



SOUTHWEST COLORADO COUNCIL OF GOVERNMENTS

Regular Meeting Agenda

Thursday, 25 October, 1:30 pm

Carnegie Building

1188 East 2nd Avenue, Durango, CO

- I. Introductions
- II. Consent Agenda
 - a. September 2018 SWCCOG Meeting Minutes
 - b. September 2018 SWCCOG Special Meeting Minutes
 - c. August 2018 Financials
 - d. September 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. 2019 Membership
 - b. 2018 Budget Update
- V. Decision Items
 - a. Executive Committee Meeting Minutes from August 16, 2018
 - b. Executive Committee Meeting Minutes from October 11, 2018
 - c. CEBT Participating Employer Certification and HIPAA Confidentiality Agreement
 - d. Region 9-SWCCOG Collaboration
 - e. Executive Committee, Selection Committee
 - f. CDPHE Housing Solutions – SWCCOG Grant
 - g. Letter of Support: Forethought Broadband Grant
- VI. Other Items
 - a. CDOT Fiber Plan – Bob Fifer
- VII. Community Updates (if time permits)

Consent Agenda

**Southwest Colorado Council of Governments
September Board Meeting
Thursday, 6 September, 1:30pm
1188 E. 2nd Ave., Carnegie Bldg., Durango, CO 81301**

In Attendance:

Chris La May – Town of Bayfield
Mark Garcia – Town of Ignacio
Steve Garchar – Dolores County
Floyd Cook - Dolores County
John Dougherty – City of Cortez
Greg Schulte – Town of Pagosa Springs
Joanne Spina – La Plata County
Karen Sheek – City of Cortez
Melissa Youssef – City of Durango
Ron LeBlanc – City of Durango
Fred Brooks – Town of Mancos
Michael Whiting – Archuleta County
Andrea Phillips – Town of Pagosa Springs
Gwen Lachelt – La Plata County
Kari Distefano – Town of Rico (via phone)
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
Jessica Laitsch – Southwest Colorado Council of Governments
Martina Pansze– Southwest Colorado Council of Governments

Guests in Attendance:

Andrew Atchley – DoLA Division of Housing Representative

I. Introductions

The meeting was called to order at 1:33 pm, everyone introduced themselves.

II. Consent Agenda

- a. August 2018 SWCCOG Meeting Minutes
- b. July 2018 Financials

Michael Whiting motioned to approve the consent agenda, Steve Garchar seconded, unanimously approved.

III. Reports

Director's Report:

Miriam reported that staff will review progress on the 2018 Goals, the Board Retreat, and work through the 2019 Goals. In addition, CCI and CML are tracking the various solutions the interim conference committee has identified as fixes to the Gallagher Amendment. Documents were shared in the board packet.

Broadband Report:

Miriam reported that funding requests for the Rural Healthcare Funding were submitted on June 28 for self-provisioned fiber. Questions were received from the FCC and staff is working on answers. The Board approved an aggregation of services contract in June, and to date none of the eligible member jurisdictions have presented the SWCCOG – Member Jurisdiction contract to their respective Boards. SWCCOG pricing will be as low as \$1.11/Mbps.

Miriam announced a request from the Office of Information Technology and the Colorado Bar Association for Miriam to present next week on broadband related issues. Miriam's presentation will provide continuing education credits.

Legislative Report:

Miriam said there are a number of issues that will appear on the 2018 statewide ballot. A few to note include Propositions 108, 109 and 110. Additional information was provided in the board packets regarding these propositions and others.

Transportation Report:

There were no questions for Jessica. Miriam added to the report that she spoke with DRCOG regarding jurisdictions participating in TPR but not being a member of the COG. DRCOG said when this happens those non-members do not get their projects prioritized. Essentially, the non-member can participate in TPR, but does not receive as much benefit. Additionally, TPR funding is federal funding and the COG has no rule-making authority to say a non-member cannot participate in the TPR.

VISTA Report:

Martina reported that she started as the COG's newest VISTA two weeks ago and has been orienting and familiarizing herself.

IV. Discussion Items

Review of 2018 Goals, 2018 Retreat, and 2019 Goal Setting, TPR

Chris said with members in the midst of budget season and questioning appropriations, he asked Miriam to help with members finding value in COG membership. Being that the COG is about to embark on a large project if FCC funding is awarded, COG members need to be prepared to give full effort. Miriam guided a discussion about the accomplishments, challenges, and work the SWCCOG has done over the last year. She also provided a PowerPoint presentation with various maps of broadband attainment, charts, graphs, and other vital information about membership return on investment (ROI). Miriam explained ROI is more than money in and money out as there is much social benefit. Joanne asked how ROI calculations were made. Miriam said the formula is the same as how dues are calculated, 20% base and the remaining 80% divided by population.

Miriam said that dues account for 21% of the 2018 budget and go towards operations as grants will not pay much for administration. Joanne suggested going through those operating costs to see where the COG can be more efficient and effective with a small budget. Miriam said a significant challenge is short term versus long term. Much of what the COG does has long term, but not necessarily short term, benefit. Michael agreed that there must be strategic prioritization with forward thinking versus right now. Greg said opportunity cost must be considered. He said with the money saved in the initial DoLA grant, he is unsure the dues paid have caught up to those savings many years later, which is a tremendous ROI. Ron said after nine years of the COG operating, membership engagement is disappointing and the budget is still challenging.

He will recommend that the Durango City Council not fund the COG in 2019. Durango will continue membership in the TPR. Karen asked what Ron would like to see the COG do that it has not done. Ron said he has been patient to see results, but has not seen results and does not foresee seeing results. The COG applied for broadband funding but this does not mean funding will be awarded; housing, no results; environmental, no results. Durango has a successful recycling program that the COG was not involved in. Michael said if Durango is out for 2019 then COG members need to decide how to absorb that cost and to understand the budget impact. Also, Michael suggested that COG members reach out to Durango versus just Ron. Gwen said she will recommend funding the COG but would not be able to absorb any additional costs. Fred said Mancos may need to use COG dues in 2019 to improve the water situation resulting from the drought. Chris said Durango is a big funder, with them stepping out the COG will need to trim down even if that means down to 1 FTE or maybe start looking at the COG going away. The board needs to discuss the future of the COG and how it may relate to broadband; the question may be whether or not government belongs in the broadband business. Miriam said the RHA, SWIMT, TPR, All Hazards, and Transit Council would need to be housed under other entities and questioned whether the board would accept or deny FCC funding if awarded. JoAnne said she is not prepared to make a recommendation that La Plata County not participate; however, the lack of quorum at the annual board retreat said a lot about how members prioritize the COG over other items. Ron said if the FCC funding is awarded and broadband is placed in Montezuma County, then a non-paying member will receive benefit. Miriam said there is nothing she can do about indirect benefit. Miriam said the COG is one of the smallest organizations and has been tasked to do some of the most difficult and largest projects of the region, an immediate benefit will not be seen. The COG broadband efforts this far have changed the broadband conversation throughout the state, which is a big deal. The COG has done this with minimal staff and a small budget.

Karen said the board retreat two years ago was well attended and the focus was on broadband. Staff has done as the board requested and the board is still having the same conversation. This wears on staff and is stressful. The board needs to be concrete and cohesive. Chris said staff need revenue numbers to move forward with the 2019 budget and requested that all members have an in or out answer for staff by the next regularly scheduled board meeting, if not sooner.

2019 Preliminary Budget

Miriam said the budget needs to be presented before October; with the next meeting being end of October, the preliminary budget needed to be presented at this meeting. Obviously with the previous discussion, this budget will change. Staff will comb through to find cost savings and how Durango's dues can be absorbed without the other members' dues changing. Andrea asked about staffing in 2019. Miriam said the plan was to move from 2.5 FTE to 4 FTE if FCC funding is awarded. Andrea asked if the budget includes staff salary and benefit increases. Sara said that the board voted for a flat rate raise versus a percentage for the ED position if FCC funding is awarded. Miriam said the FCC funding decision will not be known until January or February.

Mark asked what the 2018 budget is looking like. Sara said it has changed significantly and will be in a deficit. Andrea asked about office expenses. Miriam said Durango has asked COG staff to be moved out of the Carnegie Building by November 2018. With little funding for rent, staff will work remotely until a space can be obtained that will fit the budget. Sara said she will present a 2018 budget update at the October meeting.

V. Decision Items

Executive Committee Meeting Minutes from July 19, 2018:

Karen Sheek motioned to approve the Executive Committee meeting minutes from July 19, 2018, Gwen Lachelt seconded, unanimously approved.

DoLA EIAF 8573 Grant Extension Request:

Miriam said this grant has had a few delays, one being that Place Dynamics was not fulfilling contract requirements and was replaced, and two that the RPF process has not been as quick as anticipated for the member jurisdictions participating. Accordingly, an extension is needed.

Mark Garcia motioned to approve the DoLA EIAF 8573 grant extension request, Michael Whiting seconded, unanimously approved.

SWIMT 2018-2019 Contract:

Miriam said 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 to manage. The State provides a small pot of competitive funding for the various incident management teams across the state and the state requires that, as the fiscal agent, the SWCCOG Chair signs the contract.

Gwen Lachelt motioned to approve the 2018-2019 SWIMT contract, Karen Sheek seconded, unanimously approved.

DoLA 2019 TA Grant Request:

Miriam explained the different budget line items for the 2019 DoLA grant, including consulting services for transportation, VISTA support, a CDL program, and recycling efforts. Miriam presented two potential budgets, one with recycling and one without.

Mark Garcia motioned for staff to apply for the DoLA 2019 TA grant without recycling, Gwen Lachelt seconded, unanimously approved.

VI. Other Items

Mark introduced Andrew Atchley from DoLA, the Division of Housing representative. Andrew gave some background on his role and offered any assistance to the COG.

VII. Community Updates

Time did not permit.

Gwen Lachelt motioned to adjourn, Karen Sheek seconded, unanimously approved.

Adjourned at 4:04 p.m.

**Southwest Colorado Council of Governments
September Special Board Meeting
Thursday, 27 September, 1:30pm
1101 E. 2nd Ave., La Plata County Administration Bldg., Durango, CO 81301**

In Attendance:

Chris La May – Town of Bayfield
Fred Brooks – Town of Mancos
Joanne Spina – La Plata County
Mark Garcia – Town of Ignacio (by phone)
Karen Sheek – City of Cortez (by phone)
Andrea Phillips – Town of Pagosa Springs (by phone)
Steve Garchar – Dolores County (by phone)
Lana Hancock – Town of Dolores (by phone)
Heather Alvarez – Town of Mancos (via phone)
Greg Schulte – Archuleta County (by phone)
Gwen Lachelt – La Plata County (by phone)

Staff in Attendance:

Miriam Gillow-Wiles – Southwest Colorado Council of Governments
Sara Trujillo – Southwest Colorado Council of Governments
Martina Pansze – Southwest Colorado Council of Governments

Guests in Attendance:

Ann McCoy-Herald – Senator Gardner’s Office

I. Introductions

The meeting was called to order at 11:04 am, everyone introduced themselves.

II. Decision Items

Contract with Lightworks Fiber:

Chris summarized that the purpose of the meeting is to approve contracts compliant with the grant requirements of the FCC. Miriam summarized that Lightworks had bid on the RFP for fiber for Dove Creek to Durango, Cortez to Durango, and Silverton to Durango. Both contracts were written by Ken Fellman and reviewed by NeoConnect and the COG’s attorney. Both contracts are contingent on funding, without funding they are void and the SWCCOG would not be obligated to provide funding.

Joanne Spina motioned to approve the contract between the SWCCOG and Lightworks Fiber LLC with signature authority for the chair, Fred Brooks seconded.

Fred asked for clarification that the SWCCOG would be able to get out of the contract if needed. Miriam replied there are a variety of reasons that would allow the SWCCOG to end the contract. Chris mentioned that there was a question about whether all members are eligible to vote. Andrea stated that she has not yet been reappointed to the COG. Greg stated that he will not be voting. There was discussion to determine if a quorum was present. Gwen Lachelt entered the meeting. Joanne withdrew the motion.

Fred Brooks motioned to enter in the contract with Lightworks Fiber LLC, Steve Garchar seconded, the vote was as follows:

Steve Garchar - aye
Karen Sheek - aye
Fred Brooks - aye
Lana Hancock - aye
Gwen Lachelt - aye
Chris La May - aye
Greg Schulte - abstain
Andrea Phillips - abstain
Mark Garcia - aye

Contract with Telamon, Inc.:

Steve Garchar motioned to enter into the contract agreement with Telemon Inc., Lana Hancock seconded, the vote was as follows:

Steve Garchar - aye
Karen Sheek - aye
Fred Brooks - aye
Lana Hancock - aye
Mark Garcia - aye
Chris La May - aye
Gwen Lachelt - aye
Greg Schulte - abstain
Andrea Phillips - abstain

Greg and Andrea mentioned that while Archuleta County and Pagosa Springs are in support, the organizations' designated members are not in attendance.

The meeting was adjourned at 11:22 p.m.

August 2018 Financials

To: SWCCOG Board of Directors
From: Sara Trujillo
Date: 25 October 2018

Comments: The following attachments include:

- Balance Sheet as of August 31, 2018
- January 1- August 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.

P&L vs Budget: Information Technology is high as this includes the Zoom prepaid expense.

Fiscal Impact: High, Budget changes throughout the year

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

Legal Review: Not Applicable

Southwest Colorado Council of Governments

10/20/18

Balance Sheet

Accrual Basis

As of August 31, 2018

	Aug 31, 18
ASSETS	
Current Assets	
Checking/Savings	
Alpine Bank	
Alpine Bank Account (UR)	107,170.58
Total Alpine Bank	107,170.58
Petty Cash	
AmeriCorps VISTA	224.49
Petty Cash - Other	22.97
Total Petty Cash	247.46
Total Checking/Savings	107,418.04
Accounts Receivable	
Accounts Receivable	6,000.10
Total Accounts Receivable	6,000.10
Other Current Assets	
Prepaid Expense	5,997.00
Total Other Current Assets	5,997.00
Total Current Assets	119,415.14
TOTAL ASSETS	119,415.14
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	3,072.39
Total Accounts Payable	3,072.39
Credit Cards	
Credit Cards	
Miriam	70.43
Total Credit Cards	70.43
Total Credit Cards	70.43
Other Current Liabilities	
Accrued Wages	6,689.00
Total Other Current Liabilities	6,689.00
Total Current Liabilities	9,831.82
Total Liabilities	9,831.82
Equity	
Retained Earnings	67,835.72
Net Income	41,747.60
Total Equity	109,583.32
TOTAL LIABILITIES & EQUITY	119,415.14

Southwest Colorado Council of Governments

Profit & Loss

10/20/18

January through August 2018

Accrual Basis

	Jan - Aug 18
Ordinary Income/Expense	
Income	
All Hazards	
2015 SHSP	516.60
2016 SHSP	13,251.02
2017 SHSP	72,231.17
Total All Hazards	85,998.79
CDOT Grants	
SWTPR Grant	14,274.96
Transit 5304	13,505.00
Total CDOT Grants	27,779.96
DoLA Grants	
DoLA 8330	26,448.31
DoLA 8573	3,776.12
Total DoLA Grants	30,224.43
Dues Revenue	
COG Dues	150,970.00
SWTPR Contributions	6,842.00
Total Dues Revenue	157,812.00
Grant Match	
COG Member Match	14,923.00
Non-COG Member Match	8,000.00
Total Grant Match	22,923.00
Misc. Income	9,298.80
RHA	10,000.00
SCAN Services	
Dark Fiber Leasing	25,614.00
Internet & Transport	6,210.00
Total SCAN Services	31,824.00
SWIMT	30,089.95
Total Income	405,950.93
Gross Profit	405,950.93
Expense	
Advertising and Promotion	3,190.92
All Hazards Projects	
All Hazards 2015 SHSP	
Grant 2015 Project 2	485.45
Grant 2015 Project 5	31.98
Total All Hazards 2015 SHSP	517.43
All Hazards 2016 SHSP	
Grant 2016 Project 1	6,677.92
Grant 2016 Project 6	3,865.00
Total All Hazards 2016 SHSP	10,542.92
All Hazards 2017 SHSP	
Grant 2017 Project 2	14,060.00
Grant 2017 Project 3	9,408.70
Grant 2017 Project 5	42,519.49
Grant 2017 Project 6	7,851.25
Total All Hazards 2017 SHSP	73,839.44
Total All Hazards Projects	84,899.79

Southwest Colorado Council of Governments

Profit & Loss

10/20/18

January through August 2018

Accrual Basis

	<u>Jan - Aug 18</u>
AmeriCorp VISTA	3,250.00
Bank Service Charge	158.16
Conference Fee	1,062.70
Consulting	58,320.53
Employee/Board Appreciation	195.85
Information Technology (IT)	
Software	5,213.75
Total Information Technology (IT)	5,213.75
Insurance Expense	
General Liability	3,644.75
Health	17,136.00
Total Insurance Expense	20,780.75
Internet Connectivity	
Fast Track	7,200.00
Internet Connection (AT&T)	263.47
Total Internet Connectivity	7,463.47
Meetings	815.85
Memberships	6,423.00
Misc. Expense	522.00
Office Equipment	1,536.73
Office Supplies	712.41
Postage and Delivery	55.40
Professional Fees	
Audit	5,900.00
Legal	5,566.36
Misc.	24.43
Total Professional Fees	11,490.79
Salary and Wages	
457 Retirement	4,770.36
Car Allowance	2,100.00
Cell Phone Allowance	1,365.00
Payroll Processing Fee	1,155.85
Payroll Tax	8,124.18
Salary and Wages - Other	103,261.55
Total Salary and Wages	120,776.94
SWIMT 2017-2018	27,284.91
Travel	10,049.38
Total Expense	364,203.33
Net Ordinary Income	41,747.60
Net Income	41,747.60

September 2018 Financials

To: SWCCOG Board of Directors
From: Sara Trujillo
Date: 25 October 2018

Comments: The following attachments include:

- Balance Sheet as of September 30, 2018
- January 1- September 30, 2018 Profit & Loss vs. Budget

Items to Note:

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

Fourth quarter invoices have been sent for dark fiber leases and telecom services; therefore this revenue is complete for the year. The remaining revenues for the year will come from grant with little M&A.

P&L vs Budget: Information Technology is high due to the Zoom prepaid expense.

Fiscal Impact: High, Budget changes throughout the year

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

Legal Review: Not Applicable

Southwest Colorado Council of Governments

Balance Sheet

10/20/18

As of September 30, 2018

Accrual Basis

	<u>Sep 30, 18</u>
ASSETS	
Current Assets	
Checking/Savings	
Alpine Bank	
Alpine Bank Account (UR)	83,055.58
Total Alpine Bank	83,055.58
Petty Cash	
AmeriCorps VISTA	224.49
Petty Cash - Other	22.97
Total Petty Cash	247.46
Total Checking/Savings	83,303.04
Accounts Receivable	
Accounts Receivable	9,327.10
Total Accounts Receivable	9,327.10
Other Current Assets	
Prepaid Expense	5,997.00
Total Other Current Assets	5,997.00
Total Current Assets	98,627.14
TOTAL ASSETS	98,627.14
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	3,072.39
Total Accounts Payable	3,072.39
Credit Cards	
Credit Cards	
Miriam	603.12
Sara	52.44
Total Credit Cards	655.56
Total Credit Cards	655.56
Other Current Liabilities	
Accrued Wages	6,689.00
Total Other Current Liabilities	6,689.00
Total Current Liabilities	10,416.95
Total Liabilities	10,416.95
Equity	
Retained Earnings	67,835.72
Net Income	20,374.47
Total Equity	88,210.19
TOTAL LIABILITIES & EQUITY	98,627.14

Southwest Colorado Council of Governments

Profit & Loss

10/20/18

January through September 2018

Accrual Basis

	Jan - Sep 18
Ordinary Income/Expense	
Income	
All Hazards	
2015 SHSP	516.60
2016 SHSP	13,940.82
2017 SHSP	72,231.17
Total All Hazards	86,688.59
CDOT Grants	
SWTPR Grant	14,274.96
Transit 5304	16,832.00
Total CDOT Grants	31,106.96
DoLA Grants	
DoLA 8330	26,448.31
DoLA 8573	3,776.12
Total DoLA Grants	30,224.43
Dues Revenue	
COG Dues	150,970.00
SWTPR Contributions	6,842.00
Total Dues Revenue	157,812.00
Grant Match	
COG Member Match	14,923.00
Non-COG Member Match	8,000.00
Total Grant Match	22,923.00
Misc. Income	9,298.80
RHA	10,000.00
SCAN Services	
Dark Fiber Leasing	25,614.00
Internet & Transport	6,210.00
Total SCAN Services	31,824.00
SWIMT	30,089.95
Total Income	409,967.73
Gross Profit	409,967.73
Expense	
Advertising and Promotion	3,190.92
All Hazards Projects	
All Hazards 2015 SHSP	
Grant 2015 Project 2	485.45
Grant 2015 Project 5	31.98
Total All Hazards 2015 SHSP	517.43
All Hazards 2016 SHSP	
Grant 2016 Project 1	6,677.92
Grant 2016 Project 6	3,865.00
Total All Hazards 2016 SHSP	10,542.92

Southwest Colorado Council of Governments

Profit & Loss

10/20/18

January through September 2018

Accrual Basis

	Jan - Sep 18
All Hazards 2017 SHSP	
Grant 2017 Project 1	2,047.50
Grant 2017 Project 2	14,060.00
Grant 2017 Project 3	9,408.70
Grant 2017 Project 5	42,519.49
Grant 2017 Project 6	7,851.25
Total All Hazards 2017 SHSP	75,886.94
Total All Hazards Projects	86,947.29
AmeriCorp VISTA	3,250.00
Bank Service Charge	158.16
Conference Fee	1,550.40
Consulting	62,479.05
Employee/Board Appreciation	195.85
Information Technology (IT)	
Software	5,258.74
Total Information Technology (IT)	5,258.74
Insurance Expense	
General Liability	3,644.75
Health	19,278.00
Total Insurance Expense	22,922.75
Internet Connectivity	
Fast Track	8,100.00
Internet Connection (AT&T)	297.02
Total Internet Connectivity	8,397.02
Meetings	815.85
Memberships	6,423.00
Misc. Expense	522.00
Office Equipment	1,536.73
Office Supplies	762.38
Postage and Delivery	57.87
Professional Fees	
Audit	5,900.00
Legal	6,228.76
Misc.	24.43
Total Professional Fees	12,153.19
Salary and Wages	
457 Retirement	5,300.40
Car Allowance	2,100.00
Cell Phone Allowance	1,365.00
Payroll Processing Fee	1,262.13
Payroll Tax	9,053.90
Salary and Wages - Other	115,721.22
Total Salary and Wages	134,802.65
SWIMT 2017-2018	27,284.91
Travel	10,884.50
Total Expense	389,593.26
Net Ordinary Income	20,374.47
Net Income	20,374.47

Reports

Director Report

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles
Date: 25 October 2018

Comments: September and October have been crazier than expected with a number of projects needing significant amount of support and engagement. We hosted the Office of Information Technology, Broadband Executive Director, Tony Neal-Graves and the OIT Director, Brian Shepard for visits to communities, the OIT Quarterly Community Meetings, as well as the Local Technology Planning Team Meeting during their visit.

Community Engagement

I met and visited with almost all the SWCCOG Board communities and counties in the month of September and the first half October, some several times, based on various meetings. I will be contacting the communities that I have not had the chance to visit with to follow up, and set a time to do so.

NARC Executive Director's Conference

I attended the National Association of Regional Councils at the end of September in Cleveland. The Executive Director's conference is invaluable for my growth as the Executive Director, including sharing of best practices, policies, support one another (since there are very few people who do what we do). I tend to bring back ideas to make the organization more effective and efficient from these conferences. Additionally we have Transportation Committee meetings to help set precedent for NARC's transportation policies and ensuring national efforts benefit the rural areas. I am the NARC Transportation Co-Chair, representing rural transportation, giving us more voice to transportation needs.

Region 9- SWCCOG Facilitation

SWCCOG is negotiating with initial consultants who's contract was terminated in August due to lack of communication, quality of work, and inability to follow through on requirements of the contract, to pay a partial amount for the work they "completed". We have been working with Karen Thompson and her partner Paul Roithmyar to continue on the project. They will be attending the meeting to discuss the initial findings and recommendations with the Board.

Miriam PTO

Will be taking Tuesday through Friday, November 6th-10th off as my family will be visiting. Just a reminder the SWCCOG offices will be closes Monday November 12th in observance of Veterans Day.

Broadband Report

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles
Date: 25 October 2018

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 28th 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

The SWCCOG Board had a special meeting to approve contracts with Telamon Inc., and Lightworks Fiber, LLC as the FCC requested executed contracts as part of the application process. We have not had any other request from the FCC, and are looking forward to approval of some funding in Q1 2019.

Aggregation of Services

Currently, the SWCCOG is paying FastTrack \$900/month, from the initial contract during the SCAN project. The SWCCOG is currently paying the majority of that cost from our general operations, which is close to \$7000/year. Not only does this aggregation of services remove that cost, it has a few cents per Mbps mark up for the SWCCOG to cover the costs of managing this shared service. As the SWCCOG Board has not engaged, we are forced to spend money on unrecouped services, the SWCCOG Members are spending more money than they need, and the SWCCOG is not able to cover the costs of the project.

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, which is highly disappointing as this was very well received in May and June. SWCCOG Member pricing will be as low as \$1.11/mbps (based on existing service levels), a savings of \$1000s/year in budgets.

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

Broadband Report

History of SCAN – Overview for Regional Understanding

There are a number of new staff and elected officials across the region who do not have the background on the SCAN, what it is, where it came from, the benefits and challenges. This is also the origin story of the SWCCOG in some ways.

The SWCCOG was formed in 2009, and was fiscally managed under Region 9 Economic Development District until April 2014. In addition to the fiscal management, Region 9 provided management of the SWCCOG for a few years until La Plata County volunteered a staff member, Susan Hakanson, as Interim Director on a part time basis.

The SWCCOG applied for, and was ultimately awarded three million dollars from DOLA in a special grant cycle in December 2009. The region pledged a combined match of one million dollars for a total of four million to develop broadband across the region. As we all know, this was not enough money to do middle mile broadband work, but was to deploy fiber optics in each community to connect the community anchor institutions – and the Southwest Colorado Access Network (SCAN) network. The Board went through an RFP process to hire MidState Consultants to come up with a design build for all the participating communities and counties (Montezuma declined to participate since the beginning of the SWCCOG). After a year or more of planning, the SWCCOG Board chose to terminate the contract with MidState due to challenges with communication and engagement with some of the COG members. In 2012, the SWCCOG then hired Dr. Rick Smith, Mayor of Bayfield and former SWCCOG Board Chair, as General Contractor to fulfill the consultant role. The General Manager was tasked with completing and mapping the fiber builds, as well as financial planning, developing a variety of policies, engaging the ISPs, negotiating aggregated pricing, engaging with the various jurisdictions, and working with Region 9 and Susan on the grant/fiscal management. As one can imagine, a multijurisdictional grant is hard, and one with 13 jurisdictions that have never done anything like this before is extra hard. The funding was fully spend by April 2014, three months later than expected originally, and after an extension from DOLA.

While, this all seems straight forward, it was most difficult and fraught with challenges. There were many assumptions made during the SCAN that did not come to pass.

- 1) Initially, the SCAN was imagined to be managed with a down approach, that the SWCCOG would manage and control all the SCAN assets.
- 2) The revenue stream would be MUCH higher, enough to provide a large revenue stream to support the SWCCOG, including a Broadband person.
- 3) The local governments would purchase a significantly higher amount of connectivity than they need/do.
- 4) As part of this revenue stream, funding would be enough to create a fund to pay for all the repairs and maintenance of the SCAN fiber.

Broadband Report

- 5) \$10/Mbps was affordable, even in 2014.
- 6) Nothing was done to address the lack of access in some of the communities, like Silverton/San Juan and Pagosa/Archuleta – but that they would purchase from the SWCCOG.
- 7) Contracts were signed for \$8/Mbps for 100s of Mbps, but previous management did not ensure the amounts contracted for, were actually going to be purchased (the SWCCOG lost \$15,000 in the first year on this contract)
- 8) The network was envisioned with two hubs, one in Durango and one in Cortez, with the rest of the regional communities connecting as spokes. The hubs were also supposed to be connect to one another via a redundant connection as a fail over if one of the hubs or connection fails. However, the network envisioned, never was built. This also cost, and still costs the SWCCOG money, as the SWCCOG pays for the cost of the line between Cortez and Durango.

The SWCCOG has been trying to rectify the challenges over the years, which has caused some operational challenges. It is important to understand the past and not repeat the same mistakes

Legislative Update

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles, Jessica Laitsch
Date: 22 October, 2018

Comments : There are a number of issues that will appear on the 2018 Statewide ballot. The following are questions with impact on local governments (additional information attached) and several others to be aware of on the November 2018 ballot:

- Amendment 73– Funding for Public Schools
 - CCI Opposes

 - Amendment 74 – Just compensation for Reduction in Fair Market Value by Government Law or Regulation
 - Legislative Council draft analysis is attached.
 - CML, CCI, Club 20 oppos.
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.

 - Proposition 109– Authorize Bonds for Transportation Projects
 - Legislative Council draft analysis and initial fiscal impact statement are attached.
 - CML and CCI oppose.
 - 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– Transportation Funding
 - Legislative Council draft analysis and initial fiscal impact statement are attached.
 - CML, CCI, and Club 20 support.
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

- 45 percent for bond repayment and state transportation funding;
 - 15 percent for multimodal transportation; and
 - 40 percent for municipal and county transportation projects. The local share of new sales tax revenue to agencies in the five county Southwest Colorado region is estimated at \$8,896,741 in the first year. The list of projects identified for Southwest Colorado (CDOT Region 5) is attached.
- Proposition 112 – Setback requirement for Oil and Gas Development
 - CML, CCI, and Club20 oppose

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

- Amendment A – Prohibit Slavery and Involuntary Servitude in All Circumstances (removes mention from Constitution)
- Amendment V – Lower Age Requirement for Members of the State Legislature (From 25 to 21)
- Amendment W – Election Ballot Format for Judicial Retention Elections
- Amendment X – Industrial Hemp Definition (removes definition from Constitution and places in Statute)
- Amendment Y – Congressional Redistricting
- Amendment Z – Legislative Redistricting

Additionally, information about the Conference Committee on the Gallagher Amendment:

On Wednesday, October 3rd, the Gallagher Interim Committee met. Of their original list of 8 bills, three are moving forward:

MOVING FORWARD: Bill 1 – Repeal Gallagher Amendment -
http://leg.colorado.gov/sites/default/files/images/committees/2017/bill_1_r19-0210.pdf Start in the Senate: Sponsors Sen. Tate and Court, Rep. Rankin and Esgar

Legislative Update

WITHDRAWN: Bill 2 – Property Tax Classification Short Term Rental Units -
http://leg.colorado.gov/sites/default/files/images/committees/2017/bill_2_19-0211.pdf

WITHDRAWN: Bill 3 – Property Tax Residential Assessment Rate -
http://leg.colorado.gov/sites/default/files/images/committees/2017/bill_3_19-0212.pdf

WITHDRAWN: Bill 4 – Backfill Property Tax Loss to Fire Protection Districts -
http://leg.colorado.gov/sites/default/files/images/committees/2017/bill_4_19-0213.pdf

WITHDRAWN: Bill 5 – Backfill Property Tax Loss to Library Districts -
http://leg.colorado.gov/sites/default/files/images/committees/2017/bill_5_19-0214.pdf

(no bill 6 – it was a water district backfill bill and it has been withdrawn)

MOVING FORWARD: Bill 7 – Regional Residential Assessment Rates for Property Tax -
http://leg.colorado.gov/sites/default/files/images/committees/2017/bill_7_19-0217.pdf Start in the Senate: Sponsors Sen. Smallwood and Court, Rep. Rankin and Bridges

MOVING FORWARD: Bill 8 – Backfill Property Tax Loss to Certain Special Districts -
http://leg.colorado.gov/sites/default/files/images/committees/2017/bill_8_19-0216.pdf Start in the house. Sponsors Rep Rankin and Esgar, Sen. Court

The next stop for these three bills is an October 15th hearing before ‘Legislative Council’ – an entity of 18 legislators. This hearing is largely a formality. You can expect these 3 bills to move on and be ready for introduction in early January.

**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*

Sources Total: \$1.4 Billion	Uses Total: \$1.4 Billion
Other* \$241.8 million	Construction \$220.5 million
Federal Gas Tax \$526.8 million	Maintenance \$875.5 million
Registration Fees \$339.5 million	Operations \$333.6 million
State Gas Tax \$321.6 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.

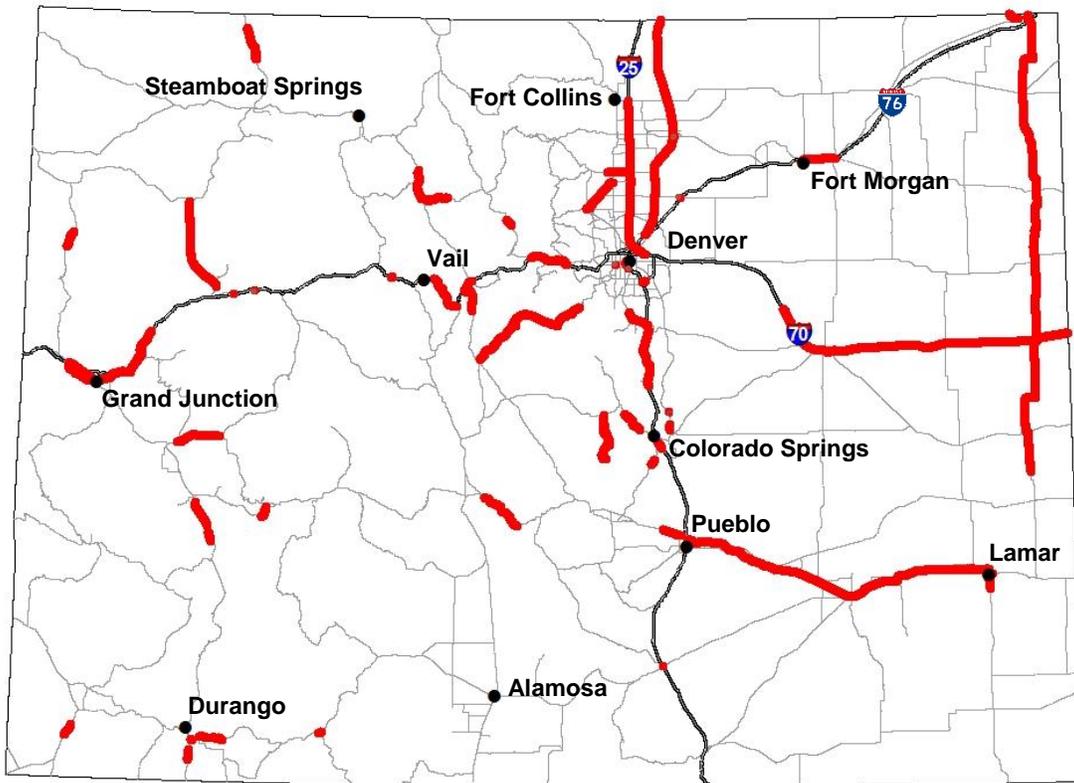
8 **Past bond sale and repayment for transportation projects.** In 1999, voters
9 approved the sale of \$1.5 billion worth of bonds for transportation projects. The state
10 was required to use the borrowed money to pay for up to 24 transportation projects
11 across the state. Repayment costs for the 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

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- 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
State Revenue Cash Funds	Increase. See State Revenue section.	
State Expenditures General Fund Cash Funds Federal Funds	Increase. 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.

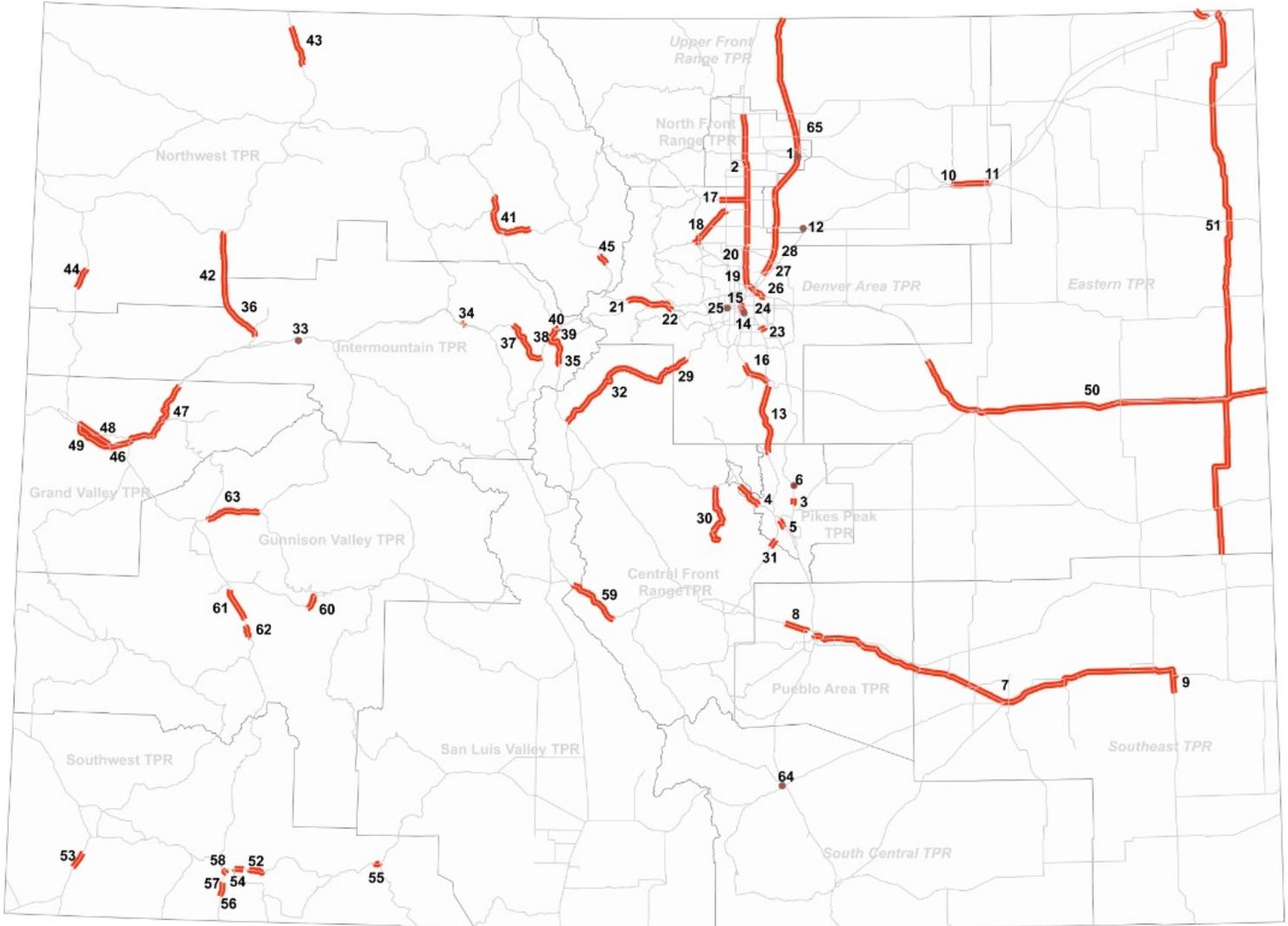
Voter-approved proceeds from TRANs are TABOR-exempt and must be used exclusively for road and bridge expansion, construction, maintenance, and repair on the 66 projects identified in the measure, which include projects in each of the state's 15 transportation planning regions. Transit projects are excluded 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*
(a) In the North Front Range Transportation Planning Region:			
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
Subtotal			\$766,000,000
(b) In the Pikes Peak Transportation Planning Region:			
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
Subtotal			\$578,350,000
(c) In the Pueblo Area Transportation Planning Region:			
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
Subtotal			\$95,895,000
(d) In the Southeast Transportation Planning Region:			
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
Subtotal			\$211,071,000
(e) In the Upper Front Range Transportation Planning Region:			
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
Subtotal			\$120,200,000
(f) In the Greater Denver Area Transportation Planning Region:			
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 should 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
Subtotal			\$2,273,798,000
(g) In the Central Front Range Transportation Planning Region:			
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
Subtotal			\$55,100,000

Initiative # 167

Map Label	CDOT Project ID	Project Description from Measure	Funding Need*
(h) In the Intermountain Transportation Planning Region:			
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
Subtotal			\$408,858,000
(i) In the Northwest Transportation Planning Region:			
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
Subtotal			\$130,367,000
(j) In the Grand Valley Transportation Planning Region:			
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
Subtotal			\$144,206,000

Initiative # 167

Map Label	CDOT Project ID	Project Description from Measure	Funding Need*
(k) In the Eastern Transportation Planning Region:			
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
Subtotal			\$245,000,000
(l) Southwest Transportation Planning Region:			
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).	-
Subtotal			\$269,630,000
(m) In the San Luis Valley Transportation Planning Region:			
59	158	US 50 safety and mobility improvements between Salida and Coaldale, addition of passing lanes and vehicle turnouts.	\$8,432,000
Subtotal			\$8,432,000
(n) Gunnison Valley Transportation Planning Region			
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
Subtotal			\$115,427,000

Initiative # 167

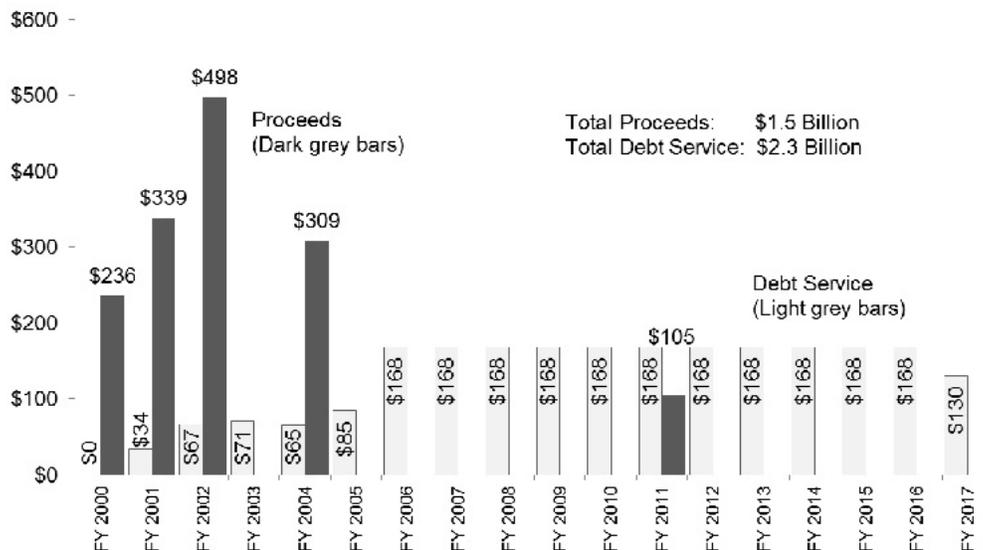
Map Label	CDOT Project ID	Project Description from Measure	Funding Need*
(o) In the South Central Transportation Planning Region:			
64	123	I-25, State Highway 10/State Highway 160, interchange reconstruction at Walsenburg.	\$50,000,000
Subtotal			\$50,000,000
65	60	(p) US 85 corridor improvements, safety,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

* 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 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.

CDOT REGION 5 PROPOSITION 109 AND 110 COMPARISON CHART

Project Name	General Project Description	Proposition 110 Initiative 153 "Let's Go Colorado" (0.62c sales tax)	Proposition 109 Initiative 167 "Fix Our # Roads" (General Fund Transfer)	SB 1 & SB 267 (Year 1)	Federal Grants or Other Funding	TPR
SH 145: Safety and Mobility Improvements between Sawpit and Keystone Hill (Shoulder Widening and/or Passing Lanes)	Shoulder widening and/or addition of passing lane between Sawpit and Keystone Hill.	\$ 9,009,000	\$ -			Gunnison Valley
US 550: Ridgway to Ouray Shoulder Widening	Shoulder widening between Ridgway and Ouray.	\$ 10,547,000	\$ -			Gunnison Valley
US 550: Shoulder Improvements, Deer Fencing and Animal Underpasses between Uncompahgre River and Colona (Billy Creek)	Addition of shoulders between Uncompahgre River and Colona (Billy Creek). Construction of deer fencing and animal underpasses. Passing opportunities at Ridgway State Park.	\$ 30,537,000	\$ 30,537,000			Gunnison Valley
US 50/285 Intersection	RAB at intersection	\$ 7,400,000	\$ -			San Luis Valley
US 24: Safety and Mobility Improvements on Trout Creek Pass- Phase II	Shoulder widening/bike facilities and addition of passing lanes and bike facilities on Trout Creek Pass.	\$ 7,742,000	\$ -			San Luis Valley
US 160: Rio Grande River Bridge to SH 17	Improvements to Rio Grande bridge, realignment of roadway, and addition of bike and pedestrian facilities in Alamosa (4th Street to SH 17).	\$ 8,735,000	\$ -			San Luis Valley
SH 112 Asset Management	Paving project to maintain system	\$ 15,000,000	\$ -			San Luis Valley
US 160: Trinchera Safety Mitigation	Construction of an alternating passing lane in both directions and the installation of two wildlife crossing structures along with wildlife fencing.	\$ 15,602,000	\$ -			San Luis Valley
US 285: Safety and Mobility Improvements between Center to Saguache (Widen Shoulders)	Shoulder widening from Center to Saguache.	\$ 30,880,000	\$ -			San Luis Valley
SH 17: Safety and Mobility Improvements North of Mosca (Widen shoulders)	Shoulder widening north of Mosca.	\$ 28,998,000	\$ -			San Luis Valley
US 50 Passing Lanes	Addition of passing opportunities between Salida and Coaldale, mobility and safety improvements including shoulder widening, curve corrections, rock excavation and rockfall protection.	\$ 8,432,000	\$ 8,432,000			San Luis Valley
US 550 South: Sunnyside	Major reconstruction requiring widening to a four lane roadway, including earthwork, drainage, irrigation, utilities, HMA paving, pedestrian bridge, sound wall, small and large mammal crossings.	\$ -	\$ 32,620,000			Southwest
US 491: Ute Farms Ditch	Extend Irrig Cross Culv 15' both sides, design conc channel with lateral spillway, stilling basin and low flow channel at Talk Rd	\$ 422,000	\$ -			Southwest
US 160/SH 151 Safety Mitigation	Construction of an alternating passing lane in both directions and the installation of two wildlife crossing structures along with wildlife fencing.	\$ 8,831,000	\$ -			Southwest
US 160: Towaoc Passing Lanes	US 160 Towaoc, addition of passing lanes and vehicle turnouts.	\$ -	\$ 2,000,000	\$ 9,000,000	\$ 2,200,000	Southwest
US 160: Pagosa Reconstruction and Multi-Modal Improvements	Reconstruction to correct wheel rutting and addition of pedestrian facilities for safety.	\$ 20,670,000	\$ 22,670,000			Southwest
US 160: Reconstruction and Shoulder Widening MP 0 to MP 8	Full depth reconstruction of the existing paved surface and shoulder widening.	\$ 19,646,000	\$ -			Southwest
US 550 South: Gap	Reconstruction to four lanes, including drainage, utilities, large and small mammal crossings, and intersection improvements.	\$ 31,992,000	\$ 31,992,000			Southwest
US 160: Elmore's East	Completion of improvements consistent with the EIS and ROD, which includes widening, access improvements, and wildlife mitigation.	\$ 55,528,000	\$ 66,431,000			Southwest
US 160: Dry Creek Passing and Mobility Improvements	US 160 Mobility Improvements, corridor improvements, passing lanes, and shoulder widening at select locations.	\$ 36,000,000	\$ 36,000,000			Southwest
US 550/US 160 Connection	US 550/US 160 Connection, finalize pre-construction, purchase - required rights-of-way, complete final design and prepare advertisement (Phase 1). 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
US 160 Improvements Cortez Partnership	Multi-modal and Safety Improvements on US 160 in Cortez	\$ 2,000,000	\$ -		\$ 2,000,000	Southwest
US 550 Underpass Durango Partnership	Multi-modal and Safety Improvements on US 550 in Durango	\$ 2,000,000	\$ -		\$ 2,000,000	Southwest
TOTAL		\$ 345,971,000	\$ 230,682,000	\$ 63,400,000	\$ 47,400,000	

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

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

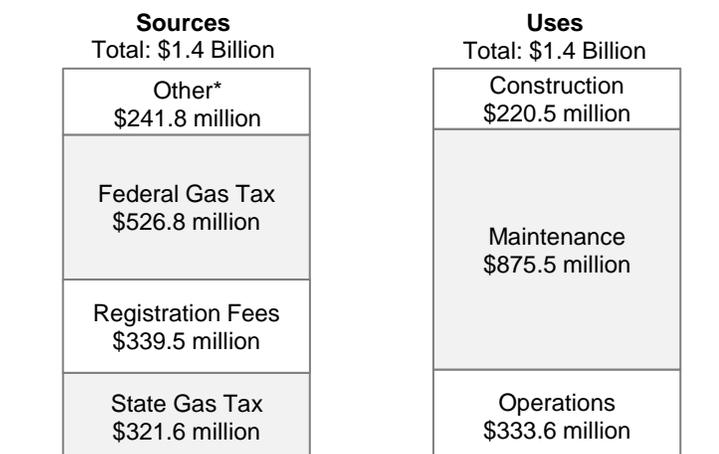
- 2 ♦ increase the state’s sales and use tax rate from 2.9 percent to 3.52 percent for
 3 20 years;
- 4 ♦ distribute the new tax revenue for transportation as follows: 45 percent to the
 5 state; 40 percent to local governments; and 15 percent for multimodal
 6 transportation projects; and
- 7 ♦ permit 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

Fiscal Impact Summary	FY 2018-19	FY 2019-20
State Revenue		
Total Sales and Use Tax Revenue	<u>\$366.0 million</u>	<u>\$766.7 million</u>
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	Up to \$6.0 billion	
State Expenditures	<u>\$65,127</u>	
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.

Table 1. Tax Revenue Under Initiative #153		
Fund	FY 2018-19	FY 2019-20
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
TOTAL	\$366.0 million	\$766.7 million

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.

Table 2. Bond Revenue Under Initiative # 153		
	FY 2018-19	FY 2019-20
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.

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

Comments: Transportation:

The last SWTPR meeting was held on 4 October, 2018. The topics included:

- Updates on Propositions 109 and 110
- An update on CDOT's bike and pedestrian related planning
- A presentation regarding the transportation planning process specific to project selection

The next SWTPR meeting will be held at 9:00 a.m. Thursday, 6 December, 2018 at the La Plata County Administration Building, 1101 E 2nd Ave., Durango.

Transit:

5304 Four Corners Coordinated Transit Plan - The consultant team has concluded the stakeholder meetings throughout the region and is working to develop draft goals and objectives.

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 16 November, 2018 at 9:00 a.m. at the Carnegie Building, 1188 E 2nd Ave., Durango.

VISTA Report

To: SWCCOG Board of Directors
From: Martina Pansze
Date: October 20, 2018

Comments: A lot has happened since the August meeting! This month I attended the Conservation Legacy training held in Waynesboro, PA, where I learned about the history of the organization and its connection to Southwest Conservation Corps. At the retreat I also attended training workshops and networked with other VISTAs serving across the country.

Through Conservation Legacy I've also been taking an online course called the Harwood Institute Public Innovators lab that focuses on community outreach.

This week, Jessica and I have been working on an HDGP grant in collaboration with the non-profit Southwest Housing Solutions that will hopefully secure funds to create working groups in each of the five counties of Southwest Colorado. These committees—made up of affected community members, government representatives, and businesses from the private sector—will strategically address the issue of affordable housing for those who live in poverty.

Discussion Items

2018 Budget Update

To: SWCCOG Board of Directors
From: Sara Trujillo
Date: 25 October 2018

Comments: The approved 2018 budget included revenues and expenditures to begin our broadband infrastructure project. Because this project will not begin in 2018 as originally anticipated, I have updated the budget with estimations of what 2018 actuals may be. In the attached budget, column 1 indicates the approved budget, column 2 the updated estimations, and column 3 includes the budget with all funds, both general and fiber.

Fiscal Impact: High, Budget changes throughout the year

Staff Recommendation: Not Applicable – discussion item only

Legal Review: Not Applicable

	Jan - Dec 18 (approved)	Jan - Dec 18 (Updated 10/10)	Jan - Dec 18 (Updated 10/10) WITH FIBER FUND
Ordinary Income/Expense			
Income			
All Hazards			
2014 SHSP	0.00	0.00	0.00
2015 SHSP	0.00	517.00	517.00
2016 SHSP	0.00	13,251.00	13,251.00
2017 SHSP	163,346.00	72,231.00	72,231.00
All Hazards - Other	0.00	0.00	0.00
Total All Hazards	163,346.00	88,689.00	88,689.00
Broadband			
FCC	3,000,000.00	0.00	0.00
CDOT	333,333.33	0.00	0.00
DoLA	375,000.00	0.00	0.00
Private Equity	1,666,666.67	0.00	0.00
CDOT Grants			
SWTPR Grant	22,100.00	22,100.00	22,100.00
Transit 5304 Grant	27,000.00	25,000.00	25,000.00
Transit LCC Grant	0.00	0.00	0.00
Total CDOT Grants	49,100.00	47,100.00	47,100.00
DoLA Grants			
DoLA 7645	0.00	0.00	0.00
DoLA 8010	0.00	0.00	0.00
DoLA 8011	0.00	0.00	0.00
DoLA 8330	28,000.00	29,748.00	29,748.00
DoLA 9038	0.00	0.00	0.00
DoLA 8573	35,000.00	17,500.00	17,500.00
DoLA Grants - Other	0.00	0.00	0.00
Total DoLA Grants	63,000.00	47,248.00	47,248.00
Dues Revenue			
Admin Position	12,200.00	12,200.00	12,200.00
COG Dues	145,000.00	138,770.00	138,770.00
SWTPR Contributions	7,607.00	6,842.00	6,842.00
Total Dues Revenue	164,807.00	157,812.00	157,812.00
Grant Match			
COG Member Match	0.00	14,923.00	14,923.00
Non-COG Member Match	0.00	8,000.00	8,000.00
Total Grant Match	0.00	22,923.00	22,923.00
Misc. Income	0.00	9,299.00	9,299.00
RHA	10,000.00	10,000.00	10,000.00
RREO Grant			
RREO 2016-2017	0.00	0.00	0.00
RREO Grant - Other	0.00	0.00	0.00

Total RREO Grant	0.00	0.00	0.00
SCAN Services			
Dark Fiber Leasing	29,328.00	33,822.00	33,822.00
e-TICS	0.00	0.00	0.00
Fiber Equipment Repair Fund	0.00	0.00	0.00
Internet & Transport	8,280.00	8,280.00	8,280.00
Total SCAN Services	37,608.00	42,102.00	42,102.00
SWIMT	0.00	35,000.00	35,000.00
Fiber Fund	0.00	0.00	19,498.00
Total Income	5,862,861.00	460,173.00	479,671.00
Gross Profit	5,862,861.00	460,173.00	479,671.00
Expense			
Advertising and Promotion	240.00	3,291.00	3,291.00
All Hazards Projects	157,346.00	86,947.00	86,947.00
AmeriCorp VISTA	0.00	6,500.00	6,500.00
Bank Service Charge	200.00	160.00	160.00
Broadband Expenses			
Fiber Equip Repair - RESTRICTED	0.00	0.00	0.00
SCAN Dark Fiber Lease	7,332.00	8,455.00	8,455.00
Total Broadband Expenses	7,332.00	8,455.00	8,455.00
Conference Fee	0.00	1,550.00	1,550.00
Consulting	5,313,500.00	80,248.00	80,248.00
Employee/Board Appreciation	100.00	195.00	195.00
Information Technology (IT)			
Hardware	0.00	0.00	0.00
Internal IT Consulting	50.00	0.00	0.00
Software	1,324.00	5,259.00	5,259.00
Total Information Technology (IT)	1,374.00	5,259.00	5,259.00
Insurance Expense			
General Liability	8,000.00	2,087.00	2,087.00
Health	36,720.00	25,704.00	25,704.00
HSA	0.00	0.00	0.00
Worker's Compensation	1,750.00	1,558.00	1,558.00
Total Insurance Expense	46,470.00	29,349.00	29,349.00
Internet Connectivity			
Fast Track	10,800.00	10,800.00	10,800.00
Internet Connection (AT&T)	390.00	390.00	390.00
Total Internet Connectivity	11,190.00	11,190.00	11,190.00
Match Refund	0.00	0.00	0.00
Meetings	5,000.00	815.00	815.00
Memberships	6,048.00	6,423.00	6,423.00
Misc. Expense	0.00	522.00	522.00
Office Equipment	6,000.00	1,537.00	1,537.00
Office Supplies	850.00	762.00	762.00
Office Telephone	980.00	0.00	0.00
Postage and Delivery	80.00	80.00	80.00

Professional Development	4,000.00	0.00	0.00
Professional Fees			
Accounting Software	200.00	0.00	0.00
Audit	5,900.00	5,900.00	5,900.00
Legal	7,000.00	12,500.00	12,500.00
Misc.	500.00	25.00	25.00
Total Professional Fees	13,600.00	18,425.00	18,425.00
Rent	95.00	95.00	95.00
Salary and Wages			
457 Retirement	9,355.00	6,890.00	6,890.00
Car Allowance	3,600.00	3,600.00	3,600.00
Cell Phone Allowance	1,560.00	2,340.00	2,340.00
Housing Allowance	2,400.00	0.00	0.00
Payroll Processing Fee	2,400.00	1,500.00	1,500.00
Payroll Tax	16,783.00	13,354.00	13,354.00
Salary and Wages - Other	196,290.00	158,191.00	158,191.00
Total Salary and Wages	232,388.00	185,875.00	185,875.00
SWIMT Expense	0.00	31,500.00	31,500.00
Team Building	0.00	0.00	0.00
Travel	25,000.00	14,000.00	14,000.00
Total Expense	5,831,793.00	493,178.00	493,178.00
Net Ordinary Income	31,068.00	-33,005.00	-13,507.00
Other Income/Expense			
Other Income			
Interest Earned	0.00	0.00	0.00
Total Other Income	0.00	0.00	0.00
Net Other Income	0.00	0.00	0.00
Net Income	31,068.00	-33,005.00	-13,507.00

Decision Items

SWCCOG Executive Committee Minutes

To: SWCCOG Board of Directors

From: Sara Trujillo

Date: 25 October 2018

Comments: Executive Committee Minutes from August 20, 2018 for approval.

Legal Review: None

Fiscal Impact: None

Staff Recommendation: Executive Committee approve the attached minutes from August 20, 2018.

**Southwest Colorado Council of Governments
Executive Committee Meeting
Monday, August 20, 2018, 1:30 p.m.**

In attendance:

Chris La May – Town of Bayfield (via phone)

Karen Sheek – City of Cortez (via phone)

Gwen Lachelt – La Plata County (via phone)

Miriam Gillow-Wiles – Southwest Colorado Council of Governments

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

Jessica Laitsch – Southwest Colorado Council of Governments

The meeting began at 1:35 p.m.

Miriam mentioned a couple items that had not been included on the draft agenda including review of the goals identified during the retreat and showing the benefits of TPR membership. Chris mentioned that ultimately this is a TPR issue, but it would not hurt to discuss with the SWCCOG. Karen asked if there is precedent for how regional agencies manage when a community does not participate. Miriam replied that she is aware of a couple scenarios when members selectively don't participate in specific projects as well as when non-members, for example from outside the given region, participate in certain projects. Karen mentioned the benefits to non-members of the TPR. Miriam replied that the entire region benefits from the TPR and the COG receives administrative funding for managing it. Chris asked if there is a requirement with the funding that the group be region-wide. Miriam replied that it does need to be regional. She added that the State provides funding primarily to send participants to the STAC meetings, it does not cover food or hotel rates over federal per diem, and the SWTPR receives the highest funding amount in the state. She added that the SWCCOG is able to use the local TPR contributions as grant match, for staff travel for transportation related matters, and for food for meetings. Chris asked if there is an estimated number of times she has testified or written letters on transportation in the last year. Miriam replied that staff could estimate this. There was discussion about the benefits of the TPR and the whether it would be likely for the TPR to be removed from the COG. Chris asked if there was an analysis of potential funding sources when the COG's original goals were developed. Miriam replied that she does not know if there was an original funding analysis, however the organization was not originally set up to be sustainable long-term.

Chris mentioned the collaboration work with Region 9. Miriam stated that Region 9 was unhappy with the process with the current contractor. Miriam and Laura spoke with a bidder that was not selected about taking over the process, the intent is to have preliminary plans for the next two years by the end of this year. Miriam clarified that there would need to be some work done prior to a final contract due to meeting schedules. There was discussion about future office space and rent. Gwen suggested not finalizing the decision about rent until later in the discussions with Region 9. Miriam mentioned that Region 9 has offered their space for meetings, if needed. She will also be discussing possible meeting space with La Plata County. She added that the fiber with the broadband project will ultimately need a neutral, central location; such a facility could present an opportunity to include office space for the COG. There was discussion about workspace options until a location is identified.

Chris asked about the revenue for All Hazards. Miriam replied that the COG receives funding for M&A. Miriam mentioned that the budget is preliminary, in part pending notification of the DOLA grant. Miriam added that notification of the FCC funding will not be until the end of 2018 or beginning of 2019. She

noted that all the FCC funding will go to consultants, however the hope is that DOLA will agree that funding for staff is appropriate due to the size of the federal grant. There was discussion about the collaboration with CDOT. Miriam reported that one issue which may impact the broadband project is a push to de-regulate fiber, this would allow companies to specify what other ISPs may use their infrastructure therefore reducing the number of ISPs able to operate. Additionally, the cost to other ISPs for the use of existing infrastructure has been rising. There was discussion about the potential impacts of these issues.

Miriam added that the COG should have a future discussion about the AAA, although this was previously attempted, they need to create some efficiencies. There was discussion about demonstrating value to Montezuma County. Miriam added that the COG is working to create tangible benefit, which may necessitate a more direct approach to creating efficiencies between organizations.

The meeting ended at 2:28 p.m.

SWCCOG Executive Committee Minutes

To: SWCCOG Board of Directors

From: Sara Trujillo

Date: 25 October 2018

Comments: Executive Committee Minutes from October 11, 2018 for approval.

Legal Review: None

Fiscal Impact: None

Staff Recommendation: Executive Committee approve the attached minutes from October 11, 2018.

**Southwest Colorado Council of Governments
Executive Committee Meeting
Thursday, October 11, 2018, 1:30 p.m.**

In attendance:

Chris La May – Town of Bayfield (via phone)

Karen Sheek – City of Cortez (via phone)

Gwen Lachelt – La Plata County

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

Sara Trujillo - Southwest Colorado Council of Governments

The meeting began at 1:32 p.m.

Miriam said the October board agenda, aside from the usual minutes, financials, and reports, includes the 2019 Executive Committee member selection, contract for Karen Thompson to do the Region 9/COG collaboration research, and a CEBT agreement that is signed every 3 years. In addition, Bob Fifer will be driving from Grand Junction to present on the CDOT fiber plan towards the end of the meeting. Chris asked if any other members aside from Durango have announced intent of non-membership in 2019. Miriam said Mancos has had some questions so communication has been sent to Heather Alvarez. Other members that Miriam has spoken to have felt positive about the COG, COG accomplishments, and are excited about the direction the COG is heading. Miriam also spoke to Melissa Youssef as she is the primary for the City of Durango and hopes to gain the city as a member in the future.

Gwen suggested moving board meeting locations around the region in 2019. Miriam said this has been done before but the board felt more comfortable with the consistency of a single location. Gwen said maybe just 2 meetings per year which could include a site visit to a COG involved project. This may help deepen relationships. Miriam said this would be beneficial. In addition, Miriam recently attended the NARC conference and learned that other COGs have policies, roles and responsibilities, and expectations for board members. Miriam plans to incorporate some of these documents in 2019 to help formalize membership.

Miriam said there would be a 2018 budget update. The FCC and DoLA funding that were originally anticipated to have been awarded and projects underway by mid-2018 did not happen and has significantly changed the approved budget. With the board's direction to staff being to work on broadband, there has been much time and money spent on this effort and staff has not applied for other grants. This has left the 2018 budget in a deficit. Miriam suggested moving the funds in the Fiber Fund to the General Fund to help cover the broadband costs incurred in 2018 while working on the FCC and DoLA funding. There was discussion about the original intent of the Fiber Fund and how the SCAN grant was supposed to have operated. Chris said he felt reluctant to use the fiber funds for any purposes other than what the funds were originally intended for; if that fund is to be eliminated, the funds should probably go back to the communities that paid. Miriam said she would rather use those funds for broadband efforts that were board directed versus asking the members for more money to cover those costs. Gwen requested a narrative on this issue with a bit of history for the October board packet.

Miriam said Housing Solutions for the Southwest is looking to apply for a CDPHE grant that will look at housing and the effects on health in an all-encompassing view versus just looking at affordability. Housing Solutions would like the COG to be the grantee. The grant is \$200,000-\$400,000 per year for a 2

year grant, pays for indirect costs such as administration, and there is no match required. The application is due at the end of October. Miriam asked if the Executive Committee would like staff to add this to the agenda as it does coincide with the COG goal of housing. Karen asked if this would be region-wide. Miriam confirmed, yes, Housing Solutions is a regional organization. Chris said yes, staff should add this to the agenda as it is consistent with the COG mission.

The meeting ended at 2:10 p.m.

CEBT HIPPA Agreement

To: SWCCOG Board of Directors
From: Sara Trujillo
Date: 25 October 2018

Comments: Attached is the CEBT Participating Employer Certification and HIPAA Confidentiality Agreement. This is the agreement between the employer group and CEBT that HIPAA compliance requires be signed every 3 years.

Fiscal Impact: None

Legal Review: Not reviewed, CEBT requires this document in an unedited state.

Staff Recommendation: Approve the CEBT Participating Employer Certification and HIPAA Confidentiality Agreement with signature authority to the Chair.

**CEBT
PARTICIPATING EMPLOYER CERTIFICATION AND
HIPAA CONFIDENTIALITY AGREEMENT**

This Participating Employer Certification and HIPAA Confidentiality Agreement (together, "Agreement") is effective as of January 1, 2019 ("Effective Date"), by and between CEBT ("CEBT" or "Health Plan"), and Southwest Colorado Council Of Governments ("Participating Employer").

RECITALS

WHEREAS, Health Plan is maintained pursuant to the Agreement and Declaration of Trust effective July 1, 2015 and as may be amended thereafter from time to time ("Trust Agreement"); and

WHEREAS, Participating Employer's employees are covered by Health Plan pursuant to the Trust Agreement; and

WHEREAS, Health Plan is a Covered Entity as defined at 45 CFR § 160.103 and is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable PHI ("PHI") codified at 45 CFR Parts 160 and 164 (the "Privacy Regulations" or "Privacy Rule") (all regulatory references herein are to Chapter 45 of the Code of Federal Regulations.);

WHEREAS, Participating Employer is permitted to create, obtain, and maintain certain enrollment, disenrollment, and summary information; and

WHEREAS, Participating Employer requires certain PHI to perform administrative functions; and

WHEREAS, the Privacy Regulations require Health Plan to mandate certain protections for the privacy and security of PHI, including restrictions of PHI to certain permitted uses and disclosures;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

**PARTICIPATING EMPLOYER CERTIFICATION REGARDING
THE USE AND DISCLOSURE OF PHI**

In order to fully comply with HIPAA and its Privacy Regulations, Participating Employer agrees:

1. Not to use or disclose PHI it receives from CEBT other than as permitted or required by this Agreement, the Trust Agreement, or as Required by Law.

2. To ensure that its subcontractors or agents to whom it provides PHI agree to these same restrictions and conditions that apply to Participating Employer with respect to PHI.
3. Not to use or disclose PHI it receives from CEBT for employment-related actions or decisions or on behalf of any other benefit or employee benefit plan of Participating Employer.
4. To report to CEBT any use or disclosure of PHI that is inconsistent with this Agreement, the Trust Agreement, or the Privacy Rule, of which it becomes aware.
5. To permit individuals access to their own PHI.
6. To permit individuals to amend their own PHI.
7. To assist CEBT in providing an accounting of disclosures when requested as required by the Privacy Rule.
8. To make its practices, books, and records regarding its use of PHI available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining CEBT's compliance with HIPAA and its Privacy Rule.
9. To return to CEBT or to destroy, if feasible, all PHI received from CEBT when it is no longer needed, or when such return or destruction is not feasible, to extend the protections of this Agreement to PHI and to limit further uses and disclosures of PHI to those purposes that make the return or destruction of the information infeasible; and
10. To establish appropriate "firewalls" between itself and CEBT, ensuring that only those employees and agents of Participating Employer who require access to PHI in order to perform their plan administration functions are permitted such access.

Participating Employer identifies the following employees and agents as those who require access to PHI in order to perform enrollment and administrative functions as related to Health Plan: *include employee name, function, class/position, (e.g. Director of Human Resources and her staff)*

Employee Name	Function	Class or Position
<i>Miriam Gillow-Wiles</i>	<i>Administrator</i>	<i>Executive Director</i>
<i>Sara Trujillo</i>	<i>Administrator</i>	<i>Accountant / HR Manager</i>

HIPAA CONFIDENTIALITY AGREEMENT

1. **Definitions.** Except as otherwise defined in this Agreement, the terms used in this Agreement shall have the same meaning as those terms used in and defined by the Privacy Regulations.

2. Obligations and Activities of Participating Employer.

2.1. Use and Disclosure. Participating Employer shall not use or disclose any PHI in a manner other than as permitted by the terms of this Agreement or Required by Law.

2.2. Adequate Safeguards for PHI. Participating Employer shall implement and maintain appropriate administrative, physical, and technical safeguards to prevent the Use or Disclosure of PHI and Electronic PHI in any manner other than as permitted by this Agreement.

2.3. Reporting and Mitigating Non-Permitted Use or Disclosure or Breach. Participating Employer shall report to Health Plan any Use or Disclosure of PHI in its possession of which it becomes aware, including security incidents and breaches of Unsecured PHI, that is not permitted by the terms of this Agreement or as may be Required by Law. Participating Employer agrees to mitigate, to the extent practicable, any harmful effect a Use or Disclosure of PHI in violation of the requirements of this Agreement. In the event Participating Employer discovers a breach, Participating Employer shall notify Health Plan as soon as practicable and in no case later than 30 calendar days after the discovery of the breach by Participating Employer. Such notice shall include the identification of each Individual whose unsecured PHI has been, or is reasonably believed by Participating Employer to have been, accessed, acquired, or disclosed during such breach.

2.4. Prohibition on the Collection of Genetic Information. Participating Employer will not collect genetic information from an employee, participant, or potential participant, either for underwriting purposes or prior to or in connection with enrollment.

2.5. Availability of Internal Practices, Books and Records to Government Agencies. Participating Employer agrees to make its internal practices, books and records relating to the Use and Disclosure of PHI received from, or created by Participating Employer on behalf of, Health Plan available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining Health Plan's compliance with the Privacy Regulations.

2.6. Use by Subcontractors and Agents. Participating Employer agrees to require that any of its agents or subcontractors that create, receive, maintain, or transmit PHI on behalf of Participating Employer to agree to the same or substantially similar restrictions, conditions, and requirements that apply to Participating Employer with respect to such information.

2.7. Access to PHI. Upon Health Plan's reasonable written request, Participating Employer will make available PHI in a Designated Record Set to Health Plan in response to an Individual's request as necessary to satisfy Health Plan's obligations under 45 CFR § 164.524.

2.8. Delegation of Health Plan's Duties. To the extent Health Plan properly delegates to Participating Employer through this Agreement any privacy rule obligation of Health Plan, Participating Employer must comply with the same privacy rule provisions that apply to Health Plan in the performance of the obligation.

2.9. Amendment to PHI. Upon Health Plan's reasonable written request, Participating Employer will make any amendment to PHI in a Designated Record Set as agreed to by Health Plan or take other measures necessary to satisfy Health Plan's obligations under 45 CFR § 164.52.

2.10. Accounting of Disclosures. Upon Health Plan's reasonable written request, Participating Employer will maintain and make available the information required to provide an accounting of disclosures to Health Plan as necessary to satisfy Health Plan's obligations under 45 CFR § 164.52.

3. Permitted Uses and Disclosures of PHI by Participating Employer.

3.1. Use and Disclosure. Except as otherwise limited by this Agreement, Participating Employer may only use and/or disclose PHI in its capacity as a Participating Employer of Health Plan, for purposes of fulfilling its enrollment and administrative functions or as otherwise Required by Law. Participating Employer may not use or disclose PHI in a manner that would violate 45 CFR Part 164, Subpart E if done by Health Plan.

3.2. Minimum Necessary. Participating Employer shall use and/or disclose PHI only to the extent necessary to satisfy its enrollment and administrative functions.

4. Obligations of Health Plan.

4.1. Notice of Privacy Practices. Health Plan shall provide Participating Employer with the Notice of Privacy Practices for PHI that Health Plan produces as required under HIPAA, as well as any changes to such notice.

4.2. Authorization Revocations. Health Plan shall provide Participating Employer with any changes in, or revocation of, permission by Individuals to Use or Disclose PHI about them, if such changes affect Participating Employer's permitted or required uses and disclosures.

4.3. Restrictions. Health Plan shall notify Participating Employer of any restriction on the use or disclosure of PHI that Health Plan has agreed to or is required to abide by pursuant to 45 CFR § 164.522 only if such restriction affects Participating Employer's permitted use or disclosure of PHI pursuant to this Agreement.

4.4. Conformity with Privacy Regulations. Health Plan shall not request Participating Employer to Use or Disclose PHI in a manner that would conflict with the Privacy Regulations or that would be impermissible if Used or Disclosed by Health Plan.

5. **Indemnification.** To the extent permitted by law, Participating Employer shall hold Health Plan harmless and indemnify it from and defend it in any legal or regulatory proceeding where Participating Employer's alleged violation of HIPAA or the Privacy Regulations is the result of actions or omissions of Participating Employer. To "hold harmless" and to "indemnify" means to pay reasonable legal fees, pay costs, and be responsible for and pay any exactions, fines, penalties, judgments, or other amounts of any kind or nature.

6. Term and Termination.

6.1 Term. The term of this Agreement shall commence on the Effective Date and continue until terminated as provided in Section 6.2 of this Agreement, or until such date as Participating Employer's participation in CEBT terminates.

6.2 Termination. Any material breach of a provision of this Agreement is grounds for termination by the non-breaching party. However, the non-breaching party shall provide a

written notice of the alleged breach and afford the breaching party an opportunity to cure said alleged breach upon mutually agreeable terms. If the breaching party fails to cure the breach within thirty (30) days of receipt of notice of the breach, the non-breaching party may terminate this Agreement, report the breach to the secretary of Health and Human Services, and pursue any available remedies. The obligations of Participating Employer to preserve the confidentiality of PHI that it retains after termination of this Agreement shall survive the termination of this Agreement.

7. Return or Destruction of Health Information.

7.1 Return or Destruction of Health Information. Except as provided in Section 7.2 below, and subject to any applicable record retention rules, upon termination of this Agreement, Participating Employer shall return to Health Plan or destroy all PHI received from Health Plan or created by Participating Employer on behalf of Health Plan. This provision shall also apply to PHI that is in the possession of subcontractors or agents of Participating Employer.

7.2 When Return or Destruction of Health Information Infeasible. In the event that Participating Employer reasonably determines that returning or destroying the PHI is infeasible, Participating Employer shall retain the PHI, extend the protections of this Agreement to such PHI and maintain the confidentiality of all such PHI, for so long as Participating Employer maintains such PHI. The obligations of Participating Employer under this Section 7.2 shall survive termination of this Agreement.

8. Miscellaneous.

8.1 Amendments. No amendment to this Agreement shall be effective unless in writing and executed and dated by the parties hereto.

8.2 Interpretation. This Agreement shall be interpreted to conform with the requirements of HIPAA and the Privacy Regulations, including any amendments or modifications to HIPAA and the Privacy Regulations.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first stated above.

CEBT, HEALTH PLAN

PARTICIPATING EMPLOYER

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SWCCOG – Region 9 Collaboration

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles
Date: 25 October 2018

Comments: After the challenges with the initial consultant with the collaboration, Karen Thompson and Paul Roithmyar were contacted and agreed to take on the project. They will present and lead a discussion on the status of the project thus far. The Board will need to make a decision based on the information provided as to the direction the members would like to proceed.

Fiscal Impact: Some potential

Legal Review: Contracts will be reviewed upon development and Board decision.

Staff Recommendation: Staff will be involved in this discussion as to what recommendations might be post discussion with the consultants.

2019 Executive Committee, Nomination Committee

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles
Date: 7 December 2017

Comments: Every year the SWCCOG selects the upcoming Executive Committee members. A number of members of the previous nomination committee are no longer Board Members, as a result the SWCCOG needs to create a Nomination Committee. Typically the committee is made up of 3-5 people from across the region and represent both municipalities and counties.

Historically, though not required, the Nomination Committee nominates the existing Executive Committee members into the next Officer position and fills the Treasurer position. This is usually done to help the continuity and knowledge base of the Executive Committee. The entirety of the 2019 Executive Committee will need to be nominated at the December 6th Board Meeting.

2018 Executive Committee members are as follows:

Chair – Chris La May, Town of Bayfield Manager

Vice Chair – Gwen Lachelt, La Plata County Commissioner

Treasurer – Karen Sheek, Mayor, City of Cortez

Legal Review: N/A

Fiscal Impact: No fiscal impact.

Staff Recommendation: Select the 2019 Nomination Committee for 2019 Executive Committee Nomination at the December 2018 SWCCOG Board Meeting

CDPHE Health Disparities Grant

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles
Date: 22 October, 2018

Comments: The Colorado Department of Public Health and Environment has announced a Health Disparities Grant Program (HDGP) for FY20-21. The HDGP is funded by the Colorado state tobacco tax revenue and is intended to “fund local initiatives focused on evidence-based strategies to overcome health disparities in the prevention and early detection of cancer, cardiovascular disease, and chronic pulmonary disease by implementing policy and systems changes related to anti-displacement housing efforts that include land-use planning or affordability that addresses housing stability in communities.”

Staff proposes a partnership with Housing Solutions for the Southwest to develop systems to address affordability and housing stability with the goal to overcome health disparities in the prevention and early detection of cancer, cardiovascular disease, and chronic pulmonary disease. We would also work with Region 9 Economic Development District and Axis Health System to ensure a multisector, comprehensive approach.

This project supports the SWCCOG’s goal to work with existing housing providers in the region to develop a variety of strategies to improve affordability and accessibility of housing. These strategies are also closely tied to the related goals of working with the changing needs of citizens and communities as the population ages and working to improve transportation throughout the region.

Overview

- Maximum grant request per fiscal year: \$400,000
- Funds cover expenses for personnel, supplies and operating, travel, contractors, and indirect costs at a rate of 10%.
- Due Date: October 30, 2018

Legal Review: Not applicable at this time

Fiscal Impact: The minimum funding request per fiscal year is \$200,000. This will include staff time, costs for the selected contractor, and direct costs for Housing Solutions for the Southwest to cover assistance with the management of the project. There is no match required for this project.

Staff Recommendation: Direct staff to apply for the Health Disparities Grant through the CDPHE.

Tamarron Broadband Letter of Support

To: SWCCOG Board of Directors
From: Miriam Gillow-Wiles
Date: 22 October, 2018

Comments: Forethought/Brainstorm Internet approached the SWCCOG requesting a letter of support to the State Broadband Fund for funding to help offset the cost to connect Tamarron to their existing fiber network. This project is the result of the speeds currently offered are less than 10 Mbps and that the current provider has given notice that they will no longer be able to provide internet and voice services. A draft letter of support is attached.

The SWCCOG has provided letters of support previously for Forethought and other ISPs seeking funding from the State Broadband Fund. This year the grant cycle was earlier than in years past due to funding increases from the state legislature. In the future the Fund will have twice yearly grant requests, likely leading the SWCCOG to provide more letters of support.

Legal Review: Not applicable at this time

Fiscal Impact: None.

Staff Recommendation: Approve Letter of Support for Forethought/Brainstorm Broadband Fund Grant Application.



SOUTHWEST COLORADO COUNCIL OF GOVERNMENTS

25 October 2018

Broadband Fund
Department of Regulatory Agencies
1560 Broadway, Suite 1550
Denver, CO 80202

RE: Tamarron Broadband Project

The Southwest Colorado Council of Governments (SWCCOG) supports the Brainstorm Internet and Tamarron Fiber Project request for funding through the Broadband Fund program.

Located between Purgatory Resort and the town of Durango, Tamarron serves as one of the primary lodging facilities for the ski area while drawing tourists to the City of Durango and surrounding attractions. Our region is critically dependent upon tourism and amenities such as reasonable internet speeds are important to make the region attractive to potential visitors. Additionally, residents of Tamarron, and the southwest as a whole, are in need of affordable high speed internet for work and conducting day to day business.

This project supports SWCCOG's goal to expand high-speed internet throughout Southwest Colorado by building broadband in this underserved area. We strongly encourage this project be established as open access fiber to allow integration with future fiber network expansions in the region.

The SWCCOG supports the Tamarron Broadband Project and encourages the Broadband Fund program to fund the request.

Sincerely,

Miriam Gillow-Wiles
Executive Director
Southwest Colorado Council of Governments