



COLORADO
MUNICIPAL
LEAGUE

NEWSLETTER

Vol. 48, No. 19, September 23, 2022

DOLA awarded \$4.7 million in stimulus grants to small towns

Since October of last year, the Department of Local Affairs has awarded \$4,733,626 to fund 26 projects supporting the economic development of communities across Colorado. These program dollars have made a positive economic impact.

“By issuing these economic development grants to our rural communities, we can ensure all of Colorado gets the opportunity to thrive,” said Rick Garcia, DOLA executive director.

The purpose of the Rural Economic Development Initiative Program is to help eligible rural communities develop plans and undertake projects to create jobs, drive capital investment, and increase wages to help grow and create resiliency and diversity in the local economy. This program seeks to better serve Colorado’s rural communities by providing a more focused and coordinated effort among state and regional agencies.

Projects that will be funded include plans, construction, programs, and capacity building. All applications must create and retain jobs.

The City of Gunnison was awarded \$215,000 to help five local businesses to expand their operations. Businesses that received awards range from small family-owned restaurants to local manufacturers. It is hoped that the expansions will allow these businesses to create at least 35 new jobs in downtown Gunnison.

“The funds awarded to the City of Gunnison through the REDI program are providing direct support to five local businesses that are positioned for growth. These five businesses will implement expansion plans that will create jobs,” said Russ Forrest, Gunnison city manager.

The Town of Center partnered with local schools to provide business and entrepreneurship training for high school



students. The program provides the resources and training for these youth to start their own micro-businesses.

“DOLA’s willingness to support an innovative project that straddles a few different categories is rather unique and definitely contributed to our ability to take creative risks,” said Mikela Tarlow, lead administrator for the Youth Enterprise Program. “Our REDI grant funded a Youth Enterprise Zone in Center, Colorado, that offers a glide path from original student projects into pop-up businesses and more sustained business endeavors.”

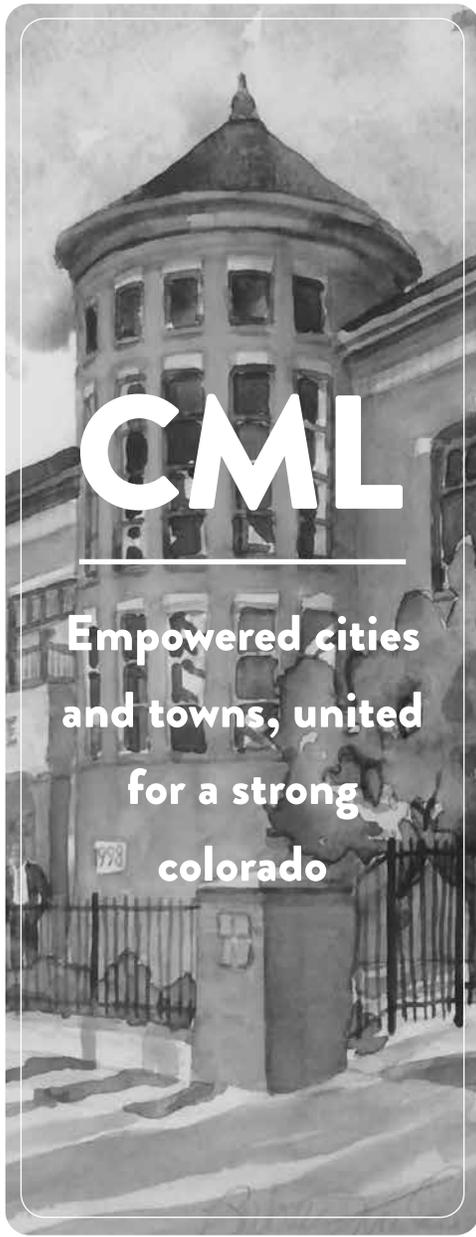
In Chaffee County, a business accelerator program helps businesses in Salida and Buena Vista grow by providing mentorship and connecting them to investment opportunities. To date, the program has helped 10 local businesses identify new opportunities for growth and expansion, as well as connecting them to the financial resources to fund that growth.

“We have bold ambitions to build a year-round economy in Chaffee County that rivals our unsurpassed mountain lifestyle,” said Jake Rishavy, executive director of the Chaffee County Economic Development Council. “Our REDI grant funded an eight-week accelerator program; a 30-strong expert mentor network; a local angel investment network, ArkAngels; and two sold-out community events.”

This fiscal year’s grant program is no longer supported by stimulus funding and instead comes from the department’s regular legislative allocation of \$780,000, but there is still \$521,193 available for this upcoming cycle.

The grant cycle closes **Sept. 30**. Applicants are encouraged to reach out to DOLA’s regional managers as they develop their projects. More information is available at <https://bit.ly/3UfDmnw>.

Empowered cities and towns, united for a strong Colorado



UPCOMING EVENTS



● **ANNUAL SEMINAR ON MUNICIPAL LAW**

Sept. 23-24
 CML's Annual Seminar on Municipal Law will take place at the Two Rivers Convention Center in Grand Junction. This seminar provides expert Colorado-specific information that is directly relevant to the daily practice of municipal attorneys in the state, as well as opportunities to network with peers. More information at <https://bit.ly/3dC8v3M>.

● **EFFECTIVE GOVERNANCE WORKSHOP**

Dec. 1
 CML is excited to bring back our in-person Effective Governance Workshop! This one-day workshop will provide elected officials with important tools to be effective leaders. From open meetings to effectively engaging with the media, this workshop is an educational opportunity you will not want to miss. Registration will open soon. More information is at <https://bit.ly/3diVD2W>.

● **SIPA'S 10TH ANNUAL USER CONFERENCE**

Sept. 27
 Take advantage of this one day, no-cost event with multiple themed tracks that have a Colorado focus, excellent keynote speakers, government technology case studies, panels, and more. Register here: <https://bit.ly/3waQ78y>.

● **CML'S ANNUAL MAYORS' SUMMIT**

Oct. 20-21
 At our Annual Mayors' Summit, CML is bringing together mayors from across the state to discuss critical issues facing their communities and share new and unique ideas. This is a wonderful opportunity to network with colleagues, share your successes, and learn from others. Register at <https://bit.ly/3Secltp>.



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MAIN STREET: OPEN FOR BUSINESS



Bowerbird's Den in Granby.



Flying Dutchman in San Luis.



Central Oil Co. in San Luis.



Simple Coffee in Granby.

\$6.7 million awarded in Main Street: Open for Business grants

The Department of Local Affairs provided \$6.7 million in grant funding, which helped 102 businesses in 16 communities. The program awarded money to provide incentive programs for local business owners to improve the energy efficiency or aesthetics of commercial buildings within traditional downtowns. This program was designed to increase property values and visual appeal, increase sales and revenues in rehabilitated buildings, reduce energy consumption and lower utility bills, and increase job retention and creation.

San Luis was awarded \$560,722 to invest in five key businesses owned by minorities and women. In addition to the R&R Market, one of the oldest continually

operating businesses in the state, the San Luis Inn, Central Oil Co., Mrs. Rios Restaurant, and Padilla's Liquor are also being upgraded. These Colorado landmarks were revitalized with fresh paint, new signs, new windows, doors, and energy-efficient upgrades.

"The MSOB grant has given a much needed facelift to our five staple businesses and greatly improved our tired-looking historic downtown in ways never imagined. Business owners are reporting a dramatic increase in tourists stopping because the buildings look more inviting and signage is more attractive and visible," said Susan Sanderford, San Luis town manager. "These improvements are bringing back economic vitality to San Luis, the oldest town in Colorado."

The Town of Hugo was awarded \$602,169 for a complete renewal of its small downtown. Improved energy efficiency, new windows and doors for storefronts, decorative awnings, and signage improve visibility for businesses along State Highway 287.

“The Main Street: Open For Business grant is allowing us to do things for the building that we would never be able to do otherwise. We have heat in the building for the first time since we’ve lived in it,” said Sheri Gaskins, owner of the Moose Roost. “We now have heat, and we’ll have air conditioning this summer. Now icing won’t separate, so that’s a good thing when you’re a baker.”

Following the COVID-19 pandemic and regional wildfires in 2020, Granby received \$757,140 for energy efficiency upgrades, façade improvements, and ADA accessibility upgrades on 11 buildings.

“I have worked for Main Street across multiple states for over seven years now, and this is the most transformative program I have seen. Beyond the economic impact of directly beautifying our downtown and the creation of local jobs, we are already seeing a domino effect. A shuttered business is going to reopen because of these funds, and unengaged business owners have started to engage again,” said Lauren Huber, Destination Granby executive director.

The Town of Silverton received \$612,849 to help preserve eight buildings while looking toward the future of this National Historic District with a number of energy efficiency upgrades including windows and solar panels.

“Through these projects, we’re even seeing a ripple effect of other revitalization and improvement efforts that is allowing Silverton to put its best face forward,” said Beth Kremer of the San Juan Development Association.

The grant program is administered by the Colorado Main Street Program within DOLA’s Division of Local Government, guiding community-led downtown revitalization through a customizable framework to focus efforts, energy, and resources to create more vibrant communities across the state. Learn more at <https://bit.ly/3BljSW0>.

U.S. Forest Service offers Wildfire Defense Grants for communities at high risk

The U.S. Forest Service is offering Community Wildfire Defense Grants to help communities and tribes in the wildland-urban interface reduce the risk of wildfire.

The grants will bolster efforts to restore and maintain resilient landscapes, create fire-adapted communities, and improve

wildfire response. The grants prioritize at-risk communities in areas with high wildfire hazard potential.

The grants are funded through the Bipartisan Infrastructure Law. The deadline to apply is **Oct. 7**. More information is available at <https://bit.ly/3BoFYHi>.

Colorado Forest Service offers \$15 million in Wildfire Mitigation Grants

The Colorado State Forest Service is offering \$15 million in Forest Restoration and Wildlife Mitigation Grants.

The grant program provides state support through competitive funds that encourage community-level actions across the state. The grants are intended to fund programs that reduce the risk of wildfire to people, property, and infrastructure in the

wildland-urban interface, promote forest health and forest restoration projects, and encourage the use of woody material for traditional forest products and biomass energy.

The deadline to apply is **Oct. 19**. More information is available at <https://bit.ly/3xw9oSJ>.

Deadline approaching for DOLA affordable housing grants

The Final Funding Round Deadline is **Oct. 5** for the Innovative Affordable Housing Solutions Planning Grant Program.

Colorado’s Department of Local Affairs has made more than \$6.8 million in grant money available. Individual grants are expected to be \$50,000-\$200,000.

The Planning Grant Program provides grants to local governments to help them understand their housing needs and adopt policy and regulatory strategies.

More information is available at <https://bit.ly/3eXJd0L>.

Department of Transportation offering \$1 billion in planning, construction grants

The Bipartisan Infrastructure Law established the Reconnecting Communities grant program, funded with \$1 billion over five years, including \$250 million in planning grants and \$750 million in grants for construction. The program promotes creative solutions to reconnect communities.

Planning grants may be used to study the feasibility of removing, retrofitting, or mitigating a facility that creates a barrier to community connectivity, or to conduct planning activities necessary to design a project to remove, retrofit, or mitigate an eligible facility.

Capital construction grants may be used for projects for which all necessary studies and other planning activities have been completed to remove, retrofit, mitigate, or to replace a facility that creates a barrier to community connectivity.

The deadline to apply is **Oct. 13**. More information is available at <https://bit.ly/3BeFinK>.

Drive, Lead, Succeed Conference provides tools to take on state's economic problems

The annual Drive, Lead, Succeed Conference aims to provide the knowledge, tools, and connections that are vital to foster a growing Colorado economy.

Hosted by the Economic Development Council of Colorado, the conference gathers the industry's top influencers and thought leaders together to share knowledge and answer questions that no one else can. It offers tools and solutions to pressing economic issues

facing Colorado's professional economic development community. The conference aims to facilitate quality collaboration and opportunities to exchange fresh ideas among Colorado's leading Economic Development professionals, business, non-profit leaders, and government officials.

The conference will take place **Oct. 19-20** in Pueblo. Visit <https://bit.ly/3qK5m5u> for more information.

Downtown Colorado hosts summit on tax increment financing

The sixth annual Southern Colorado Tax Increment Finance Summit will be a dynamic discussion of leaders seeking ways to support housing, workforce, and reshape public-private investment in our communities.

Downtown Colorado, Inc. is pleased to gather delegates from communities across the state. The summit will take place **Oct. 28** at Pueblo Convention Center. More information is available at <https://bit.ly/3qM8AFA>.



SAVE THE DATE!

COLORADO MUNICIPAL LEAGUE Effective Governance Workshop

One of CML's most popular trainings is back as an in-person and hybrid event. Learn how to effectively govern as a municipal elected official with topics ranging from engaging with media to open meetings.

Registration opens soon!

December 1st at CML in Denver • More information at <https://bit.ly/3diVD2W>

CML LEGAL CORNER



How the “free flow of interstate commerce” limits municipal authority

By Robert Sheesley, CML general counsel

Cities and towns are often in the best position to address issues quickly and effectively in their communities. Unfortunately for those who want to see change immediately, some tools remain out of reach despite the municipality’s best intentions. One powerful but hard to pin down limitation on municipal (and state) authority is the “Dormant Commerce Clause” of the U.S. Constitution.

Primarily a tool to limit economic protectionism, this legal standard has stymied many good efforts to solve local problems. Recent litigation in California and Louisiana suggests that local regulation of short-term rentals might be its next target. Keeping interstate commerce in mind when drafting these regulations can help to avoid potential challenges.

WHAT IS THE DORMANT COMMERCE CLAUSE?

The Dormant Commerce Clause is not actually a written part of the Constitution. The U.S. Congress has broad power “to regulate Commerce . . . among the several States . . .” (a/k/a interstate commerce). U.S. Constitution, Art. I, § 8, cl. 3. Like many constitutional limitations, the U.S. Supreme Court has interpreted Congress’s express authority to regulate commerce as restricting lower levels of government from doing the same even when Congress has not done so. The clause’s application only becomes clear when a court finds that a state or local government law interferes with the “free flow of commerce.”

The Dormant Commerce Clause concept recognizes that legitimate local interests might justify some local laws that affect interstate commerce. However, a local law cannot discriminate against interstate commerce unless there are no available al-

ternatives. An undue burden on interstate commerce also will invalidate a local law even if it regulates even-handedly (i.e., a neutral law’s incidental burdens are clearly excessive in relation to local benefits).

TWO “TRASHY” EXAMPLES

Financing improvements: A contractor agreed to build a new waste transfer station for a New York town. Fees from waste haulers would finance the contractor’s cost, and the town guaranteed revenue by requiring all solid waste from the town to go to that facility. Even though the law addressed only waste in the town, the U.S. Supreme Court found that the law unconstitutionally regulated interstate commerce because the “economic reach” deprived out-of-state businesses access to operate waste facilities in the local market and drove up costs for out-of-state interests to dispose of waste. *C&A Carbone, Inc. v. Town of Clarkstown*, 511 U.S. 383 (1994).

Landfills: New Jersey prohibited the importation of waste from neighboring states to its landfills to preserve landfill space and protect the environment and health. Recognizing that even waste is commerce, the Court held that legitimate legislative goals could not be achieved by “illegitimate means of isolating the State from the national economy.” *Philadelphia v. New Jersey*, 437 U.S. 617 (1978).

SHORT-TERM RENTALS

Like many in Colorado, communities across the country have enacted short-term rental laws to address housing availability and affordability, and to maintain neighborhood character. Two cities’ laws were recently challenged under the Dormant Commerce Clause.

Zoning laws in Santa Monica, California, prohibited vacation rentals but allowed “home sharing,” or hosting visitors for compensation if at least one of the primary residents lived on-site in the dwelling unit throughout the stay. A resident who lost the ability rent her house to visitors when she traveled sued, but the 9th Circuit Court of Appeals upheld the law. The court found that the ordinance did not regulate interstate commerce and did not discriminate against interstate commerce in purpose or effect. Out-of-state owners were not prohibited from renting their properties any differently than city residents and the negligible burdens on the economy did not run afoul of Dormant Commerce Clause standards.

In contrast, New Orleans, Louisiana, only issued short-term rental licenses to persons with a homestead exemption for the subject property (in other words, the primary resident). City residents who did not have homestead exemptions for their rental properties sued. The 5th Circuit Court of Appeals held that the residency requirement discriminated against out-of-state commerce because only city residents could engage in the market for the rentals. The court believed that the city had conceivable alternatives that could address the city’s needs without discriminating against interstate commerce. For example, the city could increase enforcement, penalties, taxes, and licensing fees, or cap the number of units that could be used for rentals.

Colorado is not subject to the court decisions in those cases, and it is not clear how our federal courts would interpret the issue.

This column is not intended and should not be taken as legal advice. Municipal officials are always encouraged to consult with their own attorneys.

RESEARCH CORNER

Survey shows strong interest in infrastructure funds

The National League of Cities (NLC), in conjunction with Polco, conducted a survey on local infrastructure projects and priorities. The survey asked how municipalities would use funding from the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL). Findings showed that the majority of municipalities are interested in regional partnerships that will help them maximize federal funding.

LEARN MORE

► **Survey Results**

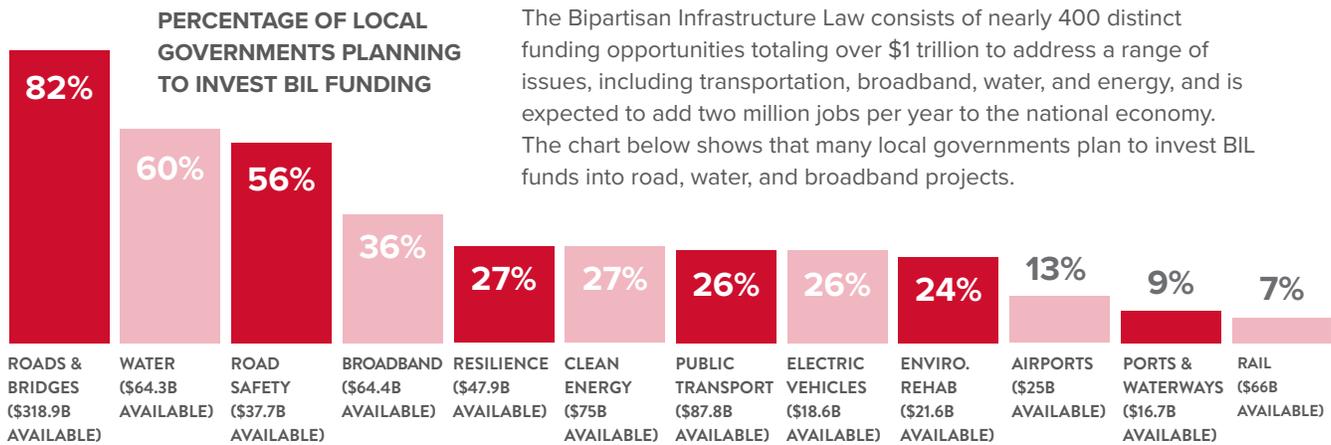
<https://bit.ly/3qxJOsH>

► **Webinar on several recent infrastructure surveys**

<https://bit.ly/3UjQRTx>

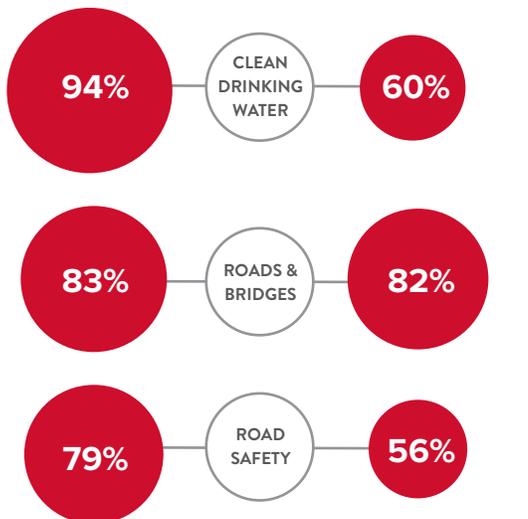
SPENDING PLANS

The Bipartisan Infrastructure Law consists of nearly 400 distinct funding opportunities totaling over \$1 trillion to address a range of issues, including transportation, broadband, water, and energy, and is expected to add two million jobs per year to the national economy. The chart below shows that many local governments plan to invest BIL funds into road, water, and broadband projects.



PRIORITIES

TOP PRIORITIES FOR RESIDENTS



TOP PRIORITIES FOR MUNICIPALITIES

RESOURCES

► **White House guidebook for BIL**

<https://bit.ly/3dfqgGb>

► **White House guidebook for small or rural jurisdictions**

<https://bit.ly/3xnX72x>

► **Local Infrastructure Hub**

One-on-one coaching, webinars, answers to pressing questions, data analysis, and guidance from experts on infrastructure-related topics. <https://bit.ly/3d6aaip>

► **NLC Infrastructure page**

Infrastructure questions answered, including how local governments can receive funds and what programs municipalities can apply for. <https://bit.ly/3B5ADV6>





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- \$6.7 million in Main Street: Open for Business grants awarded across Colorado
- Wildfire grants available to high-risk communities
- Research Corner: Survey finds strong interest in infrastructure funds
- Legal Corner: Interstate commerce and municipal authority

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