<u>Colorado Opioid Abatement Council (COAC)</u> <u>Opioid Funds Infrastructure Share Policy</u>

I. Purpose

This policy provides guidance to the Colorado Opioid Abatement Council (COAC) and potential applicants regarding the requirements to apply for and release funds from the Infrastructure Share of the Opioid Funds.

<u>Article 1</u> <u>Policy Summary and Definitions</u>

I. Executive Summary

The Colorado Opioid Memorandum of Understanding (MOU) sets aside 10% of Opioid Settlement Funds to the Infrastructure Share. Funds from the Infrastructure Share are distributed by the COAC to develop the infrastructure necessary to abate the opioid crisis in Colorado.

Local Governments, Regions, and state governmental entities may apply for funds from the Infrastructure Share for capital and/or operational assistance for developing or improving the infrastructure necessary to abate the opioid crisis within the State of Colorado. The Infrastructure Share aims to create and/or increase access to services or programs that fall under the definition of Allowable Uses in Exhibit A of the Colorado Opioid MOU. The Infrastructure Share is intended to supplement other Opioid Settlement Funds and meet the needs of rural and underserved populations in Colorado.

The COAC will accept applications for Infrastructure Share annually through a standardized process overseen by the COAC Review Committee with administrative support from the Department of Law Opioid Response Unit.

II. Definitions

Unless otherwise defined here, all Definitions in the MOU are hereby incorporated into this Policy.

- 1. "Applicant" shall mean the county, municipal, Region, or state entity that submits the request for funding from the Infrastructure Share.
- 2. "Approved Purposes" shall have the same meaning as set forth in Section A(1) of the MOU.
- 3. The "Colorado Opioid Abatement Council" or "COAC" is the "General Abatement Fund Council," or any committee or subcommittee thereof, as described in Section C of the MOU.
- 4. "Fiscal Agent" shall mean a participating local government (county or municipal entity that participated in the MOU), or state entity that is responsible for the receipt and oversight of Opioid Funds received.
- 5. "Implementing Organization" shall mean the end recipient entities designated by the applicant to implement program(s) or projects as indicated in the application.

- 6. "Infrastructure Share" or "Statewide Infrastructure Share" shall have the same meaning as described in Section B.2.d of the MOU.
- "MOU" shall mean the Colorado Opioids Settlement Memorandum of Understanding executed by Attorney General Philip J. Weiser on behalf of the State of Colorado on August 26, 2021 and first entered by the Denver District Court in *State of Colorado* v. McKesson Corporation, et al., Case No. 2022CV30867, Final Consent Judgment and Dismissal with Prejudice (Mar. 31, 2022).
- 8. "Opioid Funds" shall have the same meaning as set forth in Section A(7) of the MOU.
- 9. "Region" shall have the same meaning as described in Section F of the MOU.
- 10. "Sustainability" shall mean the use of Opioid Funds for capital projects or operational programming that work to abate the opioid crisis and that can continue to function without future Opioid Funds.

<u>Article 2</u> <u>Requirements and Guidance</u>

I. Eligible Applicants

Applicants must be a Colorado county, municipality, Regional Opioid Abatement Council, or eligible state government entity. Regional Opioid Abatement Councils must apply with a county or municipality serving as the Fiscal Agent.

Non-governmental entities, such as not-for-profit organizations, may serve as Implementing Organizations as part of a collaborative partnership proposed in the application with a governmental entity acting as the applicant and Fiscal Agent.

II. Funding Requests Restrictions

Infrastructure Share funds must be used to create and/or increase access to services or programs that fall under the definition of Allowable Uses in Exhibit A of the Colorado Opioid MOU.

COAC shall determine on an annual basis the amount of funding available for the Infrastructure Share. Expenditure timeline and other terms of the Infrastructure Share awards shall be determined on an annual basis.

The Statewide Infrastructure Share will initially be held in escrow by the National Settlement Administrator. Funds from the Infrastructure Share will not be held in the state general fund; therefore, we believe the National Settlement Administrator will not be required to follow State fiscal and procurement rules to make distributions to recipients of the Infrastructure Share.

III. Application Factors

With a goal of encouraging collaboration and maximizing the impact of the Infrastructure Share, COAC encourages collaborative and regional application requests that address unmet needs by existing funding sources. Funding priorities that the COAC shall consider during their review are:

- 1. Joint applications from multiple Colorado Regional Opioid Abatement Councils.
- 2. Applications that align and supplement other Opioid Funds received by Regional Opioid Abatement Councils, local governments, and eligible state government entities.
- 3. Regional projects (county, municipal and/or state agencies with an approved Intergovernmental Agreement).
- 4. Projects with matching or in-kind funding from partnerships that may include foundation matching funds, in-kind staffing or materials, or other funds such as federal or state grants without restrictions on braided funding. A match is not a requirement for application.
- 5. Applications from entities that have not previously received funding from the Infrastructure Share shall be given higher priority.
- 6. Proposals demonstrating Sustainability after the expenditure of Infrastructure Share funds.

IV. Application Process

The Infrastructure Share aims to create and/or increase access to services or programs that fall under the definition of Approved Purposes.

Application announcements, materials, and timelines will be made available on the COAC website (<u>https://coag.gov/opioids/colorado-opioid-abatement-council/</u>) and through the Opioid Response Unit mailing list. Unfunded applications received in the first annual funding cycle may be re-submitted to the second annual funding cycle if requested by the applicant.

V. Review and Approval Process

The COAC will be the decision-making body for Infrastructure Share applications. The COAC may assemble an evaluation committee of experts and/or staff to support review of applications. The COAC and any COAC committee may request additional information from the applicant during the review process.

As the COAC administrator, the Department of Law Opioid Response Unit will receive and assemble all applications and communicate with applicants regarding deadlines.

The COAC reserves the right to contact a Regional Opioid Abatement Council for any application that proposes new infrastructure within its region.

VI. Remedial Action

Any remedial action taken against Parties or Regions that misuse Opioid Funds from the Infrastructure Share shall be in accordance with the COAC Statewide Infrastructure Share Remedial Action Procedures.

<u>Article 3</u> <u>Governing Language</u>

Governing Language from the Colorado Opioid Settlement Memorandum of Understanding

Section G

1. In accordance with Sections B(1) and (B)(2)(d), and the terms of any Settlement, the Statewide Infrastructure Share shall be paid to any Party or Regional Council in accordance with this Section (G).

2. The purpose of the Statewide Infrastructure Share is to promote capital improvements and provide operational assistance for developing or improving the infrastructure necessary to abate the opioid crisis anywhere within the State of Colorado. The Statewide Infrastructure Share is intended to supplement Opioid Funds received by any Party or Region.

3. Prior to distributing any Opioid Funds from the Statewide Infrastructure Share, the COAC shall establish and publish policies and procedures for the distribution and oversight of the Statewide Infrastructure Share, including processes for Parties or Regions to apply for Opioid Funds from the Statewide Infrastructure Share. The COAC's policies and procedures shall, at a minimum, reflect the following principles:

- a. Opioid Funds from the Statewide Infrastructure Share shall be used for Approved Purposes only;
- b. Opioid Funds from the Statewide Infrastructure Share shall be paid directly to the appropriate state agencies (including but not limited to the Colorado Department of Law), Regional fiscal agents, or Participating Local Governments only;
- c. Distribution and oversight of the Statewide Infrastructure Share shall comply with the terms of this MOU and any Settlement;
- d. Appropriate processes for remedial action will be taken against Parties or Regions that misuse Opioid Funds from the Statewide Infrastructure Share. Such processes shall include procedures for alleged offending Parties or Regions to challenge or dispute such remedial action; and
- e. Limitations on administrative costs to be expended by recipients for administering Opioid Funds received from the Statewide Infrastructure Share, not to exceed actual costs expended by the recipient or 10% of the amount received, whichever is less.

4. The distribution and oversight policies and procedures developed by the Abatement Council, in accordance with Section (G)(3), shall be non-appealable orders and no Party or Region may seek judicial relief related to the distribution and oversight of the Statewide Infrastructure Share.

5. On an annual basis, as determined by the Abatement Council, any Party or Regional Council that receives funds from the Statewide Infrastructure Share shall provide all expenditure data, including administrative costs, related to any Opioid Funds it received from the Statewide Infrastructure Share and subject itself to an accounting as required by the Abatement Council. The Abatement Council shall publish all expenditure data from the Statewide Infrastructure Share in accordance with Section (C)(4)(c)(i). The Abatement



Council may require the Parties or Regional Councils that receive funds from the Statewide Infrastructure Share to provide additional outcome related data in accordance with Section (C)(4)(c)(ii) and the Parties or Regional Councils shall comply with such requirements. 6. Costs associated with the Abatement Council's distribution and oversight of the Statewide Infrastructure Share, as described in this Section (G), shall be paid for from the Statewide Infrastructure Share. The Abatement Council shall make all good faith efforts to limit such costs to the greatest extent possible.

Approval

The Colorado Opioid Abatement Council approved the Infrastructure Share Policy via unanimous vote on April 5th, 2023.

Tulip J. Wese

Colorado Attorney General Philip J. Weiser *Colorado Opioid Abatement Council Chair*

Signature Date: <u>4/24/2023</u>