

CHAPTER 401

GOVERNMENT - STATE

HOUSE BILL 07-1342

BY REPRESENTATIVE(S) Jahn, Butcher, Carroll T., Casso, Gardner B., Labuda, Rice, Todd, Benefield, Loooper, and Rose;
also SENATOR(S) Tapia.

AN ACT

CONCERNING AUTHORIZATION FOR PUBLIC ENTITIES TO USE INTEGRATED PROJECT DELIVERY METHODS IN CONNECTION WITH CONTRACTS FOR PUBLIC PROJECTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 93
Construction Contracts

24-93-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "INTEGRATED DELIVERY METHOD FOR PUBLIC PROJECTS ACT".

24-93-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IT IS THE POLICY OF THE STATE OF COLORADO TO ENCOURAGE PUBLIC CONTRACTING PROCEDURES THAT ENCOURAGE COMPETITION, OPENNESS, AND IMPARTIALITY TO THE MAXIMUM EXTENT POSSIBLE.

(b) COMPETITION EXISTS NOT ONLY IN THE COSTS OF GOODS AND SERVICES, BUT ALSO IN THE TECHNICAL COMPETENCE OF THE PROVIDERS AND SUPPLIERS IN THEIR ABILITY TO MAKE TIMELY COMPLETION AND DELIVERY AND IN THE QUALITY AND PERFORMANCE OF THEIR PRODUCTS AND SERVICES.

(c) TIMELY AND EFFECTIVE COMPLETION OF PUBLIC PROJECTS MAY BE ACHIEVED THROUGH A VARIETY OF METHODS WHEN PROCURING GOODS AND SERVICES FOR PUBLIC PROJECTS.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(d) IN ENACTING THIS ARTICLE, THE GENERAL ASSEMBLY INTENDS TO ESTABLISH FOR ANY AGENCY OF STATE GOVERNMENT AN OPTIONAL ALTERNATIVE PUBLIC PROJECT DELIVERY METHOD.

24-93-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGENCY" MEANS ANY AGENCY, DEPARTMENT, DIVISION, BOARD, BUREAU, COMMISSION, INSTITUTION, OR OTHER AGENCY OF THE EXECUTIVE, LEGISLATIVE, OR JUDICIAL BRANCH OF STATE GOVERNMENT THAT IS A BUDGETARY UNIT EXERCISING CONSTRUCTION CONTRACTING AUTHORITY OR DISCRETION.

(2) "CONTRACT" MEANS ANY AGREEMENT FOR DESIGNING, BUILDING, ALTERING, REPAIRING, IMPROVING, DEMOLISHING, OPERATING, MAINTAINING, OR FINANCING A PUBLIC PROJECT. FOR PURPOSES OF THIS ARTICLE, "CONTRACT" INCLUDES CAPITAL CONSTRUCTION AS DEFINED IN SECTION 24-30-1301 (1).

(3) "COST-REIMBURSEMENT CONTRACT" MEANS A CONTRACT UNDER WHICH A PARTICIPATING ENTITY IS REIMBURSED FOR COSTS THAT ARE ALLOWABLE AND THAT IS ALLOCABLE IN ACCORDANCE WITH THE CONTRACT TERMS AND PROVISIONS OF THIS ARTICLE.

(4) "INTEGRATED PROJECT DELIVERY" OR "IPD" MEANS A PROJECT DELIVERY METHOD IN WHICH THERE IS A CONTRACTUAL AGREEMENT BETWEEN AN AGENCY AND A SINGLE PARTICIPATING ENTITY FOR THE DESIGN, CONSTRUCTION, ALTERATION, OPERATION, REPAIR, IMPROVEMENT, DEMOLITION, MAINTENANCE, OR FINANCING, OR ANY COMBINATION OF THESE SERVICES, FOR A PUBLIC PROJECT.

(5) "IPD CONTRACT" MEANS A CONTRACT USING AN INTEGRATED PROJECT DELIVERY METHOD.

(6) "PARTICIPATING ENTITY" MEANS A PARTNERSHIP, CORPORATION, JOINT VENTURE, UNINCORPORATED ASSOCIATION, OR OTHER LEGAL ENTITY THAT PROVIDES APPROPRIATELY LICENSED PLANNING, ARCHITECTURAL, ENGINEERING, DEVELOPMENT, CONSTRUCTION, OPERATING, OR MAINTENANCE SERVICES AS NEEDED IN CONNECTION WITH AN IPD CONTRACT.

(7) "PUBLIC PROJECT" MEANS ANY CONSTRUCTION, ALTERATION, REPAIR, DEMOLITION, OR IMPROVEMENT OF ANY LAND, BUILDING, STRUCTURE, FACILITY, ROAD, HIGHWAY, BRIDGE, OR OTHER PUBLIC IMPROVEMENT SUITABLE FOR AND INTENDED FOR USE IN THE PROMOTION OF THE PUBLIC HEALTH, WELFARE, OR SAFETY AND ANY OPERATION OR MAINTENANCE PROGRAMS FOR THE OPERATION AND UPKEEP OF SUCH PROJECTS.

24-93-104. Integrated project delivery contracts - authorization - effect of other laws. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY AGENCY MAY AWARD AN IPD CONTRACT FOR A PUBLIC PROJECT IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE UPON THE DETERMINATION BY SUCH AGENCY THAT INTEGRATED PROJECT DELIVERY REPRESENTS A TIMELY OR COST-EFFECTIVE ALTERNATIVE FOR A PUBLIC PROJECT.

(2) NOTHING IN THIS ARTICLE IS INTENDED TO AFFECT OR LIMIT THE APPLICABILITY OF ARTICLE 91 OR 92 OF THIS TITLE TO THE EXTENT THE PROVISIONS OF SAID ARTICLES ARE NOT INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE. TO THE EXTENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF ARTICLE 91 OR 92 OF THIS TITLE AND THIS ARTICLE, THE PROVISIONS OF THIS ARTICLE SHALL CONTROL.

(3) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS EXEMPTING ANY AGENCY OR PARTICIPATING ENTITY FROM APPLICABLE FEDERAL, STATE, OR LOCAL LAWS, RULES, RESOLUTIONS, OR ORDINANCES GOVERNING LABOR RELATIONS, PROFESSIONAL LICENSING, PUBLIC CONTRACTING, OR OTHER RELATED LAWS, EXCEPT TO THE EXTENT THAT AN EXEMPTION IS GRANTED UNDER SUCH LEGAL AUTHORITY OR CREATED BY NECESSARY IMPLICATION FROM SUCH LEGAL AUTHORITY.

24-93-105. Integrated project delivery contracting process - prequalification of participating entities - apprentice training. (1) AN AGENCY MAY PREQUALIFY PARTICIPATING ENTITIES FOR IPD CONTRACTS BY PUBLIC NOTICE OF ITS REQUEST FOR QUALIFICATIONS PRIOR TO THE DATE SET FORTH IN THE NOTICE. ANY SUCH REQUEST FOR QUALIFICATIONS MAY CONTAIN THE FOLLOWING ELEMENTS AND SUCH ADDITIONAL INFORMATION AS MAY BE REQUESTED BY THE AGENCY:

- (a) A GENERAL DESCRIPTION OF THE PROPOSED PUBLIC PROJECT;
- (b) RELEVANT BUDGET CONSIDERATIONS;
- (c) REQUIREMENTS OF THE PARTICIPATING ENTITY, INCLUDING:

(I) IF THE PARTICIPATING ENTITY IS A PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, JOINT VENTURE, OR OTHER ASSOCIATION, A LISTING OF ALL OF THE PARTNERS, GENERAL PARTNERS, MEMBERS, JOINT VENTURERS, OR ASSOCIATION MEMBERS KNOWN AT THE TIME OF THE SUBMISSION OF QUALIFICATIONS;

(II) EVIDENCE THAT THE PARTICIPATING ENTITY, OR THE CONSTITUENT ENTITIES OR MEMBERS THEREOF, HAS COMPLETED OR HAS DEMONSTRATED THE EXPERIENCE, COMPETENCY, CAPABILITY, AND CAPACITY, FINANCIAL AND OTHERWISE, TO COMPLETE PROJECTS OF SIMILAR SIZE, SCOPE, OR COMPLEXITY;

(III) EVIDENCE THAT THE PROPOSED PERSONNEL OF THE PARTICIPATING ENTITY HAVE SUFFICIENT EXPERIENCE AND TRAINING TO COMPLETELY MANAGE AND COMPLETE THE PROPOSED PUBLIC PROJECT; AND

(IV) EVIDENCE OF ALL APPLICABLE LICENSES, REGISTRATIONS, AND CREDENTIALS REQUIRED TO PROVIDE THE PROPOSED SERVICES FOR THE PUBLIC PROJECT, INCLUDING BUT NOT LIMITED TO INFORMATION ON ANY REVOCATION OR SUSPENSION OF ANY SUCH LICENSE, REGISTRATION, OR CREDENTIAL.

- (d) THE CRITERIA FOR PREQUALIFICATION.

(2) FROM THE PARTICIPATING ENTITIES RESPONDING TO THE REQUEST FOR QUALIFICATIONS, THE AGENCY SHALL PREPARE AND ANNOUNCE A SHORT LIST OF

PARTICIPATING ENTITIES THAT IT DETERMINES TO BE MOST QUALIFIED TO RECEIVE A REQUEST FOR PROPOSAL.

(3) WHERE AN APPRENTICE TRAINING PROGRAM CERTIFIED BY THE OFFICE OF APPRENTICESHIP LOCATED IN THE EMPLOYMENT AND TRAINING ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF LABOR EXISTS IN THE STATE, OR A COMPARABLE PROGRAM FOR THE TRAINING OF APPRENTICES IS AVAILABLE IN THE STATE:

(a) EACH PARTICIPATING ENTITY SHALL DEMONSTRATE TO THE AGENCY THAT IT HAS ACCESS TO EITHER THE CERTIFIED PROGRAM OR A COMPARABLE ALTERNATIVE; AND

(b) EACH PARTICIPATING ENTITY SHALL DEMONSTRATE THAT EACH OF ITS SUBCONTRACTORS, AT ANY TIER, SELECTED TO PERFORM WORK UNDER A CONTRACT WITH A VALUE OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR MORE HAS ACCESS TO EITHER THE CERTIFIED PROGRAM OR A COMPARABLE ALTERNATIVE.

24-93-106. Requests for proposals - evaluation and award of integrated project delivery contracts. (1) AN AGENCY SHALL PREPARE AND PUBLISH A REQUEST FOR PROPOSALS FOR EACH IPD CONTRACT THAT COMPLIES WITH THE REQUIREMENTS OF THIS SECTION. REQUESTS FOR PROPOSALS FOR IPD CONTRACTS SHALL, AT A MINIMUM, INCLUDE THE FOLLOWING EVALUATION FACTORS AND SUBFACTORS THAT SHALL BE USED TO EVALUATE THE PROPOSALS AND CAPABILITIES OF PARTICIPATING ENTITIES:

(a) PRICE;

(b) DESIGN AND TECHNICAL APPROACH TO THE PROJECT;

(c) PAST PERFORMANCE AND EXPERIENCE;

(d) PROJECT MANAGEMENT CAPABILITIES, INCLUDING FINANCIAL RESOURCES, EQUIPMENT, MANAGEMENT PERSONNEL, PROJECT SCHEDULE, AND MANAGEMENT PLAN; AND

(e) CRAFT LABOR CAPABILITIES, INCLUDING ADEQUACY OF CRAFT LABOR SUPPLY AND ACCESS TO FEDERAL OR STATE-APPROVED APPRENTICESHIP PROGRAMS, IF AVAILABLE.

(2) THE AGENCY RESPONSIBLE FOR THE IPD CONTRACT SHALL SELECT, ON THE BASIS OF THESE FACTORS, AND ANY OTHER FACTORS AND SUBFACTORS INCLUDED IN THE REQUEST FOR SOLICITATION AS AUTHORIZED BY THIS SECTION, THE PARTICIPATING ENTITY WHOSE PROPOSAL IS MOST ADVANTAGEOUS AND REPRESENTS THE BEST OVERALL VALUE TO THE STATE.

(3) REQUESTS FOR PROPOSALS MAY CONTAIN ADDITIONAL RELEVANT FACTORS AND SUBFACTORS AS DETERMINED BY THE AGENCY, WHICH MAY INCLUDE:

(a) THE PROCEDURES TO BE FOLLOWED FOR SUBMITTING PROPOSALS;

(b) THE CRITERIA FOR EVALUATION OF A PROPOSAL, WHICH CRITERIA MAY PROVIDE FOR SELECTION OF A PROPOSAL ON A BASIS OTHER THAN SOLELY THE LOWEST COSTS ESTIMATES SUBMITTED;

(c) THE PROCEDURES FOR MAKING AWARDS;

(d) REQUIRED PERFORMANCE STANDARDS AS DEFINED BY THE PARTICIPATING ENTITY;

(e) A DESCRIPTION OF THE DRAWINGS, SPECIFICATIONS, OR OTHER SUBMITTALS TO BE PROVIDED WITH THE PROPOSAL, WITH GUIDANCE AS TO THE FORM AND THE ACCEPTABLE LEVEL OF COMPLETION OF THE DRAWINGS, SPECIFICATIONS, OR SUBMITTALS;

(f) RELEVANT BUDGET CONSIDERATIONS OR, FOR AN IPD CONTRACT THAT INCLUDES OPERATION OR MAINTENANCE SERVICES, THE LIFE-CYCLE COST ANALYSIS FOR THE CONTRACT;

(g) THE PROPOSED SCHEDULING FOR THE PROJECT; AND

(h) THE STIPEND, IF ANY, TO BE PAID TO PARTICIPATING ENTITIES RESPONDING TO THE REQUEST FOR PROPOSALS WHO APPEAR ON THE AGENCY'S SHORT LIST PURSUANT TO SECTION 24-93-105 (2) BUT WHOSE PROPOSALS ARE NOT SELECTED FOR AWARD OF THE IPD CONTRACT.

(4) AFTER OBTAINING AND EVALUATING PROPOSALS ACCORDING TO THE CRITERIA AND PROCEDURES SET FORTH IN THE REQUEST FOR PROPOSALS IN ACCORDANCE WITH THE REQUIREMENTS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, AN AGENCY MAY ACCEPT THE PROPOSAL THAT, IN ITS ESTIMATION, REPRESENTS THE BEST VALUE TO THE AGENCY. ACCEPTANCE OF A PROPOSAL SHALL BE BY WRITTEN NOTICE TO THE PARTICIPATING ENTITY THAT SUBMITTED THE ACCEPTED PROPOSAL.

(5) WITH RESPECT TO PERFORMANCE UNDER EACH IPD CONTRACT, THE AGENCY AND PARTICIPATING ENTITY SHALL COMPLY WITH ALL LAWS APPLICABLE TO PUBLIC PROJECTS.

(6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PARTICIPATING ENTITY SELECTED FOR AWARD OF AN IPD CONTRACT SHALL NOT BE REQUIRED TO BE LICENSED OR REGISTERED TO PROVIDE PROFESSIONAL SERVICES, AS DEFINED IN SECTION 24-30-1402 (6), IF THE PERSON OR FIRM ACTUALLY PERFORMING ANY SUCH PROFESSIONAL SERVICES ON BEHALF OF THE PARTICIPATING ENTITY IS APPROPRIATELY LICENSED OR REGISTERED AND IF THE PARTICIPATING ENTITY OTHERWISE COMPLIES WITH APPLICABLE STATE LICENSING LAWS AND REQUIREMENTS RELATED TO SUCH PROFESSIONAL SERVICES.

24-93-107. Supplemental provisions. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL MAY ESTABLISH SUPPLEMENTAL PROVISIONS THAT ARE DESIGNED TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE; EXCEPT THAT THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION MAY ESTABLISH SUPPLEMENTAL PROVISIONS RELATING TO BRIDGE AND HIGHWAY CONSTRUCTION CONTRACT PROCUREMENT PRACTICES, INCLUDING, NOTWITHSTANDING ANY OTHER

PROVISION OF THIS ARTICLE, PROVISIONS GOVERNING DEPARTMENT OF PARTICIPATING ENTITIES.

24-93-108. Types of contracts. SUBJECT TO THE REQUIREMENTS OF THIS SECTION, ANY AGENCY MAKING USE OF THE PROVISIONS OF THIS ARTICLE MAY AWARD ANY TYPE OF CONTRACT THAT WILL PROMOTE THE BEST INTERESTS OF THE AGENCY; EXCEPT THAT THE USE OF A COST-PLUS-A-PERCENTAGE-OF-COST CONTRACT UNDER THIS ARTICLE IS PROHIBITED. AN AGENCY MAY AWARD A COST-REIMBURSEMENT CONTRACT ONLY WHEN A DETERMINATION IS MADE IN WRITING THAT SUCH CONTRACT IS EITHER LIKELY TO BE LESS COSTLY TO THE AGENCY THAN ANY OTHER TYPE OF CONTRACT OR THAT IT IS IMPRACTICABLE TO OBTAIN THE REQUIRED CONSTRUCTION OR OTHER SERVICES AUTHORIZED UNDER THIS ARTICLE UNLESS THE COST-REIMBURSEMENT CONTRACT IS USED. OPERATION AND MAINTENANCE ELEMENTS MAY BE PROCURED ON A COST-REIMBURSEMENT BASIS UNDER OR IN CONNECTION WITH AN IPD CONTRACT.

SECTION 2. Article 20 of title 30, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 11
PUBLIC IMPROVEMENTS - COUNTY CONTRACTS

30-20-1101. Short title. THIS PART 11 SHALL BE KNOWN AND MAY BE CITED AS THE "INTEGRATED DELIVERY METHOD FOR COUNTY PUBLIC IMPROVEMENTS ACT".

30-20-1102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IT IS THE POLICY OF THE STATE OF COLORADO TO ENCOURAGE PUBLIC CONTRACTING PROCEDURES THAT ENCOURAGE COMPETITION, OPENNESS, AND IMPARTIALITY TO THE MAXIMUM EXTENT POSSIBLE.

(b) COMPETITION EXISTS NOT ONLY IN THE COSTS OF GOODS AND SERVICES, BUT IN THE TECHNICAL COMPETENCE OF THE PROVIDERS AND SUPPLIERS IN THEIR ABILITY TO MAKE TIMELY COMPLETION AND DELIVERY AND IN THE QUALITY AND PERFORMANCE OF THEIR PRODUCTS AND SERVICES.

(c) TIMELY AND EFFECTIVE COMPLETION OF PUBLIC PROJECTS CAN BE ACHIEVED THROUGH A VARIETY OF METHODS WHEN PROCURING GOODS AND SERVICES FOR PUBLIC PROJECTS.

(d) IN ENACTING THIS PART 11, THE GENERAL ASSEMBLY INTENDS TO ESTABLISH FOR COUNTY GOVERNMENTS AND CERTAIN DISTRICTS FORMED BY COUNTY GOVERNMENTS AN OPTIONAL ALTERNATIVE PUBLIC PROJECT DELIVERY METHOD.

30-20-1103. Definitions. AS USED IN THIS PART 11, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGENCY" MEANS ANY COUNTY, CITY AND COUNTY, HOME RULE COUNTY FORMED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 35 OF THIS TITLE, ANY COUNTY PUBLIC IMPROVEMENT DISTRICT FORMED IN ACCORDANCE WITH THE

PROVISIONS OF PART 5 OF ARTICLE 20 OF THIS TITLE, ANY OTHER DISTRICT THAT A COUNTY OR A CITY AND COUNTY MAY CREATE PURSUANT TO THE AUTHORITY PROVIDED IN ARTICLE 20 OF THIS TITLE THAT IS A BUDGETARY UNIT EXERCISING CONSTRUCTION CONTRACTING AUTHORITY OR DISCRETION, AND ANY SPECIAL TAXING DISTRICT FORMED BY A HOME RULE COUNTY IN ACCORDANCE WITH THE PROVISIONS OF PART 9 OF ARTICLE 35 OF THIS TITLE.

(2) "CONTRACT" MEANS ANY AGREEMENT FOR DESIGNING, BUILDING, ALTERING, REPAIRING, IMPROVING, DEMOLISHING, OPERATING, MAINTAINING, OR FINANCING A PUBLIC PROJECT.

(3) "COST-REIMBURSEMENT CONTRACT" MEANS A CONTRACT UNDER WHICH A PARTICIPATING ENTITY IS REIMBURSED FOR COSTS THAT ARE ALLOWABLE AND ALLOCABLE IN ACCORDANCE WITH THE CONTRACT TERMS AND PROVISIONS OF THIS PART 11.

(4) "INTEGRATED PROJECT DELIVERY" OR "IPD" MEANS A PROJECT DELIVERY METHOD IN WHICH THERE IS A CONTRACTUAL AGREEMENT BETWEEN AN AGENCY AND A SINGLE PARTICIPATING ENTITY FOR THE DESIGN, CONSTRUCTION, ALTERATION, OPERATION, REPAIR, IMPROVEMENT, DEMOLITION, MAINTENANCE, OR FINANCING, OR ANY COMBINATION OF THESE SERVICES, FOR A PUBLIC PROJECT.

(5) "IPD CONTRACT" MEANS A CONTRACT USING AN INTEGRATED PROJECT DELIVERY METHOD.

(6) "PARTICIPATING ENTITY" MEANS A PARTNERSHIP, CORPORATION, JOINT VENTURE, UNINCORPORATED ASSOCIATION, OR OTHER LEGAL ENTITY THAT PROVIDES APPROPRIATELY LICENSED PLANNING, ARCHITECTURAL, ENGINEERING, DEVELOPMENT, CONSTRUCTION, OPERATING, OR MAINTENANCE SERVICES AS NEEDED IN CONNECTION WITH AN IPD CONTRACT.

(7) "PUBLIC PROJECT" MEANS ANY LANDS, BUILDINGS, STRUCTURES, WORKS, MACHINERY, EQUIPMENT, OR FACILITIES SUITABLE FOR AND INTENDED FOR USE AS PUBLIC PROPERTY FOR PUBLIC PURPOSES OR SUITABLE FOR AND INTENDED FOR USE IN THE PROMOTION OF THE PUBLIC HEALTH, PUBLIC WELFARE, OR PUBLIC EDUCATION, TO THE EXTENT THE BOUNDARIES OF AN AGENCY AND A SCHOOL DISTRICT ARE COTERMINOUS, OR FOR THE CONSERVATION OF NATURAL RESOURCES, INCLUDING THE PLANNING OF ANY SUCH LANDS, BUILDINGS, IMPROVEMENTS, STRUCTURES, WORKS, MACHINERY, EQUIPMENT, OR FACILITIES. "PUBLIC PROJECT" SHALL ALSO INCLUDE EXISTING LANDS, BUILDINGS, IMPROVEMENTS, STRUCTURES, WORKS, AND FACILITIES, AS WELL AS IMPROVEMENTS, RENOVATIONS, OR ADDITIONS TO ANY SUCH LANDS, BUILDINGS, IMPROVEMENTS, STRUCTURES, WORKS, OR FACILITIES, INCLUDING WITHOUT LIMITATION ANY SEWERAGE FACILITY AS DEFINED IN SECTION 30-20-401 (4), ANY WATER FACILITY AS DEFINED IN SECTION 30-20-401 (6), ANY JOINT SYSTEM AS DEFINED IN SECTION 30-20-401 (3), AND ANY OPERATION OR MAINTENANCE PROGRAMS FOR THE OPERATION AND UPKEEP OF SUCH PROJECTS.

(8) "PUBLIC PURPOSES" INCLUDES, BUT IS NOT LIMITED TO, THE SUPPLYING OF PUBLIC WATER SERVICES AND FACILITIES, PUBLIC SEWERAGE SERVICES AND FACILITIES, AND LANDS, BUILDINGS, IMPROVEMENTS, EQUIPMENT, AND FACILITIES FOR PUBLIC EDUCATION, TO THE EXTENT THE BOUNDARIES OF THE AGENCY AND

SCHOOL DISTRICT ARE COTERMINOUS.

30-20-1104. Integrated project delivery contracts - authorization - effect of other laws. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY AGENCY MAY AWARD AN IPD CONTRACT FOR A PUBLIC PROJECT UNDER THE PROVISIONS OF THIS PART 11 UPON THE DETERMINATION BY SUCH AGENCY THAT INTEGRATED PROJECT DELIVERY REPRESENTS A TIMELY OR COST-EFFECTIVE ALTERNATIVE FOR A PUBLIC PROJECT.

(2) NOTHING IN THIS PART 11 SHALL BE CONSTRUED AS EXEMPTING ANY AGENCY OR PARTICIPATING ENTITY FROM APPLICABLE FEDERAL, STATE, OR LOCAL LAWS, RULES, RESOLUTIONS, OR ORDINANCES GOVERNING LABOR RELATIONS, PROFESSIONAL LICENSING, PUBLIC CONTRACTING, OR OTHER RELATED LAWS, EXCEPT TO THE EXTENT THAT AN EXEMPTION IS GRANTED UNDER SUCH LEGAL AUTHORITY OR IS CREATED BY NECESSARY IMPLICATION FROM SUCH LEGAL AUTHORITY.

30-20-1105. Integrated project delivery contracting process - prequalification of participating entities - apprentice training. (1) AN AGENCY MAY PREQUALIFY PARTICIPATING ENTITIES FOR IPD CONTRACTS BY PUBLIC NOTICE OF ITS REQUEST FOR QUALIFICATIONS PRIOR TO THE DATE SET FORTH IN THE NOTICE. A REQUEST FOR QUALIFICATIONS MAY CONTAIN THE FOLLOWING ELEMENTS AND SUCH ADDITIONAL INFORMATION AS MAY BE REQUESTED BY THE AGENCY:

(a) A GENERAL DESCRIPTION OF THE PROPOSED PUBLIC PROJECT;

(b) RELEVANT BUDGET CONSIDERATIONS;

(c) REQUIREMENTS OF THE PARTICIPATING ENTITY, INCLUDING:

(I) IF THE PARTICIPATING ENTITY IS A PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, JOINT VENTURE, OR OTHER ASSOCIATION, A LISTING OF ALL OF THE PARTNERS, GENERAL PARTNERS, MEMBERS, JOINT VENTURERS, OR ASSOCIATION MEMBERS KNOWN AT THE TIME OF THE SUBMISSION OF QUALIFICATIONS;

(II) EVIDENCE THAT THE PARTICIPATING ENTITY, OR THE CONSTITUENT ENTITIES OR MEMBERS THEREOF, HAS COMPLETED OR HAS DEMONSTRATED THE EXPERIENCE, COMPETENCY, CAPABILITY, AND CAPACITY, FINANCIAL AND OTHERWISE, TO COMPLETE PROJECTS OF SIMILAR SIZE, SCOPE, OR COMPLEXITY;

(III) EVIDENCE THAT THE PROPOSED PERSONNEL OF THE PARTICIPATING ENTITY HAVE SUFFICIENT EXPERIENCE AND TRAINING TO COMPLETELY MANAGE AND COMPLETE THE PROPOSED PUBLIC PROJECT; AND

(IV) EVIDENCE OF ALL APPLICABLE LICENSES, REGISTRATIONS, AND CREDENTIALS REQUIRED TO PROVIDE THE PROPOSED SERVICES FOR THE PUBLIC PROJECT, INCLUDING BUT NOT LIMITED TO INFORMATION ON ANY REVOCATION OR SUSPENSION OF ANY SUCH LICENSE, REGISTRATION, OR CREDENTIAL.

(d) THE CRITERIA FOR PREQUALIFICATION.

(2) FROM THE PARTICIPATING ENTITIES RESPONDING TO THE REQUEST FOR QUALIFICATIONS, THE AGENCY SHALL PREPARE AND ANNOUNCE A SHORT LIST OF PARTICIPATING ENTITIES THAT IT DETERMINES TO BE MOST QUALIFIED TO RECEIVE A REQUEST FOR PROPOSAL.

(3) WHERE AN APPRENTICE TRAINING PROGRAM CERTIFIED BY THE OFFICE OF APPRENTICESHIP LOCATED IN THE EMPLOYMENT AND TRAINING ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF LABOR EXISTS IN THE COUNTY, OR A COMPARABLE PROGRAM FOR THE TRAINING OF APPRENTICES IS AVAILABLE IN THE COUNTY:

(a) EACH PARTICIPATING ENTITY SHALL DEMONSTRATE TO THE AGENCY THAT IT HAS ACCESS TO EITHER THE CERTIFIED PROGRAM OR A COMPARABLE ALTERNATIVE; AND

(b) EACH PARTICIPATING ENTITY SHALL DEMONSTRATE THAT EACH OF ITS SUBCONTRACTORS, AT ANY TIER, SELECTED TO PERFORM WORK UNDER A CONTRACT WITH A VALUE OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR MORE HAS ACCESS TO EITHER THE CERTIFIED PROGRAM OR A COMPARABLE ALTERNATIVE.

30-20-1106. Requests for proposals - evaluation and award of integrated project delivery contracts. (1) AN AGENCY SHALL PREPARE AND PUBLISH A REQUEST FOR PROPOSALS FOR EACH IPD CONTRACT THAT MAY CONTAIN THE FOLLOWING ELEMENTS AND SUCH OTHER ELEMENTS AS MAY BE REQUESTED BY THE AGENCY:

(a) THE PROCEDURES TO BE FOLLOWED FOR SUBMITTING PROPOSALS;

(b) THE CRITERIA FOR EVALUATION OF A PROPOSAL, WHICH CRITERIA MAY PROVIDE FOR SELECTION OF A PROPOSAL ON A BASIS OTHER THAN SOLELY THE LOWEST COSTS ESTIMATES SUBMITTED;

(c) THE PROCEDURES FOR MAKING AWARDS;

(d) REQUIRED PERFORMANCE STANDARDS AS DEFINED BY THE PARTICIPATING ENTITY;

(e) A DESCRIPTION OF THE DRAWINGS, SPECIFICATIONS, OR OTHER SUBMITTALS TO BE PROVIDED WITH THE PROPOSAL, WITH GUIDANCE AS TO THE FORM AND THE ACCEPTABLE LEVEL OF COMPLETION OF THE DRAWINGS, SPECIFICATIONS, OR SUBMITTALS;

(f) RELEVANT BUDGET CONSIDERATIONS OR, FOR AN IPD CONTRACT THAT INCLUDES OPERATION OR MAINTENANCE SERVICES, THE LIFE-CYCLE COST ANALYSIS FOR THE CONTRACT;

(g) THE PROPOSED SCHEDULING FOR THE PROJECT; AND

(h) THE STIPEND, IF ANY, TO BE PAID TO PARTICIPATING ENTITIES RESPONDING TO THE REQUEST FOR PROPOSALS WHO APPEAR ON THE AGENCY'S SHORT LIST PURSUANT TO SECTION 30-20-1105 (2) BUT WHOSE PROPOSALS ARE NOT SELECTED FOR AWARD

OF THE IPD CONTRACT.

(2) AFTER OBTAINING AND EVALUATING PROPOSALS ACCORDING TO THE CRITERIA AND PROCEDURES SET FORTH IN THE REQUEST FOR PROPOSALS IN ACCORDANCE WITH THE REQUIREMENTS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, AN AGENCY MAY ACCEPT THE PROPOSAL THAT, IN ITS ESTIMATION, REPRESENTS THE BEST VALUE TO THE AGENCY. ACCEPTANCE OF A PROPOSAL SHALL BE BY WRITTEN NOTICE TO THE PARTICIPATING ENTITY THAT SUBMITTED THE ACCEPTED PROPOSAL.

(3) WITH RESPECT TO PERFORMANCE UNDER EACH IPD CONTRACT, THE AGENCY AND PARTICIPATING ENTITY SHALL COMPLY WITH ALL LAWS APPLICABLE TO PUBLIC PROJECTS.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PARTICIPATING ENTITY SELECTED FOR AWARD OF AN IPD CONTRACT IS NOT REQUIRED TO BE LICENSED OR REGISTERED TO PROVIDE PROFESSIONAL SERVICES AS DEFINED IN SECTION 24-30-1402 (6), C.R.S., IF THE PERSON OR FIRM ACTUALLY PERFORMING ANY SUCH PROFESSIONAL SERVICES ON BEHALF OF THE PARTICIPATING ENTITY IS APPROPRIATELY LICENSED OR REGISTERED AND IF THE PARTICIPATING ENTITY OTHERWISE COMPLIES WITH APPLICABLE STATE LICENSING LAWS AND REQUIREMENTS RELATED TO SUCH PROFESSIONAL SERVICES.

30-20-1107. Supplemental provisions. THE GOVERNING BODY OF AN AGENCY MAY ESTABLISH SUPPLEMENTAL PROVISIONS THAT ARE DESIGNED TO IMPLEMENT THE PROVISIONS OF THIS PART 11.

30-20-1108. Types of contracts. SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AN AGENCY MAKING USE OF THE PROVISIONS OF THIS PART 11 MAY AWARD ANY TYPE OF CONTRACT THAT WILL PROMOTE THE BEST INTERESTS OF THE AGENCY; EXCEPT THAT THE USE OF A COST-PLUS-A-PERCENTAGE-OF-COST CONTRACT UNDER THIS PART 11 IS PROHIBITED. AN AGENCY MAY AWARD A COST-REIMBURSEMENT CONTRACT ONLY WHEN A DETERMINATION IS MADE IN WRITING THAT SUCH CONTRACT IS EITHER LIKELY TO BE LESS COSTLY TO THE AGENCY THAN ANY OTHER TYPE OF CONTRACT OR THAT IT IS IMPRACTICABLE TO OBTAIN THE REQUIRED CONSTRUCTION OR OTHER SERVICES AUTHORIZED UNDER THIS PART 11 UNLESS THE COST-REIMBURSEMENT CONTRACT IS USED. OPERATION AND MAINTENANCE ELEMENTS MAY BE PROCURED ON A COST-REIMBURSEMENT BASIS UNDER OR IN CONNECTION WITH AN IPD CONTRACT.

SECTION 3. Article 25 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 13
PUBLIC IMPROVEMENT - MUNICIPAL CONTRACTS

31-25-1301. Short title. THIS PART 13 SHALL BE KNOWN AND MAY BE CITED AS THE "INTEGRATED DELIVERY METHOD FOR MUNICIPAL PUBLIC IMPROVEMENTS ACT".

31-25-1302. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IT IS THE POLICY OF THE STATE OF COLORADO TO ENCOURAGE PUBLIC CONTRACTING PROCEDURES THAT ENCOURAGE COMPETITION, OPENNESS, AND IMPARTIALITY TO THE MAXIMUM EXTENT POSSIBLE.

(b) COMPETITION EXISTS NOT ONLY IN THE COSTS OF GOODS AND SERVICES, BUT IN THE TECHNICAL COMPETENCE OF THE PROVIDERS AND SUPPLIERS IN THEIR ABILITY TO MAKE TIMELY COMPLETION AND DELIVERY AND IN THE QUALITY AND PERFORMANCE OF THEIR PRODUCTS AND SERVICES.

(c) TIMELY AND EFFECTIVE COMPLETION OF PUBLIC PROJECTS CAN BE ACHIEVED THROUGH A VARIETY OF METHODS WHEN PROCURING GOODS AND SERVICES FOR PUBLIC PROJECTS.

(d) IN ENACTING THIS PART 13, THE GENERAL ASSEMBLY INTENDS TO ESTABLISH FOR MUNICIPALITIES AND AGENCIES OF MUNICIPALITIES AN OPTIONAL ALTERNATIVE PUBLIC PROJECT DELIVERY METHOD.

31-25-1303. Definitions. AS USED IN THIS PART 13, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGENCY" MEANS ANY HOME RULE OR STATUTORY CITY, TOWN, TERRITORIAL CHARTER CITY, CITY AND COUNTY, OR ANY OTHER POLITICAL SUBDIVISION THAT A MUNICIPALITY MAY CREATE PURSUANT TO STATE LAW THAT IS A BUDGETARY UNIT EXERCISING CONSTRUCTION CONTRACTING AUTHORITY OR DISCRETION.

(2) "CONTRACT" MEANS ANY AGREEMENT FOR DESIGNING, BUILDING, ALTERING, REPAIRING, IMPROVING, DEMOLISHING, OPERATING, MAINTAINING, OR FINANCING A PUBLIC PROJECT.

(3) "COST-REIMBURSEMENT CONTRACT" MEANS A CONTRACT UNDER WHICH A PARTICIPATING ENTITY IS REIMBURSED FOR COSTS THAT ARE ALLOWABLE AND ALLOCABLE IN ACCORDANCE WITH THE CONTRACT TERMS AND PROVISIONS OF THIS PART 13.

(4) "INTEGRATED PROJECT DELIVERY" OR "IPD" MEANS A PROJECT DELIVERY METHOD IN WHICH THERE IS A CONTRACTUAL AGREEMENT BETWEEN AN AGENCY AND A SINGLE PARTICIPATING ENTITY FOR THE DESIGN, CONSTRUCTION, ALTERATION, OPERATION, REPAIR, IMPROVEMENT, DEMOLITION, MAINTENANCE, OR FINANCING, OR ANY COMBINATION OF THESE SERVICES, FOR A PUBLIC PROJECT.

(5) "IPD CONTRACT" MEANS A CONTRACT USING AN INTEGRATED PROJECT DELIVERY METHOD.

(6) "PARTICIPATING ENTITY" MEANS A PARTNERSHIP, CORPORATION, JOINT VENTURE, UNINCORPORATED ASSOCIATION, OR OTHER LEGAL ENTITY THAT PROVIDES APPROPRIATELY LICENSED PLANNING, ARCHITECTURAL, ENGINEERING, DEVELOPMENT, CONSTRUCTION, OPERATING, OR MAINTENANCE SERVICES AS NEEDED IN CONNECTION WITH AN IPD CONTRACT.

(7) "PUBLIC PROJECT" MEANS ANY LANDS, BUILDINGS, STRUCTURES, WORKS, MACHINERY, EQUIPMENT, OR FACILITIES SUITABLE FOR AND INTENDED FOR USE AS

PUBLIC PROPERTY FOR PUBLIC PURPOSES OR SUITABLE FOR AND INTENDED FOR USE IN THE PROMOTION OF THE PUBLIC HEALTH, PUBLIC WELFARE, OR PUBLIC EDUCATION, TO THE EXTENT THE BOUNDARIES OF AN AGENCY AND A SCHOOL DISTRICT ARE COTERMINOUS, OR FOR THE CONSERVATION OF NATURAL RESOURCES, INCLUDING THE PLANNING OF ANY SUCH LANDS, BUILDINGS, IMPROVEMENTS, STRUCTURES, WORKS, MACHINERY, EQUIPMENT, OR FACILITIES. "PUBLIC PROJECT" SHALL ALSO INCLUDE EXISTING LANDS, BUILDINGS, IMPROVEMENTS, STRUCTURES, WORKS, AND FACILITIES, AS WELL AS IMPROVEMENTS, RENOVATIONS, OR ADDITIONS TO ANY SUCH LANDS, BUILDINGS, IMPROVEMENTS, STRUCTURES, WORKS, OR FACILITIES AND ANY OPERATION OR MAINTENANCE PROGRAMS FOR THE OPERATION AND UPKEEP OF SUCH PROJECTS.

(8) "PUBLIC PURPOSES" INCLUDES, BUT IS NOT LIMITED TO, THE SUPPLYING OF PUBLIC WATER SERVICES AND FACILITIES, PUBLIC SEWER SERVICES AND FACILITIES, AND LANDS, BUILDINGS, IMPROVEMENTS, EQUIPMENT, AND FACILITIES FOR PUBLIC EDUCATION, TO THE EXTENT THE BOUNDARIES OF THE AGENCY AND THE SCHOOL DISTRICT ARE COTERMINOUS.

31-25-1304. Integrated project delivery contracts - authorization - effect of other laws. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY AGENCY MAY AWARD AN IPD CONTRACT FOR A PUBLIC PROJECT UNDER THE PROVISIONS OF THIS PART 13 UPON THE DETERMINATION BY SUCH AGENCY THAT INTEGRATED PROJECT DELIVERY REPRESENTS A TIMELY OR COST-EFFECTIVE ALTERNATIVE FOR A PUBLIC PROJECT.

(2) NOTHING IN THIS PART 13 SHALL BE CONSTRUED AS EXEMPTING ANY AGENCY OR PARTICIPATING ENTITY FROM APPLICABLE FEDERAL, STATE, OR LOCAL LAWS, REGULATIONS, OR ORDINANCES GOVERNING LABOR RELATIONS, PROFESSIONAL LICENSING, PUBLIC CONTRACTING, OR OTHER RELATED LAWS, EXCEPT TO THE EXTENT THAT AN EXEMPTION IS CREATED UNDER SUCH LEGAL AUTHORITY OR IS GRANTED BY NECESSARY IMPLICATION FROM SUCH LEGAL AUTHORITY.

31-25-1305. Integrated project delivery contracting process - prequalification of participating entities - apprentice training. (1) AN AGENCY MAY PREQUALIFY PARTICIPATING ENTITIES FOR AN IPD CONTRACT BY PUBLIC NOTICE OF ITS REQUEST FOR QUALIFICATIONS PRIOR TO THE DATE SET FORTH IN THE NOTICE. A REQUEST FOR QUALIFICATIONS MAY CONTAIN THE FOLLOWING ELEMENTS AND SUCH ADDITIONAL INFORMATION AS MAY BE REQUESTED BY THE AGENCY:

- (a) A GENERAL DESCRIPTION OF THE PROPOSED PUBLIC PROJECT;
- (b) RELEVANT BUDGET CONSIDERATIONS;
- (c) REQUIREMENTS OF THE PARTICIPATING ENTITY, INCLUDING:

(I) IF THE PARTICIPATING ENTITY IS A PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, JOINT VENTURE, OR OTHER ASSOCIATION, A LISTING OF ALL OF THE PARTNERS, GENERAL PARTNERS, MEMBERS, JOINT VENTURERS, OR ASSOCIATION MEMBERS KNOWN AT THE TIME OF SUBMISSION OF QUALIFICATIONS;

- (II) EVIDENCE THAT THE PARTICIPATING ENTITY, OR THE CONSTITUENT ENTITIES

OR MEMBERS THEREOF, HAS COMPLETED OR HAS DEMONSTRATED THE EXPERIENCE, COMPETENCY, CAPABILITY, AND CAPACITY, FINANCIAL AND OTHERWISE, TO COMPLETE PROJECTS OF SIMILAR SIZE, SCOPE, OR COMPLEXITY;

(III) EVIDENCE THAT THE PROPOSED PERSONNEL OF THE PARTICIPATING ENTITY HAVE SUFFICIENT EXPERIENCE AND TRAINING TO COMPLETELY MANAGE AND COMPLETE THE PROPOSED PUBLIC PROJECT; AND

(IV) EVIDENCE OF ALL APPLICABLE LICENSES, REGISTRATIONS, AND CREDENTIALS REQUIRED TO PROVIDE THE PROPOSED SERVICES FOR THE PUBLIC PROJECT, INCLUDING BUT NOT LIMITED TO INFORMATION ON ANY REVOCATION OR SUSPENSION OF ANY SUCH LICENSE, REGISTRATION, OR CREDENTIAL.

(d) THE CRITERIA FOR PREQUALIFICATION.

(2) FROM THE PARTICIPATING ENTITIES RESPONDING TO THE REQUEST FOR QUALIFICATIONS, THE AGENCY SHALL PREPARE AND ANNOUNCE A SHORT LIST OF PARTICIPATING ENTITIES THAT IT DETERMINES TO BE MOST QUALIFIED TO RECEIVE A REQUEST FOR PROPOSAL.

(3) WHERE AN APPRENTICE TRAINING PROGRAM CERTIFIED BY THE OFFICE OF APPRENTICESHIP LOCATED IN THE EMPLOYMENT AND TRAINING ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF LABOR EXISTS IN A COUNTY IN WHICH ALL OR ANY PORTION OF THE MUNICIPALITY IS LOCATED, OR A COMPARABLE PROGRAM FOR THE TRAINING OF APPRENTICES IS AVAILABLE IN SUCH COUNTY:

(a) EACH PARTICIPATING ENTITY SHALL DEMONSTRATE TO THE AGENCY THAT IT HAS ACCESS TO EITHER THE CERTIFIED PROGRAM OR A COMPARABLE ALTERNATIVE; AND

(b) EACH PARTICIPATING ENTITY SHALL DEMONSTRATE THAT EACH OF ITS SUBCONTRACTORS, AT ANY TIER, SELECTED TO PERFORM WORK UNDER A CONTRACT WITH A VALUE OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR MORE HAS ACCESS TO EITHER THE CERTIFIED PROGRAM OR A COMPARABLE ALTERNATIVE.

31-25-1306. Requests for proposals - evaluation and award of integrated project delivery contracts. (1) AN AGENCY SHALL PREPARE AND PUBLISH A REQUEST FOR PROPOSALS FOR EACH IPD CONTRACT THAT MAY CONTAIN THE FOLLOWING ELEMENTS AND SUCH OTHER ELEMENTS AS MAY BE REQUESTED BY THE AGENCY:

(a) THE PROCEDURES TO BE FOLLOWED FOR SUBMITTING PROPOSALS;

(b) THE CRITERIA FOR EVALUATION OF A PROPOSAL, WHICH CRITERIA MAY PROVIDE FOR SELECTION OF A PROPOSAL ON A BASIS OTHER THAN SOLELY THE LOWEST COSTS ESTIMATES SUBMITTED;

(c) THE PROCEDURES FOR MAKING AWARDS;

(d) REQUIRED PERFORMANCE STANDARDS AS DEFINED BY THE PARTICIPATING ENTITY;

(e) A DESCRIPTION OF THE DRAWINGS, SPECIFICATIONS, OR OTHER SUBMITTALS TO BE PROVIDED WITH THE PROPOSAL, WITH GUIDANCE AS TO THE FORM AND THE ACCEPTABLE LEVEL OF COMPLETION OF THE DRAWINGS, SPECIFICATIONS, OR SUBMITTALS;

(f) RELEVANT BUDGET CONSIDERATIONS OR, FOR AN IPD CONTRACT THAT INCLUDES OPERATION OR MAINTENANCE SERVICES, THE LIFE-CYCLE COST ANALYSIS FOR THE CONTRACT;

(g) THE PROPOSED PROJECT SCHEDULING; AND

(h) THE STIPEND, IF ANY, TO BE PAID TO PARTICIPATING ENTITIES RESPONDING TO THE REQUEST FOR PROPOSALS WHO APPEAR ON THE AGENCY'S SHORTLIST PURSUANT TO SECTION 31-25-1305 (2) BUT WHOSE PROPOSALS ARE NOT SELECTED FOR AWARD OF THE IPD CONTRACT.

(2) AFTER OBTAINING AND EVALUATING PROPOSALS ACCORDING TO THE CRITERIA AND PROCEDURES SET FORTH IN THE REQUEST FOR PROPOSALS IN ACCORDANCE WITH THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, AN AGENCY MAY ACCEPT THE PROPOSAL THAT, IN ITS ESTIMATION, REPRESENTS THE BEST VALUE TO THE AGENCY. ACCEPTANCE OF A PROPOSAL SHALL BE BY WRITTEN NOTICE TO THE PARTICIPATING ENTITY THAT SUBMITTED THE ACCEPTED PROPOSAL.

(3) WITH RESPECT TO PERFORMANCE UNDER EACH IPD CONTRACT, THE PARTICIPATING ENTITY SHALL COMPLY WITH ALL LAWS APPLICABLE TO PUBLIC PROJECTS.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PARTICIPATING ENTITY SELECTED FOR AWARD OF AN IPD CONTRACT IS NOT REQUIRED TO BE LICENSED OR REGISTERED TO PROVIDE PROFESSIONAL SERVICES AS DEFINED IN SECTION 24-30-1402 (6), C.R.S., IF THE PERSON OR FIRM ACTUALLY PERFORMING ANY SUCH PROFESSIONAL SERVICES ON BEHALF OF THE PARTICIPATING ENTITY IS APPROPRIATELY LICENSED OR REGISTERED AND IF THE PARTICIPATING ENTITY OTHERWISE COMPLIES WITH APPLICABLE STATE LICENSING LAWS AND REQUIREMENTS RELATED TO SUCH PROFESSIONAL SERVICES.

31-25-1307. Supplemental provisions. THE GOVERNING BODY OF AN AGENCY MAY ESTABLISH SUPPLEMENTAL PROVISIONS THAT ARE DESIGNED TO IMPLEMENT THE PROVISIONS OF THIS PART 13.

SECTION 4. Article 1 of title 32, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 18
PUBLIC IMPROVEMENTS - SPECIAL DISTRICT CONTRACTS

32-1-1801. Short title. THIS PART 18 SHALL BE KNOWN AND MAY BE CITED AS THE "INTEGRATED DELIVERY METHOD FOR SPECIAL DISTRICT PUBLIC IMPROVEMENTS ACT".

32-1-1802. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS

AND DECLARES THAT:

(a) IT IS THE POLICY OF THE STATE OF COLORADO TO ENCOURAGE PUBLIC CONTRACTING PROCEDURES THAT ENCOURAGE COMPETITION, OPENNESS, AND IMPARTIALITY TO THE MAXIMUM EXTENT POSSIBLE.

(b) COMPETITION EXISTS NOT ONLY IN THE COSTS OF GOODS AND SERVICES, BUT IN THE TECHNICAL COMPETENCE OF THE PROVIDERS AND SUPPLIERS IN THEIR ABILITY TO MAKE TIMELY COMPLETION AND DELIVERY AND IN THE QUALITY AND PERFORMANCE OF THEIR PRODUCTS AND SERVICES.

(c) TIMELY AND EFFECTIVE COMPLETION OF PUBLIC PROJECTS CAN BE ACHIEVED THROUGH A VARIETY OF METHODS WHEN PROCURING GOODS AND SERVICES FOR PUBLIC PROJECTS.

(d) IN ENACTING THIS PART 18, THE GENERAL ASSEMBLY INTENDS TO ESTABLISH FOR SPECIAL DISTRICTS AND AGENCIES OF SPECIAL DISTRICTS AN OPTIONAL ALTERNATIVE PUBLIC PROJECT DELIVERY METHOD.

32-1-1803. Definitions. AS USED IN THIS PART 18, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGENCY" MEANS ANY SPECIAL DISTRICT ORGANIZED UNDER THIS TITLE OR ANY OTHER POLITICAL SUBDIVISION THAT SUCH DISTRICT MAY CREATE PURSUANT TO STATE LAW THAT IS A BUDGETARY UNIT EXERCISING CONSTRUCTION CONTRACTING AUTHORITY OR DISCRETION.

(2) "CONTRACT" MEANS ANY AGREEMENT FOR DESIGNING, BUILDING, ALTERING, REPAIRING, IMPROVING, DEMOLISHING, OPERATING, MAINTAINING, OR FINANCING A PUBLIC PROJECT.

(3) "COST-REIMBURSEMENT CONTRACT" MEANS A CONTRACT UNDER WHICH A PARTICIPATING ENTITY IS REIMBURSED FOR COSTS THAT ARE ALLOWABLE AND ALLOCABLE IN ACCORDANCE WITH THE CONTRACT TERMS AND PROVISIONS OF THIS PART 18.

(4) "INTEGRATED PROJECT DELIVERY" OR "IPD" MEANS A PROJECT DELIVERY METHOD IN WHICH THERE IS A CONTRACTUAL AGREEMENT BETWEEN AN AGENCY AND A SINGLE PARTICIPATING ENTITY FOR THE DESIGN, CONSTRUCTION, ALTERATION, OPERATION, REPAIR, IMPROVEMENT, DEMOLITION, MAINTENANCE, OR FINANCING, OR ANY COMBINATION OF THESE SERVICES, FOR A PUBLIC PROJECT.

(5) "IPD CONTRACT" MEANS A CONTRACT USING AN INTEGRATED PROJECT DELIVERY METHOD.

(6) "PARTICIPATING ENTITY" MEANS A PARTNERSHIP, CORPORATION, JOINT VENTURE, UNINCORPORATED ASSOCIATION, OR OTHER LEGAL ENTITY THAT PROVIDES APPROPRIATELY LICENSED PLANNING, ARCHITECTURAL, ENGINEERING, DEVELOPMENT, CONSTRUCTION, OPERATING, OR MAINTENANCE SERVICES AS NEEDED IN CONNECTION WITH AN IPD CONTRACT.

(7) "PUBLIC PROJECT" MEANS ANY LANDS, BUILDINGS, STRUCTURES, WORKS, MACHINERY, EQUIPMENT, OR FACILITIES SUITABLE FOR AND INTENDED FOR USE AS PUBLIC PROPERTY FOR PUBLIC PURPOSES OR SUITABLE FOR AND INTENDED FOR USE IN THE PROMOTION OF THE PUBLIC HEALTH, PUBLIC WELFARE, OR PUBLIC EDUCATION, TO THE EXTENT THE BOUNDARIES OF AN AGENCY AND A SCHOOL DISTRICT ARE COTERMINOUS, OR FOR THE CONSERVATION OF NATURAL RESOURCES, INCLUDING THE PLANNING OF ANY SUCH LANDS, BUILDINGS, IMPROVEMENTS, STRUCTURES, WORKS, MACHINERY, EQUIPMENT, OR FACILITIES. "PUBLIC PROJECT" SHALL ALSO INCLUDE EXISTING LANDS, BUILDINGS, IMPROVEMENTS, STRUCTURES, WORKS, AND FACILITIES, AS WELL AS IMPROVEMENTS, RENOVATIONS, OR ADDITIONS TO ANY SUCH LANDS, BUILDINGS, IMPROVEMENTS, STRUCTURES, WORKS, OR FACILITIES, AND ANY OPERATION OR MAINTENANCE PROGRAMS FOR THE OPERATION AND UPKEEP OF SUCH PROJECTS.

(8) "PUBLIC PURPOSES" INCLUDES, BUT IS NOT LIMITED TO, THE SUPPLYING OF PUBLIC WATER SERVICES AND FACILITIES, PUBLIC SEWER SERVICES AND FACILITIES, AND LANDS, BUILDINGS, STRUCTURES, IMPROVEMENTS, EQUIPMENT, AND ANY OTHER SERVICES OR FACILITIES AUTHORIZED UNDER THIS ARTICLE OR FOR PUBLIC EDUCATION TO THE EXTENT THE BOUNDARIES OF THE AGENCY AND THE SCHOOL DISTRICT ARE COTERMINOUS.

32-1-1804. Integrated project delivery contracts - authorization - effect of other laws. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND WITHOUT LIMITING OR MODIFYING ANY ALTERNATIVE FOR PUBLIC CONTRACTING BY AN AGENCY AUTHORIZED BY ANY OTHER PROVISION OF LAW, ANY AGENCY MAY AWARD AN IPD CONTRACT FOR A PUBLIC PROJECT UNDER THE PROVISIONS OF THIS PART 18 UPON THE DETERMINATION BY SUCH AGENCY THAT INTEGRATED PROJECT DELIVERY REPRESENTS A TIMELY OR COST-EFFECTIVE ALTERNATIVE FOR A PUBLIC PROJECT.

(2) NOTHING IN THIS PART 18 SHALL BE CONSTRUED AS EXEMPTING ANY AGENCY OR PARTICIPATING ENTITY FROM APPLICABLE FEDERAL, STATE, OR LOCAL LAWS, REGULATIONS, OR ORDINANCES GOVERNING LABOR RELATIONS, PROFESSIONAL LICENSING, PUBLIC CONTRACTING, OR OTHER RELATED LAWS, EXCEPT TO THE EXTENT THAT AN EXEMPTION IS CREATED UNDER SUCH LEGAL AUTHORITY OR IS GRANTED BY NECESSARY IMPLICATION FROM SUCH LEGAL AUTHORITY. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE REQUIREMENTS OF SECTION 32-1-1001 (1) (d) (I) SHALL NOT APPLY TO ANY AGENCY AWARDED AN IPD CONTRACT PURSUANT TO THIS PART 18. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEFINITIONS CONTAINED IN SECTION 7-45-102, C.R.S., SHALL NOT APPLY TO A PROJECT UNDERTAKEN PURSUANT TO THIS TITLE.

32-1-1805. Integrated project delivery contracting process - prequalification of participating entities - apprentice training. (1) AN AGENCY MAY PREQUALIFY PARTICIPATING ENTITIES FOR AN IPD CONTRACT BY PUBLICATION OF NOTICE OF ITS REQUEST FOR QUALIFICATIONS PRIOR TO THE DATE SET FORTH IN THE NOTICE. A REQUEST FOR QUALIFICATIONS MAY CONTAIN THE FOLLOWING ELEMENTS AND SUCH ADDITIONAL INFORMATION AS MAY BE REQUESTED BY THE AGENCY:

- (a) A GENERAL DESCRIPTION OF THE PROPOSED PUBLIC PROJECT;
- (b) RELEVANT BUDGET CONSIDERATIONS;

(c) REQUIREMENTS OF THE PARTICIPATING ENTITY, INCLUDING:

(I) IF THE PARTICIPATING ENTITY IS A PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, JOINT VENTURE, OR OTHER ASSOCIATION, A LISTING OF ALL OF THE PARTNERS, GENERAL PARTNERS, MEMBERS, JOINT VENTURERS, OR ASSOCIATION MEMBERS KNOWN AT THE TIME OF SUBMISSION OF QUALIFICATIONS;

(II) EVIDENCE THAT THE PARTICIPATING ENTITY, OR THE CONSTITUENT ENTITIES OR MEMBERS THEREOF, HAS COMPLETED OR HAS DEMONSTRATED THE EXPERIENCE, COMPETENCY, CAPABILITY, AND CAPACITY, FINANCIAL AND OTHERWISE, TO COMPLETE PROJECTS OF SIMILAR SIZE, SCOPE, OR COMPLEXITY;

(III) EVIDENCE THAT THE PROPOSED PERSONNEL OF THE PARTICIPATING ENTITY HAVE SUFFICIENT EXPERIENCE AND TRAINING TO COMPLETELY MANAGE AND COMPLETE THE PROPOSED PUBLIC PROJECT; AND

(IV) EVIDENCE OF ALL APPLICABLE LICENSES, REGISTRATIONS, AND CREDENTIALS REQUIRED TO PROVIDE THE PROPOSED SERVICES FOR THE PUBLIC PROJECT, INCLUDING BUT NOT LIMITED TO INFORMATION ON ANY REVOCATION OR SUSPENSION OF ANY SUCH LICENSE, REGISTRATION, OR CREDENTIAL.

(d) THE CRITERIA FOR PREQUALIFICATION.

(2) FROM THE PARTICIPATING ENTITIES RESPONDING TO THE REQUEST FOR QUALIFICATIONS, THE AGENCY SHALL PREPARE AND ANNOUNCE A SHORT LIST OF PARTICIPATING ENTITIES THAT IT DETERMINES TO BE MOST QUALIFIED TO RECEIVE A REQUEST FOR PROPOSAL.

(3) WHERE AN APPRENTICE TRAINING PROGRAM CERTIFIED BY THE OFFICE OF APPRENTICESHIP LOCATED IN THE EMPLOYMENT AND TRAINING ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF LABOR EXISTS IN A COUNTY IN WHICH ALL OR ANY PORTION OF THE SPECIAL DISTRICT IS LOCATED, OR A COMPARABLE PROGRAM FOR THE TRAINING OF APPRENTICES IS AVAILABLE IN SUCH COUNTY:

(a) EACH PARTICIPATING ENTITY SHALL DEMONSTRATE TO THE AGENCY THAT IT HAS ACCESS TO EITHER THE CERTIFIED PROGRAM OR A COMPARABLE ALTERNATIVE; AND

(b) EACH PARTICIPATING ENTITY SHALL DEMONSTRATE THAT EACH OF ITS SUBCONTRACTORS, AT ANY TIER, SELECTED TO PERFORM WORK UNDER A CONTRACT WITH A VALUE OF TWO HUNDRED FIFTY THOUSAND DOLLARS OR MORE HAS ACCESS TO EITHER THE CERTIFIED PROGRAM OR A COMPARABLE ALTERNATIVE.

32-1-1806. Requests for proposals - evaluation and award of integrated project delivery contracts. (1) AN AGENCY SHALL PREPARE AND, WHERE IT HAS NOT PUBLISHED A NOTICE OF REQUEST FOR QUALIFICATIONS PURSUANT TO SECTION 32-1-1805 (1), PUBLISH A NOTICE OF REQUEST FOR PROPOSALS FOR EACH IPD CONTRACT THAT MAY CONTAIN THE FOLLOWING ELEMENTS AND SUCH OTHER ELEMENTS AS MAY BE REQUESTED BY THE AGENCY:

(a) THE PROCEDURES TO BE FOLLOWED FOR SUBMITTING PROPOSALS;

(b) THE CRITERIA FOR EVALUATION OF A PROPOSAL, WHICH CRITERIA MAY PROVIDE FOR SELECTION OF A PROPOSAL ON A BASIS OTHER THAN SOLELY THE LOWEST COSTS ESTIMATES SUBMITTED;

(c) THE PROCEDURES FOR MAKING AWARDS;

(d) REQUIRED PERFORMANCE STANDARDS AS DEFINED BY THE PARTICIPATING ENTITY;

(e) A DESCRIPTION OF THE DRAWINGS, SPECIFICATIONS, OR OTHER SUBMITTALS TO BE PROVIDED WITH THE PROPOSAL, WITH GUIDANCE AS TO THE FORM AND THE ACCEPTABLE LEVEL OF COMPLETION OF THE DRAWINGS, SPECIFICATIONS, OR SUBMITTALS;

(f) RELEVANT BUDGET CONSIDERATIONS OR, FOR AN IPD CONTRACT THAT INCLUDES OPERATION OR MAINTENANCE SERVICES, THE LIFE-CYCLE COST ANALYSIS FOR THE CONTRACT;

(g) THE PROPOSED PROJECT SCHEDULING; AND

(h) THE STIPEND, IF ANY, TO BE PAID TO PARTICIPATING ENTITIES RESPONDING TO THE REQUEST FOR PROPOSALS WHO APPEAR ON THE AGENCY'S SHORT LIST PURSUANT TO SECTION 32-1-1805 (2) BUT WHOSE PROPOSALS ARE NOT SELECTED FOR AWARD OF THE IPD CONTRACT.

(2) AFTER OBTAINING AND EVALUATING PROPOSALS ACCORDING TO THE CRITERIA AND PROCEDURES SET FORTH IN THE REQUEST FOR PROPOSALS IN ACCORDANCE WITH THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, AN AGENCY MAY ACCEPT THE PROPOSAL THAT, IN ITS ESTIMATION, REPRESENTS THE BEST VALUE TO THE AGENCY. ACCEPTANCE OF A PROPOSAL SHALL BE BY WRITTEN NOTICE TO THE PARTICIPATING ENTITY THAT SUBMITTED THE ACCEPTED PROPOSAL.

(3) WITH RESPECT TO PERFORMANCE UNDER EACH IPD CONTRACT, THE PARTICIPATING ENTITY SHALL COMPLY WITH ALL LAWS APPLICABLE TO PUBLIC PROJECTS.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PARTICIPATING ENTITY SELECTED FOR AWARD OF AN IPD CONTRACT IS NOT REQUIRED TO BE LICENSED OR REGISTERED TO PROVIDE PROFESSIONAL SERVICES AS DEFINED IN SECTION 24-30-1402 (6), C.R.S., IF THE PERSON OR FIRM ACTUALLY PERFORMING ANY SUCH PROFESSIONAL SERVICES ON BEHALF OF THE PARTICIPATING ENTITY IS APPROPRIATELY LICENSED OR REGISTERED AND IF THE PARTICIPATING ENTITY OTHERWISE COMPLIES WITH APPLICABLE STATE LICENSING LAWS AND REQUIREMENTS RELATED TO SUCH PROFESSIONAL SERVICES.

32-1-1807. Supplemental provisions. THE GOVERNING BODY OF AN AGENCY MAY ESTABLISH SUPPLEMENTAL PROVISIONS THAT ARE DESIGNED TO IMPLEMENT THE PROVISIONS OF THIS PART 18.

SECTION 5. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final

adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to contracts entered into on or after the applicable effective date of this act.

Approved: June 1, 2007