



**DATE:** January 11, 2016  
**TO:** City Council  
**FROM:** City Attorney's Office  
**SUBJECT:** Case No. 15-cv-02619; *Amaro Montemayor v. City of Colorado Springs, David Lethbridge, individually, and Corey Farkas, individually*; In the United States District Court for the District of Colorado (the "Lawsuit")

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The purpose of this Memorandum is to apprise you of the facts underlying the above-referenced Lawsuit as you consider the claims against the individually named Defendants, David Lethbridge and Corey Farkas.

#### NATURE OF THE CASE

Plaintiff, Amaro Montemayor, was hired by the City effective October 30, 2000, and resigned effective March 29, 2014. During his employment, Mr. Montemayor held various positions in the Streets Division of the Public Works Department, including Skilled Maintenance Supervisor, Street Operations Manager, and Co-Acting Streets Manager. In October 2013, Mr. Montemayor was involuntarily demoted to Environment Health/Safety Coordinator, a position in the Engineering Division of the Public Works Department. Shortly before his resignation and at his request, Mr. Montemayor was transferred within the Engineering Division to the position of Lead Engineering Inspector.

In the Lawsuit, Montemayor asserts employment discrimination and retaliation claims against the City for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2 and -3, and a deprivation of rights claim in accordance with 42 U.S.C. §§ 1981 and 1983. Mr. Montemayor alleges that the City discriminated against him based on his color/national origin (Mexican-American/Hispanic) and retaliated against him for participating in protected activity.

Mr. Montemayor also alleges that Defendants David Lethbridge, former Interim Public Works Director, and Corey Farkas, Streets Manager, are individually liable for their discriminatory and retaliatory actions. Mr. Montemayor specifically asserts claims against Messrs. Lethbridge and Farkas under 42 U.S.C. §§ 1981 and 1983.

Prior to filing his Complaint in the Lawsuit, Mr. Montemayor filed an original and amended Charge of Discrimination with the EEOC in November 2013 and December

2014, respectively, alleging similar allegations as are set forth in the Lawsuit. The EEOC failed to conclude its investigation within 180 days; thus, Mr. Montemayor requested the EEOC's issuance of a Right to Sue Notice. The EEOC issued a Right to Sue Notice to Mr. Montemayor on September 2, 2015, and he subsequently filed his Complaint in the Lawsuit on December 1, 2015. Defendants' responsive pleadings are due February 1, 2016.

**RECOMMENDATION**

The Civil Action Investigation Committee met on December 14, 2015, and voted unanimously in favor of recommending that the City represent the individually named Defendants, David Lethbridge and Corey Farkas, in the Lawsuit as required by the Colorado Governmental Immunity Act, Colo. Rev. Stat. § 24-10-110, and City Code § 1.4.302, reserving the City's right to not pay any amount of punitive damages.

Sincerely,

FOR THE CITY ATTORNEY

By: Lindsay Rose  
Lindsay Rose  
Senior Attorney – Employment Division