Appendix I – Environmental Justice Analysis

Definition and Guiding Principles

The U.S. EPA Office of Environmental Justice (EJ) defines EJ as “The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.” “Fair treatment” means that “No group of people, including racial, ethnic, or socio-economic groups should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local and tribal programs and policies.”

The guiding EJ principles followed by the US Department of Transportation are briefly summarized as follows:

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

“Minority” and “Low Income” Populations

A “minority population” means any readily identifiable group or groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed or transient persons such as migrant workers or Native Americans who will be similarly affected by a proposed program, policy or activity.

“Minority” includes persons who are:

- American Indian and Alaska Native
- Asian
- Black or African American
- Hispanic or Latino
- Native Hawaiian and other Pacific Islander

“Low-income” means a person whose median household income is at or below the Department of Health and Human Services (HHS) poverty guidelines. A locally developed threshold is permitted and encouraged, provided that the threshold is at least as inclusive as the HHS poverty guidelines.
A “low-income population” means any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed program, policy or activity. “Similarly affected” refers to “common conditions of environmental exposure or effect” (Center for Environmental Quality).

Adverse Effects & Benefits Definitions

Some EJ analyses examine only the adverse effects of transportation plans and projects. In fact, Executive Order 12898 also requires demonstration of equal benefits from federal transportation investments. For a metropolitan transportation system, analyses should examine how the Metropolitan Transportation Plan (MTP), the Transportation Improvement Program (TIP), and others promote the safety, mobility, economic productivity, human environment, natural environment, and other goals identified in State and local plans for all populations served by the transportation agency.

A complete EJ analysis examines both the benefits to and adverse effects (or “burdens”) of transportation plans or projects on EJ populations.

“Adverse effects” means “… the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to”:

- Bodily impairment, infirmity, illness or death
- Air, noise, and water pollution and soil contamination
- Destruction or disruption of man-made or natural resources
- Destruction or diminution of aesthetic values
- Destruction or disruption of community cohesion or a community’s economic vitality, destruction or disruption of the availability of public and private facilities and services
- Vibration
- Adverse employment effects; displacement of persons, businesses, farms or nonprofit organizations
- Increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community
- The denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies or activities.

As an example, a transit project might have both benefits and adverse effects for an EJ community: while decreasing travel times and expanding employment opportunities, the same project could also increase air pollution and noise. A road project might improve travel times to certain destinations but also create a barrier separating an EJ population from the broader community. A good analysis accounts for both types of effects at examines the balance of a project’s impact on an EJ community.
Disproportionate Adverse Effects

It is not the purpose of an EJ analysis to simply to determine whether a plan or project will have an adverse impact on an EJ community. The purpose is to explore whether the adverse effect is “disproportionately” high. An adverse effect becomes “disproportionate” when that effect 1) is predominantly borne by an EJ population, or 2) will be suffered by the EJ population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-EJ population.

Some good standard questions to consider when determining if disproportionately high and adverse human health or environmental impacts exist include:

- Whether the adverse effects on EJ populations exceed those borne by non-EJ populations?
- Whether cumulative or indirect effects would adversely affect an EJ population?
- Whether mitigation and enhancement measures will be taken for EJ and non-EJ populations?
- Whether there are off-setting benefits to EJ populations as compared to non-EJ populations?

Determinations of disproportionately high adverse effects should take into consideration of “mitigation and enhancements measures and all offsetting benefits to the affected minority and low-income populations”. Again, whether adverse effects should be judged disproportionately high is dependent on the net results after consideration of the totality of the circumstances.

<table>
<thead>
<tr>
<th>Minorities and Low Income in the Pikes Peak Region Group</th>
<th>White Non-Hispanic</th>
<th>Hispanic</th>
<th>African American</th>
<th>Asian</th>
<th>American Indian &amp; Native Alaskan</th>
<th>Native Hawaiian, Pacific Islander</th>
<th>Poverty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td>478,621</td>
<td>108,297</td>
<td>38,408</td>
<td>17,775</td>
<td>2,494</td>
<td>2,021</td>
<td>73,977</td>
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Analysis by Project Type

The TIP project types are concentrated in a few areas: reconstruction, replacement, or maintenance of road and bridge facilities; capacity or road widening projects; transit and high-capacity transit projects; bicycle and pedestrian facilities and crossings; other safety or accessibility improvements; and drainage and water quality improvements. Roadway reconstruction and capacity projects receive the largest portion of locally-controlled funding, with additional large amounts going to preventive maintenance surface treatments and safety improvements from other funding sources.

Roadway widening and new road construction projects

Roadway widening is a type of project that has the potential help or harm minority communities by either providing reduced travel times or bringing increased noise, pollution, and safety issues that come
with increased traffic and more dangerous or stressful crossings. The widening projects in the TIP are dispersed, not extensive, and are aimed at addressing traffic “bottlenecks”. They are not likely to provide much benefit or disbenefit to minority or low-income populations. Although there is a significant portion of Hispanic and low income population in the vicinity of the Bradley Road widening project, local communities appear as likely to benefit from congestion relief as they are to be negatively affected by increased noise, pollution, and etc.

**Transit projects**

Low-income and minority populations should be well served by transit improvements such as waiting pads, safer crossings, better sidewalks, and improved handicap accessibility along select transit routes. These improvements will be located in areas with a high percentage of low income, Hispanic, and black residents who live in close proximity to the improved transit routes. They should benefit from increased safety and accessibility and lower stress (such as exposure to rain, snow, icy conditions, and speeding vehicles).

**Roadway safety and other roadway enhancement projects**

A significant amount of funding under CDOT control is dedicated to safety enhancements on major facilities in eastern Colorado Springs: State Highway 21, CO 94, and I-25. Adopting a generalized definition of “safety improvements”, and given that portions of the projects are adjacent to low-income and multiple minority population centers, there should be some safety benefit for these populations. However, the project descriptions lack sufficient detail to make an accurate determination. For example, it is unknown which travel mode(s) will receive safety improvements, and it is unknown whether “mobility” improvements will increase or decrease access to the facilities for low income or minority populations.

**Bicycle and pedestrian projects**

The bicycle and pedestrian projects in the TIP consist of a mix of crossing improvements and trail enhancements and extensions. These projects are geographically dispersed throughout the region and appear to neither avoid nor target areas of low income or minority populations. An identifiable area of more concentrated Hispanic population will receive little benefit, but areas of low income, black and other more dispersed minority populations are adjacent to several of the improvements and may enjoy improved safety and access to outdoor exercise and recreation opportunities as well as biking and walking as modes of transportation.

**Maintenance, replacement, and reconstruction projects**

There are several projects that primarily include maintenance, replacement, or reconstruction of facilities. Similar to bicycle and pedestrian projects, these projects are geographically dispersed throughout the region and appear to neither avoid nor target areas of low income or minority populations. Low income and several minority populations are adjacent to these projects, and may benefit from functional improvements and reconstruction of facilities to higher standards.
Net Effect on Populations

As a group, the FY2022-2025 projects before regional project selection and after project selection do not disproportionately impact federally protected classes and have the same potential impact (both to help and hurt) on minority and low-income concentrated areas as that of the entire region. Much of the real effect will depend on how the projects are developed and whether any mitigation techniques are used, which suggests that the situation should be monitored through the implementation of this plan and probably also the next. The best way to understand the likely impacts, for better or for worse, would be to perform more targeted outreach to these minority and low-income concentrated areas early in the development of the next Plan and TIP and to work closely with the appropriate member jurisdictions in determining the best approach for potentially disruptive projects that make use of federal funds.

The Title VI & Environmental Justice and Limited English Proficiency Plans include several provisions and recommendations for this type of targeted, proactive outreach and can act as guides moving forward. It is also worth noting that, in addition to this regional analysis, National Environmental Policy Act (NEPA) studies will need to be conducted for individual projects that use federal funds. These studies need to incorporate environmental justice (see https://www.epa.gov/environmentaljustice/environmental-justice-and-national-environmental-policy-act for more details) analyses specific to those projects.