

BYLAWS OF THE SOUTHWESTERN COLORADO OPIOID REGIONAL COUNCIL

ARTICLE I - NAME AND DEFINITIONS.

1.1 Name.

1.2 The name of this organization shall be the “Southwestern Colorado Opioid Regional Council” (“SWCORC”).

1.3 Definitions.

The words used in these Bylaws shall be given their normal, commonly understood definitions, or those otherwise ascribed to them in the body of these Bylaws Laws or as otherwise set forth in Paragraph A of the August 26, 2021 Colorado Opioids Summary Memorandum of Understanding (“Colorado MOU”). Capitalized terms shall have the meaning ascribed as follows:

- A. “Litigation” shall mean those matters filed in United States District Court or otherwise which were settled pursuant to the Settlement.

ARTICLE II – PURPOSE

Pursuant to the Litigation and the Settlement on August 26, 2021, the State of Colorado and Participating Local Governments executed the Colorado MOU, establishing the manner in which Opioid Funds shall be divided and distributed within the State of Colorado.

Pursuant to the Colorado MOU, on _____ the Counties of Delta, Gunnison, Hinsdale, Montrose, Ouray, and San Miguel, Colorado entered into an Intergovernmental Agreement to form SWCORC (“SWCORC IGA”).

Per the Settlement and the Colorado MOU, as acknowledged in the SWCORC IGA, each Region must create its own Regional Council and governance structure. The organization is constituted for the purpose to comply with the terms of the Settlement, the Colorado MOU and the SWCORC IGA

The organization is not formed for any pecuniary or financial gain and no part of the assets, income, or profit of the organization shall be distributed to or inure to the benefit of the directors, officers, committee members or staff of the organization.

ARTICLE III – MEMBERSHIP, DIRECTORS, VOTING

3.1 Membership

SWCORC shall consist of the following Participating Local Governments of the State of Colorado: Delta, Gunnison, Hinsdale, Montrose, Ouray, and San Miguel, as well as the municipalities, special districts, and county and local separately elected officials contained within such counties (“SWCORC County/ies”).

3.2 Board of Directors

The management, direction and control of SWCORC shall be vested in a Board of Directors (“BOD”). The Board of Directors shall consist of two (2) members from each county within the SWCORC Counties, with each member appointed by the respective Board of County Commissioners of each SWCORC County. A SWCORC County may provide a proxy to another SWCORC County to serve their interests on the BOD pursuant to Section 3.5 below. The respective SWCORC Counties are encouraged to select representatives from their respective County or municipal public health and/or human services departments, law enforcement agencies (including but not limited to County Sheriffs), municipal or county court systems, or municipalities, except that any such appointee cannot be a person or entity who either contracts with or anticipates contracting with any local government agency to provide services paid for, in whole or in part, by Opioid Funds. As required by Paragraph F(5)(a) the Colorado MOU, each voting member of SWCORC shall be an employee or elected official of a Participating Local Government within SWCORC. Appointed Board members are encouraged to consult with the Non-Voting Members as set forth in Section 3.4 hereof below or other behavioral health providers; health care providers; recovery/treatment experts; municipal representatives; judges or staff from the judicial branch; the public schools; veterans; juvenile services; and community representative(s), preferably those with lived experience with the opioid crisis with regard to their BOD member responsibilities.

3.3 Board Member Terms, Removal and Vacancies.

BOD members shall serve a term of two (2) years, after which they may be re-appointed by the respective Board of County Commissioners of each SWCORC County.

A member may only be removed for good cause by two-thirds (2/3) vote of the BOD. Upon the removal of any member for good cause, or upon the resignation, death, or disability of any member that prevents him or her from continuing to serve, the Board of County Commissioners for the SWCORC County whose member was removed shall appoint a new member within sixty (60) days of such removal or vacancy. If a SWCORC County is unable or unwilling to appoint such a new member within this time frame, the remaining SWCORC County members may, by majority vote, appoint a person to fill this vacancy. During any vacancy or absence of one of the two SWCORC County BOD members, the remaining BOD member for a SWCORC County may exercise the County’s vote in any meeting of the BOD.

Any SWCORC County who fails to appoint members to BOD, or otherwise provide its proxy to another SWCORC County pursuant to Section 3.5 hereof below, shall not receive any Opioid Funds from the Regional Share or participate in SWCORC.

3.4 Voting

Each SWCORC County shall have one (1) vote, exercised collectively by its representatives. If the representatives for a SWCORC County cannot agree, then the vote of that SWCORC County shall not be counted and treated as if the SWCORC County abstained from such vote.

Except as expressly provided in these Bylaws, the BOD shall make decisions by a majority vote of its members.

Except as provided in Section 3.5 below, all votes shall be conducted at a meeting of the BOD, with voting members attending either remotely (*e.g.*, video conference, telephone) or in person. Subject to any specific provision to the contrary in the Colorado MOU, the SWCORC IGA, these Bylaws, or Colorado law, members may cast their votes in person or by proxy pursuant to Section 3.5.

Upon majority vote of its members, the BOD shall appoint an advisory group of Non-Voting Members, who shall include at least one (1) representative from the following areas of expertise: Behavioral health providers; health care providers; recovery/treatment experts; municipal representatives; judges or staff from the judicial branch; the public schools; veterans; juvenile services; and community representative(s), preferably those with lived experience with the opioid crisis.

Non-Voting Members may participate in meetings of the BOD but may not vote on any action by the BOD, except that the BOD shall, by majority vote of its members, appoint one (1) Non-Voting Member to act as a Tiebreaker. In case of a tie vote of the voting BOD members, the Tiebreaker may vote to break the tie.

3.5 Proxies

Any SWCORC County may give a proxy to any other SWCORC County, either for a specific meeting or for all meetings of the BOD. Every proxy is revocable at any time at the pleasure of the Member or SWCORC County that provides the proxy. Every proxy shall be in writing, shall identify the member or SWCORC County giving the proxy, the SWCORC County that is the recipient of the proxy, shall be dated and provided to the Secretary/Treasurer of the BOD prior to the meeting for which it is to become effective. Unless the proxy specifically provides

otherwise, a proxy shall be presumed to cover all votes which the member or SWORC County giving such proxy or proxies is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. A proxy may be revoked in writing at any time.

3.6. Conflicts of Interest

Members shall abide by the conflict-of-interest rules applicable to local government officials under the laws of Colorado.

3.7 Ethics

Members shall abide by their local ethics laws or, if no such ethics laws exist, by any applicable ethics laws of the State of Colorado.

ARTICLE IV – OFFICERS

The day-to-day affairs of SWCORC shall be governed by officers, consisting of the Chair, Vice-Chair and Secretary/Treasurer, appointed by the BOD by majority vote. No more than one officer will be elected from any one county. Elections for officers shall be held at the first regular meeting of the Board of Directors within that calendar year. Only those persons who have indicated their consent to serve if elected may be nominated or elected to hold office.

ARTICLE V – DUTIES OF OFFICERS

5.1 Chair

The Chair shall preside at all meetings of the Board of Directors. He/She shall perform other duties as may be prescribed in these Bylaws as assigned to him/her by the Board or Committee and shall coordinate the work of the Board, Committee and any special or standing committees, contractors and staff as may be developed. The Chair shall be a voting member of the BOD. The Chair shall also be responsible for ensuring SWCORC's compliance with the Colorado MOU in order for SWCORC to enjoy the full benefits of the Settlement to which it is entitled, including but not limited to the certification required by Paragraph F(5)(b) and (d).

5.2 Vice-Chair

The Vice-Chair shall perform all duties of the Chair in the absence of the Chair, and other specialized duties as assigned by the Board or the Committee. The Vice-Chair will assume the

position of Chair upon the death, disability, removal from office or inability of the Chair to serve as an officer. In the event of such a vacancy in the position of Chair, the Vice-Chair shall serve as Chair until the next regular meeting of the BOD, who shall then vote to replace the vacant Chair position. The Vice-Chair shall be a voting member of the BOD.

5.3 Secretary/Treasurer

The Secretary/Treasurer shall assure that minutes are kept of the meetings of the BOD, see that timely notice of meetings is given pursuant to these Bylaws and Colorado law, be custodian of organization records, ensure that full records of all financial transactions are maintained in an orderly manner for review by funding entities and the BOD, and ensure that maximum earnings and security are given to all organization funds. In the event that a vacancy occurs in both the positions of Chair and Vice-Chair, the Secretary/Treasurer shall serve as Chair, and until the next regular meeting of the BOD, who shall then vote to replace the two vacant positions. The Secretary/Treasurer shall be a voting member of the BOD.

ARTICLE VI - SEPARATE LEGAL ENTITY, GOVERNMENTAL IMMUNITY, PUBLIC RECORDS

SWCORC shall be a separate legal entity from its members. The individual members thereof and the cooperating governing bodies or officials shall not be liable on the undertakings of SWCORC, contractual or otherwise, regardless of the procedure by which such undertakings, or any of them, may be entered into.

Nothing in these Bylaws are, or shall be construed to be, a waiver, in whole or part, by any SWCORC County, or any of their respective officials, agents, employees or representatives, of governmental immunity provided by the Colorado Governmental Immunity Act or otherwise.

Unless otherwise provided by law, the books and records of SWCORC are subject to and governed by the Colorado Open Records Act.

ARTICLE VII – MEETINGS

7.1 Frequency

The BOD will meet monthly, on the _____ of each month, subject to change by majority vote of the voting members of the BOD. The BOD will also meet during the month of _____ each year for the purpose of conducting an Annual Meeting to appoint officers, review organization progress, and set major policy matters.

The Chair may call a special meeting at any time by providing seven (7) days written notice to all voting members of the BOD, and should also provide such notice to non-voting members.

7.2 Open Meetings Act

Unless otherwise provided by law, all meetings of the BOD shall comply with the Colorado Open Meetings Act.

7.2 Notice of Meetings.

Notices of meetings shall comply with the Colorado Open Meetings Act and other applicable law. The Officers shall be responsible for the preparation of any notice, its publication, posting and dissemination, and the preparation, publication posting and dissemination of proposed agendas and meeting materials for any regular, Annual or special meeting of the BOD.

7.2 Quorum

The presence at a meeting of the BOD of a majority of its appointed voting members shall constitute a quorum for any BOD meeting or vote. Any SWCORC County who has granted a proxy to another SWCORC County pursuant to Section 3.5 hereof shall be counted for quorum purposes so long as at least one of the two voting BOD members for the SWCORC County who received the proxy are present at a meeting or for a vote.

7.3 Executive Session

Subject and pursuant to the Colorado Open Meetings Act, the BOD may hold executive sessions if approved by majority vote of the voting members of the BOD.

ARTICLE VIII – BUDGET, DUES, AND FISCAL CONTROLS, FISCAL AGENT

8.1. Purpose

According to the Colorado MOU, SWCORC is required to designate a fiscal agent for SWCORC prior to it receiving any Opioid funds from the Regional Share.

8.2. Designation

The voting members of the BOD shall designate a Fiscal Agent for SWCORC by majority vote. The Fiscal Agent must be a member of a board of county commissioners for a SWCORC County, a city or town council, or party of the executive department of a county or municipal government, such as a department of finance.

8.3. Term

The Fiscal Agent shall serve a one (1) year term. A Fiscal Agent may serve as long as the BOD determines is appropriate, including the length of any Settlement that contemplates the distribution of Opioid Funds within Colorado.

8.4 Duties

As Required by or otherwise consistent with the Colorado MOU, the Fiscal Agent shall receive, deposit, and make available Opioid Funds distributed from the Abatement Council, provide expenditure reporting data to the Abatement Council on an annual basis, and shall otherwise ensure SWCORC's compliance with the Colorado MOU in cooperation with the Chair, including but not limited to Paragraphs F(7), (8), and (10). In addition, the Fiscal Agent shall perform certain recordkeeping duties as outlined below.

- a. Opioid Funds: The Fiscal Agent shall receive all Opioid Funds as distributed by the Abatement Council. Upon receipt, the Fiscal Agent shall deposit the Opioid Funds in a Colorado-specific QSF Account that is dedicated to SWCORC. Upon direction by SWCORC, the Fiscal Agent shall make any such Opioid Funds available to SWCORC.
- b. Reporting: On an annual basis, as determined by the Abatement Council, the Fiscal Agent shall provide to the Abatement Council SWCORC's expenditure data from their allocation of the Regional Share and certify to the Abatement Council that SWCORC's expenditures were for Approved Purposes and complied with its two-year plan.
- c. Recordkeeping: The Fiscal Agent shall maintain necessary records with regard to the SWCORC's meetings, decisions, plans, and expenditure data.

8.5. Authority.

The Fiscal Agent serves at the direction of the BOD and in service to the entire Region. Except as otherwise provided by law, the terms of the Colorado MOU control the authority of a Regional Council, and by extension, the Fiscal Agent. A Fiscal Agent shall not stray outside the bounds of the authority and power vested by law, these Bylaws, and the Colorado MOU.

ARTICLE IX – FISCAL YEAR

The fiscal year of SWCORC shall be the calendar year.

ARTICLE X – REGIONAL TWO-YEAR PLAN

10.1 Purpose.

As required by Paragraph F of the Colorado MOU, as part of SWCORC’s request to the Abatement Council for Opioid Funds from its Regional Share, SWCORC shall submit a two (2) year plan (“2-year plan”) identifying the Approved Purposes for which the requested funds will be used.

10.2 Development of 2-Year Plan.

In developing a 2-year plan, SWCORC may solicit recommendations and information from all stakeholders within its Region for the purposes of sharing data, outcomes, strategies, and other relevant information related to abating the opioid crisis in Colorado. SWCORC may also seek assistance from the Abatement Council for purposes of developing a 2-year plan.

10.3 Amendment

The BOD, by majority vote of its voting members may amend SWCORC’s 2-year plan so long as such amendments comply with the terms of the Colorado MOU and the Settlement.

ARTICLE XI – AMENDMENT OF BYLAWS

These Bylaws may be amended or repealed, may be amended, by a two-thirds vote of the all appointed voting members Board of Directors (not a majority of those present) at any meeting of the BOD employing the voting procedures set forth in provided, however, that written notice of the proposed amendment or repeal, verbatim, shall be provided to each appointed voting Board member not less than ten days prior to such meeting, and should also be provided to non-voting members.

ARTICLE XII GOVERNING LAW; VENUE; ; CONFLICTS; LIMITATION OF REMEDIES

These Bylaws shall be governed by the laws of the State of Colorado. Venue for any legal action relating to these Bylaws will be in the District Court of the State of Colorado for the county of SWCORC’s Fiscal Agent. Should any conflict arise between the interpretation of these Bylaws and the Colorado MOU, the Colorado MOU shall control. Should any conflict arise between the interpretation of these Bylaws and the SWCORC IGA, these Bylaws, once adopted, shall control. Should any legal dispute arise between members of SWCORC regarding or related to these Bylaws, the remedies of the prevailing party in any such dispute shall be limited to declaratory and injunctive relief, and any appropriate costs awarded by a court; no member shall be entitled to compensatory, expectancy, consequential, exemplary, or any other form or type of money damages, or attorneys’ fees, from any other member in relation to any dispute regarding these Bylaws. Nothing herein, however, should be construed to prevent or limit any cause of action, whether in law or in equity, that SWCORC may bring against any person or entity not a party to these Bylaws, including but not limited the right to engage in the dispute process set forth in the Colorado MOU.

ARTICLE XIII SEVERABILITY

If any clause or provision of these Bylaws shall be held to be invalid in whole or in part, then the remaining clauses and provisions, or portions thereof, shall nevertheless be and remain in full force and effect.

ARTICLE XIV DISSOLUTION

SWCORC may be dissolved by two-thirds vote of the voting members of the BOD. Upon dissolution, the Officers, in collaboration with the Attorney General and the Abatement Council, along with the SWCORC Member Counties, shall be responsible for winding up the affairs of SWCORC.

PASSED, APPROVED AND ADOPTED by a majority vote of the full Board of Directors, executed and acknowledged this ____ day of _____, 20__ by:

- Chair