AGENDA

The City of Durango encourages the participation of all its citizens in its public meetings. If an accommodation is needed, please contact the City of Durango ADA Coordinator at (970) 375-5005.

CITY COUNCIL REGULAR MEETING
DURANGO CITY HALL, SMITH CHAMBERS
07/16/2024
5:30 PM

MAYOR
Jessika Buell

MAYOR PRO-TEM
Gilda Yazzie

CITY COUNCILORS
Olivier Bosmans – David Woodruff
Melissa Youssef

CITY MANAGER
José Madrigal

ASSISTANT CITY MANAGERS
Bob Brammer and Erin Hyder

CHIEF OF POLICE
Brice Current, Public Safety

CITY ATTORNEY
Mark Morgan

CHIEF FINANCIAL OFFICER
Devon Schmidt

CITY CLERK
Faye Harmer

AIRPORT
Tony Vicari, Director

911 COMMUNICATIONS
Zeta Fail, Director

LIBRARY SERVICES
Luke Alvey-Henderson, Director

PARKS AND RECREATION
Kelly Schmidt, Director

TRANSPORTATION
Sarah Hill, Director

INFORMATION TECHNOLOGY
Justin Carlton, Director

PUBLIC WORKS
Allison Baker, Director

HUMAN RESOURCES
Bonnie Kling, Director

COMMUNITY DEVELOPMENT
Scott Shine, Director

MISSION
We provide outstanding services and experiences for the entire community.

VISION
A multigenerational community which is authentic, diverse, engaged, thriving and environmentally responsible.

VALUES
- Teamwork
- Dependability
- Professionalism
- Service
- Respect
- Innovation
- Well-Being

STRATEGIC GOALS
- Organizational Stewardship (OS)
- Innovative Housing & Economic Development (IHED)
- Safety & Quality of Life (SQL)
- Reliable Infrastructure & Community Connectivity (RICC)
- Engaged & Informed Community (EIC)
- Strategic Workforce Development (SWD)
1. CALL TO ORDER AND ROLL CALL 5:30 PM

2. INTRODUCTION OF TRANSLATOR

3. OPENING REMARKS BY MAYOR AND COUNCIL - Information Only 5:35 PM

4. PRESENTATIONS/PROCLAMATIONS - Information Only 5:40 PM
   4.1. Client Leadership Council - Siegele Safe Haven presentation

5. CITY MANAGER UPDATES - Information Only 5:50 PM

6. COMMITTEE, BOARD AND LIAISON REPORTS - Information Only
   6.1. Airport Commission Quarterly Report - RICC

7. PUBLIC COMMENT ON AGENDA ITEMS ONLY 6:00 PM

8. CONSENT AGENDA - Action Items without discussion 6:10 PM
   8.1. Approval of Meeting Minutes
      8.1.1. Approval of July 2, 2024 City Council Meeting Minutes - EIC - Submitted by the City Clerk’s Office
   8.2. Final Reading of Ordinances NO ITEMS
   8.3. Adoption of Resolution(s) by Consent NO ITEMS
   8.4. Approval of Other Administrative Items
      8.4.1. Approval of an Implied Consent Agreement (ICA) Involving Water and Sewer Service for 387 CR 239 - RICC - Submitted by Community Development and Public Works
   8.5. Request For Public Hearing NO ITEMS
   8.6. Introduction of Ordinances
      8.6.1. Introduction of an Ordinance Authorizing the Borrowing of Funds by the Airport Enterprise Fund from the Colorado State Infrastructure Bank for Terminal Improvements at the Durango-La Plata County Airport - RICC - Submitted by Tony Vicari

This meeting is being held in a virtual/In Person format (Durango Resolution R 2022-00017 dated 4/5/2022). Link to the virtual meeting at http://durangoco.gov/zoom. If this link fails, please copy and paste into your browser.
8.6.2. Introduction of Ordinance Establishing City Council Rules of Procedure - OS - Submitted by the City Manager's Office and the City Attorney's Office

8.7. Request for Excused Absences

9. ITEMS PULLED FROM THE CONSENT AGENDA - Action Item with discussion

10. PUBLIC HEARINGS - Action Items with Discussion NO ITEMS

11. RESOLUTIONS - Action Items with discussion 6:15 PM

11.1. A Resolution Adopting the Updated City of Durango Open Records Policy and Increasing the Hourly Fee - EIC - Submitted by the City Clerk's Office


11.3. A Resolution Amending the 2024 Budget to Receive Additional Grant Funding Submitted by Finance - OS

11.4. A Resolution to Add Tax Re-Authorization to the November Ballot - OS - Submitted by Finance

12. FIRST CONSIDERATION OF ORDINANCES - Action items with discussion 6:40 PM

12.1. First Consideration of an Ordinance for an Easement for Black Hills Energy to Service the Durango-La Plata County Airport - RICC - Submitted by Community Development

13. PUBLIC COMMENT ON NON-AGENDA ITEMS - No discussion 6:50 PM

14. OTHER NEW BUSINESS - Non-Dispositive with limited discussion

15. ADJOURNMENT 7:00 PM

NOTE THAT ALL TIMES ARE APPROXIMATIONS

The public may view the meeting live on Zoom at durangogov.org/zoom or on YouTube at https://www.youtube.com/@CityofDurango6512. An email link for public comment is located at DurangoCO.gov/meetings at the top of the page as well as on the agenda itself under Public Participation. Comments must be submitted no later than noon on the Monday preceding the meeting. Each email should contain the corresponding agenda item in the subject line of the email if there is one. The sender’s full name and address should be included for the record. If comment by email is not possible, comments may also be placed in the drop box located in front of City Hall no later than noon on the Monday preceding the meeting. All written comments will be provided to the Council for review. Written comments may be read into the record and/or attached to the minutes of the meeting at the direction/discretion of Council. Email comments should be directed to: PublicComment@durangoco.gov.

Members of the public who wish to provide verbal comments can use the Virtual Meeting Information at the top of this agenda to join the meeting. Please ensure you have the Zoom app installed on your computer or This meeting is being held in a virtual/In Person format (Durango Resolution R 2022-00017 dated 4/5/2022). Link to the virtual meeting at http://durangogov.org/zoom. If this link fails, please copy and paste into your browser.
mobile device prior to the meeting (https://zoom.us/download). The mayor will provide additional details during the meeting when public comment is accepted.
Date: June 21, 2024

Prepared by: Emily Lashbrooke, Airport Commission Chair
Tony Vicari, Aviation Director

Subject: Durango-La Plata County Airport Commission Quarterly Report

Meeting Highlights

April 18, 2024
• Received updates on the Terminal Expansion Phase 1A/1B project
• Reviewed and approved an updated Air Carrier Incentive Program (ACIP)
• Reviewed and approved a State Infrastructure Bank (SIB) loan agreement with CDOT for the Terminal Expansion Phase 1B project

May 16, 2024
• Received updates on the Terminal Expansion Phase 1A/1B project
• Conducted a strategic overview of the airport operating budget ahead of the assembly of the FY25 airport budget.

June 20, 2024
• Received updates on the Terminal Expansion Phase 1A/1B project
• Reviewed and discussed vehicle parking development concept plans
• Reviewed and approved the proposed list of FY25 airport capital projects
• Received an update on the hangar development project within the airport's North GA zone
1. CALL TO ORDER AND ROLL CALL
Mayor Buell called the meeting to order at 5:31 p.m. Present were Mayor Jessika Buell, Mayor Pro-Tem Gilda Yazzie, and Councilors Melissa Youssef, Olivier Bosmans, and David Woodruff.

Staff present on behalf of the City of Durango were City Manager José Madrigal, Deputy City Clerk Ben Florine, and City Attorney Mark Morgan.

2. INTRODUCTION OF TRANSLATOR
Diego Pons of Community Language Cooperative provided translation services for Spanish speakers.

3. OPENING REMARKS BY MAYOR AND COUNCIL
No remarks were made by the Councilors.

4. PRESENTATIONS/PROCLAMATIONS
4.1. Proclamation Recognizing Community is Stronger than Cancer Day
Mayor Buell read the proclamation and it was graciously received by the recipient, who informed the Council that the project was part of two hundred organizations, and the only one of its kind in a rural community such as Durango.

5. CITY MANAGER UPDATES
There was no City Manager update.

6. COMMITTEE, BOARD AND LIAISON REPORTS
Councilor Woodruff reported that he attended the Creative Economy Commission as well as the Lodgers Tax Arts and Culture Funding meeting, where they awarded fifteen projects for a total of $256,000. He noted that since the inception of the program two and a half years ago, they have awarded $1,200,000 in grant funding to 94 projects. He attended a meeting where they discussed the transition from the Creative Economy Commission to the Durango Creative District, noting that they focused on revitalization of certain character districts. Councilor Woodruff also reported on the progress of hiring a Chamber executive director and said that there had been some impressive interviews.

Councilor Youssef said that her office hours were well attended, where childcare, minimum wage, and Downtown Next Steps were discussed.

Mayor Pro-Tem Yazzie reported that she attended a library board meeting, where they elected officers for 2025. She also attended an educational meeting on the historical background of Juneteenth, noting that she was grateful that the City was offering classes on diversity.

Mayor Buell stated that she attended the 102nd Municipal League Conference in Loveland. She informed of several breakout sessions that she joined during the conference, including elected officials' role in economic development as well as a session that focused on historic preservation of municipalities. Mayor Buell reminded council that the Colorado Association of Ski Towns would be holding their upcoming meeting in Durango and encouraged Councilors to attend.

7. PUBLIC COMMENT ON AGENDA ITEMS ONLY (Items 8, 9, and 11)
Pam Moore, Director of Homes Fund, requested five and a half minutes for public comment.
Mayor Pro-Tem Yazzie made a motion to allow five and a half minutes per person for all public comment. A roll call vote was taken, and the motion passed unanimously.

Passed: For 5; Against: 0; Abstain: 0; Absent: 0

Ms. Moore spoke about the property at 166 E. 33rd Street and expressed concern that issues regarding the sale of the property had escalated quickly and resulted in serious consequences, but that the HomesFund followed all protocols. She stated that the home was unaffordable to many households under the 125% AMI with 7 – 7.25% interest rates. She said out of 93 potential applicants that were notified of the property, only one person wanted to move forward with the purchase of the home. She reiterated that applicant was the only person who wished to purchase the house, contradicting the news article written by the Durango Herald that reported five candidates were qualified and wished to purchase it. Miss Moore noted that HomesFund was not aware of the relationship that caused the cancellation of the sale.

Zane Wells supported HomesFund position on the matter and urged council to not pull the ordinance.

8. CONSENT AGENDA
  8.1. Approval of Meeting Minutes
      8.1.1. Approval of Minutes June 17, 2024 City Council Special Meeting
      8.1.2. Approval of Minutes June 17, 2024 City Council Regular Meeting
      8.1.3. Approval of Minutes June 25, 2024 City Council Special Meeting
  8.2. Final Reading of Ordinances - NO ITEMS
  8.3. Adoption of Resolution(s) by Consent - NO ITEMS
  8.4. Approval of Other Administrative Items - NO ITEMS
  8.5. Request For Public Hearing - NO ITEMS
  8.6. Introduction of Ordinances
      8.6.1. Introduction of Ordinance for an Easement for Black Hills Energy to Service the Durango-La Plata County Airport (July 16, 2024) - RICC - Submitted by Community Development
  8.7. Request for Excused Absences

Chief Deputy Clerk Ben Florine read the consent agenda.

Councilor Woodruff made a motion to approve the consent agenda as presented. Mayor Pro-Tem Yazzie seconded the motion. A roll call vote was taken, and the motion passed unanimously.

Passed: For 5; Against: 0; Abstain: 0; Absent: 0

9. ITEMS PULLED FROM THE CONSENT AGENDA
  9.1. Final Reading of Ordinance O-2024-0010 for the Sale of City-Owned Property Located at 166 E. 33rd Street for Conveyance of Real Property

City Attorney Madrigal stated that at no point did the City take the position that HomesFund deviated from the proper protocol. He also expressed his concern that some information was not disclosed, whether intentionally or unintentionally, and
that the process could have been more thorough, including more discussion between all parties involved.

Mark Morgan agreed with Mr. Madrigal’s statement, that there was never any indication by the City that HomesFund conducted itself incorrectly.

Scott Shine, Community Development Director, informed Council of the process regarding the acquisition of the Animas City Park Overlook home. He stated that although administered well, the design of the initial process was flawed, specifically regarding the public exposure to the opportunity to purchase the home, as well as the randomization of qualified buyers. He recommended that Council take no action on this final reading and allow the ordinance to expire.

No motions were offered by Council and final approval of the ordinance did not occur. The ordinance dies.

10. PUBLIC HEARINGS

11. RESOLUTIONS

11.1. A Resolution to Approve the Hilton Home2Suites Preliminary Development Plan at 32 Miners Court

Scott Shine, Community Development Director, presented the development plan. He described the important project features including parking and pedestrian walkways. Mr. Shine explained that several design changes had been made to create an exterior more aligned with the Durango aesthetic. He reported that the Community Development Commission voted 4-2 to approve the request.

Councilor Woodruff made a motion to approve the proposed Hilton Home2Suites Preliminary Planned Development with the findings and conditions as described in the staff report, at the Community Development Commission hearing for this project and discussed at this meeting and direct the applicant to submit the Final Plan for staff review. Councilor Youssef seconded the motion.

Councilor Woodruff inquired about electric vehicle (EV) parking and asked if there would also be charging stations available. Mr. Shine replied that code requires a certain number of EV stations and EV ready spaces, where a conduit is run for potential future charging stations. Councilor Woodruff also requested to know the rationale behind the two dissenting votes by the Community Development Commission. Mr. Shine answered that there was some concern over the economic impacts of a chain hotel and the impacts on housing, as well as some concern about the structure’s height and visual impact.

A roll call vote was taken, and the motion passed unanimously.
Passed: For 5; Against: 0; Abstain: 0; Absent: 0

12. FIRST CONSIDERATION OF ORDINANCES – NO ITEMS

13. PUBLIC COMMENT ON NON-AGENDA ITEMS

Sweetie Marbury, city resident, encouraged an increase of funding to the Forestry Department from the discretionary funds of the Lodger’s Tax, stating that many trees in Durango had become a public safety concern. She suggested adding more money into the budget to hire local tree service contractors. Miss Marbury also expressed support for the 2005 Tax Reauthorization and expressed that she felt that the language on the ballot needed to be explicit regarding the use of the funding.

14. OTHER NEW BUSINESS - Non-dispositive with limited discussion

Mayor Buell requested that staff research best practices for meeting state regulations regarding the testing of backflow preventers, and asked for information on how often inspections are made and whether there should be a change to the current ordinance.
City Manager Madrigal informed that currently, the ordinance states that inspections be made annually at the expense of the resident and offered to do a comparison of inspection procedures against other municipalities.

Mayor Buell made a motion requesting staff to research and compile information regarding backflow preventer inspections and potential changes that may improve the City’s process, including best practices made by other municipalities. Councilor Youssef seconded the motion.

Councilor Bosmans said that he wanted information on how many households are impacted by the annual inspections. He stated that an annual inspection may be a burden for low-income families, and that it may be prudent for the City to pay for the inspections with the water fund.

Councilor Woodruff expressed concern over the shut-off of water to a household when it exceeds the 75-day inspection deadline. He stated that financial and language barriers should be considered regarding the inspections.

A roll call was taken, and the motion passed unanimously. Passed: For 5; Against: 0; Abstain: 0; Absent: 0

Mayor Pro-Tem Yazzie asked if there was any support by Council for a motion to install a traffic camera on Animas View Drive, where there have historically been accidents and traffic issues.

Chief Brice Current was asked to answer questions regarding a potential camera. He stated that the Police Department wanted to collect public opinion before moving forward with the camera, as various issues would need to be addressed.

Councilor Bosmans suggested that Mayor Pro-Tem Yazzie make a motion to request an update via an agenda item so that the community is aware of the discussion. Mayor Buell stated that Mayor Pro-Tem’s motion needed to be concluded before Councilor Bosmans requested any separate motions.

Mayor Pro-Tem Yazzie withdrew the potential motion and expressed that she was glad that the issue was being addressed by the Police Department.

15. ADJOURNMENT

The meeting was adjourned by acclamation.

APPROVED: 

ATTESTED:

Jessika Buell, Mayor 
Faye Harmer, City Clerk
TO: DURANGO CITY COUNCIL  
FROM: SCOTT L. SHINE, COMMUNITY DEVELOPMENT DIRECTOR  

SUBJECT: APPROVAL OF AN IMPLIED CONSENT AGREEMENT (ICA) INVOLVING WATER AND SEWER SERVICE FOR 387 CR 239 - RICC

RECOMMENDATION:
Staff from the Community Development Department and the Public Works Department recommend approval of the Implied Consent Agreement involving water and sewer service for 387 CR 239.

BACKGROUND SUMMARY:
The City has received a request from Alexander and Ellen Horn for approval of an Implied Consent Agreement (ICA) to allow new connections to the City’s water and sewer system for an unincorporated property located at 387 CR 239. This property is currently not eligible for annexation.

The applicant is proposing to construct a new single-family home on the property, which is allowed and permitted through La Plata County’s land use process. The County requires an applicant to demonstrate their source for water and sewer prior to their consideration of a new residential unit. City water and sewer mains are readily accessible in the adjacent County Road 239 right-of-way. The request for new utility connections has triggered the City’s requirement for an ICA.

Because the proposed new residential unit is subject to the County’s review, the approval of the ICA is conditioned on the County’s final approval of the applicant’s request. The final execution of the ICA by the City Manager will not occur until such time as the County’s approval process is complete and the City can conclude that the project meets the development standards as described in the body of the ICA.

The applicant will be required to pay City water and sewer Plant Investment Fees (PIF’s), Park fees, and Major Street Impact Fees at the applicable residential rates prior to receiving a City approval of the County’s building permit process.

STRATEGIC PLAN ALIGNMENT:
The execution of this Implied Consent Agreement aligns with the Reliable Infrastructure and Community Connectivity (RICC) section of the Strategic Plan, specifically Objective 4.3 which states, “Uphold a continuous, high-efficiency system for managing water, wastewater, and stormwater systems that adhere to strict compliance with environmental regulations.”

ALTERNATIVE OPTIONS CONSIDERED:
The other alternative is for the City to deny water and sewer service to this property. This alternative does not have any beneficial outcomes.

FISCAL IMPACT:
If the City enters into an ICA for water and sewer service, there is no obligation for the City to annex and therefore no budgetary impact to the City associated with this action. There will be costs for water and sewer system operations, which will be covered by user fees and Plant Investment Fees to be paid by the property owner.

POTENTIAL ADVERSE IMPACTS:
None.

NEXT STEPS AND TIMELINE:
It is recommended that the City Council, by motion, Authorize the City Manager to execute an Implied Consent Agreement allowing for the property at 387 CR 239 to connect to City water and sewer, with the following conditions:

1. Proposed development of the subject property, including the design and connection of the utility service lines, shall comply with all applicable City standards.
2. If an Implied Consent Agreement has not been executed by the City Manager and the owner of 387 CR 239, this approval shall be null and void.

Once the ICA is executed by all parties and a County building permit is issued, the property owner may commence construction of the utility infrastructure.
THIS AGREEMENT is made and entered into this ______ day of ______________, 2024, by and between the CITY OF DURANGO, a municipal home-rule corporation (hereinafter referred to as "City") and ALEXANDER & ELLEN, HORN (hereinafter referred to as "Owner," whether one or more).

WITNESSETH:

WHEREAS, Owner has applied for municipal water and sewer service from the City at a site which is located outside the city limits of the City of Durango, which site is located on the real property hereinafter described; and

WHEREAS, the City has agreed to furnish such service conditional upon Owner's agreement to perform the terms, conditions and obligations hereinafter set forth, the parties do hereby agree as follows:

1. **Purpose and Duration of ICA**
   Subject to Owner's compliance and completion of the terms, conditions and obligations hereinafter set forth, the City does hereby grant to Owner a revocable permit to connect one (1) new 4-inch private sewer service pipeline to the public sewer utility collection system of the City and one (1) new 1-inch water service line to the water utility system of the City. This permit is deemed automatically revoked by the City if connection to the water and sewer utility system of the City is not accomplished within a period of two (2) years from the date of the execution of this agreement. No subsequent documentation shall be required from the City to evidence such revocation in the event connection is not made within the aforementioned two (2) year period. The permission herein granted from the City is for the sole and single purpose of allowing Owner to obtain water and sewer facilities from the City for the benefit of certain property located outside the city limits of the City of Durango on the following described property, to wit:

   Address – 387 County Road 239
   APN - 566521100099
   Legal description – Lot 1B of CATEGORY 1 PROJECT NO. 86-170, according to the recorded plat thereof filed for record at the office of the Clerk and Recorder, La Plata County, Colorado, on November 19th, 1986, under reception No. 540266.

   The above-described property is to be utilized for one (1) Single-Family Residence to be served by the City's water and sewer utility. The property shall be developed in accordance with the plans and specifications accepted by the City by the Owner and the obligations otherwise set forth in this Agreement.

2. **Final ICA Approval**
   City Council can approve a water and sewer ICA, but that the final ICA agreement will not be executed by the City Manager until the development project has received final development approval by the respective jurisdiction.

3. **Site Specificity**
   That the water and sewer utility service herein authorized is restricted exclusively to the land and use described in section 1 of this agreement, and no transfer, enlargement, or increase in said water utility service shall be had or made without written approval of the City Council of the City of Durango.

4. **Location Requirements and Responsibilities**
The connection hereby authorized shall be made with the water and sewer utility system of the City and at such a point as the City Engineer of the City shall prescribe in writing. The water and sewer utility service lines of the Owner, running from the point of connection with the mainline to the structure(s), shall be installed by the Owner at their expense and in compliance with the specifications of the City of Durango.

Any mainline extension required to be installed shall be constructed by the Owner at his expense and in compliance with the specifications of the City of Durango. Upon completion, inspection and acceptance of the main line, Owner shall guarantee the materials and workmanship for a period of one (1) year. Following the guarantee period, said line shall be transferred to and subsequently maintained by the City of Durango.

Owners shall also comply with all applicable City of Durango rules, regulations and administrative orders of the City relating to the water and sewer utility of the City of Durango.

5. **Water and Sewer Improvement and Site Development Plans and Requirements**

In conjunction with the application for an implied consent agreement by Owner, Owner has heretofore tendered to the City for review and approval, improvement plans pertaining to the proposed development on the real property described in paragraph 1 above.

All development by Owner shall be in accordance with the terms and provisions of the improvement plans tendered by Owner to the City in conjunction with the application by Owner for connection to the City water utility.

Prior to any connection to the City water and sewer utility, all public improvements as reflected on the improvement plans tendered by the Owner in conjunction with application for this implied consent agreement, shall be fully complete and approved by the City Engineer.

Owner agrees that he will construct improvements on the above-described property in accordance with the terms and provisions of the improvement plans.

All construction and development by Owner on property described in Paragraph 1 above shall be in compliance with the terms, conditions, details and specification reflected on dated __________________ (“Improvement Plans”) previously submitted to, and approved by, the City in conjunction with the application by Owner for connection to the City water and sewer utility.

Owner further agrees that in the event they construct any additional buildings on the real property herein described in Section 1, subsequent to the date of this agreement, he shall comply with all applicable ordinances, codes and specifications of that governmental entity having jurisdiction over such building construction. In addition thereto, improvement plans for any and all such new development or improvements to be constructed or made on the property shall be tendered to the City of Durango prior to the commencement of any such construction or improvement.

Written approval shall be obtained from the City of Durango Community Development Department prior to the commencement of any such additional improvements or buildings on the subject property. Any substantive modifications to or substantive deviations from the approved plan without prior written consent from the City shall constitute a breach of this Agreement and shall entitle the City, at its sole discretion, to terminate this agreement, to revoke the permit allowing connection the City water and sewer utility herein contained and to require immediate disconnection from the City’s water and sewer utility.

6. **Plant Investment and Other Fee Payments**

Owners agree that they will pay to the City at the time of connection, the applicable water and sewer plant investment fees then in effect within the City of Durango for the water and sewer line connection.
Owners also agree to pay at the time of any new development improvement plans approval all other applicable fees required in conjunction with the development as applicable, including but not limited to a parks fee or dedication of land in lieu thereof, a school dedication fee, and a major street impact fee as required by the ordinances of the City of Durango.

In addition thereto, Owner shall pay to the City the rates for water and sewer service as provided by the ordinances and resolutions of the City, from the date connection is made to the City water and sewer utility or as the same may thereafter be revised or amended. In addition thereto, Owner shall, in addition thereto, at his own expense install such devices, if any, as may be required by the City to measure the use made of such service for purposes of assessing the charges therefore.

7. Development Improvement Standards
All new development shall be in accordance with, as applicable, City Development Standards, County Transitional Area Development Standards (TADS), or any other such improvement standards determined to be applicable to the property during the review and approval of the new development plans etc.

8. Non-Compete Provision
Owner agrees not to promote, form, organize or participate directly or indirectly in the promotion, formation or organization of any municipal corporation, quasi-municipal corporation, or other type of government unit of whatsoever kind or nature involving the above-described property and shall not include said property therein without the express permission of the City of Durango; provided, however, nothing therein contained shall preclude Owner from annexing said property to the City of Durango or joining in the formation of a special improvement or metropolitan district.

9. Future Annexation
Owner acknowledges and agrees that by virtue of the execution of this Implied Consent Agreement and the acquisition of City water and sewer utility services, Owner's property may be subject to future annexation by the City of Durango.

Owner agrees that within a period of ninety (90) days after the land described in section 1 above becomes eligible for annexation and when written notice is given to the property owner that the land is eligible for annexation to the City of Durango under the provisions of the Constitution of the State of Colorado, laws of the State of Colorado or the ordinances of the City, they will cause to be filed a valid annexation petition with the City of Durango proposing such land for annexation to the City. In addition thereto, Owner agrees that subsequent to the filing of said petition, Owner will take no action nor encourage others to take any action detrimental or prejudicial to the annexation to the City of Durango of the property described in section 1 above. All expenses of the annexation process, including but not limited to necessary surveying, plat preparation, preparation of legal documentation and payment of necessary processing fees in conjunction with the annexation procedure, shall be the sole responsibility of the Owner. Failure of Owner to make such application within ninety (90) days shall not preclude the City from enforcing the terms of this paragraph at a subsequent date as determined by the City by means of mandatory injunction proceedings in a Court of competent jurisdiction. Failure of the City to initiate proceedings shall not constitute a waiver of Owner's obligations pursuant to this paragraph. Owner agrees to pay all additional fees that may be required in conjunction with the annexation of the property described in section 1 above.

10. Assessment Following Annexation
It is further agreed that the granting of a permit to connect to the City water and sewer utility by the City does not relieve the Owner, or his property, from such assessments as may be levied subsequent to annexation to the City for special benefits attaching to the property as the result of the construction or installation of local improvements.

11. Failure to Comply
If Owner shall fail to perform any of the terms, conditions or obligations herein set forth, the City may, at its option, in addition to any other remedies it may have, either terminate the services herein authorized or suspend the same until Owner shall fully perform the terms,
conditions and obligations set forth. As an alternative, the City may, if it so elects, continue to
furnish service upon such new charges and such other different or additional terms and
conditions as the City Council shall deem appropriate and as shall be provided by resolution of
the City Council.

12. Capacity Contingency
The services to be performed by the City under the provisions hereof shall be subordinate and
subject to the requirements and capacity for water and sewer utility service within the City of
Durango.

13. Title Obligations
The Owner shall pay the cost of any title chain or memorandum of title necessary to establish
that the land described in section 1 above is owned by the Owner. Owner shall further pay all
costs required in conjunction with the recording of any instruments related to this agreement.

14. Applicability
This agreement shall run with the land described in section 1 above and shall be binding upon
the respective parties hereto, their heirs, successors, grantees, personal representatives and
assigns. Time is of the essence with respect to all terms, conditions and obligations herein
contained. If any part of the land herein described shall be conveyed, or if the whole thereof
shall be conveyed, this agreement shall be binding upon all property described in section 1
above, irrespective of whether the parcel so conveyed is actually served with water and sewer
utility service from the City of Durango or otherwise.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year
first above written.

CITY OF DURANGO, COLORADO

By ________________________________
José Madrigal, City Manager

ATTEST

____________________________
City Clerk

____________________________
Owner

____________________________
Owner

STATE OF COLORADO ) ) ss.
COUNTY OF LA PLATA )

The foregoing Agreement was acknowledged before me this ____ day of __________, 2024, by ________________________________.

Witness my hand and official seal.
My Commission Expires: ______________________
Address: ________________________________

____________________________
Notary
TO: DURANGO CITY COUNCIL    FROM: TONY VICARI, AVIATION DIRECTOR

SUBJECT INTRODUCTION OF AN ORDINANCE AUTHORIZING THE BORROWING OF FUNDS BY THE AIRPORT ENTERPRISE FUND FROM THE COLORADO STATE INFRASTRUCTURE BANK FOR TERMINAL IMPROVEMENTS AT THE DURANGO-LA PLATA COUNTY AIRPORT

RECOMMENDATION:

It is recommended that City Council, by motion, advance the introduction of an ordinance authorizing the borrowing of funds by the airport enterprise fund from the Colorado State Infrastructure Bank for terminal improvements at the Durango-La Plata County Airport.

BACKGROUND SUMMARY:

As a gateway and first impression to Durango, Southwest Colorado, and the entire Four Corners region, the Durango-La Plata County Airport (DRO) must provide appropriately sized and modern infrastructure to support the growing demand for air service in our community. The existing terminal was constructed in 1988 at a time when air traffic volume at DRO was less than half of what it is today, and also before the advent of Transportation Security Administration (TSA) passenger screening operations.

The existing terminal layout, undersized gates and hold rooms, and undersized TSA screening checkpoint are active constraints and limit opportunity for future airline growth and competition. As airlines transition from smaller regional jets to larger regional and mainline aircraft, facilities at DRO must be sized to meet this demand.

To address these challenges, and to begin preparations for more substantial programmed terminal expansion consistent with the 2020 Terminal Area Plan, a formal terminal expansion design process was initiated in September 2021. The intent of this project was to move forward expeditiously with the design and construction of a near-term phase 1A project to alleviate congestion and improve the passenger experience in the post-screening concourse, while also completing conceptual and schematic design on phases 1B & 2 of planned terminal development.

Groundbreaking for Phase 1A occurred in April 2023, with a formal ribbon cutting occurring in April 2024. Design development and the production of construction documents for Phase 1B began in early 2023 and was completed by December 2023. A Guaranteed Maximum Price (GMP) from the project’s selected Construction Manager At Risk (CMAR) was received in March 2024. Construction of Phase 1B is targeted to begin in summer/fall 2024, pending the receipt of a supporting Federal Aviation Administration (FAA) grant.

Given the larger scope and cost associated with Phase 1B, the financial implications of this component of the overall project are significant and must be carefully contemplated within the parameters of the airport’s financial capabilities as a self-sustaining enterprise fund. While Phase 1A of the terminal development program is cash-funded, Phase 1B will require airport-backed financing to provide sufficient capital to execute construction.

After reviewing multiple available commercial lending mechanisms, the Colorado State Infrastructure Bank (SIB) program has been selected as the preferred financing mechanism for the airport’s desired $8 million loan request. Administered through the Colorado Department of Transportation (CDOT) Aeronautics Division, the SIB program helps support the development of transportation facilities with funds available through a low interest revolving loan program.

The SIB program currently offers a 3.5% interest rate and no issuance fees. A ten-year maximum borrowing term is available, with no prepayment penalties. The full Colorado State Infrastructure Bank loan agreement is attached to this agenda item for City Council review. Legal review of the agreement has been completed by the City Attorney’s office, as well as the La Plata County Attorney’s office.

After review by city legal and outside counsel, it has been confirmed that the airport enterprise fund may take on debt serviced solely by airport revenues. No local government revenues are utilized by the
STRATEGIC PLAN ALIGNMENT:
Operations at the Durango-La Plata County Airport support the City of Durango’s Strategic Plan and its Reliable Infrastructure & Community Connectivity goal. Specifically, the terminal development program supports the objective of maintaining and enhancing DRO’s status as the key regional hub for aviation services by delivering safe, efficient, and sustainable airport operations and promoting a competitive airline environment.

ALTERNATIVE OPTIONS CONSIDERED:
Alternative financing mechanisms have been explored in depth. The Colorado State Infrastructure Bank offers superior interest rates and issuance fees to all other available mechanisms.

FISCAL IMPACT:
Construction and associated soft costs for Phase 1B are estimated at $28.5 million, with anticipated 2024-2026 funding consisting of a mixture of FAA AIP and BIL AIG grants, CDOT matching grants, airport unrestricted reserves, and airport financing.

<table>
<thead>
<tr>
<th>Cost Estimate</th>
<th>FAA AIP</th>
<th>FAA BIL AIG</th>
<th>FAA BIL AIP</th>
<th>CDOT AIP Match</th>
<th>CDOT AIG Match</th>
<th>DRO Cash Funding</th>
<th>DRO Financing</th>
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<tr>
<td>Phase 1B - Construction [2024-2026]</td>
<td>$28,500,000</td>
<td>$12,400,000</td>
<td>$5,765,193</td>
<td>$0</td>
<td>$250,000</td>
<td>$254,751</td>
<td>$1,830,056</td>
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</tbody>
</table>

Project expenses will occur over three fiscal years, 2024, 2025, and 2026. Initial estimates from the project CMAR indicate that approximately 30% of construction costs will be incurred in 2024, 62% of construction costs will be incurred in 2025, and the remaining 8% of construction costs will be incurred in 2026. These figures are highly dependent on the project start date, which remains itself dependent on the receipt of a supporting FAA grant.

The airport enterprise fund’s balance sheet currently carries an unrestricted cash balance of over $11 million, which amounts to over two years of operating expenses. An initial cash outlay of 1.8 million will not jeopardize the airport’s ability to retain unrestricted reserves at or above six months of operating expenses.

Annual debt service expenses on an $8 million loan through the Colorado State Infrastructure Bank total approximately $962,000 annually through the 10-year term of the loan. The annual debt service is projected to be payable in the following proration based upon federal project eligibility:

- Total annual debt service: $962,000
- Paid by Passenger Facility Charge (PFC) income: $644,000
- Paid by Airport Rates / Operating Income: $318,000

The airport has worked closely with City Finance, City Legal, and the Airport Advisory Commission to carefully measure risk and ensure that the airport enterprise fund will remain capable of funding all project costs. A projection of the airport’s fiscal position over the next 10 years produces a favorable forecast.

It should be emphasized that all debt service for the proposed financing will be backed solely by airport revenues. No City or County government funds are associated with this project or the proposed financing.

POTENTIAL ADVERSE IMPACTS:
A debt issuance inherently creates risk for the borrower. In the case of the airport, economic fluctuations can impact annual passenger traffic volumes and the resulting revenue sources for the airport enterprise fund. Disruptions to operating revenue could potentially impact the airport’s ability to pay ongoing debt service. This risk has been carefully measured to ensure that the airport will remain capable of fulfilling its debt obligations throughout the duration of the proposed loan term.

The airport’s debt service coverage ratio is forecast to remain safely above the 2:1 mark throughout the duration of the proposed loan term. This figure is calculated by comparing annual projected operating income and PFC income against the annual debt service obligation. Forecasts for operating income and PFC income are derived from a conservative 1.9% annual passenger traffic growth projection, generally flat rate structures with a resulting 3.0% annual operating revenue growth, and 3.5% annual operating expense growth. These projections are intentionally conservative. The airport has positioned itself as a strategically low-cost airport in most of its rates and charges structure, allowing for discretionary rate increases to be made should expenses escalate or traffic growth slow.

Upon borrowing these funds, the airport’s long-term debt ratio is anticipated to be approximately 0.12, with long-term debt of approximately $9.7 million and total assets of approximately $80.9 million.

NEXT STEPS AND TIMELINE:
If City Council advances this introduction of an ordinance, the first consideration would be scheduled for Tuesday August 6, 2024. There would be a first reading of the new ordinance at the August 6, 2024
City Council meeting, and the final reading of the ordinance would be held at the August 20, 2024 City Council meeting. Once the final reading of the ordinance is complete, airport and City staff will proceed with the formal execution of the loan agreement for funding through the Colorado State Infrastructure Bank.

Construction of Phase 1B is targeted to begin in summer/fall 2024, pending the receipt of a supporting Federal Aviation Administration (FAA) grant. Construction is anticipated to take approximately 27 months, with the extended duration driven primarily by the need to phase the project to minimize impacts to ongoing airport operations.
ORDINANCE NO. O-2024-XX

AN ORDINANCE AUTHORIZING THE BORROWING OF FUNDS BY THE AIRPORT ENTERPRISE FUND FROM THE COLORADO STATE INFRASTRUCTURE BANK FOR TERMINAL IMPROVEMENTS AT THE DURANGO-LA PLATA COUNTY AIRPORT

WHEREAS, there is a need to update and modernize the existing infrastructure to meet the growing demand for air service in our community consistent with the 2020 Terminal Area Plan; and

WHEREAS, the City Council of the City of Durango ("City") recognizes that by updating the current infrastructure, it will provide more opportunities for future airline growth and competition; and

WHEREAS, the City Council of the City of Durango has selected the Colorado State Infrastructure Bank as the preferred financing mechanism for the Durango-La Plata County Airport’s $8 million loan request

NOW THEREFORE THE CITY OF DURANGO HEREBY AUTHORIZES THE BORROWING OF FUNDS BY THE AIRPORT ENTERPRISE FUND FROM THE COLORADO STATE INFRASTRUCTURE BANK FOR TERMINAL IMPROVEMENTS AT THE DURANGO-LA PLATA COUNTY AIRPORT

This ordinance shall become effective ten (10) days after its passage and final publication as provided by law.

CITY COUNCIL OF THE CITY OF DURANGO

Attest:

______________________________  __________________
Mayor  City Clerk

STATE OF COLORADO  )  ss.
COUNTY OF LA PLATA  )

I, Faye Harmer, City Clerk of the City of Durango, La Plata County, Colorado, do hereby certify that Ordinance No. O-2024- was regularly introduced and read at a regular meeting of the City Council of the City of Durango, Colorado on the ___ day of July 2024, and was ordered published in accordance with the terms and conditions of the statutes in such cases made and provided, in the Durango Herald, a newspaper of general circulation, on the ___ day of July 2024, prior to its final consideration by the City Council.
City Clerk

I further certify that said Ordinance No. O-2024- was duly adopted by the Durango City Council on the ___ day of August 2024, and that in accordance with instructions received from the Durango City Council, said ordinance was published by title only in the Durango Herald on the ___ day of August 2024.

ATTEST: 

________________________________________  CITY OF DURANGO
Faye Harmer, City Clerk  Jessika Beull, Mayor

Approved as to form:  Approved as to Content

________________________________________
Mark Morgan, City Attorney  José Madrigal, City Manager
Loan Agreement

This Loan Agreement, made this ______ day of ______________, 20___ by and between the State of Colorado for the use and benefit of The Colorado Department of Transportation (CDOT), hereinafter referred to as the “Lender”, and Durango-La Plata County Airport, a TABOR exempt enterprise fund of the City of Durango, hereinafter referred to as the “Borrower.”

Factual Recitals:

1. The Colorado State Infrastructure Bank (CO SIB) is a revolving fund administered by the Colorado Department of Transportation with the ability to make loans to public and private entities for the formation of public transportation projects within the state; and

2. The General Assembly has passed legislation that made certain provisions for the CO SIB and established within the CO SIB, a highway account, a transit account, an aviation account and a rail account; and

3. The Transportation Commission has adopted rules regarding the CO SIB, 2 CCR 605-1 (CO SIB Rules), pursuant to § 43-1-113.5, C.R.S. and delegated authority to the Colorado Aeronautical Board (CAB) for aviation projects; and

4. The Borrower has requested a loan from the CO SIB in the amount of $8,000,000 for an eligible transportation project or purchase as described in Section 3.2 of the CO SIB Rules; and

5. The (CAB) has approved the loan request and authorized the Lender to make a loan to the Borrower from the CO SIB in the amount of $8,000,000; and

6. Authority exists in the law and a sufficient unencumbered balance thereof remains available in Fund 715 to lend to the Borrower; and

7. This Agreement is executed under the authority of §§ 29-1-203, 43-1-110, and 43-1-113.5 C.R.S., as amended, and by resolutions passed by the City of Durango and La Plata County, as joint owners of the Durango-La Plata County Airport.

Now, therefore, it is hereby agreed that:
Article I
Loan and Closing

Section 1.01. Loan and Promissory Note. The Lender hereby agrees to loan $8,000,000.00 (the “principal amount of the Loan”) to the Borrower and the Borrower agrees to pay the Lender the principal amount of the Loan plus interest on the terms described herein (collectively, the “Loan” or “Agreement”). The Borrower’s obligation to pay the Lender the principal of and interest on the Loan is evidenced by a promissory note (the “Note”) in the form attached as Exhibit A.

Section 1.02. Closing. The Lender shall deliver the principal amount of the Loan to the fiduciary agent (the “Administrative Agent”), described in the form attached as Exhibit B (“the Escrow Agreement”), by means of a financial instrument or transfer acceptable to the Lender (referred to as the “Closing”) on a date mutually agreed to by the Borrower and the Lender (such date is referred to as the “Closing Date”).

Article II
Loan Obligations

Section 2.01. Principal and Interest Payments. The Borrower shall pay to the Lender the principal amount of the Loan plus accrued interest on such principal amount on or before the Maturity Date or an earlier date on which the Loan is prepaid in accordance with Section 2.05 hereof (a “Prepayment Date”).

Section 2.02. Lender Invoice and Reports. The Lender shall forward an invoice, that includes the amount of principal and interest that shall be due to the Borrower at least thirty days before the next scheduled payment is due.

Section 2.03. Interest. Interest shall accrue on the principal amount of the Loan from the Closing Date through the day preceding the Maturity Date or Prepayment Date at the Interest Rate (defined below), computed on the basis of a 360-day year of twelve 30-day months.

Section 2.04. Interest Rate. “Interest Rate” means the rate of interest established and adopted by resolution by the Colorado Transportation Commission pursuant to Section 5.2 of the CO SIB Rules. The Interest rate for this Loan shall be three and one half percent (3.50%).

Section 2.05. Optional Prepayment. The Borrower, at its option, may prepay the Loan in whole or in part anytime by paying the Lender the outstanding principal amount of the Loan, plus accrued interest to the Prepayment Date as selected by the Borrower (Prepayment).

Section 2.06. Resource Pledge for Repayment. The Borrower’s obligation to pay the principal and interest on the Loan and any other amounts payable by the Borrower hereunder...
(the “Loan Obligations”) are extraordinary, limited obligations of the Borrower payable with

Section 2.07. Repayment Schedule. The Borrower shall make ten (10) equal installments of $961,930.94 to the Lender each year beginning one year after (First Payment) the effective day of the loan (Date the loan is signed) and each year thereafter for nine (9) consecutive payment periods further described in the form attached as Exhibit C (the “Repayment Schedule”).

Section 2.08. Remittance. All loan payments shall be made payable to the Colorado Department of Transportation and sent to the Lender’s accounting division at 2829 West Howard Place, Accounting Office, Denver, CO 80204, or to such other place or person as may be designated by the Lender in writing.

Article III
Loan Account

Section 3.01. Creation of Loan Account. A Loan account (the “Loan Account” or “Escrow Fund”) is hereby created by the Administrative Agent for the purpose of Durango-La Plata County Airport terminal improvements as described in Exhibit D (the “Scope of Work”). The Loan Account shall be held and administered by the Administrative Agent in accordance with the provisions of this Loan.

Section 3.02. Deposits to Loan Account. There shall be deposited into the Loan Account: a) the proceeds of the Loan; b) earnings from the investment of monies in the Loan Account; and c) other monies delivered to the Administrative Agent that the Borrower directs the Administrative Agent to deposit into the Loan Account.

Section 3.03. Uses of and Loan Account. Monies in the Loan Account shall be used, subject to Section 3.05 hereof, to the pay project costs associated with the Scope of Work described in Exhibit D, as directed by the Borrower.

Section 3.04. Total Actual Project Cost. At the completion of the project, the total actual allowable cost of the project shall be equal to or greater than the principal amount of the Loan. If at the completion of the project, the total actual allowable cost of the project is less than the principal amount of the Loan, the Administrative Agent shall return the loan surplus created by this situation to the Lender. The Lender shall then make all necessary adjustments to the Repayment Schedule.

Section 3.05. Limit on Withdrawals from Loan Account including upon Event of Default. Borrower shall not withdraw monies from the Loan Account approval from the Lender, as
further set forth in the Loan Agreement. Notwithstanding any other provision of this Article, if an Event of Default has occurred, and so long as it is continuing, the Borrower shall not withdraw monies from the Loan Account without express written consent of the Lender. The Lender will provide immediate written notice to the Borrow and the Administrative Agent of each event of Default.

**Article IV**

**Remedies In Event of Default**

**Section 4.01. Event of Default.** Any of the following shall constitute an “Event of Default” under this Agreement: a) failure by the Borrower to pay the principal and interest on the loan in accordance with Section 2.01 and Exhibit C hereof; b) failure of the Borrower to pay any other Loan Obligation not referenced in clause (a) above within thirty days of its receipt of written notice that the payment is due; c) failure of the Borrower to comply with any other of its covenants in this Agreement not referenced in (a) and (b) above for a period of thirty days after written notice, specifying such failure and requesting remedy; and d) any misrepresentation by the Borrower in this Agreement that materially adversely affects the ability of the Borrower to repay the Loan Obligations.

**Section 4.02. Remedies.** Whenever any Event of Default shall have occurred and be continuing, the Lender may take one or any combination of the following remedial steps: a) file any suit, action or special proceeding to collect the unpaid Loan Obligations; b) enforce any provision of this Agreement by equitable remedy, including, but not limited to, by specific performance, writ of mandamus or other injunctive relief; and c) take whatever actions at law or in equity may appear necessary or desirable to enforce its rights under this Agreement. Alternatively, in the event of non-appropriation by Borrower of sums necessary to make payments, the Lender may request, and if so, requested Borrower shall direct, the Colorado Department of Revenue to transfer jet fuel sales and use tax revenues otherwise payable to Borrower to be paid to Lender in an amount sufficient to make any payment due pursuant to Section 2.07 and Exhibit C. In addition to the foregoing remedies, which are not exclusive, Lender’s approval shall be required prior to the issuance of any new parity obligations by Borrower during the term of this Agreement.

**Section 4.03. Remedies Neither Exclusive nor Waived.** No remedy under Section 4.02 hereof is intended to be exclusive, and each such remedy shall be cumulative and in addition to the other remedies. No delay or failure to exercise any remedy shall be construed to be a waiver of an Event of Default.
Section 4.04. Waivers. The Lender may waive any Event of Default and its consequences. No waiver of any Event of Default shall extend to or affect any subsequent or any other then existing Event of Default.

Article V
General Provisions

Section 5.01. All federal and state statutes, regulations, specifications, administration checklists, directives, procedures, documents, and publications that are specifically identified and/or referenced in this Agreement, together with all exhibits and attachments and addenda to this Agreement, are incorporated herein by this reference as terms and conditions of this Agreement as though fully set forth.

Section 5.02. The Lender reserves the right to inspect the completed project or any completed portion thereof in which loan proceeds from the CO SIB were applied. Notwithstanding any consents or approvals given by the Lender for the project, the Lender will not be liable or responsible in any manner for the structural design, details or construction of any improvements or structures, described in Exhibit D, which are designed or constructed by the Borrower using the Loan.

Section 5.03. Neither the commitment of CO SIB funds to the Borrower through this Agreement nor any other security or debt financing instrument issued or executed in connection with the Loan to the Borrower shall constitute a commitment, guarantee, or obligation of the United States government.

Section 5.04. This Agreement may be terminated as follows:

(a) Termination for Cause. If, through any cause, the Borrower shall fail to fulfill, in a timely and proper manner, its obligations under this Agreement, or if the Borrower shall violate any of the covenants, agreements, or stipulations of this Agreement, the Lender shall thereupon have the right to terminate this Agreement for cause by giving written notice to the Borrower of its intent to terminate and at least thirty (30) days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, the Borrower shall return any funds that have been disbursed to the Borrower as part of the Loan and any accrued interest thereon within 45 days of the date of termination. Notwithstanding above, the Borrower shall not be relieved of liability to the Lender for any damages sustained by the Lender by virtue of any breach of the Agreement by the Borrower.
(b) **Termination Due to Loss of Funding.** The parties hereto expressly recognize that the Loan is made to the Borrower with federal and/or State funds which are available to the Lender for the purposes of making a loan for the project described in Exhibit D herein, and therefore, the Borrower expressly understands and agrees that all its rights, demands and claims to a loan arising under this Agreement are contingent upon availability of such funds to the Lender. In the event that such funds or any part thereof are not available to the Lender, the Lender may immediately terminate or amend this Agreement. This provision will not apply after Lender deposits the full proceeds of the Loan into the Loan Account established pursuant to Section 3.01.

**Section 5.05.** This Agreement is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this Agreement on the effective date of such change as if fully set forth herein. Except as specifically provided otherwise herein, no modification of this Agreement shall be effective unless agreed to in writing by both parties in an amendment to this Agreement that is properly executed and approved in accordance with applicable law.

**Section 5.06.** To the extent that this Agreement may be executed and performance of the obligations of the parties may be accomplished within the intent of the Agreement, the terms of this Agreement are severable, and should any term or provision hereof be declared invalid by a court of competent jurisdiction or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.

**Section 5.07.** This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written Agreement executed and approved pursuant to State Fiscal Rules.

**Section 5.08.** Except as herein otherwise provided, this Agreement shall insure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

**Section 5.09.** If a conflict occurs between the provisions of this Agreement proper and the
attachments hereto, the priority to be used to resolve such a conflict shall be as follows:

1) The Colorado State Infrastructure Bank Rules and Regulation 2 CCR 605-1
2) This Agreement proper
3) Other Agreement attachments and exhibits

Section 5.10. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement, other than the City of Durango and La Plata County, as joint owners of the Durango-La Plata County Airport. It is the express intention of the parties that any person or entity other than the parties receiving services or benefits under this Agreement be deemed to be an incidental beneficiary only.

Section 5.11. The Borrower assures and guarantees that it possesses the legal authority to enter into this Agreement. The Borrower warrants that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Agreement and to bind the Borrower to its terms. The person(s) executing this Agreement on behalf of the Borrower warrants that they have full authorization to execute this Agreement.

Section 5.12. The Borrower shall maintain all books, documents, papers, accounting records and other evidence pertaining to the project, or any cost incurred, and if requested by the Lender, make such materials available to the Lender for three years from the execution date of this Agreement.

Section 5.13. This Agreement shall not be deemed valid until approved by the Controller of the State of Colorado or a Designated Representative.

Section 5.14. Financial obligations of the State of Colorado and [ ] payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

Section 5.15. Immunity: No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, Section 24-10-101 et seq. C.R.S. or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. as applicable, as now or hereafter amended.

Section 5.16. The Borrower agrees to comply with all applicable state and federal laws respecting discrimination and unfair employment practices.
Section 5.17. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision of this Agreement, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this Agreement to the extent that the Agreement is capable of execution. At all times during the performance of this Agreement, the Borrower shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.

Section 5.18. The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

In witness whereof, the parties hereto have executed this agreement the day and year first above written.

Approved:

Phil Weiser
Attorney General
State of Colorado
Jared Polis, Governor

By _________________________
Attorney General or designee
Shoshana M. Lew
Executive Director
Colorado Department of Transportation

Attest: (SEAL)

Linda Soucie, Administration Manager

Durango-La Plata County Airport

By _________________________
José Madrigal, City Manager, City of Durango

Federal Employer Identification Number: 84-6000582
All Agreements must be approved by the State Controller

CRS24-30-202 requires that the State Controller approve all Agreements. This Agreement is not valid until the State Controller, or such assistant as he may delegate, has signed it. The Agreement is not authorized to begin performance until the Agreement is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

Robert Jaros, CPA, MBA, JD
State Controller

By _______________________
    Lori Copeland, Controller
    Colorado Department of Transportation

Date ______________________
Exhibit A

Note

For value received, Durango-La Plata County Airport, a TABOR exempt enterprise fund of the City of Durango, (The Maker) promises to pay to Colorado Department of Transportation (the Holder) the principal sum of $8,000,000.00 with interest from date at the rate of 3.5% per annum on the balance remaining unpaid. The said principal and interest shall be payable in lawful money of the United States of America at 2829 W Howard Place, Accounting Department, 5th Floor, Denver, CO 80204 or at such place as may hereafter be designated by written notice from the Holder to the Maker hereof, on the date and in the manner following: The Maker shall make equal installments of $961,930.94 to the Lender each YEAR beginning ONE year after the disbursement day of the loan and each year thereafter for nine (9) consecutive years.

By: ________________________________
José Madrigal, City Manager, City of Durango

Attest: ______________________________
Linda Soucie, Administration Manager
Exhibit B
Escrow Agreement

This escrow agreement, dated as of __________ between Durango-La Plata County Airport (the “Borrower”), and U.S. Bank (the “Escrow Agent”).

Whereas, Borrower and Colorado Department of Transportation acting as Lender (the “Lender”) have entered into a Loan Agreement dated _________________ (the “Loan Agreement”); and

Whereas, the Borrower will provide for the acquisition, equipping and constructing of various rehabilitation projects and equipment purchases (the “Project”), and the sum of Eight Million Dollars and 00/100 ($8,000,000.00), to be available in periodic draws for the payment of the costs of such acquisition; and

Whereas, the Borrower and the Lender now desire to provide for the safekeeping, investment and disbursement of such monies advanced by the Lender;

Now, Therefore, in consideration of the foregoing and of the mutual covenants herein set forth, the parties hereto agree as follows:

1. There is hereby created and established with the Escrow Agent an irrevocable escrow fund designated for the Borrower (the “Escrow Fund” or “Loan Account”) to be held in the custody of the Escrow Agent separate and apart from other funds of the Escrow Agent or Lender.

2. The Lender shall, as of _________________ deposit into the Escrow Fund the sum of $8,000,000.00 (together with all interest thereon, the “Escrow Funds”), representing the principal amount of the obligation of the Borrower under the Loan Agreement.

3. Monies held in the Escrow Fund shall be promptly invested and reinvested by the Escrow Agent, at the written direction of the Lender, in any security or deposit account determined by Lender to be authorized by law; provided that the Escrow Agent will not be directed to invest in investments that the Escrow Agent in its sole discretion determines are not consistent with the Escrow Agent’s policy or practices. No investment shall be made in a security maturing later than the date on which Borrower reasonably anticipates needing such funds for the payment of the costs of the Project. Borrower shall notify the Lender as to the dates on which funds are needed for disbursement and the estimated amount of each such disbursement and the Lender may rely upon this information in connection with all instructions Lender gives to Escrow Agent concerning investment or reinvestment of funds. Notwithstanding anything to the contrary contained herein, Escrow Agent may, without notice to Lender or Borrower, sell or liquidate any of the foregoing investments at any time for any disbursement of Escrow Funds permitted or required hereunder. All investment earnings shall become part of the Escrow Funds and investment losses shall be charged against the Escrow Funds. Lender and Escrow Agent shall not be liable or responsible for loss in the value of any investment made pursuant to this Escrow Agreement, or for any loss, cost or penalty resulting from any sale or liquidation of the Escrow Funds. With respect to any Escrow Funds received by Escrow Agent after twelve o’clock, p.m., Central Standard Time, Escrow Agent shall not be required to invest such funds or to effect any investment instruction until the
next day upon which banks in St. Paul, Minnesota and the New York Stock Exchange are open for business.

4. All interest earnings from such investment shall be remitted to Borrower periodically, as mutually agreed upon by Borrower and the Lender. In such an event, Borrower shall use such amounts to pay loan payments next owing under the Loan Agreement. Unless otherwise agreed by the Borrower and the Escrow Agent, the Escrow Fund shall be held in a Money Market Account as set forth on Exhibit E hereto.

5. The Escrow Agent shall disburse funds from the Escrow Fund upon receipt of a written request and certification from Borrower, approved by Lender, setting forth the following: (1) the amount to be disbursed, (2) the address to which such funds are to be forwarded, (3) a brief description of the purpose of the payment, and (4) a statement that the expenditure for which funds are requested was properly incurred in connection with the acquisition of the Project and that the amounts being paid pursuant to that disbursement were not subject to a previous draw. The request shall contain as attachments the bills, receipts, invoices, or other documents acceptable to the Lender evidencing the amount and purposes for which the disbursement is requested. Borrower agrees to submit to the Lender such disbursement request in form and substance satisfactory to the Lender pursuant to the Requisition Certificate attached hereto in Exhibit A and such other documents and certificates as the Lender may reasonably request to evidence the proper expenditure of the monies in the Escrow Fund for the purposes of acquiring the Project. The Escrow Agent has no duty to ascertain the correctness of any documents submitted in connection with any direction to disburse funds.

6. Upon making the disbursements as provided in Section 5 of this Agreement the Escrow Agent shall, upon receipt of a written direction from the Lender and Borrower, pay to Borrower any balance on deposit in the Escrow Fund. In such an event, Borrower shall use amounts to pay loan payments next owing under the Loan Agreement, unless Borrower is otherwise directed by Lender.

7. In the event that the Lender provides the Escrow Agent with written notice that an Event of Default has occurred under the Loan Agreement, the Escrow Agent shall forthwith disburse all monies on deposit in the Escrow Fund to the Lender pursuant to such written notice.

8. This Agreement may be modified or amended only with the written consent of all parties hereto.

9. This Agreement shall terminate when all transfers required to be made with respect to the Escrow Fund by the Escrow Agent under the provisions hereof shall have been made. In the event that all amounts held by the Escrow Agent hereunder shall have not been expended as provided herein by the date that is three (3) years from the date of this Agreement, this Agreement shall terminate, and such unexpended amounts shall be remitted to the Borrower in accordance with the written direction of the Lender and Borrower. In such an event, the Borrower shall use such amounts to pay loan payments next owing under the Loan Agreement.
10. If any one or more of the covenants or agreements provided in this Agreement on the part of the Escrow Agent or the Borrower to be performed shall be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

11. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

12. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.

13. If, at any time, (i) there shall exist any dispute with respect to the holding or disposition of all or any portion of the Escrow Funds or any other obligations of Escrow Agent hereunder, (ii) Escrow Agent is unable to determine, to Escrow Agent's sole satisfaction, the proper disposition of all or any portion of the Escrow Funds or Escrow Agent's proper actions with respect to its obligations hereunder, or (iii) Lender and Borrower have not, within 10 calendar days of the furnishing by Escrow Agent of a notice of resignation pursuant to Section 14 hereof, appointed a successor Escrow Agent to act hereunder, then Escrow Agent may, in its sole discretion, take either or both of the following actions:

(a). suspend the performance of any of its obligations (including without limitation any disbursement obligations) under this Escrow Agreement until such dispute or uncertainty shall be resolved to the sole satisfaction of Escrow Agent or until a successor Escrow Agent shall have been appointed.

(b). petition (by means of an interpleader action or any other appropriate method) any court of competent jurisdiction, in any venue convenient to Escrow Agent, for instructions with respect to such dispute or uncertainty, and to the extent required or permitted by law, pay into such court, for holding and disposition in accordance with the instructions of such court, all Escrow Funds, after deduction and payment to Escrow Agent of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder.

Escrow Agent shall have no liability to Lender or Borrower, their respective owners, shareholders or members or any other person with respect to any such suspension of performance or disbursement into court, specifically including any liability or claimed liability that may arise, or be alleged to have arisen, out of or as a result of any delay in the disbursement of the Escrow Funds or any delay in or with respect to any other action required or requested of Escrow Agent.

14. Escrow Agent may resign or be discharged by lender or borrower from the performance of its duties by the lender or borrower hereunder at any time by giving ten (10) days prior written notice to the Lender and Borrower specifying a date when such resignation shall take effect. Upon any such notice
of resignation, Lender and Borrower jointly shall appoint a successor Escrow Agent hereunder prior to the effective date of such resignation. If the Lender and Borrower fail to appoint a successor Escrow Agent within such time, the Escrow Agent shall have the right to petition a court of competent jurisdiction to appoint a successor Escrow Agent, and all costs and expenses (including without limitation attorneys' fees) related to such petition shall be paid by Borrower. The retiring Escrow Agent shall transmit all records pertaining to the Escrow Funds and shall pay all Escrow Funds to the successor Escrow Agent, after making copies of such records as the retiring Escrow Agent deems advisable and after deduction and payment to the retiring Escrow Agent of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by the retiring Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder. After any retiring Escrow Agent's resignation, the provisions of this Escrow Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Escrow Agent under this Escrow Agreement.

15. The Escrow Agent undertakes to perform only such duties as are expressly set forth herein and no duties shall be implied. The Escrow Agent has no fiduciary or discretionary duties of any kind. The Escrow Agent shall have no liability under and no duty to inquire as to the provisions of any agreement other than this Escrow Agreement, including without limitation any other agreement between any or all of the parties hereto or any other persons even though reference thereto may be made herein. The Escrow Agent shall not be liable for any action taken or omitted by it in good faith except to the extent that a court of competent jurisdiction determines that the Escrow Agent's gross negligence or willful misconduct was the sole cause of any loss to the Lender or Borrower. Escrow Agent's sole responsibility shall be for the safekeeping and disbursement of the Escrow Funds in accordance with the terms of this Escrow Agreement. Escrow Agent shall not be charged with knowledge or notice of any fact or circumstance not specifically set forth herein. Escrow Agent may rely upon any notice, instruction, request or other instrument, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall believe to be genuine and to have been signed or presented by the person or parties purporting to sign the same. In no event shall Escrow Agent be liable for incidental, indirect, special, consequential or punitive damages or penalties (including, but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such damages or penalty and regardless of the form of action. Escrow Agent shall not be responsible for delays or failures in performance resulting from acts beyond its control, including without limitation acts of God, strikes, lockouts, riots, acts of war or terror, epidemics, governmental regulations, fire, communication line failures, computer viruses, power failures, earthquakes or other disasters. Escrow Agent shall not be obligated to take any legal action or commence any proceeding in connection with the Escrow Funds, any account in which Escrow Funds are deposited, this Escrow Agreement or the Loan Agreement, or to appear in, prosecute or defend any such legal action or proceeding. Escrow Agent may consult legal counsel selected by it in the event of any dispute or question as to the construction of any of the provisions hereof or of any other agreement or of its duties hereunder, or relating to any dispute involving any party hereto, and
shall incur no liability and shall be fully held harmless from any liability whatsoever in acting in accordance with the advice of such counsel. Borrower shall promptly pay, upon demand, the reasonable fees and expenses of any such counsel.

The Escrow Agent is authorized, in its sole discretion, to comply with final orders issued or process entered by any court with respect to the Escrow Funds, without determination by the Escrow Agent of such court's jurisdiction in the matter. If any portion of the Escrow Funds is at any time attached, garnished or levied upon under any court order, or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting such property or any part thereof, then and in any such event, the Escrow Agent is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel selected by it is binding upon it without the need for appeal or other action; and if the Escrow Agent complies with any such order, writ, judgment or decree, it shall not be liable to any of the parties hereto or to any other person or entity by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

16. Compensation of Escrow Agent

(a) Borrower agrees to compensate Escrow Agent on demand for its services hereunder in accordance with Exhibit F attached hereto. The obligations of Borrower under this Section 16 shall survive any termination of this Escrow Agreement and the resignation or removal of Escrow Agent.

(b) Escrow Agent is authorized to, and may disburse to itself from the Escrow Funds, from time to time, the amount of any compensation and reimbursement of out-of-pocket expenses due and payable hereunder. Escrow Agent shall notify Lender and Borrower of any disbursement from the Escrow Funds to itself in respect of any compensation or reimbursement hereunder and shall furnish Lender and Borrower copies of related invoices and other statements.

(c) Borrower hereby grants to Escrow Agent a security interest in, lien upon and right of offset against the Escrow Funds with respect to any compensation or reimbursement due any of them hereunder. If for any reason the Escrow Funds are insufficient to cover such compensation and reimbursement, Borrower shall promptly pay such amounts to Escrow Agent upon receipt of an itemized invoice.

17. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust, or other legal entity, the Escrow Agent requires documentation to verify its formation and existence as a legal entity. The Escrow Agent may ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation. The parties acknowledge that a portion of the identifying information set forth herein is being requested by the Escrow Agent in connection with the USA Patriot Act, Pub.L. 107-56 (the “Act”), and each agrees to provide any additional information requested by the Escrow Agent in connection with the
Act or any other legislation or regulation to which Escrow Agent is subject, in a timely manner.

18. All notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be delivered (i) by personal delivery, or (ii) by national overnight courier service, or (iii) by certified or registered mail, return receipt requested, or (iv) via facsimile transmission, with confirmed receipt or (v) via email by way of a PDF attachment thereto of a manually executed document. Notice shall be effective upon receipt except for notice via email, which shall be effective only when the Borrower, by return email or notice delivered by other method provided for in this Section 16, acknowledges having received that email (with an automatic “read receipt” or similar notice not constituting an acknowledgement of an email receipt for purposes of this Section 20.) Such notices shall be sent to the applicable party or parties at the address specified below:

If to Lender at: Colorado Department of Transportation
2829 W. Howard Place
Denver, CO 80204
Telephone: 303.757.9585
Facsimile: 303.757.9669
E-mail: patrick.girten@state.co.us

If to Borrower at: Durango-La Plata County Airport
Address: 1000 Airport Road
Durango, CO, 81303

Telephone: 970-382-6051
Facsimile: N/A
E-mail: airport@durangoco.gov

If to the Escrow Agent at: (Attention, Address, Telephone, Facsimile, E-mail)

or to such other address as each party may designate for itself by like notice and unless otherwise provided herein shall be deemed to have been given on the date received.

19. In the event funds transfer instructions, address changes or change in contact information are given (other than in writing at the time of execution of this Escrow Agreement), whether in writing, by facsimile or otherwise, the Escrow Agent is authorized but shall be under no duty to seek confirmation of such instructions by telephone call-back to the person or persons designated on Exhibit G hereto, and the Escrow Agent may rely upon the confirmation of anyone purporting to be the person or persons so designated. The persons and telephone numbers for call-backs may be changed only in writing actually received and acknowledged by Escrow Agent and shall be effective only after Escrow Agent has a reasonable opportunity to act on such changes. If the
Escrow Agent is unable to contact any of the designated representatives identified in Exhibit G, the Escrow Agent is hereby authorized but shall be under no duty to seek confirmation of such instructions by telephone call-back to any one or more of Lender’s or Borrower’s executive officers (“Executive Officers”), as the case may be, which shall include the titles of Chief Executive Officer, President and Vice President, as the Escrow Agent may select. Such Executive Officer shall deliver to the Escrow Agent a fully executed incumbency certificate, and the Escrow Agent may rely upon the confirmation of anyone purporting to be any such officer. Lender and Borrower agree that the Escrow Agent may at its option record any telephone calls made pursuant to this Section. The Escrow Agent in any funds transfer may rely solely upon any account numbers or similar identifying numbers provided by Lender or Borrower to identify (a) the beneficiary, (b) the beneficiary’s bank, or (c) an intermediary bank. The Escrow Agent may apply any of the Escrow Funds for any payment order it executes using any such identifying number, even when its use may result in a person other than the beneficiary being paid, or the transfer of funds to a bank other than the beneficiary’s bank or an intermediary bank designated. Lender and Borrower acknowledge that these optional security procedures are commercially reasonable.

20. This Escrow Agreement constitutes the entire agreement between the parties relating to the holding, investment and disbursement of the Escrow Funds and sets forth in their entirety the obligations and duties of Escrow Agent with respect to the Escrow Funds. Nothing in this Escrow Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Escrow Agreement.

21. Escrow Agent shall have no responsibility for the tax consequences of this Agreement and Lender and Borrower shall consult with independent counsel concerning any and all tax matters. Lender and Borrower shall provide Escrow Agent Form W-9 and an original Form W-8, as applicable, for each payee, together with any other documentation and information requested by Escrow Agent in connection with Escrow Agent’s reporting obligations under applicable IRS regulations. If such tax documentation is not so provided, Escrow Agent shall withhold taxes as required by the IRS. Borrower and Lender have determined that any interest or income on Escrow Funds shall be reported on an accrual basis and deemed to be for the account of Borrower. Lender and Borrower shall prepare and file all required tax filings with the IRS and any other applicable taxing authority; provided that the parties further agree that:

(a). Escrow Agent IRS Reporting. Lender shall accurately provide the Escrow Agent with all information requested by the Escrow Agent in connection with the preparation of all applicable Form 1099-NEC documents with respect to all distributions as well as in the performance of Escrow Agent’s reporting obligations under the Foreign Account Tax Compliance Act and Foreign Investment in Real Property Tax Act or other applicable law or regulation.

(b). Withholding Requests. Borrower agrees to (i) assume all obligations imposed now or hereafter by any applicable tax law or regulation with respect to payments or performance under this Agreement, and (ii) request the Escrow Agent in writing with respect to withholding and other taxes, assessments or other
governmental charges, and advise Escrow Agent in writing with respect to any certifications and governmental reporting that may be required under any applicable laws or regulations.

In Witness Whereof, the parties have executed this Agreement as of the ___ day of __________ ______________, 20____.

Durango-La Plata County Airport, as Borrower
By: _____________________________________
José Madrigal, City Manager, City of Durango

____, as Escrow Agent
By: _____________________________________

Acknowledged and Approved by:
Colorado Department of Transportation, as Lender
By: ____________________________________
   Shoshana M. Lew
Example Exhibit A to Escrow Agreement
Requisition Certificate

Date:
(Financial Institution), as Escrow Agent
(Address)
(Location), CO (Postal Code)

RE: Disbursement of Funds Pursuant to Escrow Agreement/Loan Agreement between Colorado Department of Transportation and (______)

Dear Escrow Agent:
Pursuant to the terms of the Escrow Agreement dated _________, between the (Borrower) and (Escrow Agent), which is a part of the Loan Agreement between the Colorado Department of Transportation (Lender) and the ______ dated ____________, please disburse the sum of $__________, payable to the ______ for payment of expenses associated with (describe purpose of payment) which expenses were properly incurred as part of the Project funded under the Loan Agreement.

Sincerely,
Name
Title

Approved:

Patrick Girten
Colorado Department of Transportation
Exhibit B, C, and D to Escrow Agreement
Reserved
Exhibit E to Escrow Agreement

Money Market Account authorization form description and terms

___ is a National Association interest-bearing money market deposit account designed to meet the needs of borrower of ____. Selection of this investment includes authorization to place the funds on deposit and invest with _____.

___ uses the daily balance method to calculate interest on this account (actual/365 or 366). This method applies a daily periodic rate to the principal balance in the account each day. Interest is accrued daily and credited monthly to the account. Interest rates are determined at ____ discretion and may be tiered by borrower deposit amount.

The owner of the account is _____ as Agent for its trust borrower. ______ performs all account deposits and withdrawals. Deposit accounts are Public Deposits and per the Public Deposit Protection Act requires that _____ pledge assets to the Division of Banking for deposits that exceed that amount of the FDIC limits.

Automatic Authorization

In the absence of specific written direction to the contrary, _____ is hereby directed to invest and reinvest proceeds and other available monies in the _____ Money Market Account. The _____ Money Market Account is a permitted investment under the operative documents and this authorization is the permanent direction for investment of the monies until notified in writing of alternate instruction.
Exhibit F to Escrow Agreement
Schedule of Fees for Services as
Escrow Agent
For

______
And

Colorado Department of Transportation

01010
Acceptance Fee
The acceptance fee includes the administrative review of
documents, initial set-up of the account, and other reasonably
required services up to and including the closing. This is a one-time
fee, payable at closing.

(Escrow Agent) reserves the right to refer any or all escrow documents
for legal review before execution. Legal fees (billed on an hourly
basis) and expenses for this service will be billed to, and paid by, the
Borrower. If appropriate and upon request by the Borrower,
___________ will provide advance estimates of these legal fees.

04460
Escrow Agent
One time administration fee for performance of the routine duties of
the escrow agent associated with the management of the account.
Administration fees are payable in advance.

Direct Out of Pocket Expenses

Reimbursement of expenses associated with the performance of our
duties, including but not limited to publications, legal counsel after
the initial close, travel expenses and filing fees.

Extraordinary Services

Extraordinary services are duties or responsibilities of an unusual
nature, including termination, but not provided for in the governing
documents or otherwise set forth in this schedule. A reasonable
charge will be assessed based on the nature of the service and the
responsibility involved. At our option, these charges will be billed at
a flat fee or at our hourly rate then in effect.
Account approval is subject to review and qualification. Fees are subject to change at our discretion and upon written notice. Fees paid in advance will not be prorated. The fees set forth above and any subsequent modifications thereof are part of your agreement. Finalization of the transaction constitutes agreement to the above fee schedule, including agreement to any subsequent changes upon proper written notice. In the event your transaction is not finalized, any related out-of-pocket expenses will be billed to you directly. Payment of fees constitutes acceptance of the terms and conditions set forth.

Important information about procedures for opening a new account:
To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a Trust or other legal entity we will ask for documentation to verify its formation and existence as a legal entity. We may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.
Exhibit G to Escrow Agreement

Telephone Number(s) and authorized signature(s) for Person(s) Designated to give Funds Transfer Instructions

If to Borrower:

<table>
<thead>
<tr>
<th>Name</th>
<th>Telephone Number</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Devon Schmidt, City of Durango</td>
<td>970-375-5040</td>
<td></td>
</tr>
<tr>
<td>2. Tony Vicari, DRO</td>
<td>970-382-6052</td>
<td></td>
</tr>
</tbody>
</table>

If to Lender:

<table>
<thead>
<tr>
<th>Name</th>
<th>Telephone Number</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Patrick Girten</td>
<td>(720) 979-7106</td>
<td></td>
</tr>
<tr>
<td>2. Lori Copeland</td>
<td>(303) 757-6959</td>
<td></td>
</tr>
</tbody>
</table>

Telephone Number(s) for Call-Backs and Person(s) Designated to Confirm Funds Transfer Instructions

If to Borrower:

<table>
<thead>
<tr>
<th>Name</th>
<th>Telephone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Devon Schmidt</td>
<td>970-375-5040</td>
</tr>
<tr>
<td>2. Tony Vicari</td>
<td>970-382-6052</td>
</tr>
</tbody>
</table>

If to Lender:

<table>
<thead>
<tr>
<th>Name</th>
<th>Telephone Number</th>
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<tbody>
<tr>
<td>1. Patrick Girten</td>
<td>(720) 979-7106</td>
</tr>
<tr>
<td>2. Lori Copeland</td>
<td>(303) 757-6959</td>
</tr>
</tbody>
</table>

Telephone call backs shall be made to both Parties if joint instructions are required pursuant to the agreement.
Exhibit G-1 to Escrow Agreement
Standing Settlement Instructions

Escrow Agent Wire Instructions:

RBK: 
ABA: 
BNF: 
Beneficiary Account Number: 
Beneficiary Account Address: 

OBI: 
Attn: 

Please note: Wires with incomplete information will be rejected and fees up to $50 will be assessed
### Exhibit C
#### Repayment Schedule

**Disbursement Date**

**Term** 10 Years  
**Rate of Interest** 3.50%  
**Loan Amount** $8,000,000.00

<table>
<thead>
<tr>
<th>Installment</th>
<th>Interest</th>
<th>Repayment</th>
<th>Remaining Balance</th>
<th>Payments Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>$961,930.94</td>
<td>$280,000.00</td>
<td>$681,930.94</td>
<td>$7,318,069.06</td>
<td>Year 1</td>
</tr>
<tr>
<td>$961,930.95</td>
<td>$256,132.42</td>
<td>$705,798.53</td>
<td>$6,612,270.53</td>
<td>Year 2</td>
</tr>
<tr>
<td>$961,930.94</td>
<td>$231,429.47</td>
<td>$730,501.47</td>
<td>$5,881,769.06</td>
<td>Year 3</td>
</tr>
<tr>
<td>$961,930.95</td>
<td>$205,861.92</td>
<td>$756,069.03</td>
<td>$5,125,700.03</td>
<td>Year 4</td>
</tr>
<tr>
<td>$961,930.94</td>
<td>$179,399.50</td>
<td>$782,531.44</td>
<td>$4,343,168.59</td>
<td>Year 5</td>
</tr>
<tr>
<td>$961,930.94</td>
<td>$152,010.90</td>
<td>$809,920.04</td>
<td>$3,533,248.55</td>
<td>Year 6</td>
</tr>
<tr>
<td>$961,930.94</td>
<td>$123,663.70</td>
<td>$838,267.24</td>
<td>$2,694,981.30</td>
<td>Year 7</td>
</tr>
<tr>
<td>$961,930.95</td>
<td>$94,324.35</td>
<td>$867,606.60</td>
<td>$1,827,374.71</td>
<td>Year 8</td>
</tr>
<tr>
<td>$961,930.94</td>
<td>$63,958.11</td>
<td>$897,972.83</td>
<td>$929,401.88</td>
<td>Year 9</td>
</tr>
<tr>
<td>$961,930.95</td>
<td>$32,529.07</td>
<td>$929,401.88</td>
<td>$0.00</td>
<td>Year 10</td>
</tr>
</tbody>
</table>

**Note:** A system generated schedule will replace this one. The first payment is due one year after the disbursement date and every year thereafter for the next nine (9) years.
Scope of Work - General Information:
Terminal facility expansion at the Durango-La Plata County Airport (DRO) is critical to addressing capacity challenges caused by growing air service demand in rural SW Colorado. The overall project has been broken into two phases, Phase 1A and Phase 1B. Phase 1A is currently under construction, to be completed in Q2 2024. Phase 1B design was completed in 2023, with construction targeted to begin in Q3 2024 and last for approximately 27 months.

The Phase 1B project to be funded under this loan agreement will construct approximately 19,750 square feet of new terminal space, including two new airline boarding gates, a new TSA screening checkpoint, expanded food/beverage concessions, new public restrooms, and rooftop solar PV. The project will also include the renovation of approximately 21,630 square feet of existing terminal space, augmenting the building to meet modern airport design criteria, current fire and building code, current environmental sustainability goals, and updated architectural intent.
TO:  DURANGO CITY COUNCIL  FROM:  JOSÉ R. MADRIGAL, CITY MANAGER
MARK MORGAN, CITY ATTORNEY

SUBJECT  INTRODUCTION OF AN ORDINANCE ESTABLISHING THE CITY COUNCIL RULES OF PROCEDURE

RECOMMENDATION:
The City Attorney and City Manager recommend that the City Council adopt the City Council rules of procedure by Ordinance.

BACKGROUND SUMMARY:
The City Council has been operating its City Council meetings by various agreements that have never been consolidated and placed in one document, which can be easily referenced and provided to the public and future City Councillors.

The proposed City Council Procedures and Rules of Order have been compiled and reviewed by both the City Manager and City Attorney, and the majority of the document is what is currently practiced. There are a few modifications that we are recommending being included, which we have seen in other Colorado municipalities, or we would like to clarify some current practices to achieve efficiencies. Those modifications are summarized below:

- **Reconsideration:**
  - After the final vote on any ordinance, resolution, or motion, any Councilmember who voted with the prevailing side may move for a reconsideration of any action at the same or at the next succeeding regular business meeting, provided, however, that an action of the Council authorizing or relating to any contract may be reconsidered at any time before the final execution thereof. Any Councilmember may second a motion to reconsider and require a majority vote of the Councilmembers in office for adoption. After a motion to reconsider has been once voted on and lost, it shall not be introduced again for 18 months, except with the unanimous consent of the Council.

- **Time of Adjournment:**
  - All Council meetings (including regular business meetings, special meetings, study sessions, and executive sessions) shall be adjourned by 10:00 p.m. No new agenda item shall be introduced after 9:30 p.m. Any agenda items that haven’t been addressed or are still under discussion at 10:00 p.m. shall be continued to the next regularly scheduled meeting or a special meeting called for a specific time and date by a majority vote of those councilors present. Notwithstanding the above, before adjournment, a majority of council members present may vote to extend the time for a current discussion or address additional agenda items.

STRATEGIC PLAN ALIGNMENT:
Organizational Stewardship

ALTERNATIVE OPTIONS CONSIDERED:
The City Attorney and City Manager reviewed other Council rules or procedures for the following Colorado Cities: Louisville, Colorado Springs, Broomfield, Lakewood, Wheat Ridge, and Aurora.

FISCAL IMPACT:
N/A

POTENTIAL ADVERSE IMPACTS:
N/A
NEXT STEPS AND TIMELINE:

This is only the introduction of the Ordinance. It will be considered first at the City Council meeting on August 6th, 2024, and then possibly finalized on August 20th, 2024.
AN ORDINANCE AMENDING, IN PERTINENT PART, THE DURANGO CODE OF
ORDINANCES CHAPTER 2- ADMINISTRATION- ARTICLE II- CITY COUNCIL- BY
AMENDING SECTION 2-19– Rules of Procedure, to read as follows:

(Red type indicates addition of text, strike through indicates original text removed,
empty brackets [] indicate omitted and unchanged text)

Sec. 2-19 – Rules of Procedure

(a) The proceedings of the city council shall be governed by Robert's Rules of
Order, Newly Revised, except as otherwise provided by the Charter, the
provisions of this Code and rules of procedure heretofore or hereafter
adopted and used by the council.

(b) City Council Procedures and Rules of Order shall be as follows:

I. COUNCIL MEETINGS

Presiding Officer
The Mayor shall serve as the Presiding Officer at Council meetings. If the Mayor is
absent the Mayor Pro Tem shall serve as the Presiding Officer. If the Mayor and the
and the Mayor Pro Tem are absent from a council meeting, the City Clerk shall call
the meeting to order and call the roll. The majority of Councilors present shall then
elect a Temporary Chairperson who shall serve as the Presiding Officer.

Regular Business Meetings
Regular business meetings are those in which the Council is expected to take formal
action on a matter, either by ordinance, resolution, or motion. Regular business
meetings which are to be held on the first and third Tuesday of each month at 5:30
p.m. in the Council Chambers at City Hall unless the approved Council calendar
establishes a different schedule to avoid conflicts with holidays and/or other major
events. It is understood that there may be instances in which The Mayor and/or a
Councilor(s) may not be able to attend the regular business meeting in person; in
that case, they may attend regular business meetings electronically. The Council
may reschedule regular business meetings upon a majority vote of the entire Council
at a regular or special meeting of the council.

Special Meetings
Special Council meetings may be called in accordance with the Durango Code of
Ordinances Chapter 2, Article II, Section 2-17. The Mayor and/or a Councilor(s) may
attend special meetings electronically.

Study Sessions Meetings
Study session meetings are meetings in which the Council does not take formal
action on a matter, either by ordinance, resolution, motion or other means. Study
sessions are intended to provide information to the council and allow the council to
ask questions about the information being presented. Formal direction to the staff and/or formal action by the council related to information presented in study sessions shall only occur by majority vote of the council at a regular or special meeting of the council.

Study sessions may be held on days established by the approved Council calendar. The City Manager may schedule study sessions upon notice to the Council. The Mayor and/or a Councilor(s) may attend study session meetings electronically.

**Order of Business – Agenda – Regular Business Meetings**

A. The order of business of regular business meetings of the Council will generally be:

1. Call to Order and Roll Call
2. Introduction of Translator
3. Opening Remarks by Mayor and Council – Information Only
4. Presentations/Proclamations – Information Only
5. City Manager Updates – Information Only
6. Committee, Board, and Liaison Reports – Information Only
7. Public Comment on Agenda Items Only
8. Consent Agenda
9. Items Pulled from the Consent Agenda
10. Public Hearings
11. Resolutions
12. First Consideration of Ordinances
13. Public Comment on Non-Agenda Items
14. Other New Business
15. Executive Session
16. Adjournment

B. The incoming Mayor may alter the Order of Business Agenda during their term to accommodate their preference for presiding over the meetings.

C. The Presiding Officer or any Councilor may vary the order of business during any meeting if the majority of Councilors present approve varying the order of business.

D. Council discussion on an item shall not occur until a motion is made and seconded.

E. Staff presentations shall typically occur before any motion and end with a recommended motion to the council.

F. During the Council’s discussion of any matter, the Presiding Officer will recognize each Councilor for discussion under the process outlined below:

1. Councilors will wait to be recognized by the chair before making comments.
2. Each Councilor will be given five (5) minutes for comments and/or questions. The timer will begin when the Presiding Officer recognizes the Councilor. The time allotted will be continuous and not paused or stopped while the staff responds to questions. Unused time is not transferable and may not be reserved to add time to rebuttal time. After recognizing all councilors wishing to comment, the Presiding Officer may speak last.

3. After the (5) minutes of comments and/or questions, each Councilor will have three (3) minutes to provide rebuttal comments to the remarks made by fellow Councilors. The presiding officer may speak last after recognizing all councilors wishing to make rebuttal comments.

4. The time limits on comments and rebuttals can only be extended by a majority vote of the City Council present.

II PARLIAMENTARY PROCEDURE

These Council Procedures are established per the Charter for the City of Durango (“Charter”). They are intended to supplement and be in conformity with Robert's Rules of Order in its most recently revised edition. Robert’s Rules of Order, Revised shall be the parliamentary authority for all meetings of the City Council, and the rules contained therein shall govern the procedures utilized at such meetings where not inconsistent with the Charter or these Procedures.

Voting
When a roll call is asked, every councilor present shall vote either “Yes” or “No” unless prohibited from voting by a personal or private interest in the vote as set forth in Durango Code of Ordinances Part I, Article II, Section 9. When prohibited from voting a councilor shall explain the conflict and “abstain” when called to vote. Personal political advantage shall not be authority for abstaining from a vote. Acclamation votes are permissible for non-legislative matters, such as motions to recess, adjourn, and open and close public hearings.

Reconsideration
After the final vote on any ordinance, resolution or motion, any Councilmember who voted with the prevailing side may move for a reconsideration of any action at the same or at the next succeeding regular business meeting, provided, however, that an action of the Council authorizing or relating to any contract may be reconsidered at any time before the final execution thereof. Any Councilmember may second a motion to reconsider and require a majority vote of the Councilmembers in office for adoption. After a motion to reconsider has been once voted on and lost, it shall not be introduced again for a period of 18 months, except with the unanimous consent of the Council.

Time of Adjournment
All Council meetings (including regular business meetings, special meetings, study sessions, and executive sessions) shall be adjourned by 10:00 p.m. No new agenda item shall be introduced after 9:30 p.m. Any agenda items that haven’t been addressed or are still under discussion at 10:00 p.m. shall be continued to the next regularly scheduled meeting or a special meeting called for a specific time and date by a majority vote of those councilors present. Notwithstanding the above, before adjournment, a majority of council members present may vote to extend the time for a current discussion or address additional agenda items.

III
PUBLIC HEARING – PROCEDURES

Procedure
Public hearings will be conducted in accordance with the following procedures:

1. An introductory presentation by City Staff, if appropriate.
2. A presentation by the petitioner or applicant, if appropriate.
3. The Presiding Officer will:
   a. Declare the public hearing open.
   b. Announce the public hearing procedures. If applicable, the petitioner or applicant will be given a set time to make a presentation or comments. Each public member will receive three (3) minutes to address the City Council.
   c. Ask for the petitioner or applicants’ presentation or comments.
   d. Ask for public comment on the item.
   e. Back and forth questioning between the public and the petitioner or applicant is discouraged and questions raised by the public may be taken up by the council during council discussion after the public hearing is closed.
4. After the public comments are concluded, the presiding officer will close the public hearing.
5. Questions and Comments from the City Council will be taken after a motion for action is made and seconded. The questions and comments will follow the guidelines described in Section I, F, 1-4.

IV
PUBLIC COMMENT

Public comment on agenda items is encouraged at meetings in which the City Council is expected to act on an item, such as regular business meetings and special called meetings. Public comments will not be taken at Study Sessions as no City Council Action will be taken. Public members wishing to address the City Council must sign up before the agenda item is called and under the rules and guidelines provided. Public Comments are allowed three (3) minutes. With the City Council’s general consent, the Presiding Officer may limit or extend the time of any and all addressees.
Public Comments on non-agenda items shall occur separately from agenda items and are also encouraged when directly related to city matters. Comments on non-agenda items follow the same guidelines as comments on agenda items.

V.

LEGISLATION PROCEDURE RECONCILIATION
Any conflict between these rules and any ordinance, resolution, charter article, or state law shall first be resolved by reference to the City Charter, then state law, and then by a majority vote of the council.

VI.

PLACING ITEMS ON THE CITY COUNCIL AGENDA
The City Manager places and approves Study Sessions, Special Sessions, and Regular City Council agenda items necessary to continue operations and receive City Council direction. The City Attorney places and approves all executive session agenda items required to continue operations and receive Council direction. An individual Councilor can have a regular agenda item or executive session item placed on a City Council agenda by the following methods:

- The Councilor brings up the proposed agenda item under “other new business” at a Regular City Council meeting. The Councilor will state the item they would like the City Council to consider. The request for the agenda item will be placed for consideration at the next City Council meeting, where a vote of the majority of the City Council can set it for discussion and possible action at a following meeting.

- If a councilor believes a proposed agenda item is time-sensitive, he or she can request the City Manager poll the other Councilors to determine if the proposed agenda item receives support from the majority of the City Council. If the item gets support from the majority (3 Councilors) of the City Council, the City Manager will have the agenda item placed on the agenda as supported.

- If a Councilor believes a proposed executive agenda item should be placed on the City Council agenda, the Councilor can request the City Attorney to poll the City Council to determine if there is interest in having the agenda item placed on an agenda. A supermajority (4 Councilors) is required to enter an executive session, so the proposed executive session agenda item must receive the support of a supermajority of Councilors to be placed on an agenda.

VII

CITY COUNCIL INTERACTIONS WITH STAFF
For the City Council to make informed decisions, it must be able to ask questions and interact with City Staff. Questions and interactions with staff that report through the City Manager should always be courteous and respectful by both parties. If a City Councilor has a question or seeks clarification from City Staff, the Councilor may email that question directly to the Director, with the City Manager copied. City Councilors shall keep direct contact for questions or clarifications at the executive level, including Assistant City Managers or Directors.

Occasionally, a City Councilor may desire to seek information from an employee at the Assistant Director or Manager level. The Councilor will direct their question through the City Manager in these instances.

Questions for clarification shall be specific and not direct an employee to perform a task. If a Councilor is unsure about their request, it should be directed to the City Manager for a determination before being sent to staff. City Staff will share responses to questions for information from one Councilor to all other Councilors so everyone can access the same information; an exception to sharing the information will be made if the question comes from a citizen who directly contacted the Councilor.

City Councilors will refrain from asking staff members who are not City Council appointees questions regarding the City Council’s behavior, how the employee feels they are doing as a Councilor, or input as to how they believe other Councilors are performing or behaving. Questions such as these place staff members in an uncomfortable position and should be avoided.

All City Councilors will strive to provide City Staff with any questions regarding agenda items at least by 8 am of the City Council meeting date. Doing so will assist the staff in being prepared to provide an informative presentation.

WHEREAS, the Durango City Council intends to serve the citizens of the city of Durango by conducting efficient and productive public meetings and practicing professional and meaningful interaction with city staff; and

WHEREAS, the codification of recent practices of the city council will assist future councils in maintaining effective government;


This ordinance shall become effective ten (10) days after its passage and final publication as provided by law.

CITY COUNCIL OF
THE CITY OF DURANGO

Attest:

___________________________                             Mayor
___________________________
                          City Clerk

STATE OF COLORADO

) ss.
COUNTY OF LA PLATA

I, Faye Harmer, City Clerk of the City of Durango, La Plata County, Colorado, do hereby certify that Ordinance No. __________________________ was regularly introduced and read at a regular meeting of the City Council of the City of Durango, Colorado on the ___ day of __________________________ 2024, and was ordered published in accordance with the terms and conditions of the statutes in such cases made and provided, in the Durango Herald, a newspaper of general circulation, on the ___ day of __________________________ 2024, prior to its final consideration by the City Council.

I further certify that said Ordinance No. __________________________ was duly adopted by the Durango City Council on the ___ day of __________________________ 2024, and that in accordance with instructions received from the Durango City Council, said ordinance was published by title only in the Durango Herald on the ___ day of __________________________ 2024.

________________________________
City Clerk
TO: DURANGO CITY COUNCIL  
FROM: FAYE HARMER, CITY CLERK  

SUBJECT A RESOLUTION ADOPTING THE UPDATED CITY OF DURANGO OPEN RECORDS POLICY AND INCREASING THE HOURLY FEE

RECOMMENDATION:

“I move to approve Resolution R-2024-0041 updating the City of Durango Open Records Policy and increasing the fee to $40 per hour with the first hour provided for free.”

BACKGROUND SUMMARY:

Open Records Requests have increased substantially in the past several years. In 2020 the City Clerk’s office responded to a total of 189 open records requests; in 2023 that number had increased to 455. To date in 2024, we have fulfilled 285 requests. If this trend continues through the end of the year, we anticipate fulfilling 525 requests this year.

Not only are the number of requests increasing, but the complexity of the requests is increasing as well. This increased complexity often requires multiple departments to help locate records as well as review by the City Attorney’s office. The amount of staff time required to complete requests has increased significantly.

STRATEGIC PLAN ALIGNMENT:

Engaged and Informed Community

ALTERNATIVE OPTIONS CONSIDERED:

Continuing the current practice of charging $30 per hour.

FISCAL IMPACT:

The increase in hourly fees will help offset the amount of time staff spends fulfilling requests.

POTENTIAL ADVERSE IMPACTS:

None known.

NEXT STEPS AND TIMELINE:

Post new policy on electronic bulletin boards and do a press release.
TO: Interested Persons
FROM: Natalie Castle, Director, 303-866-4778
SUBJECT: Colorado Open Records Act Maximum Hourly Research and Retrieval Fee

Summary

Pursuant to Section 24-72-205 (6), C.R.S., the maximum hourly fee for the research and retrieval of public documents in response to a Colorado Open Records Act will increase from $33.58 to $41.37 as of July 1, 2024.

State law allows government agencies to charge a fee for the research and retrieval of public documents that shall not exceed this amount, although they shall not charge a fee for the first hour of time expended on each request. Before increasing the fee, government entities must revise and publish their Colorado Open Records Act policies to include the new fee.

Methodology

The $7.79 increase resulted from inflating $33.58 by the percentage change in the Denver-Aurora-Lakewood consumer price index for all items and all urban consumers, published by the U.S. Bureau of Labor Statistics, between the first half of calendar year 2019 and the first half of calendar year 2024. Because the index for the first half of 2024 has not yet been released, the index used for the first half of 2024 represents the average of indices published for January, March, and May 2024. Each year’s contribution toward the total $7.79, or 23.2 percent, change is shown in Figure 1.

Figure 1
Annual Contributions Toward the Total $7.79 (23.2%) Increase
First Half of 2019 to First Half of 2024

Source: Staff calculations using the CPI-U for Denver-Aurora-Lakewood published by the U.S. Bureau of Labor Statistics.
A RESOLUTION APPROVING THE UPDATED CITY OF DURANGO OPEN RECORDS POLICY AND INCREASING FEES TO $40 PER HOUR

WHEREAS, the Colorado Legislature under CRS 24-72-205(6) has increased the maximum fee for Open Records Requests from $33.58 per hour to $41.37 per hour as of July 1, 2024;

WHEREAS, Open Records Requests submitted to the City of Durango have increased 36% over the past several years and increased in complexity, requiring additional staff time to complete requests in a timely manner;

WHEREAS, the Council finds that it is prudent to increase the hourly rate to fulfill records requests;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Durango in the Regular meeting assembled July 17, 2024:

The City Council of the City of Durango approves the Open Records Policy submitted by the City Clerk’s office dated July 17, 2024 and increases the hourly fee to $40 per hour with the first hour being provided for free.

Approved and adopted this 17th day of July, 2024.

CITY OF DURANGO, COLORADO

By: _________________________________
    Mayor

ATTEST:

By: _________________________________
    Faye Harmer, City Clerk
POLICY REGARDING ACCESS TO PUBLIC RECORDS

Effective Date: July 16, 2024

Administrative Authority: Adopted by City Council on July 16, 2024

Scope: All departments within the City of Durango

The purpose of this policy is to assist the public in locating specific public records and to ensure public access to public records without unreasonable delay or cost, in accordance with the requirements of C.R.S. 24-72-201 et seq. The Durango City Clerk’s Office is the direct link between the residents of the community and their government. The mission of the Clerk’s office is to provide transparent, timely, accurate and engaging information to the public regarding the City’s policies, programs, departments, services, and records. This policy does not apply to criminal justice records, as defined in C.R.S. 24-72-302. Criminal justice records are not included as public records under the Colorado Open Records Act (CORA) and those agencies are independently responsible for maintaining all criminal justice records they create and manage. Please contact the applicable criminal justice agency regarding those records.

C.R.S. 24-72-202(6) defines public records as “all writings made, maintained, or kept... by any local government-financed entity for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.” The definition of public records also includes the correspondence of elected officials, except to the extent that such correspondence is: 1) a work product, 2) without a demonstrable connection to the exercise of functions required by law or administrative rule, 3) a communication from a constituent to an elected official that clearly implies by its content that the constituent expects that it is confidential in nature or is subject to nondisclosure, or 4) pursuant to procedures in C.R.S. 24-72-204(1) the material requested is not to be disclosed. Additionally, C.R.S. 24-72-202(7) defines writings to include “all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Writings include digitally stored data, including without limitation electronic mail messages, but do not include computer software.”

All City records are subject to the following rules adopted by the City to promote open and accessible government while maintaining the integrity of the City’s records, accounting for costs to the City of complying with requests, and preventing unnecessary interference with City operations. Certain documents are not considered to be public documents by CORA. All decisions on releasing documents under this policy shall be based on CORA.
C.R.S. 24-72-203(1)(a) allows the official custodian of public records (City Clerk) to establish reasonable rules with reference to inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of duties of the custodian or the custodian’s office.

Records Available on the City Website
A substantial number of the City’s public records are available free of charge on the City’s website at www.durangoco.gov. Those records include, but are not limited to, the City budget and financial reporting, Ordinances, Resolutions, Orders, Business License lists, publications produced by the City of Durango and the agendas, recordings and minutes of meetings of the City Council and City Boards and Commissions. In lieu of completing a CORA request for information available on the City website, the Custodian may direct persons to the online location of relevant documents without assessing a fee.

Policy
It shall be the policy of the City of Durango to make all records available for public inspection unless such records are protected from disclosure by state or federal law, by court order, and/or unless disclosure of such records would be contrary to the public interest.

Unless circumstances make it impractical, all requests made under the Open Records Act shall be made in writing, through the Open Records request portal to the City Clerk, who is the Records Custodian, for those submissions. The custodian shall, in appropriate cases either provide the records or the Open Records Request Form to the Requestor or shall set a date, time, and on-site location where the records can be inspected. Requests must include sufficient specificity to facilitate the City’s efficient identification, collection, and evaluation of records. Specifying the nature of the documents requested and providing the necessary narrowing details enables the City to fill the request more expeditiously and in a manner that may produce cost savings to the Requestor. To the extent possible, requests should include the document name/title, location, date, author, recipient, specific subject matter, and the category (or categories) of records. The City may contact the Requestor to attempt to clarify, understand and narrow the request.

Response Time
The City shall respond to a request as soon as practicable upon receiving the request, but within not more than three (3) business days after it was received, not including the date of receipt. That period may be extended if extenuating circumstances exist (per C.R.S. 24-72-203(3)(b)), but the extension period shall not exceed seven (7) additional business days. If a deposit is required, work on retrieving the information will not begin until the deposit has been paid to the City. The City will deem a request abandoned, if, after ten (10) business days the
required deposit and/or no communication is received by the Records Custodian regarding the clarification of the request, the deposit, or the cost estimate.

**Electronic Records and Electronic Communications**
If a record is stored in digital format, the City will produce such record in digital format. If a digital record is stored in a searchable format, it shall be provided in a searchable format; if stored in a sortable format, it will be provided in a sortable format. Notwithstanding the foregoing, a digital record shall not be produced in searchable or sortable format if such production would violate a copyright or licensing agreement or would result in the release of proprietary information, or if it would not be technologically or practically feasible to permanently remove information that is required to be withheld in such format. It shall not be considered technologically or practicably feasible to produce a record in such manner if the custodian would be required to purchase software or create additional programming to remove information required to be withheld. If the Custodian cannot comply with the requested format, the Custodian shall either issue a denial of the request or provide an alternative format. In either case, the Custodian shall provide the Requestor with the reason for not being able to provide the document in the requested format.

The City of Durango may charge to convert a record into a structured data or searchable format. The fee charged will be based on the recovery of the actual time spent to search or convert the records.

Open records request records may themselves be public records under the public records law and may be subject to public inspection under C.R.S. 24-72-203 and the policy of the City of Durango.

**Requests for Emails**
The time charged on any CORA request for emails is based on actual time spent on the request by any and all City staff members, regardless of department or title. Depending on the records requested, this can be a very time intensive process. Emails and attachments will be reviewed and redacted, as necessary, in accordance with CORA.

**Records Withheld or Redacted**
Although most City documents are open to public inspection, specific types of information are protected by State or Federal law; these include but are not limited to confidential personal information and attorney/client privileged information. If requested records are only partially available for public inspection under such law, such records may be redacted to protect such information and the Requestor will be billed the actual costs of redacting the protected information.

**Fees and Charges**
The Custodian shall charge for any printouts and electronic data storage devices to fulfill the request. Requests expected to have a total charge of $50 or more
must be accompanied by a non-refundable deposit of at least one-half the estimated amount. This deposit will be credited toward the total fee, and the total fee shall be paid prior to release of the requested records. If the deposit amount exceeds the actual costs, the balance shall be refunded within 30 days.

If requested, or in cases where the fees are anticipated to be more than $10, the Custodian shall provide a written estimate of charges. However, the actual fees charged may differ. The Custodian shall strive to make the estimate as accurate as possible but cannot guarantee the final cost of the request until the retrieval of the files is complete.

If any individual submits multiple requests in any 3 day period, those requests will be consolidated and considered one request. As with all requests, the first hour of staff time will be provided at no charge to the requestor. Any additional hours will be charged at a rate of $40.00 per hour.

No fee shall be charged for hard copies of up to ten standard sized pages of the Requestor's initial request, per calendar year. (Standard sized page will be considered letter or legal sized paper.) Larger format copies will be charged based on the actual cost of producing the copy. Each standard page after that will be charged at 25 cents per page. In addition, the Requestor must pay any research and retrieval fee associated with producing the record in accordance with the schedule below. The Custodian will also charge a fee for any manipulation of data needed to generate a record in a format responsive to the request. This fee shall not exceed the actual cost of manipulating said data and generating the record. Persons making a subsequent request for the same record shall be charged the same fee.

Such fees may be reduced or waived by the custodian as provided by statute. Fee reductions and waivers shall be uniformly applied among persons who are similarly situated.

The City will respond to requests for access to public records stored electronically and in computer databases by providing, upon written request, a digital copy sent as an email attachment, files on a flash drive (where the total file size is too large to attach to an email), or physical hard copy printout. The City’s default method will be to provide the records via Requestor email. Please contact the Clerk’s office if an alternative method of delivery is preferred. The fee will be based on the City’s actual cost of producing and retrieving the documents.

Data generated by a third party shall be charged at the actual cost incurred by the City to reproduce or copy the documents. Not all documents held by a third party are subject to release under the CORA guidelines. If the information requested includes bid awards, bid tabulations, and bid pricing, the Requestor may be directed to BidNet for the retrieval of this information as a third party vendor.
Fees and charges for reproduction of records shall be standard throughout the City for similar items.

PUBLIC RECORDS STANDARD FEES AND CHARGES

**Hard Copies**

$0.25 per letter or legal size page

Larger format copies will be charged based on the actual cost of producing the copy.

**Electronic files**

No fee will be charged for the transmission of records by electronically, although the other fees described in this policy may be applicable if the services for which those fees are charged are necessary in order to place the records into a format that can be uploaded to the portal. Due to the limits of the size of electronic files that may be emailed, it may not be practical to transmit records via email.

If electronic files are placed on flash drive provided by the City, the actual cost of the flash drive will be assessed to the Requestor. The Requestor may provide a flash drive for this purpose, so long as the drive is new, unused and is in a factory sealed package, to avoid the transmission of viruses and/or system contamination.

**FAX documents**

$0.25 per letter or legal size

**Document certification**

Actual Cost incurred (in addition to per page copy charge)

**Duplication of audio tapes, CDs, or DVDs**

Including transfer of audio files to CD

Actual Cost Incurred

(When technologically possible)

**Publications produced by the City of Durango**

Price varies; will be established based on production costs (also available on the City’s website)

**Weekly/Monthly/New Business License Report**

Actual Cost Incurred

**Research, Retrieval and Data Segregation/Manipulation Fees (including redaction)**

Up to 1 hour per records request  

No charge
Additional hours $40 per hour

Denial of inspection: Access to records may be denied in accordance with the provisions of CORA, federal or state law. The reasons for denial of access to records shall be provided to the Requestor.

Records retention schedules: All public records, regardless of storage format, will be administered in accordance with the approved Colorado Municipal Records Retention Schedule (CMRRS). The City of Durango has adopted the CMRRS as approved and updated by the Colorado State Archives. This schedule is available online at https://www.colorado.gov/archives/municipal-records-retention-manual and for your convenience a searchable single pdf file of the same is available on the durangogov.org website.

Signed under the authority of the City Clerk:

Faye Harmer, City Clerk
RECORDS REQUEST FORM

PLEASE PRINT

Name:
__________________________________________________

Date of Request:
____________________________________________

Email:
_____________________________________________________

Mailing Address: Street: __________
_____________________________
City: ___________________________ State: ___________ Zip: _______

Phone: Day
_______________________________________________

Phone: Evening
_____________________________________________

INSTRUCTIONS
Indicate the information you desire and/or list each requested document. Please be as specific as possible. Allow three (3) working days after the date of receipt of your request for a search of the records. Per the State of Colorado Open Records Act (C.R.S. 24-72-203), if extenuating circumstances exist, an extension of seven (7) working days is permitted. The City will notify you within three (3) days of any extension and all estimated costs.

_______________________________________________________________

_______________________________________________________________

_______________________________________________________________

Please select the format in which you would like to receive materials:

☐ Electronic Portal *
Email

View only; no copies requested. (Appropriate City personnel will be scheduled to accompany you during viewing.)

Hard copies/printouts

CD or DVD or flash drive

*though this is the default method of delivery, not all documents are available electronically

Please select the method you prefer for notification and delivery when the records are available:

Email (if records are available electronically). Specify an alternate delivery method if records are not available via email:_____________________

I will pick them up at City Hall

Contact me by (circle one): Mail Phone Email

First Class mail

I agree to pay any charges applicable to this request. (Work on this request will begin when this form is complete and/or the required deposit has been paid.)

_____________________________________________________

Signature of Requestor                                      Date and Time of Request

==================================================================
TO: DURANGO CITY COUNCIL  
FROM: LUKE ALVEY-HENDERSON, LIBRARY DIRECTOR

SUBJECT: A RESOLUTION APPROVING THE UPDATED RECONSIDERATION OF LIBRARY MATERIALS POLICY - SQL-SUBMITTED BY LUKE ALVEY-HENDERSON

RECOMMENDATION:
I make a motion to approve R 2024-002 approving the updated Durango Public Library Reconsideration of Library Materials Policy.

BACKGROUND SUMMARY:
The new Colorado library law SB24-216 Standards for Decisions Regarding Library Resources requires us to make some small changes to our existing Materials Reconsideration policy.

STRATEGIC PLAN ALIGNMENT:
Safety & Quality of Life

ALTERNATIVE OPTIONS CONSIDERED:
As this is necessary to comply with law, the only other option is to completely remove any Reconsideration Policy.

FISCAL IMPACT:
N/A

POTENTIAL ADVERSE IMPACTS:
There are groups and individuals who disagree with the current law and our current policies. However, they have multiple avenues to bring these concerns to the Library, City Manager’s Office, and City Council.

NEXT STEPS AND TIMELINE:
As soon as the resolution is passed it will be effective policy for the library. We will have it posted and an alert ready to go public the following day.
July 16th, 2024

A Resolution Approving the Updated Reconsideration of Library Materials Policy

Luke Alvey-Henderson, Library Director

Strategic Plan goals:

Safety and Quality of Life
Mission (Why we exist)
“We provide outstanding services and experiences for the entire community.”

Vision (What we want to be)
“A multigenerational community which is authentic, diverse, engaged, thriving, and environmentally responsible.”

Values (What we believe in)
Teamwork | Dependability | Professionalism | Service | Respect | Innovation | Well-Being
• Our Reconsideration policy outlines how we consider removing a title or moving it to another section.
• Last revised our Reconsideration of Library Materials Policy in 2018
• A new state law went into affect on May 31st*
• We are making two minor revisions to fully reflect the new law

*SB24-216
Standards for Decisions Regarding Library Resources
The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.

Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

A person’s right to use a library should not be denied or abridged because of origin, age, background, or views.

Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.
ALA's Office for Intellectual Freedom documented **1,247 demands to censor library books and resources in 2023**. The number of titles targeted for censorship surged 65% in 2023 compared to 2022, reaching the highest levels ever documented in more than 20 years of tracking: **4,240 unique book titles were targeted for removal from schools and libraries.**

We average 0 challenges per year, with the last being in 2019.
Last year our state had over 140 titles challenged with just 12 incidents.
WHERE DO CHALLENGES TAKE PLACE?
Pressure groups in 2023 focused on public libraries in addition to targeting school libraries. The number of titles targeted for censorship at public libraries increased by 92% over the previous year; school libraries saw an 11% increase.

54% Public libraries
39% School libraries
5% Schools
2% Higher education/other

Statistics based on 1,247 cases with known locations.
• Anyone challenging a book must live within the library’s service area.
• A challenged book cannot be removed from shelves while under reconsideration

ADDITIONS
• A public library cannot review a book or other material that’s already been evaluated. more than once every two years
• Any challenge to a book is now subject to the Colorado Open Records Act, or CORA. That means that the name and address of a challenger would not be redacted.
I make a motion to approve R-??? approving the updated Durango Public Library Reconsideration of Library Materials Policy.
Reconsideration of Library Materials Policy

DRAFT

The Durango Public Library (DPL) strives to maintain and develop a diverse collection that represents a variety of viewpoints and interests. DPL collects materials in various formats that best serve the needs of the community. The intent is to provide a broad and relevant collection while also being good stewards of the community’s tax dollars. Items added to the collection are based upon the merits of the material and community interest. The criteria for the selection of materials is outlined in detail in the Collection Management Plan.

DPL upholds the principles of intellectual freedom and the right of individuals to seek and receive information from all points of view without restriction.

DPL welcomes comments on individual items in the collection, regardless of format, from residents of La Plata County. Due to the involved nature of the process, individuals are limited to one written reconsideration request per calendar year; requests from groups will not be considered. Additionally, DPL cannot review a book or other material that’s already been evaluated more than once every two years.

The individual should first have a conversation with a professional librarian supervisor about their concerns. If, after that, the individual would like to move forward with an official reconsideration request, they will need to submit the Request for Reconsideration Form, which is part of this policy. During the reconsideration period, the material in question will continue to be made available to the public. After the written request is submitted, the Durango Public will:

1. Research the item in question, evaluating it based upon the selection criteria in the Collection Management Plan.
2. Complete a formal evaluation of the item, which will include a decision to retain, reclassify or remove the material from the collection.
3. The Library will send a written response to the individual requesting the reconsideration, giving the decision and reasons for its decision.

In accordance with the Colorado Open Records Act, all Requests for Reconsideration may be subject to public disclosure.
Durango Public Library Request for Reconsideration

Author: __________________________________________________________

Title: _____________________________________________________________

Format: □ Print book   □ eBook   □ Audio Book   □ eAudio   □ DVD   □ Music CD
□ Other: __________________________________________________________

Request initiated by:

___________________________________________________________________
Name

___________________________________________________________________
Street Address

___________________________________________________________________
City, State, Zip

___________________________________________________________________
Mailing Address (if different from above)

___________________________________________________________________
Email

___________________________________________________________________
Phone

Have you read/heard/viewed this title in its entirety? □ Yes □ No

Have you met with a professional Librarian Supervisor on staff to discuss your concerns?
□ Yes □ No

In accordance with the Colorado Open Records Act, all Requests for Reconsideration may be subject to public disclosure.
Durango Public Library Request for Reconsideration

What is your objection to the material? (Please be specific: i.e., cite pages, etc.)

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

Action Requested: ☐ Remove from collection  ☐ Reclassify to another area in the library
☐ Other: ____________________________________________________________

Date:______________  Printed Name: ________________________________

Signature:_________________________________________________________

Date:______________  Received by Staff Member: ________________________

In accordance with the Colorado Open Records Act, all Requests for Reconsideration may be subject to public disclosure.
RESOLUTION R-
A RESOLUTION APPROVING THE UPDATED RECONSIDERATION OF LIBRARY MATERIALS POLICY

WHEREAS, The City Director of Library Services is submitting the final draft of the 2024 update to the Reconsideration of Library Materials Policy for review and adoption; and

WHEREAS, the City Council finds that the 2024 update to the Reconsideration of Library Materials Policy provides clear direction for the public on how library materials are reconsidered; and

WHEREAS, the City Council finds that the 2024 update to the Reconsideration of Library Materials Policy works to fulfill the City of Durango’s Strategic Plan goals of Safety and Quality of life; and

WHEREAS, the City Council finds that the 2024 update to the Reconsideration of Library Materials Policy will bring the library in full alignment with SB24-216; and

WHEREAS, the Council finds that it is in the best interests of the City and the citizens of Durango to adopt the 2024 update to the Reconsideration of Library Materials Policy, as submitted.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Durango, in the regular meeting assembled, July 16, 2024:

Section 1. That the 2024 update to the Reconsideration of Library Materials Policy are hereby approved and adopted for the City of Durango, effective July 16, 2024.

Approved and adopted this 16th day of July, 2024

CITY OF DURANGO,
COLORADO

By:

Jessika Buell, Mayor

ATTEST:
By:  
RECOMMENDATION:

It is the recommendation that the City Council, by motion, move to approve Resolution R-2024-0043 appropriating sums of money to the various funds and spending agencies, in the amounts and for the purpose as set forth below, for Capital expenditures for the city of Durango, Colorado for the 2024 budget year.

BACKGROUND SUMMARY:

This project appropriates additional grant funding to an existing fleet replacement project. The City was awarded an FTA 5339 grant to replace a transit van in 2020. Due to a number of Covid-era impacts, purchase of the van was delayed until 2024. The cost of the van now exceeds the original grant award, and CDOT has awarded the City an additional grant to mitigate the increased cost. This will increase revenues by $28,000 from the grant and expenditures by $35,000 in the fund creating a $7,000 net effect on the fund balance. The budget impacts associated with the 2024 Adopted Budget are related to the following fund:

Transportation Fund

STRATEGIC PLAN ALIGNMENT:

Reliable Infrastructure and Community Connectivity

ALTERNATIVE OPTIONS CONSIDERED:

N/A

FISCAL IMPACT

<table>
<thead>
<tr>
<th>Fund</th>
<th>Net Effect on Fund Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transportation Fund</td>
<td>(7,000)</td>
</tr>
</tbody>
</table>
RESOLUTION R-2024-0043

A RESOLUTION TO AMEND THE 2024 BUDGET FOR THE PURPOSE OF BUDGET ADJUSTMENTS TO THE 2024 APPROPRIATIONS

WHEREAS, under the provisions of Article V, Section 10 of the Durango City Charter, the City Council may make additional appropriations during the budget year for unanticipated expenditures required by the city not exceeding, however, actual revenues and unappropriated surplus; and

WHEREAS, to accomplish the goals of the City Council and foster a team-oriented working environment resulted in budget impacts and incorporates several unanticipated budget adjustments increasing, transferring, or amending the appropriations for expenditures and revenues; and

WHEREAS, there exist sufficient funds within the fund balance;

NOW, THEREFORE, BE IT RESOLVED, as follows

Section 1. That the City Council of the City of Durango, in regular meetings assembled, that the 2024 budget shall reflect the changes and the appropriations for 2024 are increasing, transferring, or amending according to the tables below:

<table>
<thead>
<tr>
<th>Transportation Fund</th>
<th>Budget Increase/(Decrease)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Account Number</td>
<td>Project Number</td>
</tr>
<tr>
<td>Revenues 97-1000-63189</td>
<td>Transit Van Replacement</td>
</tr>
<tr>
<td>Expenditures 97-8518-49199</td>
<td>Transit Van Replacement</td>
</tr>
<tr>
<td>Net Effect on Fund Balance</td>
<td></td>
</tr>
</tbody>
</table>

Approved and adopted this 16th day of July, 2024.

CITY OF DURANGO, COLORADO

By: ________________________________
Mayor

ATTEST:

By: ________________________________
Faye Harmer, City Clerk
TO: DURANGO CITY COUNCIL
FROM: ELLIOTT FITZ, BUDGET MANAGER

SUBJECT: A Resolution To Give Direction to the City Clerk to notify the County Clerk in writing that the Council has taken formal action to participate in the 2024 General Election

RECOMMENDATION:

It is the recommendation that the City Council, by motion, approve the attached resolution to the City Clerk to notify the County Clerk in writing that the Council has taken formal action to participate in the 2024 General Election.

BACKGROUND SUMMARY:

City Staff is seeking direction from the council regarding the Re-Authorization of the 2005 Sales Tax and potential Bond Financing. In the 2023 Council retreat, the council gave staff direction to get cost estimates for the renovations of the Police Department, City Hall, and Municipal Services building. The council also gave direction to take action towards re-authorizing the tax and maintaining the same use of funds in the current ballot language for Capital Projects and Parks, Open Space, and Trails.

At the June 4th regularly assembled City Council Meeting City Council directed staff to pursue the option to continue research to re-authorization of the 2005 Sales Tax without imposing any new tax or increasing the tax rate for Parks, Open Space, and Trails and to finance the Police Station and City Hall building.

This item seeks direction from the council regarding the reauthorization of the 2005 sales tax and potential bond financing and giving direction to the City Clerk to notify the County Clerk in writing that the Council has taken formal action to participate in the 2024 General Election. The notification must be made before the statutory 100-day deadline, July 26, 2024.

STRATEGIC PLAN ALIGNMENT:

Organizational Stewardship

ALTERNATIVE OPTIONS CONSIDERED:

N/A

FISCAL IMPACT

Fiscal Impact elections budget for 2024 is $55,000. The last coordinated election in November was just under $53,000.
RESOLUTION R-2024-0044

A RESOLUTION GIVING DIRECTION TO THE CITY CLERK TO NOTIFY THE COUNTY CLERK IN WRITING THAT COUNCIL HAS TAKEN FORMAL ACTION TO PARTICIPATE IN THE 2024 GENERAL ELECTION.

WHEREAS, The City finds it necessary to get City Council direction in Re-authorizing the 2005 Sales Tax.

WHEREAS, The City Manager and staff have submitted to Council two funding strategies for the renovation and construction of a new Police Department and City Hall.

WHEREAS, the Council voted at the June 4th meeting that it is in the best interest of the City and the citizens of Durango to reauthorize the 2005 Sales Tax for the Police Department and City Hall project, without increasing taxes.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Durango in the Regular meeting assembled July 16th, 2024:

Section 1. to the City Clerk to notify the County Clerk in writing that Council has taken formal action to participate in the 2024 General Election. The notification must be made prior to the statutory 100-day deadline, July 26, 2024.

Approved and adopted this 16th day of July, 2024.

CITY OF DURANGO, COLORADO

By: ________________________________
    Mayor

ATTEST:

By: ________________________________
    Faye Harmer, City Clerk
TO: DURANGO CITY COUNCIL
FROM: TYLER MICHAEL, PLANNER I, COMMUNITY DEVELOPMENT

SUBJECT: FIRST CONSIDERATION OF AN ORDINANCE FOR AN EASEMENT FOR BLACK HILLS ENERGY TO SERVICE THE DURANGO-LA PLATA COUNTY AIRPORT - RICC - SUBMITTED BY COMMUNITY DEVELOPMENT

RECOMMENDATION:
It is the recommendation of the Community Development staff that the City Council, by motion, “Move to approve the first consideration of Ordinance 2024-___ to create a Black Hills Energy utility easement at the Durango-La Plata County Airport.”

BACKGROUND SUMMARY:
This is a request from Black Hills Energy to relocate two gas pipelines at the Durango-La Plata County Airport in order to accommodate the new DRO Airport Expansion Project.

STRATEGIC PLAN ALIGNMENT:
The proposal is compatible with the Strategic Plan goal of Reliable Infrastructure & Community Connectivity.

ALTERNATIVE OPTIONS CONSIDERED:
Alternative actions include the option to continue or deny the proposal.

FISCAL IMPACT:
There is no fiscal or budgetary impact associated with this Ordinance to dedicate an easement.

POTENTIAL ADVERSE IMPACTS:
There are no adverse impacts.

NEXT STEPS AND TIMELINE:
- City Council public hearing and first consideration of Ordinance – July 16, 2024
- City Council final consideration of Ordinance – August 6, 2024
- Once the final consideration of the ordinance is complete staff will work with the applicant to execute the Easement Agreement and record the easement and exhibit with the La Plata County Clerk & Recorder to memorialize the dedication.
AN ORDINANCE GRANTING UTILITY EASEMENT TO BLACK HILLS ENERGY TO INSTALL AN UNDERGROUND GAS PIPELINE ON CITY OWNED PROPERTY AT THE DURANGO-LA PLATA COUNTY AIRPORT TO SERVICE THE AIRPORT AND DECLARING AN EFFECTIVE DATE.

WHEREAS, Black Hills Energy has requested the granting of a utility easement for purposes of providing gas utilities across City owned property to service the new Durango-La Plata County Airport terminal expansion; and

WHEREAS, Article II, §11(d) of the Charter of the City of Durango, Colorado requires the adoption of an ordinance to convey or lease or authorize the conveyance or lease of any real property owned by the City; and

WHEREAS, a public hearing has heretofore been held before the City Council of the City of Durango, and the Council has determined, subsequent to said public hearing, that the granting of the requested gas utility easement in favor of Black Hills Energy would be in the best interests of the citizens of the City of Durango;

NOW, THEREFORE, THE CITY OF DURANGO HEREBY ORDAINS:

Section 1. Subject to the approval by the City Manager of the terms and conditions of the Grant of Utility Easement and Agreement between the City of Durango and Black Hills Energy, the City Council of the City of Durango does hereby authorize and grant the utility easement in favor of Black Hills Energy for installing an underground gas pipeline, said easement being more particularly described and depicted on Exhibit ‘A’ hereto attached, the contents of which are incorporated by reference herein.

Section 2. This ordinance shall become effective ten (10) days after its passage and final publication as provided by law.

CITY COUNCIL OF THE CITY OF DURANGO

Attest: ____________________________
City Clerk

________________________________
Mayor
STATE OF COLORADO  
COUNTY OF LA PLATA  

I, Faye Harmer, City Clerk of the City of Durango, La Plata County, Colorado, do hereby certify that Ordinance No. O-2024-____ was regularly introduced and read at a regular meeting of the City Council of the City of Durango, Colorado on the ___ day of _________________, 2024, and was ordered published in accordance with the terms and conditions of the statutes in such cases made and provided, in the Durango Herald, a newspaper of general circulation, on the ___ day of _________________, 2024, prior to its final consideration by the City Council.

I further certify that Ordinance No. O-2024-______, was duly adopted by the Durango City Council on the ___ day of _________________, 2024, and that in accordance with instructions received from the Durango City Council, said amended ordinance was published by title only in the Durango Herald on the ___ day of _________________, 2024.

________________________________        
City Clerk
EASEMENT AGREEMENT

THIS GRANT OF EASEMENT AND AGREEMENT ("Agreement") is made and entered into this ______ day of ________, 20__, by and between THE CITY OF DURANGO, COLORADO, a Municipal Home-Rule Corporation and THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO (hereinafter collectively referred to as "Grantors") and Black Hills Colorado Gas, Inc., d/b/a Black Hills Energy, a Colorado corporation with a principal office address of 7001 Mount Rushmore Rd., Rapid City, South Dakota 57709 (hereinafter “Grantee”).

WHEREAS, the Grantee has requested a utility easement from the Grantors under and through the Grantors’ property for the installation of underground natural gas pipelines and related facilities for the transmission and distribution of gas and all appurtenances and appliances necessary in connection therewith, including but not limited to above ground valve settings or district regulator stations, to service their property at the Durango-La Plata County Airport ("Airport"); and

WHEREAS, Grantors are willing to grant the requested easement, subject to the terms and conditions herein set forth; and

WHEREAS, it is the mutual desire of the parties to set forth in writing, their understanding and agreement with respect to the matters herein set forth;

NOW, THEREFORE, in consideration of the following mutual covenants, conditions and obligations, the parties agree:

1. In exchange of good and valuable consideration, the receipt of which is hereby acknowledged, Grantors do hereby grant, bargain, sell and convey to Grantee, its successors and assigns a permanent non-exclusive, perpetual easement in gross (the “Utility Easement”), the location of which is described and depicted on Exhibit A attached hereto, the contents of which are incorporated by reference herein, for the construction, installation, operation and maintenance of underground gas lines and all appurtenances and appliances necessary in connection therewith, including but not limited to above ground test posts and location markers (the “Permitted Utilities”).

2. The conveyance of the Utility Easement shall be subject to the following terms and conditions:
a. The granted easement shall include the right of the Grantee, its successors, assigns, licensees, lessees and contractors, and their agents and employees, to enter upon said premises for the purpose of ingress and egress, inspection, surveying, construction, operation, reconstruction, improvement, enlargement, replacement, alteration, maintenance and removal of the Permitted Utilities, all at no cost to Grantors. Access to the easement herein granted shall be limited to public right of way.

b. Within sixty (60) days subsequent to the installation, inspection, construction, reconstruction, improvement, enlargement, replacement, alteration, maintenance, removal, or other allowed access to or work on the Permitted Utilities, Grantee shall restore the disturbed property (including any improvements such as roads, sidewalks, parking surfaces, fencing, etc.) to a condition that is the same or better than the condition of the property prior to the commencement of such work. For a period of three (3) years following the initial installation of the Permitted Utilities, and for a period of three (3) years following any subsequent ground disturbance by Grantee for maintenance or other activities, Grantee shall be responsible for the maintenance and eradication of noxious weeds within the easement area, in compliance with applicable law.

c. After completion and installation of the Permitted Utilities, Grantee shall maintain such Permitted Utilities in good condition and repair.

3. Grantors reserve all rights to use the surface and subsurface of the Utility Easement in any manner or for any purpose that does not interfere with the Grantee’s use of the Permitted Utilities, including, but not limited to, the use of the granted easement for roadway, driveway, parking, or other utility purposes. Except for roadways, driveways, and parking areas (any of which may be fenced), no buildings, structures, or other improvements shall be erected, placed or permitted within the described Utility Easement that would interfere with the exercise of any of the rights herein granted to or for the benefit of Grantee.

4. This Agreement shall run with the lands described to Exhibit A hereto attached and shall be binding upon the respective parties hereto, their heirs, successors, grantees, personal representatives, and assigns. Time is of the essence with respect to all terms, conditions, and obligations herein contained. If any part of the land described on Exhibit A shall be conveyed, or if the whole thereof shall be conveyed, the Agreement shall be binding upon all future owners of
the properties described in Exhibit A, irrespective of whether the parcel so conveyed are actually benefited by the utility services installed within such easements.

5. Grantee agrees that it shall indemnify and hold Grantors harmless from any and all claims, damages, losses, expenses, or demands, of whatsoever nature, including reasonable attorney’s fees, for personal injury, property damage, or death sustained by any person(s) or property caused by the negligent acts or omissions or willful misconduct of the Grantee, its employees, contractors, licensees, lessees, agents, employees or representatives arising from the use of the Utility Easement granted or Permitted Utilities allowed herein or the subsequent use thereof.

6. If Grantee shall neglect or fail to perform or strictly comply with the conditions of this Agreement, such act or omission shall be deemed an event of default. Grantors, or the successors or assigns of Grantors, may give written notice to Grantee specifying the particular or particulars of such default and directing Grantee to remedy such default. From the effective date of such notice, Grantee shall have a period of thirty (30) days within which to initiate and diligently pursue theremedying of such default. If, within such thirty (30) day period after notice, Grantee has neither cured such default nor initiated procedures reasonably calculated to cure such a default, the Facilities Easement may be terminated by Grantors.

Waiver by Grantors of any default of any term or condition of this Agreement shall not be construed as a waiver with respect to any other term or condition hereof.

7. All notices or deliveries allowed or required by this Agreement shall be either: (a) personally served; (b) given by certified mail directed to the address of the Grantors or Grantee as set forth below; or (c) given by email or facsimile directed to the email address or facsimile number hereinafter set forth. Any such notice given hereunder shall be effective upon the date of actual receipt or three (3) days after notice is deposited in the U.S. Certified Mail, postage prepaid, whichever occurs first. All notices from Grantee shall also copy the Airport. Addresses for notice shall be as follows:

Grantors’ Address

City of Durango
949 East 2nd Avenue
Durango, Colorado 81301
Facsimile Number: (970) 375-5018
Email: Planning@durangogov.org
La Plata County  
1060 E. 2nd Avenue  
Durango, CO 81301  
Email: Admin@co.laplata.co.us

Airport’s Address  
Durango-La Plata County Airport  
1000 Airport Road  
Durango, CO 81303  
Email: airport@durangogov.org  
Facsimile Number: (970) 375-5018

Grantee’s Address  
Black Hills Colorado Gas, Inc., d/b/a Black Hills Energy  
7001 Mount Rushmore Road  
Rapid City, South Dakota 57702  
Email: LandDept@blackhillsenergy.com  
Phone: 303-548-5451 (David Gremel)

8. Any amendments to this Agreement shall only be valid if set forth in writing and executed by all parties hereto. Verbal amendments shall be ineffective for any purpose.

9. The terms and conditions of the Agreement shall be construed, interpreted and enforced in accordance with the applicable laws of the State of Colorado. If any legal action is necessary to enforce or interpret the terms and conditions of this Agreement, the parties agree that jurisdiction and venue for such actions shall be in the appropriate court in La Plata County, Colorado. The parties further agree that should any proceeding be required to enforce or interpret the terms, conditions and provisions of this Agreement, the prevailing party in such proceeding shall be entitled, as part of any judgment entered, to recover its costs incurred, inclusive of reasonable attorney’s fees.
IN WITNESS WHEREOF, the parties have executed this Grant of Easement the day and year first above written.

Grantors:

CITY OF DURANGO, COLORADO, a Municipal Home-Rule Corporation

Attest:

__________________________
Mayor

__________________________
City Clerk

Notary Public:

STATE OF COLORADO )
) S.S.
COUNTY OF LA PLATA )

The foregoing Grant of Easement and Agreement was acknowledged before me this _______ day of __________, 20___ by ________________________, as Mayor, and by ________________________, as City Clerk of the City of Durango, a municipal home-rule corporation.

Witness my hand and official seal. My commission expires: ________________.

__________________________
Notary Public
BOARD OF COUNTY COMMISSIONERS OF
LA PLATA COUNTY, COLORADO

Attest:

____________________________________________________________________

Matt Salka, Chair

Clerk

Notary Public:

STATE OF COLORADO  )
) S.S.
COUNTY OF LA PLATA  )

The foregoing Grant of Easement and Agreement was acknowledged before me this _______ day of ____________, 20____ by Matt Salka as Chair and by ________________________, as Clerk of the Board of County Commissioners of La Plata County, Colorado.

Witness my hand and official seal.  

My commission expires: ____________.  

____________________________________________________________________

Notary Public
IN WITNESS WHEREOF, the Grantees have executed this Grant of Easement the day and year first above written.

Black Hills Colorado Gas, Inc.,
d/b/a Black Hills Energy,
a Colorado corporation

[Signature]
Randal G. Harris
Director of Land

STATE OF SOUTH DAKOTA  )
) S.S.
COUNTY OF PENNINGTON    )

The foregoing Grant of Easement and Agreement was acknowledged before me this 15th day of May , 2024 by Randal G. Harris, Director of Land for Black Hills Colorado Gas, Inc., d/b/a Black Hills Energy, as Grantee(s).

Witness my hand and official seal. My commission expires: 4-20-2029.

[Seal]
JEANETTE LUNDQUIST
NOTARY PUBLIC
State of South Dakota

Notary Public
20' PIPELINE EASEMENT

A 20 FOOT WIDE STRIP OF LAND SITUATED IN THE SE1/4SE1/4, NE1/4SE1/4 & SE1/4NE1/4 OF SECTION 30, AND IN THE SW1/4NW1/4 OF SECTION 29, TOWNSHIP 34 NORTH, RANGE 8 WEST OF THE N.M. P.M., COUNTY OF LA PLATA, STATE OF COLORADO. SAID STRIP OF LAND LIES TEN (10) FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT WHENCE THE EAST QUARTER CORNER OF SAID SECTION 30 (A FOUND ILLEGIBLE 2" ALUMINUM CAP) BEARS N20°30'40"E A DISTANCE OF 1832.52 FEET; THENCE ALONG SAID CENTERLINE THE FOLLOWING EIGHTEEN (18) COURSES:

1.) N45° 37' 59"W A DISTANCE OF 100.00 FEET;
2.) N0° 15' 49"E A DISTANCE OF 81.25 FEET;
3.) N26° 49' 49"E A DISTANCE OF 81.61 FEET;
4.) N6° 34' 06"E A DISTANCE OF 97.32 FEET;
5.) N1° 24' 05"E A DISTANCE OF 240.62 FEET TO A POINT WHENCE NGS CONTROL POINT "WILSON" (A FOUND ALUMINUM ROD IN MONUMENT BOX) BEARS N90°23'21"W A DISTANCE OF 56.08 FEET;
6.) THENCE N1° 30' 04"E A DISTANCE OF 249.64 FEET;
7.) N4° 39' 27"E A DISTANCE OF 86.70 FEET;
8.) N31° 05' 49"E A DISTANCE OF 151.33 FEET;
9.) N38° 42' 15"E A DISTANCE OF 168.97 FEET;
10.) N43° 37' 02"E A DISTANCE OF 72.44 FEET;
11.) N46° 22' 58"W A DISTANCE OF 29.00 FEET;
12.) N43° 37' 02"E A DISTANCE OF 15.00 FEET;
13.) N53° 58' 04"E A DISTANCE OF 91.61 FEET;
14.) N45° 47' 41"E A DISTANCE OF 103.71 FEET;
15.) N39° 27' 02"E A DISTANCE OF 127.13 FEET;
16.) N26° 59' 57"E A DISTANCE OF 91.47 FEET;
17.) N14° 43' 15"E A DISTANCE OF 126.70 FEET;
18.) N63° 53' 04"E A DISTANCE OF 197.74 FEET TO THE POINT OF TERMINUS WHENCE THE NORTHWEST CORNER OF SAID SECTION 29 (A FOUND 2" ALUMINUM CAP PLT18450) BEARS N00°19'56"E A DISTANCE OF 2593.59 FEET.

LESS AND EXCEPTING THEREFROM


ALSO EXCEPTING THEREFROM

ALL THAT PORTION OF THE ABOVE DESCRIBED STRIP OF LAND THAT CROSSES COUNTY ROAD 309 RIGHT-OF-WAY BEING 60 FEET IN WIDTH AS SHOWN ON SAID WILLIAMSON SUBDIVISION PLAT AND THE MERLE MCCAW MINOR EXEMPTION SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED JUNE 02, 1992 AS RECEPTION NO. 628092.

SAID STRIP OF LAND CONTAINS 40,789 SQ. FT. OR 0.936 ACRES (LESS EXCEPTION PARCELS) MORE OR LESS.

BEARINGS CONTAINED HEREON ARE BASED ON THE U.S. STATE PLANE COORDINATE SYSTEM (NAD83) COLORADO SOUTH ZONE (0503). DISTANCES ARE GROUND DISTANCES UTILIZING A GROUND SCALE FACTOR OF 1.0003001366.
JULY 16, 2024
Black Hills Energy Easement at the Durango-La Plata County Airport
Public Hearing

Tyler Michael
Community Development

STRATEGIC PLAN GOAL:
- RELIABLE INFRASTRUCTURE & COMMUNITY CONNECTIVITY (RICC)
**Mission** (Why we exist)
“We provide outstanding services and experiences for the entire community.”

**Vision** (What we want to be)
“A multigenerational community which is authentic, diverse, engaged, thriving, and environmentally responsible.”

**Values** (What we believe in)
Teamwork | Dependability | Professionalism | Service | Respect | Innovation | Well-Being

---

**PURPOSE**

- First Consideration of an Ordinance for a Utility Easement for Black Hills Energy to Serve The Durango-La Plata County Airport.
This initiative applies to the **Reliable Infrastructure & Community Connectivity (RICC)**
PIPELINE EASEMENT PLAT
DRO PIPELINE EXPANSION PROJECT
SITUATED IN THE SE1/4SE1/4, NE1/4SE1/4 & SE1/4NE1/4 OF SECTION 30,
AND IN THE SW1/4NW1/4 OF SECTION 29, TOWNSHIP 34 NORTH, RANGE 8 WEST
OF THE N.M.P.M., COUNTY OF LA PLATA, STATE OF COLORADO

BLACK HILLS ENERGY
DRO PIPELINE EXPANSION PROJECT
DURANGO - COLORADO

TRUE NORTH COLORADO LLC.
A LAND SURVEYING AND MAPPING COMPANY
E-Mail: info@truenorthcolorado.com
www.truenorthcolorado.com

PROJECT NO: 2014-163
DATE: APRIL 5, 2013

SCALE 1" = 250'
Overview & Timeline

This project will expand and update existing utility infrastructure at the airport.

Timeline

- Introduction of an Ordinance – July 2, 2024
- First consideration of an Ordinance – July 16, 2024
- Final consideration of an Ordinance – August 6, 2024
Public Comment & Recommended Motion

Public Comment
To date, no advance public comments have been received by the Community Development Department.

Recommended Motion
“I move to approve the first consideration of Ordinance 2024-___ to create a Black Hills Energy utility easement at the Durango-La Plata County Airport.”