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| COLORADO COURT OF APPEALS<br>2 East 14th Avenue<br>Denver, CO 80203<br><br>Appeal from Boulder County District Court<br>Honorable Robert R. Gunning and Honorable Michael T. Kotlarczyk<br>Case No. 2024CV30320<br><br>Plaintiff-Appellee:<br>**SMB ADVERTISING, INC. dba YELLOW SCENE MAGAZINE**<br>v.<br>Defendants-Appellant:<br>**CITY OF BOULDER, COLORADO** | DATE FILED<br>April 23, 2025 2:09 PM<br><br>**▲ COURT USE ONLY ▲**<br><br>Case No: **2025CA26** |

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# OPENING BRIEF

## CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

**The brief complies with the applicable word limits set forth in C.A.R. 28(g).**

It contains 8,917 words (principal brief does not exceed 9,500 words; reply brief does not exceed 5,700 words).

**The brief complies with the requirements set forth in C.A.R. 28(a)(7)(A)** in that it contains under a separate heading a concise statement of the applicable standard of appellate review with citation of authority and contains a citation to the precise location in the record where each issue was raised and ruled on.

**I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.**

OFFICE OF THE CITY ATTORNEY

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## STATEMENT OF ISSUES PRESENTED FOR REVIEW

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2. In the alternative, whether the district court erred by failing to apply C.R.S. § 29-1-304.5(1), which provides that a "mandate or increased level of service for an existing state mandate shall be optional on the part of the local government" when the General Assembly does not appropriate "moneys to reimburse such local government for the costs of such new state mandate," to the purported requirement of C.R.S. § 24-31-902(2)(a) that criminal justice agencies provide blurred and muted video and audio recordings of incidents of alleged police misconduct free of charge to the requester, when the General Assembly failed to fund that purported mandate.

## STATEMENT OF THE CASE

This is an appeal from a declaratory judgment entered in favor of Plaintiff/Appellee SMB Advertising, Inc. d/b/a Yellow Scene Magazine ("Yellow Scene"), ruling that the City could not condition its compliance with Yellow Scene's request that the City provide blurred and muted body-worn camera

("BWC") footage pursuant to C.R.S. § 24-31-902(2) on the requester's payment of a fee pursuant to C.R.S. § 24-72-306(1) "or any other non-statutory requirement." CF, p. 114.

On December 17, 2023, Jeannette Alatorre was shot and killed by Boulder police officers near the North Boulder Recreation Center. CF, pp. 128-132. On February 1, 2024, Yellow Scene's attorney filed a complaint with the City's Independent Police Monitor regarding the incident. CF, pp. 143-145. The allegation of officer misconduct, in its entirety, said "I am making a complaint of officer misconduct pursuant to C.R.S. § 24-31-902(2), requiring the release of video recording. Based on news accounts and statements from [the Boulder Police Department], it appears Ms. Alatorre was shot while attempting to flee although she posed no public safety risk, and given the accounts to date, it appears likely she was shot in the back." CF, p. 144.[1] The complaint also included a request for "all unedited video and audio recordings of the incident, including from body-worn cameras, dash cameras, and otherwise." *Id*.

[1] The District Attorney for the 20th Judicial District investigated the shooting and determined that Boulder Police officers' use of force was "reasonable and appropriate," CF, p. 128, Ms. Alatorre menaced bystanders and police officers with a Beretta air pistol that is "a realistic replica of a Beretta APX 9mm pistol," CF, pp. 133-34, and the board-certified forensic pathologist's report revealed there were no gunshot wounds to Ms. Alatorre's back. CF, p. 137.

On March 12, 2024, Yellow Scene sent its own records request to the Boulder Police Department ("BPD") for "all videos relating to the Ms. Alatorre incident on 12/17/2023, including bodycam and dash cam." CF, p. 63. C.R.S. § 24-31-902(2)(b)(II)(A) required the City to perform extensive blurring and muting of the requested BWC recordings to protect privacy interests. *See* CF, pp. 61-62. Relying on the CCJRA, the BPD advised Yellow Scene that release of the requested videos would be conditioned on payment of $2857.50 for search, retrieval, and redaction. *Id*. Yellow Scene declined to pay, citing the LEIA. CF, pp. 59-62.

Yellow Scene filed this lawsuit against the City on April 10, 2024, asserting claims for mandamus and declaratory judgment. CF, pp. 1-8. The parties filed a joint motion for expedited consideration of the declaratory judgment claim pursuant to C.R.C.P. 57(m), which the district court granted. CF, pp. 16-21. Oral argument was held on July 11, 2024. CF, pp. 99-100; TR (July 11, 2024), 3:3-49:19.

On August 12, 2024, the district court ruled in favor of Yellow Scene on its second claim for relief. [2] CF, pp. 101-114. The district court agreed "the BWC

[2] Angelica Jeannette Orozco, the daughter of Ms. Alatorre, entered the case as an additional plaintiff via the First Amended Complaint, however, she was not a party to the declaratory judgment claim. CF, p. 103. The district court recited, as an allegedly undisputed fact, that the City conditioned release of video to Ms. Orozco

footage requested here constitutes a 'criminal justice record' under the CCJRA." CF, pp. 107. Nevertheless, it rejected the City's reliance on the CCJRA's fee-authorizing provision because it concluded Yellow Scene's request was not made "pursuant to" the CCJRA, because the LEIA is silent on fees and does not cross-reference the CCJRA, and because the court believed application of the CCJRA's fee provision would frustrate the purpose of the LEIA. CF, pp. 107-109. The Court acknowledged that a criminal justice agency could charge fees for redacting the same criminal justice records if a request were made "solely under the CCJRA." CF, p. 109.

The district court also rejected the City's argument that if the Court interpreted the LEIA as imposing a mandate upon local governments to provide redacted video free of charge, the General Assembly's failure to fund that purported mandate rendered the mandatory language of the LEIA optional pursuant to C.R.S. § 29-1-304.5(1). The Court determined that the body-worn camera fund established in C.R.S. § 24-33.5-519(1)(a) provided funding to local governments to provide video to the public free of charge. CF, p. 113. It also ruled that the LEIA's language that local governments "shall" release video or audio

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upon payment of CCJRA fees. CF, p. 102. While the City agreed there were no material disputed facts relative to Yellow Scene's declaratory judgment claim, CF, p. 102 n.2, it denied it withheld videos from Ms. Alatorre. CF, p. 87.

recordings upon request was sufficient to override the application of C.R.S. § 29-1-304.5(1). CF, p. 114.

After the City released substantially all of the requested BWC video to Yellow Scene, the parties settled the mandamus claim. CF, pp. 199-200. The district court entered final judgment on November 21, 2024. CF, pp. 202-03. The City filed its Notice of Appeal on January 13, 2025. CF, pp. 206-29.

## SUMMARY OF ARGUMENT

The district court erred, first, by holding C.R.S. § 24-72-306(1) does not authorize a custodian to require a person who requests criminal justice records pursuant to C.R.S. § 24-31-902(2) to pay fees as a condition of release of those records. Second, after it held the City is prohibited from charging fees for time spent performing statutorily required redactions of records requested pursuant to C.R.S. § 24-31-902(2), it erred by holding that C.R.S. § 29-1-304.5(1) does not operate to render that purported mandate optional on the part of the City.

The district court held the language of C.R.S. § 24-72-306(1), that criminal justice records custodians may "assess reasonable fees . . . for the search, retrieval, and redaction of criminal justice records requested pursuant to this part 3," meant that if a requester invoked a statute other than the CCJRA, the agency is powerless to assess fees. That interpretation improperly rendered meaningless the entirety of C.R.S. § 24-72-306(3), which provides a criminal justice agency may not assess

fees in connection with criminal discovery pursuant to Colo. R. Crim. P. 16. If the "pursuant to this part 3" language in subsection (1) was intended to exclude from the scope of the fee provision records requests invoking any law outside the CCJRA, then Subsection (3) is meaningless. The "pursuant to this part 3" language is best interpreted as one of many examples in the CCJRA (and its companion statute, the Colorado Open Records Act ("CORA")) where the General Assembly expressed its intent that provisions of the CCJRA ("part 3") apply to criminal justice records as defined therein.

The City's interpretation of the CCJRA is confirmed by the legislative history of C.R.S. § 24-72-306(3). In 2008, the House of Representatives passed an amendment to C.R.S. § 24-72-306(1) to add the "pursuant to this part 3" language. When the bill reached the Senate, Subsection (3) was added, and the House concurred in that amendment. Thus, the General Assembly understood the "pursuant to this part 3" language of Subsection (1) did not exclude requests for criminal justice records invoking laws other than the CCJRA. It intended to allow criminal justice agencies to charge fees for redaction time, while protecting criminal defendants and public defenders from paying for agencies' time spent redacting documents subject to production under Colo. R. Crim. P. 16.

The district court also erred by refusing to construe the LEIA in harmony with the CCJRA. Courts must harmonize two statutes whenever possible and apply

the rule that a specific provision implicitly repeals a more general provision only to the extent there exists an irreconcilable conflict between the two. Contrary to these principles, the district court held that the existence of one irreconcilable conflict between the LEIA and the CCJRA (on an unrelated topic) meant the two statutes irreconcilably conflicted in their entirety. Reading the two statutes in harmony promotes the LEIA's goal of speedy release of audio and video recordings when someone files a complaint of peace officer misconduct because the CCJRA's remedies for arbitrary or capricious withholding of criminal justice records would apply to LEIA requests.

Also, contrary to the district court's conclusion, the body-worn camera fund established by the General Assembly did not provide funding for local governments to redact videos requested under the LEIA free of charge. Because there was no funding for the LEIA's purported mandate to local governments, C.R.S. § 29-1-304.5(1) required the district court to construe that purported mandate as optional on the part of the City. That, in turn, means the City could properly condition the release of videos requested under the LEIA upon payment of reasonable fees for time spent blurring and muting those videos.

## ARGUMENT

### I. C.R.S. § 24-72-306(1) Authorized the City to Charge Yellow Scene for Time Spent Redacting the Requested BWC Video.

#### A. Standard of Review and Preservation of Issue.

The Court reviews questions of statutory interpretation de novo. *The Gazette v. Bourgerie*, 2023 COA 37, ¶ 13, *aff'd*, 2024 CO 78. The City raised the issue of the BPD's authority to charge requesters CCJRA-authorized fees for review and redaction of criminal justice records when the requester relied upon the LEIA in its May 30, 2024 Answer Brief, CF, pp. 48-55, in its Answer to the First Amended Complaint at ¶¶ 7, 30, and 55, CF, pp. 66, 68, and 70, and at oral argument, TR (July 11, 2024), 21:1-28:12, 33:18-38:19.

### B. The District Court Erroneously Interpreted the CCJRA and the LEIA.

There is no dispute that the requested BWC videos are "criminal justice records" as defined in the CCJRA. C.R.S. § 24-72-302(4); CF, p. 104. It is also undisputed the BPD was required to redact video footage to protect substantial privacy interests of third parties pursuant to C.R.S. § 24-31-902(2)(b)(II)(A). CF, p. 4 (Complaint at ¶ 19). Moreover, because the LEIA does not authorize a criminal justice agency to remove any portion of a requested video, the BPD must perform redactions on the entirety of a video, even if the requester is interested in only a portion of that video. *See* C.R.S. § 24-31-902(2)(b)(II)(A) ("This subsection (2)(b)(II)(A) does not permit the removal of any portion of the video.")

The district court erred, first, by interpreting C.R.S. § 24-72-306(1)'s reference to "criminal justice records requested pursuant to this part 3" as excluding from the CCJRA's fee provision the processing of requests for criminal

justice records that invoked other provisions of law such as the LEIA, CF, p. 107, and second, by failing to adopt an interpretation that reconciled the CCJRA and the LEIA to the extent possible. CF, pp. 108-09.

"When interpreting a statute, our primary purpose is to ascertain and give effect to the legislature's intent. To do this, we first consider the statute's plain language." *303 Beauty Bar, LLC v. Div. of Labor Stds. & Statistics*, 2025 COA 20, ¶ 7 (citation omitted). "And we read the statute as a whole and give consistent, harmonious, and sensible effect to the *entire* statute." *Bennett v. Colo. Dep't of Revenue*, 2024 COA 97, ¶ 14 (emphasis added). "Where two legislative acts may be construed to avoid inconsistency, the court is obligated to construe them in that manner." *People v. Steen*, 2014 CO 9, ¶ 9. Only if a conflict between two statutory provisions is irreconcilable does the Court resort to construing a more specific provision as an exception to a more general provision. *Colo. Med. Soc'y v. Hickenlooper*, 2012 COA 121, ¶ 31.

The district court held the language of C.R.S. § 24-72-306(1), that a criminal justice agency "may assess reasonable fees . . . for the search, retrieval, and redaction of criminal justice records requested pursuant to this part 3," meant that if a requester invoked legal authority outside of the CCJRA as the basis for a request for criminal justice records, the request was not "pursuant to this part 3" and the criminal justice agency was powerless to assess fees. CF, pp. 108-09. It

refused to read the LEIA and CCJRA *in pari materia* because they do not cross-reference each other and because the court thought the application of C.R.S. § 24-72-306(1) would thwart the LEIA's goal of speedy release of video when someone has filed a complaint of peace officer misconduct. CF, pp. 107-09.

The district court erred both in its interpretation of the CCJRA standing alone, and by construing the LEIA's silence on the topic of fees as creating an irreconcilable conflict with CCJRA's fee-authorizing provision.

### 1. The District Court's Interpretation of the CCJRA Deprived C.R.S. § 24-72-306(3) Of Meaning or Effect.

"It is now beyond question that courts strive to avoid interpretations that would render statutory language meaningless. And we must do our utmost to give consistent, harmonious, and sensible effect to the different parts of a statutory scheme." *People v. A.S.M.*, 2022 CO 47, ¶ 22 (quotations omitted). "If separate clauses within a statute may be reconciled by one construction but would conflict under a different interpretation, the construction which results in harmony rather than inconsistency should be adopted." *In re Marriage of Ikeler*, 161 P. 3d 663, 666 (Colo. 2007); *see also Colo. Med. Soc'y*, 2012 COA 121, ¶ 42 (rejecting statutory interpretation that would render a subsection meaningless).

The district court's interpretation of C.R.S. § 24-72-306(1) improperly rendered C.R.S. § 24-72-306(3) meaningless. It should have accepted the City's interpretation of C.R.S. § 24-72-306 because that interpretation would have given

meaning and effect to both subsections. *See Ikeler*, 161 P.3d at 666; *Colo. Med. Soc'y*, 2012 COA 121, ¶ 42; *see also People v. Rau*, 2022 CO 3, ¶ 15 (court may not add nor subtract words from a statute).

C.R.S. § 24-72-306 has three subsections. Subsection (1) authorizes a criminal justice agency to "assess reasonable fees . . . for the search, retrieval, and redaction of criminal justice records requested pursuant to this part 3 and may waive fees at their discretion."[3] Subsection (3) provides: "The provisions of this section shall not apply to discovery materials that a criminal justice agency is required to provide in a criminal case pursuant to rule 16 of the Colorado rules of criminal procedure." The district court's interpretation of Subsection (1) improperly rendered Subsection (3) meaningless.

If, as Yellow Scene contended and the district court held, the General Assembly intended the "pursuant to this part 3" language in Subsection (1) to bar criminal justice agencies from assessing fees whenever a person seeking to inspect criminal justice records invokes any law other than the CCJRA, Subsection (3) would be meaningless. A criminal justice agency would, under Subsection (1), already lack authority to charge fees for "discovery materials that a criminal justice

[3] Subsection (2), which is not at issue here, addresses how a custodian of criminal justice records grants access to records when "the custodian does not have facilities for making copies, printouts, or photographs of records which the applicant has the right to inspect." C.R.S. § 24-72-306(2).

agency is required to provide in a criminal case pursuant to" Colo. R. Crim. P. 16 because that discovery would not be "requested pursuant to this part 3."

In an effort to supply Subsection (3) with meaning, Yellow Scene argued that through its exclusion of Colo. R. Crim. P. 16 discovery, the General Assembly intended to codify only one of several exceptions to the CCJRA's fee provision, but for a never-explained reason elected not to codify any other alleged exception. CF, p. 79. Even if that were the case (and there is no reason to believe it is), the General Assembly's choice to enact Subsection (3) demonstrates its understanding that Subsection (1)'s "pursuant to this part 3" language would not by itself bar a criminal justice agency from charging reasonable fees in connection with requests for criminal justice records that invoked legal authority outside the CCJRA.

The district court did not accept Yellow Scene's argument on this point, but it also did not address the City's argument that Yellow Scene's interpretation would render C.R.S. § 24-72-306(3) superfluous. *Compare* CF, pp. 53-54 (City's argument about Subsection (3)) *with* CF, pp. 107-09 (district court's ruling).

The district court was aware it needed to avoid construing statutory language as superfluous. At oral argument, it questioned whether the City's interpretation of C.R.S. § 24-72-306(1) would render Subsection (1)'s "pursuant to this part 3" language superfluous. TR (July 11, 2024) 24:5-25:8. As the City explained, the answer may be found by examining the interlocking provisions of CORA and the

CCJRA. *See Harris v. Denver Post Corp*., 123 P.3d 1166, 1170 (Colo. 2005) (CORA and CCJRA should be construed in harmony).

CORA and the CCJRA are, respectively, Parts 2 and 3 of Article 72 of Title 24 of the Colorado Revised Statutes. CORA establishes "the public policy of this state that all public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise specifically provided by law." C.R.S. § 24-72-201. It then defines "public records" as excluding (among other things) "[c]riminal justice records that are *subject to the provisions of part 3* of this article." C.R.S. § 24-72-202(b)(I) (emphasis added). Part 3, the CCJRA, declares the public policy of the state that "records of official actions, *as defined in this part 3* . . . shall be open to inspection by any person and to challenge by any person in interest, *as provided in this part 3*, and that all other records of criminal justice agencies in this state may be open for inspection *as provided in this part 3* or as otherwise specifically provided by law." C.R.S. § 24-72-301(2) (emphasis added).

In light of the repeated references in both CORA and the CCJRA to "part 3" (and "part 2"), the "pursuant to this part 3" language in C.R.S. § 24-72-306(1) is best read as specifying that the subsection applies only to requests for criminal justice records as defined in Part 3, C.R.S. § 24-72-302(4), and not to requests for "public records" identified in part 2 of that title, CORA. *See Harris*, 123 P.3d at

1172 ("[t]he legislature added this separate Part Three to Article 72, Title 24, to address criminal justice records and records of official actions of criminal justice agencies"); *see also* C.R.S. § 24-72-205(7), establishing when "a custodian of a public record requested *pursuant to this part 2*" must accept credit cards or electronic payments. [Emphasis added.]

Importantly, neither CORA nor the CCJRA requires a requester to specify legal authority supporting its request. Moreover, case law places no weight on the requester's identification of legal authority supporting its records request. Colorado courts are often called upon to resolve cases in which a requester asserts CORA applies to their request, while the custodian relies upon the CCJRA to deny inspection of certain records. *See, e.g., The Gazette v. Bourgerie*, 2024 CO 78; *Freedom Newspapers, Inc. v. Bowerman*, 739 P.2d 881 (Colo. App. 1987). The fact a requester invokes CORA does not make the CCJRA inapplicable to a request for criminal justice records. Likewise, a requester's invocation of LEIA should not be read as rendering the CCJRA inapplicable to a request for such records.

Here, the district court erred by making the application of the CCJRA contingent upon the legal authority invoked by the requester. Regardless of the label (if any) a requester puts on its request, requests for criminal justice records are requests "pursuant to this part 3" while requests for public records are "pursuant to this part 2." A request for police department BWC videos of events

that were the subject of an allegation of police misconduct is a request "pursuant to this part 3" because those videos are "criminal justice records." C.R.S. § 24-72-302(4). Thus, the criminal justice agency holding those records may charge reasonable fees for search, retrieval, and redaction. C.R.S. § 24-72-306(1). The district court improperly subtracted the entirety of C.R.S. § 24-72-306(3) from the statute. *People v. Rau*, 2022 CO 3, ¶ 15; *Colo. Med. Soc'y*, 2012 COA 121, ¶ 42.

### 2. Extrinsic Aids Confirm the City's Interpretation of C.R.S. § 24-72-306.

If the trial court believed Subsections (1) and (3) were in conflict, it should not have selected an interpretation that nullified Subsection (3) to give meaning to every word of Subsection (1). Instead, it should have looked to other factors such as "legislative history, prior law, the consequences of a particular construction, and the goal of the statutory scheme." *Ikeler*, 161 P.3d at 666-68. These factors confirm the City's interpretation is correct.

In 2004, the Court interpreted Colo. R. Crim. P. 16 in harmony with the then-existing version of C.R.S. § 24-72-306(1), holding that a criminal justice agency's authority under the CCJRA to charge fees for search, retrieval, and redaction of criminal justice records subject to Rule 16 was limited to discoverable materials, as opposed to all materials potentially subject to a defendant's subpoena. *People v. Trujillo*, 114 P.3d 27, 31 (Colo. App. 2004), *cert. denied* (Colo. 2005).

In 2008, the General Assembly amended C.R.S. § 24-72-306. HB 08-1076, 2008 Colo. Sess. Laws 428. The sequence of amendments confirms the City's interpretation of the statute. Originally intended to cap photocopying charges criminal justice agencies could charge requesters, the bill was amended in the House State, Veterans, and Military Affairs Committee to authorize criminal justice agencies to charge for time spent redacting criminal justice records. Journal of the House of Representatives State of Colorado: Sixty-Sixth General Assembly Second Regular Session, p. 118 (January 23, 2008).[4] The "pursuant to this part 3" language was added via amendment on the House floor and was sent to the Senate with that language included. Journal of the House of Representatives State of Colorado: Sixty-Sixth General Assembly Second Regular Session, p. 395 (Feb. 14, 2008)..

The Senate Judiciary Committee approved an amendment to add Subsection (3) to C.R.S. § 24-72-306. Journal of the Senate State of Colorado: Sixty-Sixth General Assembly Second Regular Session, p. 529 (March 11, 2008).[5] The bill, as amended, passed the Senate on second reading on March 20, 2008, *id*., p. 627, and third reading on March 24, 2008. *Id*., pp. 640-41. The House concurred with the

[4] Journal of the House of Representatives State of Colorado: Sixty-sixth General Assembly Second Regular Session at Denver, the State Capitol (accessed April 14, 2025.

[5] Journal of the Senate State of Colorado: Sixty-Sixth General Assembly Second Regular Session at Denver, the State Capitol (accessed April 14, 2025).

Senate amendments, Journal of the House of Representatives State of Colorado: Sixty-Sixth General Assembly Second Regular Session, pp. 1029-30 (March 28, 2008), and the Governor signed the bill into law on April 14, 2008. HB 08-1076, 2008 Colo. Sess. Laws 428.

The General Assembly could not have believed the House's addition of the "pursuant to this part 3" language served to exclude requests relying on legal authority other than the CCJRA from the application of the statute, because when the bill went to the Senate, Subsection (3) was added, and the House concurred with that amendment. Moreover, the General Assembly was presumptively aware of the Court's decision in *Trujillo*, 114 P.3d at 31, and evidently intended to supersede the result of that case by carving out Colo. R. Crim. P. 16 discovery from the scope of the fee provision.[6] *See Szaloczi v. John R. Behrmann Revocable Trust*, 90 P.3d 835, 839 (Colo. 2004) ("[t]he General Assembly is presumed to be cognizant of prior decisional law when enacting or amending statutes") (quotation omitted).

The consequences of the district court's construction, and the overall scheme of the CCJRA, also support the City's interpretation. The principal purpose of HB

[6] While C.R.S. § 24-72-306 as interpreted by the Court in *Trujillo* was amended in 2008, that case is still good law for the proposition that the CCJRA should be interpreted in harmony with other laws governing disclosure of criminal justice records. 114 P.3d at 31.

08-1076 was to cap charges criminal justice agencies could impose on requesters for copies of criminal justice records. *See* Journal of the House of Representatives State of Colorado: Sixty-Sixth General Assembly Second Regular Session, p. 118 (January 23, 2008). Because the photocopy charge cap would affect criminal justice agencies' budgets, the General Assembly also authorized those agencies to charge for time spent redacting requested records. *See id*. Then, to avoid burdening criminal defendants and public defenders with additional costs for time a criminal justice agency spent redacting records to be produced in criminal discovery, it carved out Colo. R. Crim P. 16 discovery by adding Subsection (3), thus superseding the result of *Trujillo*, 114 P.3d at 31. The manifest intent of the General Assembly was to protect criminal defendants and public defenders from excessive costs while also allowing criminal justice agencies to pass along a portion of the costs incurred redacting criminal justice records in all other contexts.

### 3. The District Court Erroneously Failed To Harmonize the LEIA With The CCJRA.

"Where two legislative acts may be construed to avoid inconsistency, the court is obligated to construe them in that manner." *People v. Steen*, 2014 CO 9, ¶ 9; *see also Harris*, 123 P.3d at 1170. This rule is sometimes referred to by the Latin phrase *in pari materia*, "[i]n other words, such statutes should be construed together and reconciled if possible, so as to give effect to each statute." *People v. Carrillo*, 2013 COA 3, ¶ 13. Moreover, "[w]here two statutes purport to regulate

the same conduct, the more specific preempts the general one. But, because statutory repeals by implication are disfavored, we will favor a construction that avoids such a conflict." *People v. Fogarty*, 126 P.3d 238, 240 (Colo. App. 2005); *see also* C.R.S. § 2-4-205 ("If a general provision conflicts with a special or local provision, it shall be construed, if possible, so that effect is given to both.")

The district court expressly rejected the City's reliance on the *in pari materia* doctrine, holding that the doctrine does not apply in the absence of "a cross-reference or specific incorporation." CF, p. 108, *citing People v. Jones*, 2020 CO 45, ¶ 60. This was error; *Jones* itself says "[*i*]*n pari materia* is a rule of statutory construction which requires that statutes *relating to the same subject matter* be construed together in order to gather the legislature's intent from the whole of the enactments." *Id*. at ¶ 59 (*quoting Walgreen Co. v. Charnes*, 819 P.2d 1039, 1046 n.6 (Colo. 1991) (emphasis added)); *see also People v. Steen*, 2014 CO 9, ¶ 9 (any two legislative acts must be construed in harmony).

In *Jones*, the Supreme Court declined to read the statute defining homicide i*n pari materia* with the statute defining child abuse because "[t]hey cover different subjects and different harms." 2020 CO 45, ¶ 60. The Supreme Court mentioned the absence of any cross-reference or incorporation between the two statutes only to further support its conclusion that the definition of "person" in the homicide and unlawful termination of pregnancy statutes does not apply to the

child abuse statute, which does not contain such a definition. *Id*. (*citing People v. Thornton*, 929 P.2d 729, 733-34 (Colo. 1996)).

The LEIA and the CCJRA both govern the terms and conditions of release of criminal justice records to the public and regulate the same conduct: requesting certain video and audio recordings from a criminal justice agency, and the agency's response to such requests. Where there exists an irreconcilable conflict between provisions of the LEIA and the CCJRA, the LEIA may indeed control as the more specific and more recently enacted statute. C.R.S. § 2-4-205. But "[p]reemption results *only to the extent* there is a manifest inconsistency between two statutes attempting to regulate the same conduct because statutory repeals by implication are disfavored." *Crowe v. Tull*, 126 P.3d 196, 206 (Colo. 2006) (quotation omitted and emphasis added).

There is no manifest inconsistency between C.R.S. § 24-72-306(1) and C.R.S. § 24-31-902(2). The LEIA is silent on the custodian's authority to charge fees. The LEIA did not amend the definition of "criminal justice record" in C.R.S. § 24-72-302(4) to exclude audio and video recordings of events that are the subject of complaints of police misconduct. Nor did it amend C.R.S. § 24-72-306 to add a carve-out from the fee provision comparable to the one that exists for Colo. R. Crim. P. 16 discovery.

The LEIA and the CCJRA must be reconciled as much as possible, and any implicit repeal of the CCJRA must be limited to provisions that are manifestly inconsistent with the LEIA. *See Crowe*, 126 P.3d at 206; C.R.S. § 2-4-205. The LEIA contains no provision that could implicitly repeal C.R.S. § 24-72-306(1) as it applies to charges for retrieval and redaction of BWC recordings. The LEIA does not expressly authorize or prohibit a custodian from charging fees for time spent performing statutorily required redaction of audio or video requested under it. The two statutes read in harmony indicate legislative intent that a requester make timely payment for the statutorily required blurring and muting of BWC video. TR (July 11, 2024) 25:9-22. As the City noted in oral argument, *see id*., CORA contains both mandatory deadlines for document production, C.R.S. § 24-72-203(3)(b), and authority for records custodians to charge fees for research and retrieval, C.R.S. § 24-72-205(6), yet no court has held these provisions conflict, much less irreconcilably so.

None of the district court's justifications for excluding records requests that invoke the LEIA from the application of the CCJRA's fee provision withstand scrutiny. First, it cited *Mook v. Bd. Of County Comm'rs of Summit Cty.*, 2020 CO 12, ¶ 35, for the proposition that "just as important as what the statute says is what the statute does not say." CF, p. 107. Under that reading of *Mook*, it could just as easily be said it is important the LEIA contains no language amending C.R.S. § 24-

72-306 to exclude LEIA requests from the scope of that provision, or one prohibiting a criminal justice agency from charging fees to requesters for processing audio or video recordings for release under C.R.S. § 24-31-902(2).

*Mook*, however, did not involve the need to reconcile the terms of different statutes. The question presented was whether two parcels of land separated by a strip owned by a homeowners' association were "contiguous" for purposes of C.R.S. § 39-1-102(14.4)(a), which governs the classification of land as "residential" for property tax purposes. 2020 CO 12, ¶¶ 7, 29. The taxpayer, who sought to reclassify a lot from "vacant" to "residential," cited four unrelated statutes where the term "contiguous" was defined more broadly than the dictionary definition of that term. *Id*. at ¶ 33. In the quoted holding, the Supreme Court said the absence of a definition of "contiguous" in C.R.S. § 39-1-102(14.4)(a) meant the General Assembly intended the dictionary definition of "contiguous" to apply to that statute, not the special definitions found in other statutes that applied to different topics. *Mook*, 2020 CO 12, ¶¶ 34-35. *Mook* does not support interpreting the LEIA's silence as manifesting an intent to prohibit criminal justice agencies from charging for staff time spent redacting BWC video. Repeals by implication remain disfavored, and because the LEIA is silent on fees, there exists no provision that could give rise to an irreconcilable conflict between the CCJRA and the LEIA on this point. *See Crowe*, 126 P.3d at 206; C.R.S. § 2-4-205.

The district court seized on one truly irreconcilable conflict between the LEIA and the CCJRA to leap to the conclusion that *no* part of the CCJRA may be read in harmony with the LEIA. CF, p. 108. At oral argument, the City observed there exists a true conflict between the CCJRA's provision granting the custodian of records discretion whether to release a criminal justice record, C.R.S. § 24-72-304(1), and the LEIA's provision that eliminates that discretion when a complaint of peace officer misconduct has been filed and a requester seeks audio and video recordings of the incident, C.R.S. § 24-31-902(2)(a). TR (July 11, 2024) 36:25-37:9. The CCJRA's grant of discretion to withhold criminal justice records cannot coexist with the language of the LEIA removing discretion to withhold audio and video recordings subject to that statute. Therefore, on that point only, the LEIA controls as the more specific and more recent statute. *See Crowe*, 126 P.3d at 206.

It does not follow that the *entirety* of the CCJRA is in irreconcilable conflict with the LEIA. Only those provisions of the CCJRA irreconcilably in conflict with the LEIA are implicitly repealed. *See id*. The existence of a conflict between the discretion given custodians in the CCJRA whether to release criminal justice records, and the LEIA's requirement that certain audio and video recordings be released, does not mean that the two statutes are entirely separate, as the district court ruled. It erred by failing to interpret the CCJRA and LEIA in harmony to the extent possible. *See id*.

Moreover, the district court's conclusion that the LEIA and the CCJRA operate independently from each other frustrates the purpose it saw in the LEIA of making video and audio recordings of an incident of alleged police misconduct promptly available. CF, p. 110. This case illustrates the problem. Under the CCJRA, a requester can require the custodian to provide a written statement of the grounds for denial of a records request. C.R.S. § 24-72-305(6). A person denied access to a criminal justice record "covered by this part 3" may apply to the district court for an order to show cause why inspection should not be permitted, and "[a] hearing on such application shall be held at the earliest practical time." C.R.S. § 24-72-305(7). If the custodian's denial was arbitrary or capricious, the district court has discretion to award attorneys' fees and costs to the requester and to impose a financial penalty on the custodian who withheld the record. *Id*.

But if LEIA requests are not at all subject to the CCJRA, then a party must proceed as plaintiffs did here: by way of a complaint for declaratory judgment and mandamus relief, with no prospect of recovering attorneys' fees if the custodian's denial was arbitrary or capricious. While declaratory judgment actions may be advanced on the calendar pursuant to C.R.C.P. 57(m), as was done in this case, there is no parallel provision for mandamus claims. C.R.C.P. 106(a)(2). The result is that a requester seeking documents under the LEIA could wait months while a court resolves its complaint for mandamus relief ordering release of disputed

records. *See* CF, p. 95 (setting trial for March 31, 2025, nearly a year after the complaint was filed). It is far more reasonable to infer that the General Assembly intended the CCJRA's enforcement provisions (and the CCJRA in general) to apply to LEIA requests. Both statutes apply to requests for audio and video recordings of episodes of alleged police misconduct held by a criminal justice agency, and the CCJRA provides for speedy review of denials of records requests with possible awards of attorneys' fees and penalties against custodians who arbitrarily and capriciously withhold records.

Another problem with the district court's interpretation, highlighted by the City in its Answer Brief (CF, p. 51) is that if the CCJRA does not apply to LEIA requests, then an unscrupulous person could file a complaint of police misconduct, obtain audio and video free of charge, then use those recordings to solicit business notwithstanding C.R.S. § 24-72-305.5(1)'s requirement that a custodian deny inspection to any person who fails to affirm in writing they will not use requested records for direct solicitation of business for pecuniary gain. The potential for abuse is clear – for example, an attorney/requester could use recordings obtained via the LEIA to solicit a potential client to retain them to file a lawsuit. Nothing in the LEIA suggests the General Assembly intended such a result.

The district court's interpretation incentivizes requesters to file baseless complaints of police misconduct, then use the existence of that complaint to obtain

extensive audio and video recordings of an incident free of charge. The LEIA does not impose any requirement that a complaint of peace officer misconduct be based on personal knowledge, be affirmed under penalty of perjury by the complaining party as true and correct, or even that it not be frivolous or groundless. C.R.S. § 24-31-902(2)(a).

Finally, the district court's interpretation puts criminal justice agencies in an untenable position. It makes the criminal justice agency's ability to charge fees entirely dependent upon the formula of words used by the requester, CF, p. 109, notwithstanding that neither the CCJRA nor the LEIA (nor CORA) requires a requesting party to specify any legal authority supporting its request or places any weight on the legal authority a requester may invoke. *See The Gazette*, 2024 CO 78, ¶¶ 1-4. It will not always be easy to determine whether a request is made pursuant to the CCJRA or the LEIA; for example, the request in this case invoked the LEIA but also certified pursuant to the CCJRA that the records would not be used for solicitation of business. CF, pp. 63-64. While the district court determined that request was made pursuant to the LEIA (CF, p. 109), more challenging scenarios are not hard to foresee. Someone may ask for criminal justice records in audio or video format without citing any legal authority at all. Someone may request records regarding an incident as to which a complaint of police misconduct had been filed but not mention the fact of the complaint in their request. The

requester might not even know such a complaint had been filed. The district court's interpretation of the statute provides no guidance as to how the statutes would apply in such circumstances. The better rule is that the legal authority, if any, a requester invokes in a records request is irrelevant to the question which statute or statutes apply to a given request. *See The Gazette*, 2024 CO 78.

The Court should reverse the district court's judgment in favor of Yellow Scene, and remand with instructions to enter judgment in favor of the City, declaring that pursuant to C.R.S. § 24-72-306(1), the City may charge persons who request audio and video recordings releasable under C.R.S. § 24-31-902(2) for time spent for search, retrieval, and redaction of those records.

## II. The District Court Misconstrued and Misapplied C.R.S. § 29-1-304.5(1).

### A. Standard of Review and Preservation of Issue.

The application of C.R.S. § 29-1-304.5(1) to other statutes presents a question of law reviewed de novo. *Gessler v. Doty*, 2012 COA 4, ¶ 6. The City argued C.R.S. § 29-1-304.5(1) applied to render optional the LEIA's purported mandate that local governments provide redacted audio and video recordings free of charge in its Answer Brief, CF, pp. 56-57, and at oral argument, TR (July 11, 2024) 28:13-31:20.

### B. Under the District Court's Interpretation, C.R.S. § 24-31-902(2) Imposes An Unfunded Mandate on Local Governments.

The district court ruled the General Assembly provided funding to local governments for time spent blurring and muting videos for public release via the body-worn camera grant program established in C.R.S. § 24-33.5-519(1)(a). CF, p. 113. It apparently believed the language of that statute providing that grants would be available "to purchase body-worn cameras, for associated data retention and management costs, and to train law enforcement officers on the use of body-worn cameras" was intended to cover ongoing costs for local governments to provide blurred and muted video free of charge. *Id*. (*quoting* C.R.S. § 24-33.5-519(1)(a)).

The body-worn camera grant program was not intended to cover costs associated with processing audio and video recordings for release to requesters. The LEIA cross-references C.R.S. § 24-33.5-519, but only in Subsection (1), which says local law enforcement agencies "shall provide body-worn cameras for each peace officer of the law enforcement agency who interacts with members of the public. Law enforcement agencies may seek funding pursuant to § 24-33.5-519." C.R.S. § 24-31-902(1)(a)(I). By the plain language of the statute, state funding was available to local governments only for providing body-worn cameras to peace officers. There is no comparable reference to state funding in C.R.S. § 24-31-902(2), the subsection regarding release of audio and video recordings of incidents of alleged peace officer misconduct that is at issue in this case.

Moreover, C.R.S. § 24-31-902(2) applies both to audio and video recordings, while C.R.S. § 24-33.5-519 only provides funding for body-worn cameras and is cross-referenced in C.R.S. § 24-31-902(1) which says nothing about audio recording devices. The body-worn camera fund could not have been, and was not, intended to fund local governments for staff time spent muting audio recordings.

Even if C.R.S. § 24-31-902(1) did not make it clear the funding in C.R.S. § 24-33.5-519(1)(a) is intended only to subsidize a local government's provision of body-worn cameras to its peace officers, the reference to "data retention and management costs" in the latter statute is not so expansive as to cover ongoing expenses for blurring and muting audio recordings and BWC video pursuant to C.R.S. § 24-31-902(2). When the meaning of a word is in doubt, it can be defined by reference to other words associated with it. *St. Vrain Valley Sch. Dist. RE-1J v. A.R.L.*, 2014 CO 33, ¶ 22. The most natural reading of the phrase "data retention and management costs" is that local governments were receiving reimbursement for retaining data (keeping it in the system) and managing that data (organizing it for future access). All of this points to the conclusion the body-worn camera fund was not intended to reimburse local governments for the expense of complying with C.R.S. § 24-31-902(2).

Moreover, even if the body-worn camera grant program included funding for blurring and muting videos for release under C.R.S. § 24-31-902(2), there have been no appropriations to that fund since 2022. *See* HB 21-1250, § 18, Colo. Sess. Laws 2021, ch. 458, pp. 3068-69. As of 2024 when Yellow Scene submitted its request for BWC video, funding under the body-worn camera grant program was no longer available.

### C. The District Court Misinterpreted and Misapplied C.R.S. § 29-1-304.5(1).

The district court committed two errors in its interpretation and application of C.R.S. § 29-1-304.5(1). First, by drawing a distinction between "unfunded" and "underfunded" mandates, neither of which term appears in the statute, and holding the statute applies only to the former, it failed to interpret the statute according to its plain language. *See 303 Beauty Bar LLC*, 2025 COA 20, ¶ 7. Next, it chose an interpretation of C.R.S. § 29-1-304.5(1) that nullified that statute in its entirety. *See People v. A.S.M.*, 2022 CO 47, ¶ 22. Faced with a question regarding application of C.R.S. § 29-1-304.5(1) to C.R.S. § 24-31-902(2) as interpreted by the district court, it should have harmonized them and given meaning to both. *See People v. Steen*, 2014 CO 9, ¶ 9.

C.R.S. § 29-1-304.5(1) provides:

> No new state mandate or an increase in the level of service for an existing state mandate beyond the existing level of service required by law shall be mandated by the general assembly or any state agency on

> any local government unless the state provides *additional moneys to reimburse such local government for the costs of such new state mandate* or such increased level of service. *In the event that such additional moneys for reimbursement are not provided, such mandate or increased level of service for an existing state mandate shall be optional on the part of the local government.*

[Emphasis added.] Although C.R.S. § 29-1-304.5(1) is colloquially referred to as the "unfunded mandate statute," the word "unfunded" does not appear in it. Nor does the word "underfunded." According to the plain language of the statute, it applies when the state imposes a new mandate on local governments but does not provide "additional moneys to reimburse such local government *for the costs* of such new state mandate," not merely some portion of the costs. *Id*. (emphasis added). If the state does not reimburse local governments "for the costs" of a newly mandated state service, then the mandate "shall be optional on the part of the local government." *Id.* The General Assembly's intent is plain – courts should construe mandatory language as optional when a statute purports to require a local government to provide a service, but the General Assembly does not appropriate funds adequate to cover the local government's costs of implementing that mandate.

C.R.S. § 29-1-304.5(1) is like C.R.S. § 2-4-205 and other provisions in Article 4 of Title 2 of the Colorado Revised Statutes – it tells courts what the General Assembly intends when it enacts a given statute. It represents the General Assembly's recognition that, through haste or oversight, it might sometimes

mandate that a local government provide a new service, or an increased level of service, without providing funds to reimburse local governments for the cost of that service. In such a case, C.R.S. § 29-1-304.5(1) advises courts to construe mandatory language as optional on the part of the local government. Through this statute, the General Assembly avoids trampling on the authority of elected local government officials to make budget decisions for their jurisdictions, and also avoids potential conflicts with Colo. Const. art. X, § 20(9), which provides that "a local district may reduce or end its subsidy to any program delegated to it by the general assembly for administration."[7]

The district court held that applying C.R.S. § 29-1-304.5(1) to the supposed requirement that local governments provide blurred and muted audio and video recordings of incidents of alleged peace officer misconduct free of charge would produce an absurd result because C.R.S. § 24-31-902(2)(a) says a criminal justice agency "shall" release audio and video recordings upon request. CF, p. 114. This rationale would deprive C.R.S. § 29-1-304.5 of any meaning or effect. By its plain language, the statute applies to "any legal *requirement* established by statutory provision or administrative rule or regulation which *requires* any local government to undertake a specific activity or to provide a specific service which satisfies

[7] The term "district," as used in this constitutional provision, includes local governments, except for "enterprises," as those terms are defined in Colo. Const. art. X, § 20(2).

minimum state standards." C.R.S. § 29-1-304.5(3)(d) (emphasis added); *see also Gessler*, 2012 COA 4, ¶ 3 ("[a] 'state mandate,' generally, is a legal requirement established by statute or rule which requires a local government to provide a service or undertake an activity according to state standards.")

The district court's reasoning, that applying C.R.S. § 29-1-304.5 to a statute providing a local government "shall" provide a service produces an absurd result (CF, p. 114), would nullify the application of C.R.S. § 29-1-304.5 in all cases. By its terms, C.R.S. § 29-1-304.5 applies only to statutes that require a local government to provide a new service, or increase an existing level of service, when the General Assembly does not appropriate adequate funding to the local government. It is expressly intended to apply when the General Assembly tells local governments they "shall" provide a service that will cost those governments money, then fails to appropriate money to the local governments to cover the costs of the new requirement. The district court's interpretation should be rejected because it would deprive C.R.S. § 29-1-304.5 of any meaning or effect. *People v. A.S.M.*, 2022 CO 47, ¶ 22.

Courts "presume that the General Assembly knows the pre-existing law when it adopts new legislation or makes amendments to prior acts." *Leonard v. McMorris*, 63 P.3d 323, 331 (Colo. 2003). When the General Assembly enacted C.R.S. § 24-31-902(2), it knew that C.R.S. § 29-1-304.5 told courts to interpret

statutory language mandating a local government to provide a service as optional on the part of the local government if it did not also provide funding for that mandate.

The General Assembly never provided any funding for local governments to blur and mute audio and video recordings and provide them to requesters free of charge, and certainly not in 2024 when Yellow Scene submitted its request. Thus, once the district court determined the City was prohibited from charging fees under C.R.S. § 24-72-306(1) for time spent processing requests for audio or video recordings sought under C.R.S. § 24-31-902(2), it should have held that pursuant to C.R.S. § 29-1-304.5, that purported statutory mandate must be interpreted as optional on the part of the City. In turn, that means the City could lawfully condition release of the requested BWC video on the payment of fees for time spent retrieving and redacting those videos. This result is not absurd; it is required by the plain language of C.R.S. § 29-1-304.5.

*Gessler*, 2012 COA 4, does not suggest that C.R.S. § 29-1-304.5 never applies to a statute providing that a local government "shall" provide a service. Rather, it illustrates the proper application of interpretive rules when two statutes are in irreconcilable conflict. The question in *Gessler* was whether counties or the state should bear the cost of providing ballot drop-off boxes at polling places pursuant to C.R.S. § 1-8-113(1)(a) (2011). *Gessler*, 2012 COA 4, ¶¶ 1-2. Arapahoe

County maintained that, because the General Assembly did not provide funding for the increased costs of providing additional ballot drop-off boxes, C.R.S. § 29-1-304.5 applied, and the County could treat the statutory mandate as optional and refuse to implement it. *Gessler*, 2012 COA 4, ¶ 3.

At the time, however, C.R.S. § 1-5-505(1) (2011) provided that "*the cost* of conducting general, primary, and congressional vacancy elections….*shall be a county charge*." *Gessler*, 2012 COA 4, ¶ 16 (emphasis and ellipses by the Court). Because C.R.S. § 1-5-505(1) (2011) expressly required the county to bear the costs of conducting elections, while C.R.S. § 29-1-304.5 provides that unfunded state mandates to local governments shall be construed as optional, the Court of Appeals held they could not be harmonized. *Gessler*, 2012 COA 4, ¶¶ 17-18. It held that C.R.S. § 1-5-505(1) (2011) was more specific than the later-enacted C.R.S. § 29-1-304.5 because it "pertain[ed] only to election funding." *Gessler*, 2012 COA 4, ¶ 20. Applying the general rule that "[a]bsent clear and unmistakeable legislative intent to the contrary, a general statute will not be deemed to have repealed an existing specific statute," *id*. at ¶ 22, the specific funding provision found in C.R.S. § 1-5-505(1) (2011) prevailed over the more generally applicable C.R.S. § 29-1-304.5. *Gessler*, 2012 COA 4, ¶ 26.

The difference between *Gessler* and this case is that in *Gessler*, C.R.S. § 1-5-505(1) (2011) expressly addressed "election funding," presenting an

irreconcilable conflict with C.R.S. § 29-1-304.5. *Gessler*, 2012 COA 4, ¶ 20. The election statute said the "cost of conducting . . . elections . . . shall be a county charge." *Id*., ¶ 16 (*quoting* C.R.S. § 1-5-505(1) (2011)). In contrast, here the LEIA is silent on who must bear the charges for time spent performing redactions required by statute. It merely says a local government "shall" provide audio and video recordings of an incident of alleged police misconduct. CF, p. 111 (*citing* C.R.S. § 24-31-902(2)(a)). So interpreted, the LEIA falls squarely within the plain language of C.R.S. § 29-1-304.5(1). The district court erred by failing to harmonize C.R.S. § 29-1-304.5(1) with C.R.S. § 24-31-902(2) as it interpreted that statute. *People v. Steen*, 2014 CO 9, ¶ 9; *see also Gessler*, 2012 COA 4, ¶ 20.

If the Court affirms the district court's ruling as to how C.R.S. § 24-31-902(2) interacts with C.R.S. § 24-72-306(1), it nevertheless should reverse the district court's judgment and remand with instructions to enter judgment in favor of the City, declaring that pursuant to C.R.S. § 29-1-304.5(1), the City was entitled to treat C.R.S. § 24-31-902(2) as optional, and therefore, could lawfully condition release of the requested BWC video upon payment of reasonable fees for search, retrieval, and redaction.

## CONCLUSION

Appellant City of Boulder respectfully requests that the Court reverse the district court's judgment and remand the case with instructions to enter judgment

in favor of the City, declaring that pursuant to C.R.S. § 24-72-306(1), the City may charge persons who request audio and video recordings releasable under C.R.S. § 24-31-902(2) for time spent for search, retrieval, and redaction of those records. In the alternative, Appellant respectfully requests that the Court reverse the district court's judgment and remand the case with instructions to enter judgment in favor of the City, declaring that pursuant to C.R.S. § 29-1-304.5(1), the City was entitled to treat the purported requirement of C.R.S. § 24-31-902(2) to provide blurred and muted video as optional, and therefore, could lawfully condition release of the requested BWC video upon payment of reasonable fees for search, retrieval, and redaction.

Respectfully submitted this 23rd day of April 2025.

OFFICE OF THE CITY ATTORNEY

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## CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April 2025, a true and correct copy of the foregoing **OPENING BRIEF** was filed and served via the Colorado Courts E-Filing System or via electronic email to counsel of record appearing herein.

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