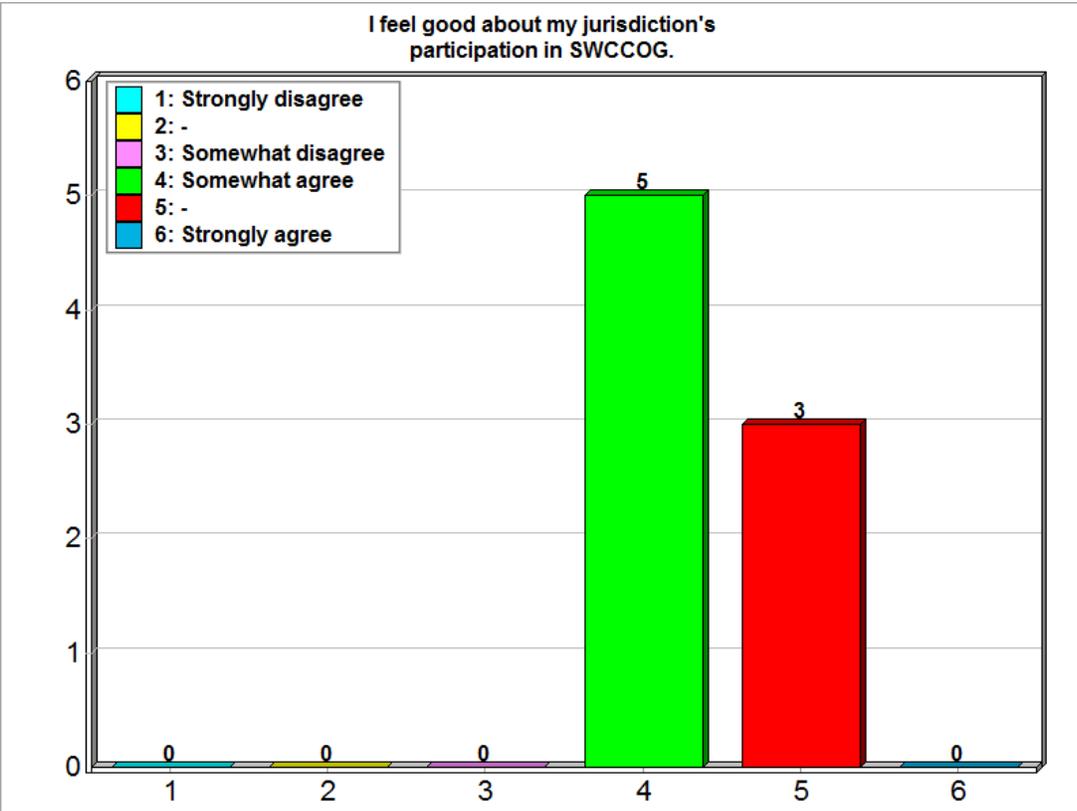
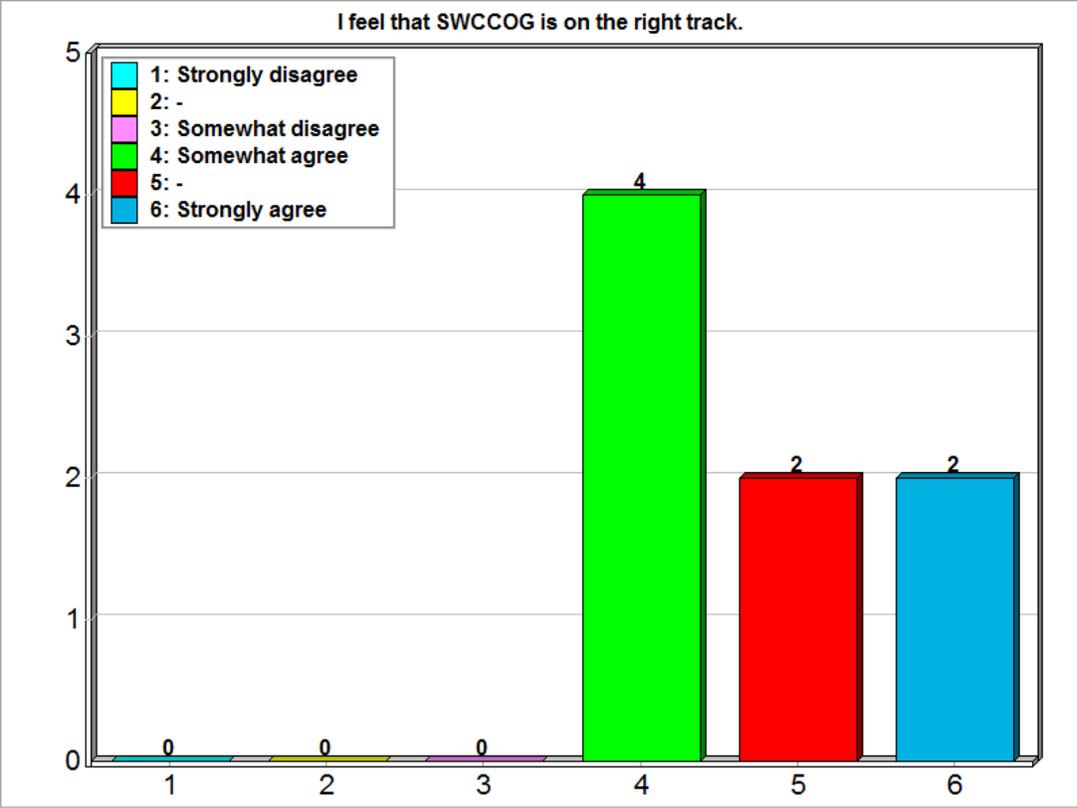
While the responses to the questions were mostly on the "Agree" side of the scale, there was generally not strong agreement with the statements posed. One person suggested the organization may have spent too much time on Broadband to the detriment of other priorities: "Broadband is dominating to the detriment of other issues that are fundamental for the organization. Housing is a big thing, transit is a big issue, and we need to create more primary jobs." As the discussion of other jurisdiction challenges continued, many of the conversations circled back to Broadband. Regarding Broadband, some considered what "being done with Broadband" means.

The participants feel as though they benefit from their member jurisdictions' participation in the organization and see value for the money spent on the COG's functions.

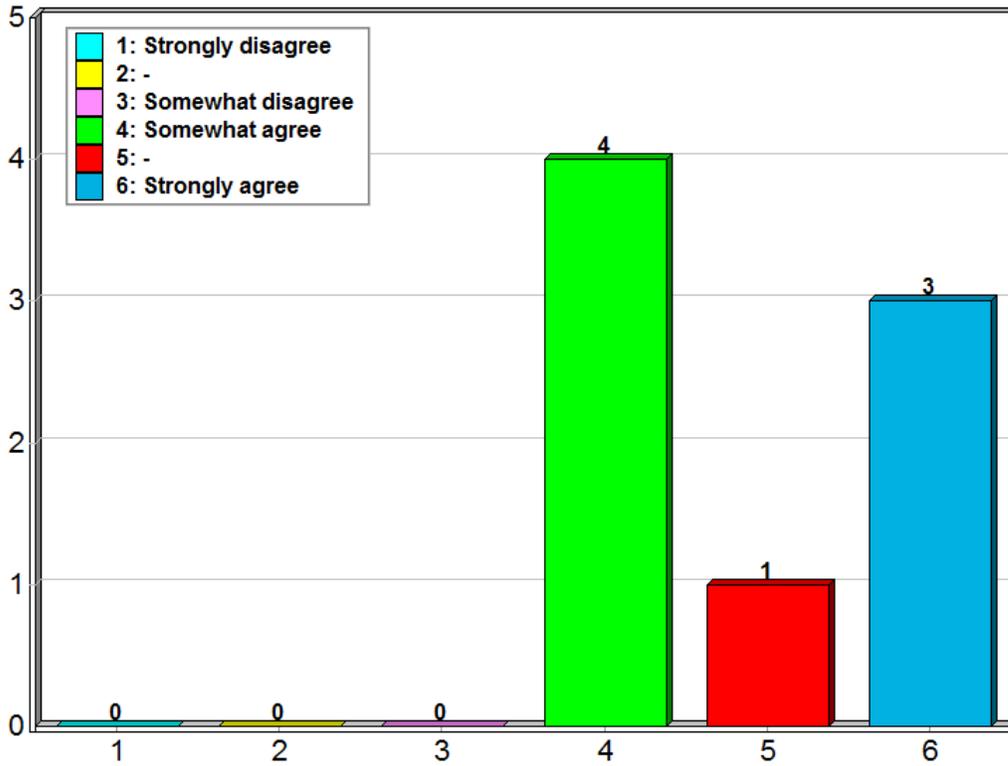
The participants would like to see some conduit in the ground and fiber pulled. There are lots of barriers being created higher up the chain. The board discussed how the government works slowly, and damage is being done infrastructure is currently not in place.

Only one jurisdiction indicated that they were not working on making necessary changes to the policies and ordinances to accommodate the expansion of Broadband. It could be that the one jurisdiction believes they are already prepared due to their existing "right of way" ordinances. There was significant discussion regarding the pros/cons and potential problems regarding this issue.

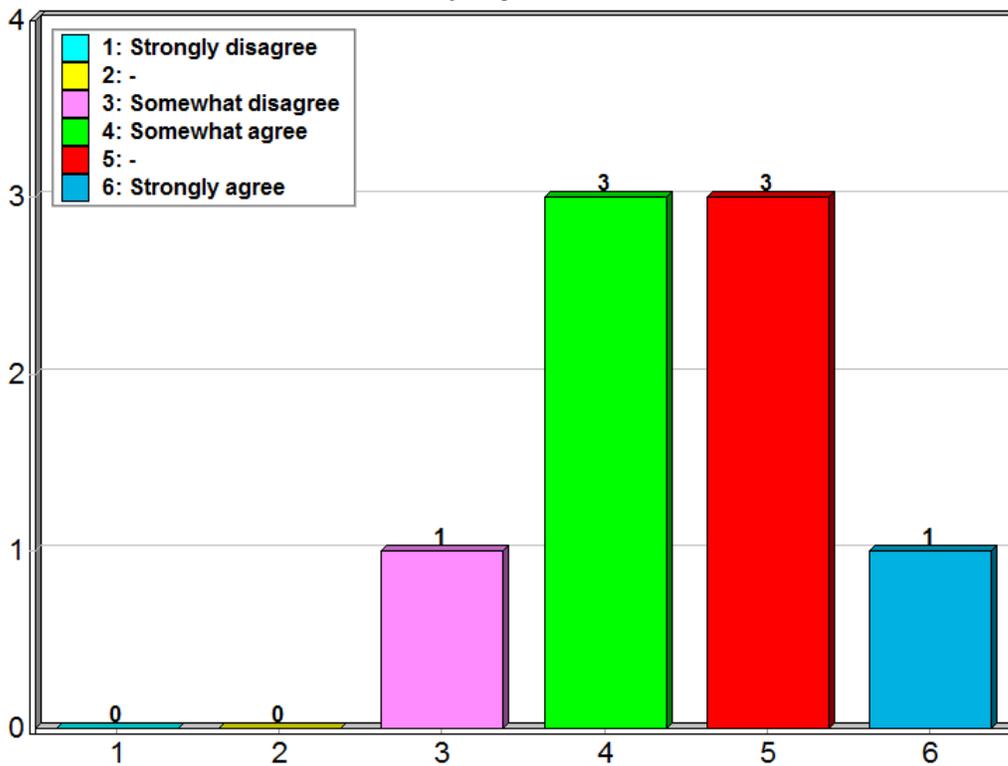


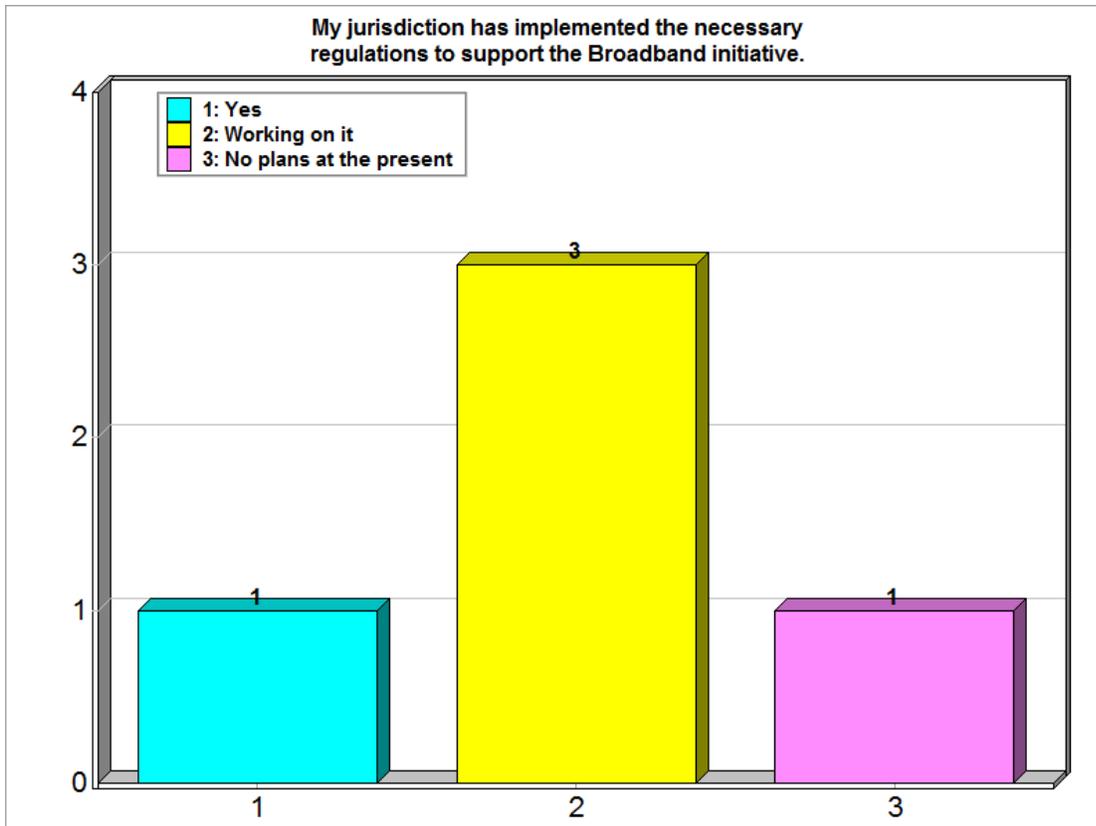


My jurisdiction is getting good value for the dues we pay.



SWCCOG has made good progress on Broadband this past year.





The following report provides a recap of the discussions, decisions and/or action items and any prioritization resulting from those discussions. Miriam provided handouts with general information regarding each of the following topics. Please refer to your participant packet for that general information.

### **Aggregation of Services**

Miriam provided a presentation and overview of the advantages of aggregating services. The purpose of aggregating services is to reduce external costs. The Fast Track contract has expired and SWCCOG is on a month-to-month basis. In addition, Fast Track was not interested in aggregating services and they were not interested in doing the network management. Forethought, however, is willing to do both.

By aggregating services with Forethought vs. Fast Track there are significant savings to all of the entities that participate: the more mgs that are purchased, the lower the cost. In addition to providing savings to all participating entities, this model creates a stream of revenue for SWCCOG. Looking at the chart of proposed cost savings as a result of aggregating services and switching to Forethought, Miriam was given a green light to move forward with the change of services to Forethought using the process of aggregating services. **Chart as an Appendix?**

## Public Private Partnerships

The next topic of discussion was Public Private Partnerships (PPP) as a way to move forward with Broadband and provide the funding necessary to execute the actual infrastructure development. There are a variety of ways local agencies work in PPP in Broadband services. The different configurations are outlined in the NTIA document on PPPs in the handout materials.

What can this look like for SWCCOG for our middle mile structure? It is clear we cannot lay infrastructure by ourselves. Our plan includes long distances, varied terrain, and a small population—meaning a huge financial outlay required. Another factor is that CDOT's participation is not guaranteed in all areas.

There is a continuum of PPP that exist, which raise the questions: What kind of PPP does the Board think would work, would you like to pursue or would you like Miriam to do more research on? Who should Miriam be looking at/talking to? With the input of the Board, Miriam can know who contact regarding partnerships and bring in experts to provide some additional information.

In order to know who to approach or respond to, the Board needs to address some of the questions below regarding the management, operation and funding of SWCCOG's infrastructure:

- What level of ownership do we want? Partial? None?
- What level of funding do we want?
- What kind of reward are we looking for?
- What kind of revenue would we like to have?
- Do we want private equity involvement who will then have partial ownership?
- How much do we want to own?
- Do we want to manage the system?
- What kind of management do we want/ by whom? Do we want to manage?
- What level of risk are we willing to undertake?
- What kind of PPP do we want for our situation?

DRAFT

Centennial is one example of a PPP. They will build the infrastructure and then lease it out for management but that model will yield some income for the COG. They have a 51/49 partnership. **Miriam, please confirm/expand this information.**

On the other hand, some partners are willing to build everything. Private equity firms are very interested in Broadband right now. They will provide capital for local governments to build out their Broadband infrastructure. SWCCOG could create a 501(c)4 as our Broadband organization.

Our difference is SWCCOG is just talking about building middle mile structure –income from middle mile comes from leasing to ISP’s who can go into neighborhoods and serve them.

If we are going to do middle mile infrastructure we MUST have some additional money. One person stated “If it’s open access, I don’t care who has ownership.” What are the typical splits? What are some examples?

Venture capitalists generally want the majority of ownership–what they need from the COG is access to federal funding and right-of-way through jurisdictions. Broadband infrastructure funding is highly desirable right now. One organization, McCrory, says that they would build the infrastructure, put it on the ground, own it, and operate it. One person expressed that they have “no interest in operating.” However, if a private company owns and operates Broadband infrastructure they can charge whatever they want. There is no control over costs. Contrarily, if government (meaning SWCCOG) has some ownership they are able to have a hand in controlling the costs.

The following is a partial list of **potential candidates for a PPP:**

- Muni Capital Markets – they are a partner in rural Vermont, who have seen success in an area with similar challenges and population density. and they have seen success. Could be a good fit with us. We could have them come down and meet with us or provide us with a proposal.
- Corning – They make the fiber
- Gray Bar
- Ciena
- McCory Capital – Based in Australia - \$100million + investments
- CDOT
- Private Companies
- LPEA
- Anyone with “Rights of Way” or Infrastructure in place
- Region 9

In addition:

- How do we partner with our Local ISP’s so that we are not in competition with them?
- Federal Funding by COG

There was discussion of who some of these entities were and where they might play. It was decided that there needed to be a way to select 2-3 potential candidates to consider. The participants also determined that it was a bit too early for an RFP for PPP, but by the early fall it would be time to consider an RFP. In addition, it would be wise to talk to some other jurisdictions to see what has worked/not worked, etc. to provide some additional information to SWCCOG.

Some of the questions and concerns that were identified and considered during this discussion include:

- What is the typical split among partners? Examples would be useful.
- A concern...if there is no ownership, there is no control.
- Question: What is the Sweet Spot?
  - Risk? How much/little?
  - Benefit? What/How much Control?

The value of having some participation for COG is to generate some earned income/revenue for SWCCOG and some control over the operations is desirable.

It was agreed that SWCCOG did not have the capacity or expertise to manage and operate the system. There would need to be a cost/benefit analysis. An example of a COG that has taken on the management of the Broadband is Rio Blanco.

General consensus exists around the following:

The SWCCOG prefers a lower risk position. When asked what was meant by “lower risk” the following list was articulated:

- No financial liability down the road.
- Management/operation capacity is not built into COG currently
- There is no “Utopia” situation – This had to do with a jurisdiction that adopted a “build it and they will come” approach but they didn’t come leaving them in a big financial crisis.
- Avoid failure. Much time, money and effort was spent to get the middle mile built.
- Become aware of other barriers to entry – how do we work through other barriers to ensure that Broadband is successful?

Direction to Miriam – Go out with another RFP. SWCCOG is looking for low risk and some revenue. Select 3 contenders and ask them to come make presentations in the fall. Focus on the following five criteria:

- low risk
- some control
- management external from the COG
- open access required
- needed capital.

DRAFT

Reiterate that the SWCCOG will bring significant capital to the project, narrowing the space in which we want to operate.

There was also significant discussion regarding how Broadband works; why other COGS are not doing Broadband; examples of how other rural areas are providing Broadband; the challenges of Broadband in a sparsely populated rural area. Broadband is incredibly complicated and

difficult to accomplish. THERE ARE NOT MANY COGS DOING WHAT SWCCOG IS DOING. SWCCOG IS DOING PRETTY GROUNDBREAKING WORK.

The final discussion about Broadband focused on how the organization is going to move forward. Currently there are Grant applications outstanding for up to \$50 Million. While SWCCOG does not think they will receive \$50 Million, they are confident they will receive some funding. So the questions are: “What if we get the funding?” and “What if we do NOT get the funding?”

### **IF SWCCOG gets the FCC USAC (Universal Services Administration Corporation) funding...**

FCC money is for rural healthcare only. It would connect rural health care providers to each other but additional infrastructure can be leased out. The agencies involved can lease out additional infrastructure to SWCCOG. The advantage of getting this money and working with Rural Health Care providers is that it provides the capital to get a majority of the costs covered: leasing rights of way, engineering trenching, etc. –which are the most expensive parts of Broadband infrastructure. The SWCCOG can drop conduit right next to the telehealth conduit. There will need to be monies for conduit, pull boxes, fiber, etc. which will need to be secured through some form of PPP with either CDOT and/or private equity firms. The fiber put in by CDOT and SWCCOG will be open access. The region does not have the necessary capital to purchase the supplies. With 80% of the deployment costs covered, it explains why private equity firms would be interested in coming in and providing money for the balance of the costs. We would need to line up the additional money for conduit, fiber, etc. to be ready when the trenches are dug. The RFP for funds would need to go out by fall.

Telemedicine is essential for the future of Archuleta. Massive bandwidth is required for these uses. This is an important project for us to participate in even if we were not able to get additional funding. Even telehealth would be a major upgrade for our region.

This initiative is for Southwest Health District, which is the hospital district in Montezuma County and Dolores County but not Montezuma County. It does ‘touch’ La Plata County and the city of Durango, but it would still need to touch each other entity. San Juan Basin Health chose not to participate in this cycle, although they may be willing to participate next year. We will have a couple of phases and their future participation may actually make it more doable on our end.

### **IF SWCCOG does NOT receive any FCC USAC funding...then what?**

The SWCCOG is not out of the Broadband game if they don’t get this grant. They don’t dump Broadband. They have made progress with design and still have the partnership with CDOT.

The COG may have to downshift and move forward at a slower pace. They can still look for economies of scale on conduit and seek opportunities for shared services such as engineering, etc. Although the organization might be in a weaker position without the FCC grant, the COG can still pursue some private sector partnership with the CDOT partnership. In this scenario they may not have as much leverage as they would with the grant money and the participation that would allow either regarding ownership or engagement.

While we wait, we can be preparing our private equity approach, and work on our partnerships with CDOT, etc. The 4-Corner regional planning effort is still going on. At the same time, the organization can direct their energy and resources to some of the other areas of focus identified by SWCCOG in prior meetings. The participants engaged in a brief discussion focused on each area and identified actions that could be taken to address each focus area. See below.

There was a discussion regarding whether or not SWCCOG is high centered on Broadband to the detriment of other projects such as transportation.

### **Additional SWCCOG initiatives**

**Ageing** – There is agreement that there needs to be some de-siloing between Ageing and Housing since those two areas often overlap. If there is some way the SWCCOG can encourage de-siloing, that would be useful. Ideally, there would be some consolidation of roles and responsibilities among all the entities addressing those two areas.

The COG could coordinate activities. We don't need to have 7-8 housing directors plus a separate housing director. If housing and ageing aren't under the COG, the organization misses the opportunity to control those regional issues. However, because of the political issues between SWCCOG and AAA, the issue may need to be placed on the back burner for now.

While SWCCOG cannot directly impact the above identified actions, they believe they can **develop a loose strategy to have in place to be ready for the time and opportunity when it is appropriate to engage in this area.**

**Environment** – There were three areas of the environment that the participants thought should/could be addressed: Recycling, Clean Air and Clean Water.

**Recycling** – Recycling might be harder to solve than Broadband. More people are interested in Broadband than recycling so more money is available. Markets for recycling have tanked since China is no longer taking recycling due to contamination of materials from the US. The US has never really developed markets stateside, as it was easier to send the material overseas. This is a problem across the country, not just west coast distribution.

The differentiation in local use recyclables vs. exporting industrial recycling was brought up, resulting in a robust discussion regarding possibilities for local reuse/recycling such as re-using/re-purposing tires, cardboard and glass. The conversations focused on tire and glass recycling. Someone brought up the example of equipment that shredded tires.

One local potential for reuse is tires. Rubber can be used for playgrounds, crushed into mats, or mixed into asphalt – all local uses that would create blue collar jobs. Is there something we can do together here to implement one of these local use opportunities? These initiatives would create blue collar jobs.

Miriam indicated that there have been some discussions with acquiring waste rolloff trailers, however there are some challenges, such as staffing at these drop off locations. How do we go about it? Where do we store them?

There is a huge need for glass recycling, which could replace some of the uses of sand or gravel. Generally, Montezuma County is ahead of the majority of SWCCOG Members on recycling. They are recycling and selling organic material for compost they have approached Dolores County to go in together and purchase a tire chipper.

At the state level, there is a push for every jurisdiction to be 30% recycling. Cortez has made a concerted effort and has already reached that level.

The staff has done a waste audit which found that the vast majority of usable waste is compostable material. They also found a sizable amount of marijuana clippings, which cannot be taken off site.

#### **Clean Air and Clean Water:**

**Clean Air** – the focus of the COG could be on awareness of clean air issues, education and planning.

**Clean Water** – focus on passing the Good Samaritan Act.

Most of the action on these two items takes place at the federal level. On all three issues it was suggested that the organization could weigh in louder and more frequently up the legislative chain. The COG can step up their policy work - Miriam is already doing that on Broadband and transportation issues.

In addition, there was a suggestion that the **COG could provide more research and analysis of opportunities to address these environmental issues** but there were no additional direct actions determined. Understanding the issue is the first step. If it makes good economic sense, no grant funding will be needed. The participating jurisdictions could contribute to the startup.

**Telecommunication** – Closely related to Broadband. However, there are issues of dead cell phone usage spots which directly contribute to public safety concerns. There were no direct actions determined for Telecommunications.

**Tourism** – It was determined that Tourism needs to be removed from the list of SWCCOG responsibilities. Other entities have responsibility and it seems to fall under economic development.

**Housing** – There are multiple housing organizations in La Plata County and the surrounding area. These organizations are in their own silos and do not share information or statistics. They are competing entities vs. cooperating entities. It makes no sense to have these competing organizations and there is redundant overhead for all these organizations.

Other COGs have a housing staff person. It would be nice to have that resource with SWCOG. The COG did an assessment of housing needs that could have been a more regional effort.

The Regional Housing Alliance of La Plata County exists under an IGA (Inter-Governmental Agreement) and under SWCCOG. It would be a shame for this agreement to be terminated. What can we do with that? Maybe the RHA could provide a housing expert to help address county-wide housing issues. An estimate of what it would cost for SWCCOG to hire a housing expert was approximately \$75,000. The SWCCOG would need some grant funding to provide that position and service.

There was a sentiment that SWCCOG could develop a strategy as to how the organization can address housing issues.

**Transportation** – Colorado has Transportation Planning Regions (TPRs). In Colorado CDOT does the planning for rural areas. The 4-Corner Regional Transit Plan operates under the COG. They exchange information, educate their members, support the efforts of individual members and raise awareness. Connecting Durango and Pagosa would be a big improvement.

The Durango airport does not have a large enough apron for the tankers to turn around. The airport is located in Durango, but it provides regional services. How can the COG be involved in solving that problem? A suggested solution was engaging the other jurisdictions in supporting efforts to get funding.

There is more to transportation than just transit.

At the end of the discussion, it was determined that **the SWCCOG could prepare strategies for engaging in a more direct manner in Ageing, Housing and Transportation.**

The meeting was adjourned at 3:35pm.

### **Recap of action steps**

- Miriam is to move forward with aggregating services through Forethought.
- Go out with another RFP. SWCCOG is looking for low risk, some revenue. Select 3 contenders and ask them to come make presentations. Do this in the fall. Focus on the following five criteria:
  - low risk,
  - some control,
  - we don't want to manage it,
  - we require open access and
  - needed capitol.
- Develop a loose strategy regarding ageing and housing to have in place to be ready for the time and opportunity when it is appropriate to engage in this area
- Provide some research and analysis of opportunities to address the local re-use recycling of tires and glass.
- SWCCOG could prepare strategies for engaging in a more direct manner in Ageing, Housing and Transportation.

DRAFT

## 2019 Initiatives as identified from 2018 SWCCOG Board Retreat

| Critical Success Factor   | Status   |
|---|--|
| <b>Initiative 1: Encourage de-siloing of Area Agency on Ageing</b>                    |  |
| <b>GOAL 1: Engage with Regional Agencies</b>  |  |
| SWCCOG Engage with AAA  | In Progress – Met with AAA Board Member Aug 2018 |
| SWCCOG engage with Housing Agencies:<br>Housing Solutions, RHA, Homes Fund and others | RHA managed by SWCCOG,                           |
|   |  |
| <b>GOAL 2: Develop Strategies</b>   |  |
| Strategy for AAA – SWCCOG   |  |
|   |  |
|   |  |
| <b>GOAL 3: Coordinate Administrative Activities</b>                                   |  |
| Bookkeeping   |  |
| Administration – minutes/admin assistant/<br>Administration - management              |  |
|   |  |
| <b>Initiative 2: Encourage de-siloing of Housing Agencies</b>                         |  |
| <b>GOAL 1: Engage with Regional Agencies</b>  |  |
| SWCCOG Engage with AAA  | In Progress – Met with AAA Board Member Aug 2018 |
| SWCCOG engage with Housing Agencies:<br>Housing Solutions, RHA, Homes Fund and others | RHA managed by SWCCOG,                           |
|   |  |
| <b>GOAL 2: Develop Strategies</b>   |  |
| Strategy for Housing Agencies – SWCCOG  |  |
|   |  |
|   |  |
| <b>GOAL 3: Coordinate Administrative Activities</b>                                   |  |
| Bookkeeping   |  |
| Administration – minutes/admin assistant/etc<br>Administration - management           |  |
|   |  |
| <b>Initiative 3: Environment - Recycling</b>  |  |
| <b>GOAL 1: Recycling/Reuse of Glass</b>   |  |
| Identify Opportunities/funding/quantity of glass                                      |  |
| Apply for funding for study   |  |
| Apply for funding for equipment/solutions to<br>study                                 |  |
| Create interjurisdiction MOU and implement<br>solutions                               |  |
| <b>GOAL 2: Recycling/Reuse of Tires</b>   |  |
| Identify issues/funding   |  |
| Apply for funding for study   |  |

|  |  |
|--|--|
| Apply for funding for solutions from Study                         |  |
| Depending on solutions identified, create interjurisdictional MOU  |  |
| <b>Initiative 4: Environment – Clean Air</b>                       |  |
| <b>GOAL 1: Develop Plan to create awareness and Education</b>      |  |
|  |  |
|  |  |
| <b>GOAL 2: Create Awareness</b>                                    |  |
|  |  |
|  |  |
| <b>GOAL 3: Education regarding importance of Clean Air</b>         |  |
|  |  |
|  |  |
|  |  |
| <b>Initiative 5: Environment – Clean Water</b>                     |  |
| <b>GOAL 1: Pass Good Samaritan Act</b>                             |  |
| Work with Fed Delegation/local agencies working Good Samaritan Act | In progress – working with Trout Unlimited |
| Work with other Federal Electeds and additional agencies           |  |
|  |  |
|  |  |
|  |  |
| <b>Initiative 6: Telecommunications</b>                            |  |
| <b>GOAL 1: Mobile Phone Coverage</b>                               |  |
|  |  |
|  |  |
|  |  |
| <b>GOAL 2: Public Safety Communications Concerns</b>               |  |
| Engage with FirstNet   |  |
| Provide information regarding FirstNet to Public Safety            |  |
| Create steps/options for First Responders                          |  |
| <b>GOAL 3: Additional Funding for Communications</b>               |  |
| Identify needs w/ Public Safety                                    |  |
| Engage with State/Fed to identify funding                          |  |
| Apply for Funding  |  |
| Implement Funding  |  |
| <b>Initiative 7: Transportation</b>                                |  |
| <b>GOAL 1: Transit Planning for Durango to Pagosa</b>              |  |
| Identify funding for transit study                                 |  |
| Apply for Funding  |  |
| Develop Study for Durango-Pagosa Transit                           |  |

|   |  |
|---|--|
| <b>GOAL 2: Airport Regionalism</b>            |  |
| Creation of Regional Transportation Authority |  |
|   |  |
|   |  |
|   |  |

# 2019 Preliminary Budget

To: SWCCOG Board of Directors  
From: Sara Trujillo  
Date: 6 September 2018

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Comments: The 2019 preliminary budget presented is positive and supports the SWCCOG in accomplishing the focus goal in the area of broadband.

The following attachments include:

- General Fund Budget
- Fiber Fund Budget
- Fund Balance for all funds

***Notable aspects include:***

- Staff have or will apply for the following grants to support and advance the 2019 focus goal:
  - DoLA Technical Assistance Grant, \$100,000
  - DoLA Broadband Grant, \$1 million
  - Broadband Infrastructure Grant, \$15 million
- Member dues remain the same as 2018 at \$157,200. All dues categories are based upon the board-voted formula of 20% divided evenly as a base, with the 80% remainder divided by population.
- Members hold cash match until needed; staff does not anticipate requesting member match in 2019 at this time.
- Software was increased to include the pre-paid Zoom software expense as the Zoom contract runs to 2020.
- The budget includes increased costs for health care, general liability, workman's comp insurance, and salary and wages for 4 full-time staff to handle increased work-load with the broadband project.
- Rent expense is budgeted with a substantial increase as COG staff continues to work on an office space in 2019.
- COG staff is exploring moving payroll in-house or contracting payroll services to Region 9.

Dues estimate letters have been sent to all members that will help support this budget and SWCCOG goals; invoices will be sent January 2019.

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# 2019 Preliminary Budget

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# GENERAL FUND

|                                | 2017<br>(AUDITED) | 2018 (UNAUDITED<br>& UNAMENDED) | 2019<br>(PRELIMINARY) |
|--------------------------------|-------------------|---------------------------------|-----------------------|
| <b>Ordinary Income/Expense</b> |                   |                                 |                       |
| <b>Income</b>                  |                   |                                 |                       |
| <b>All Hazards</b>             | 223,752.00        | 163,346.00                      | 160,000.00            |
| <b>Broadband</b>               |                   |                                 |                       |
| FCC                            | 0.00              | 3,000,000.00                    | 5,000,000.00          |
| CDOT                           | 0.00              | 333,333.00                      | 666,667.00            |
| DoLA                           | 0.00              | 375,000.00                      | 500,000.00            |
| Private Equity                 | 0.00              | 1,666,667.00                    | 1,666,667.00          |
| <b>CDOT Grants</b>             |                   |                                 |                       |
| SWTPR Grant                    | 21,681.00         | 22,100.00                       | 22,100.00             |
| Transit 5304 Grant             | 0.00              | 27,000.00                       | 0.00                  |
| <b>Total CDOT Grants</b>       | 21,681.00         | 49,100.00                       | 22,100.00             |
| <b>DoLA Grants</b>             |                   |                                 |                       |
| DoLA 8011                      | 41,321.00         | 0.00                            | 0.00                  |
| DoLA 8330                      | 30,578.00         | 28,000.00                       | 0.00                  |
| DoLA 9038                      | 44,955.00         | 0.00                            | 0.00                  |
| DoLA TA 8573                   | 0.00              | 35,000.00                       | 42,000.00             |
| DoLA 2019 TA                   | 0.00              | 0.00                            | 100,000.00            |
| DoLA Grants - Other            | 0.00              | 0.00                            | 0.00                  |
| <b>Total DoLA Grants</b>       | 116,854.00        | 63,000.00                       | 142,000.00            |
| <b>Dues Revenue</b>            |                   |                                 |                       |
| Admin Position                 | 12,200.00         | 12,200.00                       | 12,200.00             |
| COG Dues                       | 114,000.00        | 145,000.00                      | 145,000.00            |
| SWTPR Contributions            | 7,607.00          | 7,607.00                        | 7,607.00              |
| <b>Total Dues Revenue</b>      | 133,807.00        | 164,807.00                      | 164,807.00            |
| ForeThought                    | 0.00              | 0.00                            | 0.00                  |
| <b>Grant Match</b>             |                   |                                 |                       |
| COG Member Match               | 21,039.00         | 0.00                            | 0.00                  |
| Non-COG Member Match           | 0.00              | 0.00                            | 0.00                  |
| <b>Total Grant Match</b>       | 21,039.00         | 0.00                            | 0.00                  |
| Misc. Income                   | 5,870.00          | 10,000.00                       | 10,000.00             |
| <b>RREO Grant</b>              |                   |                                 |                       |
| RREO 2016-2017                 | 28,162.00         | 0.00                            | 0.00                  |
| RREO Grant - Other             | 0.00              | 0.00                            | 0.00                  |
| <b>Total RREO Grant</b>        | 28,162.00         | 0.00                            | 0.00                  |
| <b>SCAN Services</b>           |                   |                                 |                       |
| Dark Fiber Leasing             | 21,287.00         | 29,328.00                       | 33,822.00             |
| Internet & Transport           | 8,280.00          | 8,280.00                        | 8,280.00              |
| <b>Total SCAN Services</b>     | 29,567.00         | 37,608.00                       | 42,102.00             |
| <b>Total Income</b>            | 580,732.00        | 5,862,861.00                    | 8,374,343.00          |
| <b>Gross Profit</b>            | 580,732.00        | 5,862,861.00                    | 8,374,343.00          |

**Expense**

|  |                 |                 |                 |
|--|-----------------|-----------------|-----------------|
| <b>Advertising and Promotion</b>         | 110.00          | 240.00          | 240.00          |
| <b>All Hazards Projects</b>              | 220,523.00      | 157,346.00      | 156,000.00      |
| <b>AmeriCorp VISTA</b>                   | 8,000.00        | 0.00            | 9,750.00        |
| <b>Bank Service Charge</b>               | 0.00            | 200.00          | 200.00          |
| <b>Broadband Expenses</b>                |                 |                 |                 |
| <b>SCAN Dark Fiber Lease</b>             | <u>5,322.00</u> | <u>7,332.00</u> | <u>8,456.00</u> |
| <b>Total Broadband Expenses</b>          | 5,322.00        | 7,332.00        | 8,456.00        |
| <b>Conference Fee</b>                    | 199.00          | 0.00            | 0.00            |
| <b>Consulting</b>                        | 92,078.00       | 5,313,500.00    | 7,750,334.00    |
| <b>Employee/Board Appreciation</b>       | 79.00           | 100.00          | 100.00          |
| <b>ForeThought</b>                       | 0.00            | 0.00            | 0.00            |
| <b>Information Technology (IT)</b>       |                 |                 |                 |
| <b>Hardware</b>                          | 0.00            | 0.00            | 0.00            |
| <b>Internal IT Consulting</b>            | 50.00           | 50.00           | 50.00           |
| <b>Software</b>                          | <u>3,033.00</u> | <u>1,324.00</u> | <u>5,324.00</u> |
| <b>Total Information Technology (IT)</b> | 3,083.00        | 1,374.00        | 5,374.00        |
| <b>Insurance Expense</b>                 |                 |                 |                 |
| <b>General Liability</b>                 | 2,235.00        | 8,000.00        | 18,576.00       |
| <b>Health</b>                            | 26,214.00       | 36,720.00       | 47,736.00       |
| <b>Worker's Compensation</b>             | <u>1,668.00</u> | <u>1,750.00</u> | <u>3,500.00</u> |
| <b>Total Insurance Expense</b>           | 30,117.00       | 46,470.00       | 69,812.00       |
| <b>Internet Connectivity</b>             |                 |                 |                 |
| <b>Fast Track</b>                        | 10,800.00       | 10,800.00       | 10,800.00       |
| <b>Internet Connection (AT&amp;T)</b>    | <u>388.00</u>   | <u>390.00</u>   | <u>390.00</u>   |
| <b>Total Internet Connectivity</b>       | 11,188.00       | 11,190.00       | 11,190.00       |
| <b>Meetings</b>                          | 1,316.00        | 5,000.00        | 5,000.00        |
| <b>Memberships</b>                       | 5,673.00        | 6,048.00        | 6,048.00        |
| <b>Misc. Expense</b>                     | 3,641.00        | 0.00            | 0.00            |
| <b>Office Equipment</b>                  | 493.00          | 6,000.00        | 1,000.00        |
| <b>Office Supplies</b>                   | 481.00          | 850.00          | 850.00          |
| <b>Office Telephone</b>                  | 0.00            | 980.00          | 0.00            |
| <b>Postage and Delivery</b>              | 67.00           | 80.00           | 80.00           |
| <b>Professional Development</b>          | 2,569.00        | 4,000.00        | 4,000.00        |
| <b>Professional Fees</b>                 |                 |                 |                 |
| <b>Accounting Software</b>               | 220.00          | 200.00          | 200.00          |
| <b>Audit</b>                             | 6,750.00        | 5,900.00        | 6,100.00        |
| <b>Legal</b>                             | 3,929.00        | 7,000.00        | 7,000.00        |
| <b>Misc.</b>                             | <u>331.00</u>   | <u>500.00</u>   | <u>500.00</u>   |
| <b>Total Professional Fees</b>           | 11,230.00       | 13,600.00       | 13,800.00       |
| <b>Rent</b>                              | 91.00           | 95.00           | 6,000.00        |
| <b>Salary and Wages</b>                  |                 |                 |                 |
| <b>457 Retirement</b>                    | 7,476.00        | 9,355.00        | 11,819.00       |
| <b>Car Allowance</b>                     | 3,900.00        | 3,600.00        | 3,600.00        |
| <b>Cell Phone Allowance</b>              | 2,990.00        | 1,560.00        | 3,120.00        |
| <b>Housing Allowance</b>                 | 0.00            | 2,400.00        | 2,400.00        |

|                                    |                   |                  |                  |
|------------------------------------|-------------------|------------------|------------------|
| <b>Payroll Processing Fee</b>      | 1,721.00          | 2,400.00         | 1,000.00         |
| <b>Payroll Tax</b>                 | 11,628.00         | 16,783.00        | 20,211.00        |
| <b>Salary and Wages - Other</b>    | 140,766.00        | 196,290.00       | 236,389.00       |
| <b>Total Salary and Wages</b>      | 168,481.00        | 232,388.00       | 278,539.00       |
| <b>Software Maintenance e-TICS</b> | 15,162.00         | 0.00             | 0.00             |
| <b>Travel</b>                      | 18,787.00         | 25,000.00        | 25,000.00        |
| <b>Total Expense</b>               | 598,690.00        | 5,831,793.00     | 8,351,773.00     |
| <b>Net Ordinary Income</b>         | -17,958.00        | 31,068.00        | 22,570.00        |
| <b>Other Income/Expense</b>        |                   |                  |                  |
| <b>Other Income</b>                |                   |                  |                  |
| <b>Interest Earned</b>             | 0.00              | 0.00             | 0.00             |
| <b>Total Other Income</b>          | 0.00              | 0.00             | 0.00             |
| <b>Net Other Income</b>            | 0.00              | 0.00             | 0.00             |
| <b>Income</b>                      | <b>-17,958.00</b> | <b>31,068.00</b> | <b>22,570.00</b> |

## FIBER FUND

|                                | <u>2017</u><br><u>(AUDITED)</u> | <u>2018 (UNAUDITED</u><br><u>&amp; UNAMENDED)</u> | <u>2019</u><br><u>(PRELIMINARY)</u> |
|--------------------------------|---------------------------------|---|-------------------------------------|
| <b>Ordinary Income/Expense</b> |                                 |   |                                     |
| <b>Income</b>                  |                                 |   |                                     |
| Fiber Equipment Income         | 9,748.00                        | 0.00  | 0.00                                |
| <b>Total Income</b>            | <u>9,748.00</u>                 | <u>0.00</u>                                       | <u>0.00</u>                         |
| <b>Gross Profit</b>            | 9,748.00                        | 0.00  | 0.00                                |
| <b>Expense</b>                 |                                 |   |                                     |
| Fiber Equipment Expense        | 0.00                            | 0.00  | 0.00                                |
| <b>Total Expense</b>           | <u>0.00</u>                     | <u>0.00</u>                                       | <u>0.00</u>                         |
| <b>Net Ordinary Income</b>     | 9,748.00                        | 0.00  | 0.00                                |
| <b>Income</b>                  | <u><u>9,748.00</u></u>          | <u><u>0.00</u></u>                                | <u><u>0.00</u></u>                  |

## Fund Balance

| <b>General Fund - FY2017</b>        |           |
|-------------------------------------|-----------|
| Beginning Fund Balance <sup>a</sup> | \$85,735  |
| Ending Fund Balance <sup>a</sup>    | \$67,836  |
| Operating Costs                     | \$241,318 |
| Reserve Requirement                 | \$80,349  |
| <b>General Fund - FY2018</b>        |           |
| Beginning Fund Balance <sup>a</sup> | \$67,836  |
| Ending Fund Balance <sup>e</sup>    | \$98,904  |
| Operating Costs                     | \$332,615 |
| Reserve Requirement                 | \$110,871 |
| <b>General Fund - FY2019</b>        |           |
| Beginning Fund Balance <sup>e</sup> | \$98,904  |
| Ending Fund Balance <sup>e</sup>    | \$121,474 |
| Operating Costs                     | \$411,233 |
| Reserve Requirement                 | \$137,078 |

| <b>General &amp; Fiber Funds - FY2019</b> |           |
|---|-----------|
| Beginning Fund Balance <sup>e</sup>       | \$118,400 |
| Ending Fund Balance <sup>e</sup>          | \$140,970 |
| Operating Costs                           | \$411,233 |
| Reserve Requirement                       | \$137,078 |

| <b>General &amp; Fiber Funds w/ LPC<br/>Fiber Funds - FY2017</b> |               |
|--|---------------|
| Beginning Fund Balance <sup>e</sup>                              | **\$128,907** |
| Ending Fund Balance <sup>e</sup>                                 | **\$151,477** |
| Operating Costs  | \$411,233     |
| Reserve Requirement  | \$137,078     |

### Notes:

SWCCOG Fund Balance Policy states:

It is the goal of the SWCCOG to maintain an unassigned fund balance equal to four months of operating expenditures.

<sup>a</sup> indicates audited information

<sup>e</sup> indicates unaudited information

Fund Balance = Assets minus liabilities

\*\*\*2018 Budget is unaudited and unamended

Total Fiber Fund Balance = \$19,496

Total LPC Fiber Fund Balance Due = \$10,507

# Decision Items

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**Southwest Colorado Council of Governments  
Executive Committee Meeting  
Thursday, July 19, 2018, 1:30 p.m.**

In attendance:

Chris La May – Town of Bayfield (via phone)

Karen Sheek – City of Cortez (via phone)

Gwen Lachelts – La Plata County (via phone)

Miriam Gillow-Wiles – Southwest Colorado Council of Governments (via phone)

Sara Trujillo – Southwest Colorado Council of Governments (via phone)

The meeting began at 1:32 p.m.

Chris asked if staff is planning to have the group that would be financing the fiber attend the board meeting. Miriam said she will see them next week at an infrastructure funding round table and will ask.

Chris said the next item is a 2017 budget amendment. Miriam said there have been some frustrations with the current auditor and challenges with them understanding what a COG is. She asked Sara to explain. Sara explained that the auditor is saying we are out of compliance with the State and that non-compliance verbiage is being included in the audited financial statements. The reason for non-compliance is because the actual audited expenses are approximately \$8,600 greater than the 2017 amended expenses approved in February 2018. The reason the expenses are higher is due to 2 audit assigned adjusting entries. The first adjusting entry has to do with payroll. The last payroll in 2017 ended 12/31/2017; however, The Payroll Department made all 2018 updates to salary, retirement contributions, and healthcare deductions on this payroll that were supposed to have been effective 1/1/2018. When Sara asked The Payroll Department why they made the 2018 changes on a 2017 payroll, she was told that they and the IRS go by the check date, which was 1/4/2018 and not the payroll ending date of 12/31/2017. The auditor said it does not matter what date the IRS recognizes, which W2 the amount will be put on, or when the expenses were budgeted. Both Julie Brown with the City of Durango and April Hessman with Pagosa Springs said they have experience with this as well and the adjusting entry just has to be dealt with. This entry was approximately \$6,000. The second audit adjusting entry pertains to the Zoom software purchased in 2016. This expense and revenue (from a DoLA grant) both happened in 2016; however, because this is considered a high-dollar expense (\$11,000) and the Zoom invoice said the contract runs from June 2017 – June 2020, the auditor put this as a pre-paid that will be spread out from 2017-2020 with \$2,000 in 2017 (half year), \$4,000 in 2018, \$4,000 in 2019, and \$2,000 in 2020 (half year). With these 2 adjusting entries, expenses increased \$8,600. Now, because the COG does not have to legally abide by the budget laws of the state, this non-compliance piece is not applicable. However, the COG's by-laws state that we will follow the budget laws. The auditor said the Board can request the non-compliance piece be removed as it is immaterial and not applicable or we can do another 2017 budget amendment. Chris said doing another amendment would create more transparency. All agreed. Sara will send out the prepared amendment documents for review.

Chris asked what the water quality improvement support letter entails. Miriam said this is regarding the EPA engaging local communities when rule-making for water quality. This was first sent to the Legislative Committee who responded that we should support this. The letter was then sent out to Congressman Tipton and will need to be ratified at the August meeting as it is a request from an entity outside of our membership so needs Board approval.

Chris asked for elaboration on the 2019 dues item. Miriam said it is budget season and staff would like to get 2019 dues estimate letters sent to members to help with budgeting. In 2018, the board approved an increase in dues for the broadband project. Due to timing, we won't actually have funding until end of year 2018. However, we have spent some of the increased 2018 dues on legal and preliminary work for broadband funding. Miriam said keeping the dues the same as 2018 would be good, but staff can drop them down to the 2017 level. Sara said she can send out information outlining how much of the increased dues have been spent so far on broadband efforts. Chris asked if these expenses are reimbursable through the FCC funding. Miriam said no. Chris said looking at the fund balance he is in favor of keeping the 2019 dues the same as 2018.

The meeting ended at 1:54 p.m.

# DOLA 8573 Grant Extension

To: SWCCOG Board of Directors  
From: Sara Trujillo  
Date: 6 September 2018

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Comments: The SWCCOG received funding for assistance with three major goals, hire a consultant to facilitate discussion with Region 9, complete downtown development planning and capital improvements for the towns of Bayfield and Ignacio, and provide data storage solutions for COG members in conjunction with La Plata County.

As you may remember from previous discussions, the contracted consultant to facilitate discussion with Region 9, Place Dynamics, began work months behind the anticipated schedule and were ultimately terminated as consultant on this project due to breach of contract in August. This has required a new search for a consultant and limited time for a new consultant to perform work requested. In addition, the towns of Ignacio and Bayfield have had minimal progress on the downtown development planning and capital improvement due to the RFP and contractor review process, and La Plata County and COG staff are working to spend funding to get the data storage up and running.

This grant amendment request is to extend the grant to 30 June 2019 in order to allow additional time needed to complete all three aspects of this grant. This request does not include a change to the scope for any aspect of the grant.

**Legal Review:** Not applicable at this time.

**Fiscal Impact:** \$59,155 in grant funds remaining to be used

**Staff Recommendation:** Approve request for extension for DOLA EIAF 8573.

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# SOUTHWEST COLORADO COUNCIL OF GOVERNMENTS

6 September, 2018

Patrick Rondinelli  
DoLA Regional Manager  
1000 Rim Drive  
Durango, CO 81301

Re: EIAF contract #8573 – Southwest Colorado Council of Governments 2018 Technical Assistance

Dear Mr. Rondinelli,

The SWCCOG is writing to request an amendment to extend the EIAF Grant 8573 contract completion date to 30 June 2019 without changing scope of work or project funding.

## **Project(s) Overview:**

The Southwest Colorado Council of Governments (SWCCOG) had three major goals for the 8573 grant: hire a consultant to facilitate discussion with Region 9, complete downtown development planning and capital improvements for the towns of Bayfield and Ignacio, and provide data storage solutions.

## **Status Updates:**

- *Region 9 – SWCCOG Facilitation*  
SWCCOG in conjunction with Region 9 went through a RFP process in early 2018. Unfortunately, the contracted consultant, Place Dynamics, did not fulfill contractual requirements. As a result their contract was terminated. We are starting to contract with a new consultant, from the previous RFP process. The SWCCOG and Region 9 do not anticipate the finalization of the project by the end of the grant contract.
- *Bayfield and Ignacio Downtown Development*  
The Towns of Ignacio and Bayfield are in the process of hiring contractors through a competitive bidding and contract negotiation process.
- *Offsite Data Storage Solutions*  
La Plata County and SWCCOG are working through the details of equipment needs and staff time to create a pilot data storage solution for SWCCOG member jurisdictions. We expect this to be close to finalization by the end of the year, but some expenditures may occur in 2019.

The SWCCOG requests an extension of DOLA Grant 8537 grant to 30 June 2019. This will allow time to adequately facilitate collaboration with Region 9, allow the Towns of Bayfield and Ignacio to finish up the Downtown Improvement projects, and provide additional planning time for SWCCOG staff and La Plata County to find appropriate solutions for offsite data storage.

The SWCCOG is not requesting a change of scope for any aspect of the EIAF 8573 grant.

We appreciate your consideration of our request.

Sincerely,

Chris La May  
SWCCOG Board Chair  
Southwest Colorado Council of Governments

# State of CO Contract for SWIMT

To: SWCCOG Board of Directors

From: Sara Trujillo

Date: 6 September 2018

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**Comments:** The COG contracted with the Southwest Colorado Incident Management Team (SWIMT) for FY2017-2018 fiscal agent. The SWIMT is eager to maintain this relationship for FY2018-2019 grant funding, and it has been relatively easy for SWCCOG Staff. The State provides a small pot of competitive funding for the various incident management teams across the state, as the fiscal agent, the state requires the SWCCOG Chair sign contract.

**Details:**

- SWIMT was awarded \$26,280 in funding
- SWCCOG will receive 10% (\$2,628) for management and administration
- The funding is on a reimbursement request, but can be requested in advance for large purchases
- Funding operates much like the All Hazards funding (same state department) which the SWCCOG administers.
- This is the 2<sup>nd</sup> year of state funding for the IMTs, previously there was no dedicated funding

**Attached:**

- SWIMT Contract

**Legal Review:** None

**Fiscal Impact:** Will provide 10% or \$2,628.

**Staff Recommendation:** Approve the Southwest Incident Management Team grant award contact with the State of Colorado.

# STATE OF COLORADO GRANT AGREEMENT

## SIGNATURE AND COVER PAGE

|  |  |
|--|--|
| <b>State Agency</b><br>Department of Public Safety   | <b>Agreement Maximum Amount</b><br>\$26,280.00   |
| <b>Grantee</b><br>Southwest Colorado Council of Governments  | <b>Agreement Performance Beginning Date</b><br>Effective Date  |
|  | <b>Initial Agreement Expiration Date</b><br>June 30, 2019  |
| <b>Agreement Number</b><br>CMS Number                                113144<br>Encumbrance Number                        18IMT19SWIM<br>Subrecipient DUNS Number                078519574<br>State Award Date                            July 1, 2018<br>Total Amount of the State Award        \$150,000.00<br>Name of Awarding Agency                 State of Colorado<br>Identification if the Award is for R&D:    No | <b>Fund Expenditure End Date</b><br>June 30, 2019  |
|  | <b>Agreement Description</b><br>The purpose of this program is to fund and sustain State-affiliated Incident Managements Teams (IMT) Type III in Colorado. |

### THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

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;"><b>GRANTEE</b><br/><b>SOUTHWEST COLORADO COUNCIL OF GOVERNMENTS</b></p> By: _____<br>Title: _____<br>_____<br><p style="text-align: center;">*Signature</p> Date: _____ | <p style="text-align: center;"><b>STATE OF COLORADO</b><br/>                 John W. Hickenlooper, Governor<br/>                 Department of Public Safety,<br/>                 Division of Homeland Security and Emergency Management<br/>                 Kevin R. Klein, Director</p> <hr style="width: 80%; margin: 10px auto;"/> <p style="text-align: center;">By: Kevin R. Klein, Director</p> Date: _____ |
| <p style="text-align: center;">2nd Grantee Signature if Needed</p> By: _____<br>Title: _____<br>_____<br>*Signature<br>Date: _____   | <p style="text-align: center;"><b>LEGAL REVIEW</b><br/>                 Cynthia H. Coffman, Attorney General</p> <hr style="width: 80%; margin: 10px auto;"/> <p style="text-align: center;">By: Assistant Attorney General</p> Date: _____  |

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.

**STATE CONTROLLER**  
**Robert Jaros, CPA, MBA, JD**

By: Colorado Department of Public Safety, Ezra Michaels, Office of Grants Management Director

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

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**1. PARTIES**

This Agreement is entered into by and between Grantee named on the Signature and Cover Page for this Agreement (the “Grantee”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the “State”). Grantee 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 the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Grantee for any Work performed or expense incurred before the Effective Date, except as described in §7.C, or after the Fund Expenditure End Date.

- i. Provided, however, all eligible expenses incurred on or after July 1, 2018, but prior to the Effective Date may be submitted for reimbursement from State Funds if such costs or expenses are properly documented as eligible expenses.

**B. Initial Term**

The Parties’ respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Signature and Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Signature and Cover Page for this Agreement (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Agreement.

**C. Extension Terms - State’s Option**

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of 1 year or less at the same rates and under the same terms specified in the Agreement (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Grantee in a form substantially equivalent to Exhibit B.

**D. End of Term Extension**

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Grantee as provided in §16, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of the Agreement.

**E. 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, 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 Grantee, which shall be governed by §14.A.i.

i. Method and Content

The State shall notify Grantee of such termination 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, Grantee shall be subject to **§14.A.i.a**.

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Grantee 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 Grantee for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Grantee which are directly attributable to the uncompleted portion of Grantee’s obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

**3. AUTHORITY**

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

A. Federal Authority

Not applicable.

B. State Authority

Authority to enter into this Grant exists in CRS §24-1-128.6, funds have been budgeted, appropriated and otherwise made available pursuant to said statute; and a sufficient unencumbered balance remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

**4. PURPOSE**

Grant funds are hereby made available for the purpose of enhancing Homeland Security and Emergency Management related Prevention, Protection, Mitigation, Response and Recovery capabilities throughout the State, as more specifically described in the Statement of Work, attached as **Exhibit A**.

**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. “**Budget**” means the budget for the Work described in Exhibit C.

C. “**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.

D. “**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.

- E. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.
- F. **“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.
- G. **“End of Term Extension”** means the time period defined in **§2.D**
- H. **“Exhibits”** means the following exhibits attached to this Agreement:
  - i. **Exhibit A**, Statement of Work.
  - ii. **Exhibit B**, Sample Option Letter (Form 1)
  - iii. **Exhibit C**, Budget.
- I. **“Extension Term”** means the time period defined in **§2.C**
- J. **“Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- K. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- L. **“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.
- M. **“Initial Term”** means the time period defined in **§2.B**
- N. **“Matching Funds”** means the funds provided Grantee as a match required to receive the Grant Funds.
- O. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.
- P. **“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.
- Q. **“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.
- R. **“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.

- S. “**Services**” means the services to be performed by Grantee as set forth in this Agreement, and shall include any services to be rendered by Grantee in connection with the Goods.
- T. “**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, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to the CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure by Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- U. “**State Fiscal Rules**” means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a) C.R.S.
- V. “**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.
- W. “**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.
- X. “**Subcontractor**” means third-parties, if any, engaged by Grantee to aid in performance of the Work. “Subcontractor” also includes sub-grantees of grant funds.
- Y. “**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.
- Z. “**Work**” means the delivery of the Goods and performance of the Services described in this Agreement.
- AA. “**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, information, 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. STATEMENT OF WORK**

Grantee shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

**7. PAYMENTS TO GRANTEE**

**A. Maximum Amount**

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Agreement that exceeds the Agreement Maximum for each State Fiscal Year shown on the Signature and Cover Page of this Agreement.

**B. Payment Procedures**

**i. Invoices and Payment**

- a. The State shall pay Grantee in the amounts and in accordance with the schedule and other conditions set forth in Exhibit A.
- b. Grantee 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 Grantee 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 Grantee 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.

**ii. Interest**

Amounts not paid by the State within 45 days of the State’s acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th 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. Grantee shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day’s interest to be paid and the interest rate.

**iii. Payment Disputes**

If Grantee disputes any calculation, determination or amount of any payment, Grantee shall notify the State in writing of its dispute within 30 days following the earlier to occur of Grantee’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 Grantee 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

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Grantee beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant 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 Grant Funds, the State’s obligation to pay Grantee 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 Grant Funds, and the State’s liability for such payments shall be limited to the amount remaining of such Grant 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.E**.

v. Erroneous Payments

The State may recover, at the State’s discretion, payments made to Grantee in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Grantee. 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 Grantee, or by any other appropriate method for collecting debts owed to the State.

vi. Advance, Interim and Final Payments

Any advance payment allowed under this Grant or in **Exhibit A** shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or such Exhibit. Grantee shall initiate any payment requests by submitting invoices or reimbursement requests (referred to as “invoices” herein) to the State in the form and manner set forth and approved by the State.

C. Reimbursement of Grantee Costs.

The State shall reimburse Grantee’s allowable costs, not exceeding the maximum total amount described in Exhibit A and **§7** for all allowable costs described in this Grant and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Agreement or the maximum amount for any State fiscal year, and the change does not modify any requirements of the Work. Grantee’s costs for Work performed after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. The State shall only reimburse allowable costs described in this Contract and shown in the Budget if those costs are:

- i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided; and

- ii. Equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

D. Close-Out.

Grantee shall close out this Award within 15 days after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement. To complete close-out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Agreement and Grantee’s final reimbursement request or invoice.

**8. REPORTING - NOTIFICATION**

A. Quarterly Reports.

In addition to any reports required pursuant to §19 or pursuant to any other Exhibit, for any Agreement having a term longer than 3 months, Grantee 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 15 Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Grantee 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 Grantee’s ability to perform its obligations under this Agreement, Grantee 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

Grantee shall submit all financial, performance and other reports to the State no later than 15 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Grantee’s performance and the final status of Grantee’s obligations hereunder.

D. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of State criminal law involving fraud, bribery, or gratuity violations potentially affecting the State Award. The State Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

**9. GRANTEE RECORDS**

A. Maintenance

Grantee 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. Grantee shall maintain such records for a period (the “Record Retention Period”) of six years following the date of submission to the State of the final expenditure

report, 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. A cognizant agency for audit, oversight or indirect costs, and the State, may notify Grantee in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

**B. Inspection**

Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe Grantee Records during the Record Retention Period. Grantee shall make Grantee Records available during normal business hours at Grantee's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 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 Grantee's performance of its obligations under this Agreement using procedures as determined by the State. The federal government and any other duly authorized agent of a governmental agency, in its discretion, may monitor Contractor's performance of its obligations under this Contract using procedures as determined by that governmental entity. Grantee shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Grantee and this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

**D. Final Audit Report**

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

**10. CONFIDENTIAL INFORMATION-STATE RECORDS**

**A. Confidentiality**

Grantee 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 Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure. Grantee shall not, without prior written approval of the State, use for Grantee'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. Grantee 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 including, without limitation: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information, **(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

Addendum attached to this Contract. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee 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. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements 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. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

C. Use, Security, and Retention

Grantee 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. Grantee shall provide the State with access, subject to Grantee'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, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee 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 Grantee can establish that none of Grantee or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Grantee shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Grantee 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. The State may adjust or direct modifications to this plan, in its sole discretion and Grantee shall make all modifications as directed by the State. If Grantee cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Grantee shall reimburse the State for the reasonable costs thereof.

E. Compliance

Grantee shall review, on a semi-annual basis, all OIS policies and procedures which OIS has promulgated pursuant to CRS §§ 24-37.5-401 through 406 and 8 CCR § 1501-5 and posted at <http://oit.state.co.us/ois>, to ensure compliance with the standards and guidelines published therein. Grantee shall cooperate, and shall cause its Subcontractors to cooperate, with the performance of security audit and penetration tests by OIS or its designee.

F. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Contract, Grantee shall provide for the security of such PII, in a form acceptable to the State, including, without limitation, non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall take full responsibility for the security of all PII in its possession or in the possession of its Subcontractors, and shall hold the State harmless for any damages or liabilities resulting from the unauthorized disclosure or loss thereof.

**11. CONFLICTS OF INTEREST**

A. Actual Conflicts of Interest

Grantee 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 Grantee under this Agreement. Such a conflict of interest would arise when a Grantee 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.

B. Apparent Conflicts of Interest

Grantee 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, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee 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**

Grantee 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 A.M. Best rating of A-VIII or better.

A. Workers' Compensation

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

B. 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:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. 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.

D. 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:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.

E. Professional Liability Insurance

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

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

F. Crime Insurance

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

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

G. 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 Grantee and Subcontractors.

H. Primacy of Coverage

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

I. 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 Grantee and Grantee shall forward such notice to the State in accordance with §16 within 7 days of Grantee's receipt of such notice.

J. Subrogation Waiver

All commercial insurance policies secured or maintained by Grantee 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 Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

K. Public Entities

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Grantee shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Grantee shall ensure that the Subcontractor maintain at all times during the terms of this Grantee, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

L. Certificates

For each commercial insurance plan provided by Grantee under this Agreement, Grantee shall provide to the State certificates evidencing Grantee's insurance coverage required in this Agreement within 7 Business Days following the Effective Date. Grantee shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within 7 Business Days following the Effective Date, except that, if Grantee's subcontract is not in effect as of the Effective Date, Grantee shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within 7 Business Days following Grantee's execution of the subcontract. No later than 15 days before the expiration date of Grantee's or any Subcontractor's coverage, Grantee 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, Grantee shall, within 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 Grantee, or the appointment of a receiver or similar officer for Grantee 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 Grantee 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 Grantee's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Grantee 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, Grantee 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, Grantee shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Contract's terms. At the request of the State, Grantee shall assign to the State all of Grantee's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee but in which the State has an interest. At the State's request, Grantee shall return materials owned by the State in Grantee's possession at the time of any termination. Grantee 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 Grantee for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Grantee was not in breach or that Grantee'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.E.**

##### c. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee shall remain liable to the State for any damages sustained by the State in connection with any breach by Grantee, and the State may withhold payment to Grantee for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due Grantee 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 Grantee’s performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Grantee to an adjustment in price or cost or an adjustment in the performance schedule. Grantee 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 Grantee after the suspension of performance.

b. Withhold Payment

Withhold payment to Grantee until Grantee corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Grantee’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 Grantee’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, Grantee shall, as approved by the State (a) secure that right to use such Work for the State or Grantee; (b) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (c) remove any infringing Work and refund the amount paid for such Work to the State.

B. Grantee’s Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Grantee, 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 Grantee for resolution.

**B. Resolution of Controversies**

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Grantee shall submit any alleged breach of this Agreement by the State to the purchasing director of Department of Public Safety (RAA) for resolution following the same resolution of controversies process as described in §§24-109-101.5, 24-109-106, 24-109-107, and 24-109-201 through 24-109-206 C.R.S., (the “Resolution Statutes”), except that if Grantee wishes to challenge any decision rendered by the purchasing director, Grantee’s challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Grantee pursues any further action. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

**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:**

Esther Son, Grants and Contracts Manager  
 Department of Public Safety, Division of  
 Homeland Security and Emergency  
 Management  
 9195 E. Mineral Avenue, Suite 200  
 Centennial, CO 80112  
 Esther.Son@state.co.us

**For Grantee:**

Karen Dickson  
 SWIMT Co-Coordinator  
 SWIMT / c/o Montezuma  
 County Public Health  
 106 West North Street  
 Cortez, CO 81321  
 kdickson@co.montezuma.co.us

**17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION**

**A. Work Product**

**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, Grantee 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 Grantee cannot make any of the assignments required by this section, Grantee 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. Assignments and Assistance

Whether or not Grantee is under contract with the State at the time, Grantee 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. Grantee 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"). Grantee shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Grantee's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Grantee 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 Grantee

Grantee retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Grantee 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 Grantee under the Contract, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Grantee Property"). Grantee Property shall be licensed to the State as set forth in this Contract 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 State, its 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.

**19. STATEWIDE CONTRACT MANAGEMENT SYSTEM**

If the maximum amount payable to Grantee under this Agreement is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this **§19** shall apply. Grantee agrees to be governed by and comply with the provisions of §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 C.R.S. regarding the monitoring of vendor performance and the reporting of Agreement performance information in the State’s Agreement management system (“Contract Management System” or “CMS”). Grantee’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**

Grantee’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 Grantee’s rights and obligations approved by the State shall be subject to the provisions of this Agreement.

**B. Subcontracts**

Grantee shall submit to the State a copy of each such subgrant or subcontract upon request by the State. All subgrants and subcontracts entered into by Grantee 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. 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.

H. 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.

I. 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 Agreement amendments, shall conform to the policies promulgated by the Colorado State Controller.

J. 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.

K. 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. Colorado Special Provisions in §21 of the main body of this Agreement.
- ii. The provisions of the other sections of the main body of this Agreement.
- iii. Exhibit A, Statement of Work.
- iv. Exhibit C, Budget.
- v. Exhibit B, Sample Option Letter (Form 1).

L. 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.

M. 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.

N. 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 Grantee. Grantee shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Grantee may wish to have in place in connection with this Agreement.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§20.B.**, 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 §24-103.5-101 C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

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

S. Licenses, Permits, and Other Authorizations.

Grantee 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 Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

T. Indemnification

i. General Indemnification

Grantee shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or

omission by Grantee, or its employees, agents, Subcontractors, or assignees in connection with this Agreement.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Grantee in violation of §10 may be cause for legal action by third parties against Grantee, the State, or their respective agents. Grantee shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation to any act or omission by Grantee, or its employees, agents, assigns, or Subcontractors in violation of §10.

iii. Intellectual Property Indemnification

Grantee shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

**21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-1)**

These Special Provisions apply to all contracts except where noted in italics.

**A. CONTROLLER'S APPROVAL. §24-30-202(1), C.R.S.**

This Agreement shall not be valid until it has been approved by the Colorado State Controller 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.**

No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, §24-10-101 *et seq.* C.R.S., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).

**D. INDEPENDENT CONTRACTOR**

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee 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 Grantee or any of its agents or employees. Unemployment insurance benefits will be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Grantee 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.**

Grantee shall strictly 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.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Agreement, to the extent capable of execution.

**G. BINDING ARBITRATION PROHIBITED.**

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Agreement or incorporated herein by reference shall be null and void.

**H. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.**

State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of Federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Agreement and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement 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 Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

**J. VENDOR OFFSET. §§24-30-202(1) and 24-30-202.4, C.R.S.**

*[Not applicable to intergovernmental agreements]* Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment

Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action.

**K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, et seq. C.R.S.**

*[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]* Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program established under Pub. L. 104-208 or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a Subcontractor that fails to certify to Grantee that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Grantee (i) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed, (ii) shall notify the Subcontractor and the contracting State agency within 3 days if Grantee has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Agreement, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or §§8-17.5-101 *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Grantee shall be liable for damages.

**L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, et seq., C.R.S.**

Grantee, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that he or she (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of §§24-76.5-101 *et seq.*, C.R.S., and (iii) has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Agreement.

**EXHIBIT A, STATEMENT OF WORK**

**1. GENERAL DESCRIPTION OF THE PROJECT(S).**

**1.1 Project Description.** The purpose of this program is to fund and sustain State-affiliated Incident Managements Teams (IMT) Type III in Colorado. An IMT is a team of emergency management professionals with skills necessary to support Federal, State, tribal, and local government during emergency events.

**1.2 Project Expenses.** Project expenses include the costs to hire the contractor to complete the project as described in §1.1. All eligible expenses are listed in the budget table in exhibit C.

**2. DELIVERABLES:**

**2.1** Grantee shall submit progress reports describing project progress, accomplishments, and any delays in meeting the objectives or expenditures to date as described in §3 of this Exhibit A.

**2.2** List additional grant deliverables: None.

**3. REPORTING REQUIREMENTS:**

**3.1 Quarterly Financial Status and Progress Reports.** The project(s) approved in this Grant are to be completed on or before the termination date stated in §2.A of the Grant Agreement. Grantee shall submit quarterly financial status and programmatic progress reports for each project identified in this agreement using the forms provided by the Department of Public Safety throughout the life of the grant. One copy of each required report with original or electronic approvals shall be submitted in accordance with the schedule below: (The order of the reporting period quarters below are irrelevant to the grant. If the grant is open during the “report period” reports for that period are due on the dates listed. If the grant is for more than one year, reports are due for every quarter that the grant remains open.)

| <b>Report Period</b> | <b>Due Date</b> |
|----------------------|-----------------|
| October – December   | January 15      |
| January –March       | April 15        |
| April – June         | July 15         |
| July – September     | October 15      |

**3.2 Final Reports:** Grantee shall submit final financial status and progress reports that provide final financial reconciliation and final cumulative grant/project accomplishments within 15 days of the end of the project/grant period. The final report may not include unliquidated obligations and must indicate the exact balance of unobligated funds. The final reports may substitute for the quarterly reports for the final quarter of the grant period. If all projects are completed before the end of the grant period, the final report may be submitted at any time before its final due date. Further reports are not due after the Division of Homeland Security and Emergency Management has received, and sent notice of acceptance of the final grant report.

**4. TESTING AND ACCEPTANCE CRITERIA:**

The Division of Homeland Security and Emergency Management shall evaluate this Project(s) through the review of Grantee submitted financial and progress reports. The Division of Homeland Security and Emergency Management may also conduct on-site monitoring to determine whether the Grantee is meeting/has met the performance goals, administrative

standards, financial management and other requirements of this grant. The Division of Homeland Security and Emergency Management will notify Grantee in advance of such on-site monitoring.

**5. PAYMENT:**

**5.1 Payment Schedule:** Grantee shall submit requests for reimbursement using the Division of Homeland Security and Emergency Management’s provided form at least quarterly. One original or electronically signed/submitted copy of the reimbursement request is due on the same dates as the required financial reports. All requests shall be for eligible actual expenses incurred by Grantee, as described in detail in the budget table(s) of this Exhibit. Requests shall be accompanied by supporting documentation totaling at least the amount requested for reimbursement and any required non-federal match contribution. If any financial or progress reports are delinquent at the time of a payment request, the Division of Homeland Security and Emergency Management may withhold such reimbursement until the required reports have been submitted.

**5.2 Remittance Address.** If mailed, payments shall be sent to the representative identified in §16

Grantee:

**Miriam Gillow-Willes, Executive Director**  

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**Southwest Colorado Council of Governments**  

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**PO Box 963**  

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**Durango, CO 81302**  

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**6. ADMINISTRATIVE REQUIREMENTS:**

**Required Documentation:** Grantees shall retain all procurement and payment documentation on site for inspection. This shall include, but not be limited to, purchase orders, receiving documents, invoices, vouchers, equipment/services identification, and time and effort reports.

**6.1** Sufficient detail shall be provided with reimbursement requests to demonstrate that expenses are allowable and appropriate as detailed below:

**6.1.1 Equipment or tangible goods.** When requesting reimbursement for equipment items with a purchase price of or exceeding \$5,000, and a useful life of more than one year, the Grantee shall provide a unique identifying number for the equipment, with a copy of the Grantee’s invoice and proof of payment. The unique identifying number can be the manufacturer’s serial number or, if the Grantee has its own existing inventory numbering system, that number may be used. The location of the equipment shall also be provided. In addition to ongoing tracking requirements, Grantee shall ensure that equipment items with per unit cost of \$5,000 or more are prominently marked similar to the following: Purchased with funds provided by State of Colorado, Incident Management Team.

**6.1.2 Services.** Grantees shall include contract/purchase order number(s) or employee names, the date(s) the services were provided and the nature of the services.

**6.2 Procurement:** A Grantee shall ensure its procurement policies meet or exceed local, State, and Federal requirements. Grantees should refer to local and State guidance prior to making decisions regarding competitive bids, sole source or other procurement issues. In addition:

**6.2.1** Any sole source must follow local Recipients’ purchasing policy.

**6.2.2** Grantees shall ensure that: (a) All procurement transactions, whether negotiated or competitively bid, and without regard to dollar value, are conducted in a manner

that provides maximum open and free competition; (b) Grantee shall be alert to organizational conflicts of interest and/or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade; (c) Contractors who develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (RFPs) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement; and (d) Any request for exemption of item a-c within this subsection shall be submitted in writing to, and be approved by the authorized Grantee official.

- 6.2.3 Grantee shall verify that the Contractor is not debarred from participation in State programs. Sub-grantees should review contractor Certificate of Good Standing on <https://www.sos.state.co.us>.
- 6.2.4 When issuing requests for proposals, bid solicitations, and other published documents describing projects or programs funded in whole or in part with these grant funds, Grantee and Subgrantees shall use the phrase -“This project was supported by grant #18IMT19SWIM, issued by the Division of Homeland Security and Emergency Management.”
- 6.2.5 Grantee shall verify that all purchases are listed in §1 of this Exhibit or Exhibit C. Equipment purchases, if any, shall be for items listed in the Approved Equipment List (A.E.L) for the grant period on the Responder Knowledge Base (RKB), at <http://www.rkb.mipt.org>. Additionally, funds used to support emergency communications activities should comply with the FY 2016 SAFECOM Guidance for Emergency Communication Grants, at <http://www.safecomprogram.gov>
- 6.2.6 Grantee shall ensure that no rights or duties exercised under this grant, or equipment purchased with Grant Funds having a purchase value of \$5,000 or more, are assigned without the prior written consent of the Division of Homeland Security and Emergency Management.
- 6.2.7 Grantee shall ensure that all funds are needed to supplement and not to supplant the Grantee’s own funds.

**6.3 Additional Administrative Requirements:**

- 6.3.1 The Grantee must request approval in advance for any change to this Grant Agreement, using the forms and procedures established by the Division of Homeland Security and Emergency Management.
- 6.3.2 All applicant agencies that own resources currently covered by the Colorado Resource Typing Standards must agree to participate in the State's Emergency Resource Inventory Report and update their information on a quarterly basis.
- 6.3.3 All funding related to exercises must be managed and executed in accordance with the Homeland Security Exercise and Evaluation Program (HSEEP) and must be National Incident Management System (NIMS) compliant. Regardless of exercise type or scope, After Action Reports/Improvement Plans are due to the State Training and Exercise Program Manager within 45 days of the exercise.

**EXHIBIT B, SAMPLE OPTION LETTER (FORM 1)**

|  |  |   |
|--|--|---|
| <b>State Agency</b><br>Department of Public Safety   |  | <b>Option Letter Number</b><br>Insert the FORM 1 Number (e.g. "1" for the first option)           |
| <b>Grantee</b><br>Insert Grantee's Full Name   |  | <b>Option Agreement Number</b><br>Insert CMS number   |
| <b>Original Agreement</b><br>Original CMS Number<br>Encumbrance Number 18IMT19XXX<br>Subrecipient DUNS Number Insert DUNS Number<br>State Award Date July 1, 2018<br>Total Amount of the State Award \$0.00<br>Name of Awarding Agency State of Colorado<br>Identification if the Award is for R&D: No |  | <b>Option Agreement Maximum Amount</b><br>\$Insert Amount   |
|  |  | <b>Agreement Performance Beginning Date</b><br>The later of the Effective Date or Month Day, Year |
|  |  | <b>Current Agreement Expiration Date</b><br>Month Day, Year                                       |

**1. OPTIONS:**

- A. Option to extend for an Extension Term
- B. Option to modify Budget table under the Agreement

**2. REQUIRED PROVISIONS:**

- A. **For use with Option 1(A):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning Insert current date and ending on the current Agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
- B. **For use with all Options that modify the Agreement Maximum Amount:** The Agreement Maximum Amount table on the Agreement's Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above. The maximum amount payable by the State for performance of this Grant Agreement is increased/decreased to \$ .

| <i>Project Activity/Line Item</i> | <i>State Funds</i> |
|-----------------------------------|--------------------|
| <b>Planning</b>                   | \$0.00             |
| <b>Organization</b>               | \$0.00             |
| <b>Equipment</b>                  | \$0.00             |
| <b>Training</b>                   | \$0.00             |
| <b>Exercise</b>                   | \$0.00             |
| <b>Supplies</b>                   | \$0.00             |
| <b>Travel</b>                     | \$0.00             |
| <b>TOTAL BUDGET</b>               | <b>\$0.00</b>      |

3. **OPTION EFFECTIVE DATE:**

A. The effective date of this Option Letter is upon approval of the State Controller.

|  |   |
|--|---|
| <p><b>STATE OF COLORADO</b><br/>John W. Hickenlooper, Governor<br/>Department of Public Safety,<br/>Division of Homeland Security and Emergency Management</p> <p>_____</p> <p>By: Kevin R. Klein, Director</p> <p>Date: _____</p> | <p>In accordance with §24-30-202 C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p><b>STATE CONTROLLER</b><br/><b>Robert Jaros, CPA, MBA, JD</b></p> <p>By: _____</p> <p>Colorado Department of Public Safety, Ezra Michaels,<br/>Office of Preparedness Director</p> <p>Option Effective Date: _____</p> |
|--|---|

## EXHIBIT C, BUDGET

**BUDGET:**

| <i>Project Activity/Line Item</i> | <i>State Funds</i> |
|-----------------------------------|--------------------|
| <b>Planning</b>                   | \$450.00           |
| <b>Organization</b>               | \$7,489.09         |
| <b>Equipment</b>                  | \$700.00           |
| <b>Training</b>                   | \$300.00           |
| <b>Exercise</b>                   | \$16,340.91        |
| <b>Supplies</b>                   | \$700.00           |
| <b>Travel</b>                     | \$300.00           |
| <b>TOTAL BUDGET</b>               | <b>\$26,280.00</b> |

# 2019 DOLA Technical Assistance Grant

To: SWCCOG Board of Directors  
From: Miriam Gillow-Wiles  
Date: 6 September 2018

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Comments: The DOLA Technical Assistance Grant is due October 1. This year, like most, we are proposing several projects that continue the Critical Success Factors (CSF) from 2018 and support the region and member jurisdictions by reducing cost for CDL programs and (depending on budgets and wills of the member jurisdictions) recreating a HHS/eWaste/Tire recycling events across the region. Additionally, continued work on recycling – especially the hard to recycle items was identified at the 2018 Board Retreat.

Below are the various projects/programs identified for the SWCCOG DOLA 2019 Technical Assistance Grants. You will see two different budgets, one with HHW/eWaste/Tire recycling events and one without. Depending on the Board's wishes, and desires, SWCCOG will apply for the projects/programs decided at the September Board Meeting

#### Consultant Services:

There are two aspects to this item: AmeriCorps VISTA and Transportation consultant. The AmeriCorps VISTA position will continue to work on the recycling initiative(s), support for the Transit Council, grant writing, and new this year, creating outward facing information such as press releases and better communication about our projects and programs. Transportation consulting will help finish up the SWCCOG 4 Corners Transit Plan, as well as the Cortez-Durango transit study.

#### Commercial Driver's License:

SWCCOG discussed this several years ago, but with some change in personnel at the Community College we were unable to move forward. This proposal is similar to what was attempted previously with Pueblo Community College (PCC), SWCCOG provides funding to fix existing equipment and to reduce prices for the SWCCOG Member Jurisdictions. Different this time, is the engagement of PCC and their eagerness from high level management as well as the desire for both Region 9 and the La Plata County Economic Development Alliance (Alliance). Regarding match, PCC has offered the ability to provide in-kind match and discussions are ongoing with the Alliance and Region 9. This will help create economic development, reduce travel for COG member's staff, and keep money in state.

#### Household Hazardous Waste/eWaste/Tire Recycling Event:

As part of the 2014 SWCCOG Waste Audit, the ability to recycle Household Hazardous Waste, e-waste, tires, and glass has been a topic of discussion. Previously the counties, in conjunction with some of the municipalities have been (depending on location), but as budgets have become tighter in the last few years, it has become more challenging to provide these large events. The SWCCOG proposes to request funding from DOLA and match that with any number of various sources of funding to provide funding for the various events.

# 2019 DOLA Technical Assistance Grant

## Personnel Costs:

These projects and programs will take additional staff resources. We have requested additional funding to help support the organization through funding for staff (not additional, only existing staff, as per DOLA) for staff for working on transportation and CDL projects. We will be using the SWCCOG Director's Time managing and supporting the AmeriCorps VISTA position as Previously we have used existing staff time as in-kind and had to use the SWCCOG's revenues to do so, we are requesting the funding to from DOLA to help offset this expense.

## Grant Budget – Option 1: With Recycling

| SWCCOG DOLA TA 2018 Grant - WITH RECYCLING |                  |            |           |                   |
|--|------------------|------------|-----------|-------------------|
| No Grant Match From Communities            |                  |            |           |                   |
| Project                                    | DOLA             | Cash Match | In Kind   | Total Per Project |
| Consultant Services                        |                  |            |           |                   |
| VISTA Support                              | \$ 16,600        |            | \$ 10,000 | \$ 26,600         |
| Transportation                             | \$ 6,000         | \$ 29,600  | \$ -      | \$ 35,600         |
| Shared Services                            |                  |            |           |                   |
| CDL  | \$ 25,000        | \$ 5,000   | \$ 5,000  | \$ 35,000         |
| Ewaste/HHW                                 | \$ 45,000        | \$ 25,000  |           | \$ 70,000         |
| Personnel Costs                            | \$ 4,000         |            | \$ 2,000  | \$ 6,000          |
| <b>Total DOLA Request</b>                  | <b>\$ 96,600</b> |            |           |                   |
| <b>Total Cash/In-Kind</b>                  | <b>\$ 76,600</b> |            |           |                   |

**Miriam:**  
TPR Grant and Contributions

**Miriam:**  
La Plata County Economic Development Alliance and Region 9

**Miriam:**  
From Pueblo Community College

**Miriam:**  
Options: RREO, Member Grant Match, Member Budgets, Private Companies

**Miriam:**  
TPR Contributions and Grant Funding

**Miriam:**  
La Plata County Economic Development Alliance and Region 9

**Miriam:**  
From Pueblo Community College

## Grant Budget Option 2 – Without Recycling

| SWCCOG DOLA TA 2018 Grant - NO RECYCLING |                  |            |           |                   |
|--|------------------|------------|-----------|-------------------|
| No Grant Match From Communities          |                  |            |           |                   |
| Project                                  | DOLA             | Cash Match | In Kind   | Total Per Project |
| Consultant Services                      |                  |            |           |                   |
| VISTA Support                            | \$ 16,600        |            | \$ 10,000 | \$ 26,600         |
| Transportation                           | \$ 6,000         | \$ 29,600  | \$ -      | \$ 35,600         |
| Shared Services                          |                  |            |           |                   |
| CDL                                      | \$ 25,000        | \$ 5,000   | \$ 5,000  | \$ 35,000         |
| Personnel Costs                          | \$ 4,000         |            | \$ 2,000  | \$ 6,000          |
| <b>Total DOLA Request</b>                | <b>\$ 51,600</b> |            |           |                   |
| <b>Total Cash/In-Kind</b>                | <b>\$ 51,600</b> |            |           |                   |

**Miriam:**  
TPR Contributions and Grant Funding

**Miriam:**  
La Plata County Economic Development Alliance and Region 9

**Miriam:**  
From Pueblo Community College

**Miriam:**  
TPR Contributions and Grant Funding

**Miriam:**  
La Plata County Economic Development Alliance and Region 9

**Miriam:**  
From Pueblo Community College

Please note these budgets are just guidelines, and my change based on grant match/in-kind services available.

# 2019 DOLA Technical Assistance Grant

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**Additional Information:**

- No additional funding from SWCCOG Members
- Reduction of overhead for Member Jurisdictions
- Economic Development
- Strengthens the region
- Establishes and maintains additional partnerships across region
- Provide much needed services to citizens

**Legal Review:** Not applicable at this time

**Fiscal Impact:** High

**Staff Recommendation:** Allow staff to apply for the DOLA Technical Assistance grant (with or without the HHW/eWaste/Tire recycling initiative) due October 1, 2018.

## Other Items

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