

# **REQUEST FOR PROPOSAL**

## **ASSESSMENT OF THE THREE- DIMENSIONAL STRUCTURE OF RIPARIAN HABITAT ALONG FOOTHILLS AND PLAINS STREAMS**

**RFP #6667-17**



**SUBMITTAL DUE DATE  
JUNE 29, 2017  
10:00 A.M.**

**BOULDER COUNTY PURCHASING**

**2025 14<sup>TH</sup> STREET  
BOULDER CO 80302**

**[Purchasing@bouldercounty.org](mailto:Purchasing@bouldercounty.org)**

## **REQUEST FOR PROPOSAL**

### **ASSESSMENT OF THE THREE-DIMENSIONAL STRUCTURE OF RIPARIAN HABITAT ALONG FOOTHILLS AND PLAINS STREAMS RFP #6667-17**

#### **PROJECT:**

The Boulder County Parks and Open Space Department is seeking proposals from qualified and experienced consultants for assessing the three-dimensional structure and composition of riparian habitat. The work will focus on assessing habitat conditions suitable to support the federally threatened Preble's meadow jumping mouse (PMJM) in flood damage riparian corridors. The assessment will be used to inform a flood recovery plan that focuses on the restoration of a self-sustaining and ecologically functioning riparian ecosystem that supports water quality, increased flood resiliency, stream stability, and natural amenities. The work shall include, but is not limited to evaluating and processing existing data (LiDAR, etc.); acquiring data through remote sensing or existing sources (multispectral imaging, etc.); validating/verifying the data with field observations using terrestrial laser scanning and/or other suitable methods (i.e. field vegetation surveys that include shrub and tree identification and/or classification); a final report that includes assessment of the current habitat structure, conditions and recommendations for improving habitat quality and connectivity; and mapping of the riparian corridors displaying habitat structure. The project area will include all of the watersheds in Boulder County that fall within PMJM habitat range (i.e. all waterways below 7,600').

The funding for the project is being provided through the U.S. Department of Housing and Urban Development's Community Development Block Grant – Disaster Recovery Program (CDBG-DR) administered by the Colorado Department of Local Affairs (DOLA). The funding for this project is \$139,500.00. The successful proposer shall adhere to all HUD CDBG-DR conditions and regulations as well as applicable regulations included in the DOLA/Boulder County grant agreement CDBG-DR P16-004 CMS #92252 CE F7DR2P16004 Boulder County Recovery Planning Projects (3).

The successful proposer shall complete and submit to BCPOS all final reports and maps on or before **Friday, December 15, 2017**.

#### **CONTRACT LANGUAGE:**

The successful bidder will be required to enter into a Contract for Services and meet all insurance requirements prior to any work beginning. The successful proposer shall execute the CDBG-DR Addendum, Attachment E, as part of any contract with the county, and comply with all CDBG-DR requirements set forth in that addendum.

The work to be performed under any contract issued as a result of this solicitation is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 70u (Section 3) which states that: 1) Employment, training, contracting and other economic opportunities generated by HUD assistance shall, to the greatest extent feasible, be directed to low and very low-income persons residing within the project area; and 2), Contracts for work in connection with the project be awarded to businesses which are located in, or owned substantially by persons residing in the project area. All CDBG-DR funded projects must, to the greatest extent feasible, comply with Section 3 when contracting for professional services. Consultant selection will be made on the basis of a balance of adherence to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 70u (Section 3), qualifications and the cost of proposed services that provide best value to the project.

The selected consultant will comply with all state and local licensing requirements, including but not limited to, filing the State of Colorado Statement of Foreign Entity Authority paperwork, if the consultant is not a Colorado company.

Consultant shall be authorized to do business in the State of Colorado and shall provide the County with a current Certificate of Good Standing evidencing such authorization. Furthermore, Consultant shall be responsible for all applicable sales and employment taxes.

All invoices submitted to Boulder County must contain sufficient information detailing expenses. Invoices shall be submitted on company letterhead and include, but not limited to, depending on activity completed, project name, date(s), description of work performed, quantity of materials purchased, if applicable, number of material units purchased, if applicable, rate per hour, number of hours worked, mileage, mileage rate, administrative fees and complete site address of the project as awarded by the County.

Boulder County (County) is an Equal Opportunity Employer and no otherwise qualified individual shall be subject to discrimination on the basis of race, color, religion, creed, national origin, ancestry, sex, age, sexual orientation (incl. transgender status), physical or mental disability, marriage to a co-worker and retaliation for engaging in protected activity (opposing a discriminatory practice or participating in an employment discrimination proceeding) in any phase of employment for this position.

**SAM.GOV REGISTRATION:**

Consultant is required to provide a copy of their business' registration in sam.gov with proposal.

**DUNS NUMBER:**

Consultant is required to provide a copy of their business' DUNS number with proposal.

**W-9 REQUIREMENT:**

Provide a copy of your business's W-9 with your proposal.

**PRE-BID MEETING:**

A Pre-Bid meeting is not scheduled for this Project.

**ATTACHMENTS:**

The following documents are part of this RFP:

1. RFP #6667-17 Document
2. Attachment A: CDBG-DR Grant Agreement
3. Attachment B: CDBG-DR Section 3
4. Attachment C: Map of LAS Tiles
5. Attachment D: Sample Contract
6. Attachment E: CDBG-DR Addendum
7. Attachment F: Boulder County Metadata Standards

**INSURANCE REQUIREMENTS:**

General Liability	\$1,000,000 Each Occurrence \$2,000,000 General Aggregate \$2,000,000 Products Completed Operations Aggregate
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Automobile Liability	\$1,000,000 Each Accident *Including Hired & Non-Owned Auto
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Worker's Compensation and Employer's Liability	Statutory limits
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Professional Liability or Errors and Omissions

\$1,000,000 Per Loss

\$1,000,000 Aggregate

Coverage maintained or extended discovery period for 2 years

Note that the above insurance amounts are the minimum required for this project. Proof of current insurance must be provided with your proposal in the form of a sample certificate or your proposal will be deemed non-responsive. If you require a waiver of insurance requirements (e.g. Workers' Compensation and sole proprietorships) you may request one in your response with an explanation.

New certificates will be requested if the contract process takes more than thirty (30) days after an award.

Additionally, the successful bidder will be required to comply with the State's insurance requirements as specified in the CDBG-DR Grant Agreement.

**WRITTEN INQUIRIES:**

All inquiries regarding this RFP shall be submitted via email to the Boulder County Purchasing Office at [purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org) on or before **10:00 a.m. JUNE 22, 2017**. A response from the County to all inquiries shall be posted and sent via email no later than **10:00 a.m. JUNE 27, 2017**.

**SUBMITTAL INSTRUCTIONS:**

Submittals are due at the Administrative Services Front Desk or the email box (preferred) listed below, for time and date recording on or before **10:00 a.m. Mountain Time on JUNE 29, 2017**.

**Your response can be submitted in the following ways. Please note that email responses to this solicitation are preferred, but are limited to a maximum of 25MB capacity. NO ZIP FILES ALLOWED. Electronic Submittals must be received in the e-mail box listed below. Submittals sent to any other box will NOT be forwarded or accepted. This e-mail box is only accessed on the due date of your questions or proposals. Please use the Delivery Receipt option to verify receipt of your email. It is the sole responsibility of the proposer to ensure their documents are received before the deadline specified above. Boulder County does not accept responsibility under any circumstance for delayed or failed email or mailed submittals.**

**E-Mail** [purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org); identified as **RFP #6667-17** in the subject line.

-OR-

**US Mail**

**One (1)** unbound copy of your submittal, printed double-sided, 11 point, on at least 50% post-consumer, recycled paper must be submitted in a sealed envelope, clearly marked as **RFP #6667-17**, to the Administrative Services Front Desk at 2025 14th Street, Boulder, CO 80302.

All RFPs must be received and time and date recorded by authorized county staff by the above due date and time. Sole responsibility rests with the Offeror to see that their RFP response is received on time at the stated location(s). Any responses received after due date and time will be returned to the offeror.

The Board of County Commissioners reserves the right to reject any and all responses, to waive any informalities or irregularities therein, and to accept the proposal that, in the opinion of the Board, is in the best interest of the Board and of the County of Boulder, State of Colorado.

**Americans with Disabilities Act (ADA):** If you need special services provided for under the Americans with Disabilities Act, contact the ADA Coordinator or the Human Resources office at (303) 441-3525 at least 48 hours before the scheduled event.

## TERMS AND CONDITIONS

1. Proposers are expected to examine the drawing, specifications, schedule of delivery, and all instructions. Failure to do so will be at the bidder's risk.
2. Each bidder shall furnish the information required in the Request for Proposals.
3. The Contract/Purchase Order will be awarded to that responsible bidder whose submittal, conforming to the Request for Proposals, will be most advantageous to the County of Boulder, price and other factors considered.
4. The County of Boulder reserves the right to reject any or all proposals and to waive informalities and minor irregularities in bids received, and to accept any portion of or all items proposed if deemed in the best interest of the County of Boulder to do so.
5. No submittal shall be withdrawn for a period of thirty (30) days subsequent to the opening of bids without the consent of the County Purchasing Agent or delegated representative.
6. A signed purchase order or contract furnished to the successful bidder results in a binding contract without further action by either party.
7. Late or unsigned proposals will not be accepted or considered. It is the responsibility of proposers to insure that the proposal arrives at the Administrative Services Front Desk or appropriate email box prior to the time indicated in the "Request for Proposals."
8. The proposed price shall be exclusive of any Federal or State taxes from which the County of Boulder is exempt by law.
9. Any interpretation, correction or change of the RFP documents will be made by Addendum. Interpretations, corrections and changes of the RFP documents made in any other manner will not be binding, and proposer shall not rely upon such interpretations, corrections and changes. The County's Representative will not be responsible for oral clarification.
10. Confidential/Proprietary Information: Proposals submitted in response to this "Request for Proposals" and any resulting contract are subject to the provisions of the Colorado Public (Open) Records Act, 24-72-201 et.seq., C.R.S., as amended. Any restrictions on the use or inspection of material contained within the proposal and any resulting contract shall be clearly stated in the proposal itself. Confidential/proprietary information must be readily identified, marked and separated/packaged from the rest of the proposal. **Co-mingling of confidential/proprietary and other information is NOT acceptable. Neither a proposal, in its entirety, nor bid price information will be considered confidential/proprietary. Any information that will be included in any resulting contract cannot be considered confidential.**
11. Boulder County promotes the purchase/leasing of energy efficient, materials efficient and reduced toxic level products where availability, quality and budget constraints allow. Bidders are expected whenever possible to provide products that earn the ENERGY STAR and meet the ENERGY STAR specifications for energy efficiency with power management features enabled. Bidders are encouraged to offer products and equipment with post-consumer recycled-content materials. Products should be packaged and delivered with a minimum amount of recycled packaging that adequately protects the product, but is not excessive.
12. Pursuant to Colorado law (House Bill 1292), in any bidding process for public works in which a bid is received from a non-resident bidder who is from a state that provides a percentage bidding preference, a comparable percentage disadvantage shall be applied to the bid of that bidder. Bidders may obtain additional information from the Department of Personnel's website: <http://www.colorado.gov/dpa/>.

## **RFP #6667-17**

# **ASSESSMENT OF THE THREE-DIMENSIONAL STRUCTURE OF RIPARIAN HABITAT ALONG FOOTHILLS AND PLAINS STREAMS**

### **BACKGROUND:**

Boulder County Parks and Open Space (BCPOS) protects more than 100,000 acres of land, including several linear miles of riparian corridor along St. Vrain Creek, Left Hand Creek, Boulder Creek, Coal Creek, Rock Creek and the Little Thompson River. The September 2013 flood event in Colorado's Front Range impacted the majority of riparian corridors and adjacent floodplains and uplands in Boulder County, resulting in the degradation and loss of a substantial area of riparian habitat.

Boulder County has need for a county wide comprehensive riparian assessment that will facilitate planning for holistic watershed scale restoration of riparian habitat that is vital to Species of Special Concern (SSC) and watershed health and function. Ecologically functioning riparian ecosystems are known to provide and contribute to community health and resilience, including enhanced water quality, abatement of flood impacts, stream stability, and natural recreational amenities. Understanding the long-term impacts of this natural flood event on our environmental resources will aid in informed decision making for resource management and restoration activities on our path to flood recovery.

The work will focus on assessing habitat conditions suitable to support the federally threatened Preble's meadow jumping mouse (PMJM) in flood damaged riparian corridors. This riparian species is strongly associated with well-developed and structurally complex riparian habitat and, as such, has been determined to be a sufficient indicator species for assessing riparian health (i.e. riparian habitat that is suitable to support PMJM is considered to be functionally intact high quality habitat that supports high species diversity and ecosystem processes). Focus on PMJM habitat will provide a means for evaluating habitat and identifying target conditions for restoration efforts, laying the foundations for comprehensive conservation planning for the recovery of a threatened species.

### **PROJECT GOAL:**

To utilize existing data and remote sensing technologies to assess the distribution and three-dimensional structural composition of riparian habitat along foothills and plains streams, with a special focus on sub-canopy shrub structure. This information will allow BCPOS to relate PMJM population data to habitat structure and help present site specific restoration goals as well as regional/watershed conservation planning. Additionally, understanding the distribution of suitable habitat structure for supporting healthy PMJM populations in the county will help to identify high priority areas for protection of important PMJM populations and restoration of degraded and fragmented riparian habitat. The assessment will also provide a framework for monitoring riparian conditions into the future.

### **PROJECT OBJECTIVES:**

1. Classify vegetation in a manner that is meaningful to understanding the composition and distribution of riparian vegetation along a waterway as it relates to PMJM habitat and watershed level conservation planning for this species.
2. Characterize the three-dimensional structure of riparian habitat along waterways in Boulder County as it relates to PMJM habitat and watershed level conservation planning for this species.
3. Generate derived map products that serve as useful tools to resource managers for county-level / watershed-level conservation planning for species of interest and riparian/watershed health.
4. Generate a report on the current condition of riparian habitat structure and composition, as it relates to PMJM habitat and watershed level conservation planning for this species, that will be useful to resource

managers for county-level / watershed-level conservation planning for species of interest and riparian/watershed health

5. Develop a framework for future monitoring that will allow resource managers to track trends in post-flood successional development and connectivity of riparian vegetation over the long-term, taking advantage of free and publicly available data, such as those products provided by Denver Regional Council of Governments and the Denver Regional Aerial Photography Project (e.g. LiDAR, imagery).

**AREA OF INTEREST:**

The area of interest is defined by preferred PMJM habitat, which has been determined to include all riparian areas below 7,600 ft. in elevation in the Colorado Front Range. This includes all intermittent, ephemeral, and perennial streams capable of supporting suitable PMJM habitat, (i.e. streams for which environmental conditions are suitable to support, or potentially support riparian vegetation structure preferred by PMJM, regardless of whether or not such vegetation structure currently exists). The area of interest, however, may be necessarily constrained due to practical and funding constraints. The objective will be to maximize the coverage of riparian areas in Boulder County below 7,600 ft. elevation with the available funds (\$139,500.00).

Priority will be given to all major waterways in the county known to be important for PMJM as 1) habitat that supports known PMJM populations, 2) habitat that provides important habitat connectors, 3) potential refuge habitat, and 4) habitat that is adjacent to known occupied habitat.

**CONSULTANT'S RESPONSIBILITY:**

1. Project Set-Up and Coordination:

- A. The Consultant should expect to attend a minimum of one (1) project kick off meeting.
- B. To ensure successful completion, meet with BCPOS staff a minimum of once a month for planning, coordination, and review of the project.

2. Project Goals Statement:

Clearly define project goals and objectives in collaboration with BCPOS. This RFP will provide the foundation for the goals, objectives and deliverables.

3. Review and Processing of Existing Data

- A. The Consultant shall utilize all existing data before requesting acquisition of new data.
- B. The Consultant shall process existing data as needed to successfully complete the project.

4. New Data Acquisition:

The Consultant shall provide a written explanation of the means and methods the firm plans to utilize to acquire new data sets (LiDAR, multispectral imagery, etc.) for the project area, and a justification for the necessity of this data acquisition for project success.

5. Validation/Verification of Data:

Before verifying the existing county data (e.g. LiDAR, aerial photography, etc.), the Consultant shall provide in writing the means and methods they plan to utilize to validate/verify existing and new data.



6. Reports and Recommendations:

A rough draft of the reports and recommendations shall be submitted by October 15, 2017 for BCPOS staff review before finalizing the documents. Final reports and recommendations must be submitted by Friday 4:00 pm, December 15, 2017.

7. Map and Data Products:

A rough draft of habitat structure maps shall be submitted by October 15, 2017 for BCPOS staff review before finalizing the maps. Final maps must be submitted by Friday 4:00 pm, December 15, 2017.

8. Additional Requirements:

- A. BCPOS shall review the submitted data and documentation upon completion of all stated work. Missing or incomplete items will be documented and returned to the consultant for correction. Failure to adhere to any of the stated delivery specifications could result in the rejection of the deliverables and nonpayment. Consultants will, at a minimum, submit data and documentation samples at 25% and 75% project completion to avoid the rejection of final deliverables.
- B. Proposers shall determine and describe in their proposals the appropriate covariates to accomplish the Scope of Services outlined in this RFP.
- C. In your proposal, include any additional services necessary to complete this project. Please detail of those services and consider it a part of the Scope of Services.
- D. Include your firm's hourly fee schedule for additional services that may be required beyond the current scope.

**BCPOS RESPONSIBILITY:**

Throughout the progress of work on the project, Boulder County Parks and Open Space staff shall:

- 1. Notify the Consultant in writing to proceed with the work described herein and designate a person to act as the project representative with respect to the services related to this project.
- 2. Arrange for access to and make all provisions for the selected firm to enter the properties as required for the performance of work.
- 3. Provide to the Consultant all available existing county data pertinent to the project site including LiDAR, maps, aerial photos, and other data which may be useful to the Consultant to successfully complete the project.

**PROJECT DELIVERABLES:**

- 1. Written report on condition of post-flood riparian habitat structure. Report should include, but not limited to:
  - a. Comprehensive assessment of riparian corridors and adjacent floodplains (e.g. structural and vegetative composition)
  - b. Written assessment of the establishment and impacts of invasive/non-native plants in flood impacted areas on the trajectory of post-flood native vegetative succession and riparian habitat restoration.
  - c. Identification of potential restoration areas important for flood recovery

- d. Identification of potential restoration areas important to restoring/improving connectivity among Preble's populations with recommendations for priority areas.
  - e. Recommendations on areas to maintain in their current condition, including incorporation of natural ecological function (i.e. areas of natural cottonwood/willow establishment) to ensure resilience;
  - f. An assessment of existing BCPOS vegetation/habitat monitoring programs including: PMJM studies, habitat assessments related to fish and macro-invertebrate sampling and riparian assessments by funded researchers and BCPOS staff;
  - g. Identification of barriers to Preble's connectivity. Some examples of movement barriers include habitat gaps, infrastructure, resources extraction activities, and urban development.
  - h. Detailed documentation of all scientific methodology, data analysis processes, accuracy reports, and metadata for all data products.
  - i. Recommendation for monitoring framework to monitor long-term recovery success and successional trajectory of riparian habitat in Boulder County. This should include a review of existing BCPOS riparian monitoring programs including: habitat assessments related to Preble's, fish and macro-invertebrate sampling and riparian assessments by funded researchers and BCPOS staff. A desired result would be a compilation and synthesis of existing data and a methodology for a cohesive and comprehensive long-term watershed-level riparian monitoring plan that will be useful for a variety of disciplines and purposes.
2. Geospatial map and data products. Deliverables for data and derived map products will be finalized in consultation with BCPOS during the project. Data and map products may include:
- a. Map of riparian area extent
  - b. Vegetation cover classification
  - c. Three-dimensional structural composition of riparian habitat
  - d. Distribution of riparian shrub habitat
  - e. Index/proxy of Preble's habitat quality as it relates to riparian vegetation structural composition and vegetation classification.
  - f. PMJM movement barriers.
  - g. Potential areas for restoration.
  - h. Classified remote sensing data (e.g. LiDAR, multi/hyper spectral imagery)
  - i. Ground truthing data (e.g. terrestrial LiDAR, LAS files and classified data, vegetation survey data, minimum four (4) digital photos of the vegetation taken at each TLS point that will help identify plant species)
  - j. Relevant derived data and data products.
  - k. Other raw and derived data, as determined by the proposed methodology.
  - l. Data / Metadata:
    - i. All data delivered shall become the property of the Boulder County Parks and Open Space. All deliverable data and documentation shall be free from restrictions regarding use and distribution. Data and documentation delivered under this task order shall be freely distributable by Boulder County.
    - ii. All spatial or georeferenced data (GIS, CAD, LiDAR, Imagery) will be provided in the following coordinate system:
 

Name: NAD 1983 HARN State Plane Colorado North FIPS 0501 Feet  
 WKID: 2876 Authority: EPSG  
 Unit: Foot US  
 Projection: Lambert Conformal Conic  
 Horizontal Datum: North American Datum 1983 HARN  
 Vertical Datum: North American Vertical Datum 1988  
 Spheroid: GRS 1980

- iii. All GIS data will be delivered in an ESRI geodatabase, ArcGIS 10.3 compatible. Shapefiles may be accepted with pre-approval.
- iv. Accepted raster data formats:
- v. Raster data format
  - ESRI Grid
  - Erdas Imagine
  - Tiff, Geotiff, with world file
  - MrSid, with world file
  - TINs
- vi. All GIS features must have a unique identifier. If the GIS data link to tabular data (either a flat file or a database), then the unique identifier must be included in the related record of the tabular data as well.
- vii. The consultant shall consult with the BCPOS GIS Point of Contact before populating the attribute tables to ensure the data meets the needs of BCPOS. The consultant shall then fully attribute all new, updated, or edited features.
- viii. All GIS data will have complete metadata, following Boulder County GIS Metadata Standards.
- ix. Field collected (GPS) data will meet a minimum of 80% accuracy of 1-3m or better.
- x. When using GPS collection, the GPS unit type, model, averaging method used for static mapping (point), error correction technique (type of differential correction used), and GPS quality filters employed shall be recorded in the metadata.
- xi. All GIS deliverables will include an accuracy report in the metadata.
- xii. If standard protocols exist for the discipline or specific project, then these protocols will be implemented. For example, vegetation mapping and minimum mapping units.

**RFP RESPONSE FORMAT AND CONTENT:**

All Respondents are required to follow the RFP response (“Response”) format specified below. The content of the Response must be clear, concise, and complete.

1. Cover - Include the RFP title and number, due date, and principal contact information (name, address, telephone, fax numbers, and e-mail address).
2. Table of Contents - Include a complete and clear listing of headings and pages to allow easy reference to key information.
3. Cover Letter - The cover letter should be brief (two pages maximum) and any changes to the format or deletions of requested materials should be explained in the cover letter. Please include the following in your cover letter:
  - a. Describe why your firm considers itself to be best qualified to master the project strategy and perform the work required in a responsive manner;
  - b. Describe how the delivery of services will be provided to BCPOS including the location of the Respondent’s offices and expected response times to BCPOS’ requests;
  - c. Describe those conditions, constraints, or problems that are unique to the scope of services that may adversely affect either cost or delivery dates;

- d. Identify team members and include the title and signature of the Respondent's contact person for this project. The signatory shall be a person with official authority to bind the Respondent.
  - e. If the Respondent is proposing to joint-partner with another principal firm, the cover letter must specify the type of services to be provided by each firm.
- 4. Methods and Strategic Plan - Describe your preliminary approach, methodology and plan to carry out the Scope of Services. Describe the anticipated interaction with BCPOS. Provide an outline of your anticipated schedule for completing activities proposed within the scope of services beginning with issuance of a Notice to Proceed.
- 5. Qualifications and Experience - This section shall contain the following:
  - a. Relevant information regarding previous experience related to the Project, including names and addresses of previous and existing clients (especially tribal and/or local governments); and
  - b. The Respondent's experiences in the past five (5) years specifically related to the scope of services. These should be listed consecutively with the awarding and completion dates noted for each work effort. Each listed experience shall include the name(s) and telephone number(s) of the Respondent's project manager and the client's project manager. When listing sub-consultants, describe the listed experience and the exact tasks that each performed.
- 6. List of Project Personnel - This list should include the identification of the contact person with primary project responsibility, the personnel proposed for this project, if any, and any supervisory personnel, including co-venture partners and/or sub-consultants (if any), and their individual areas of responsibility. The persons listed will be considered as committed to the project. A résumé for each professional and technical person assigned to the project, including partners and/or sub-consultants, shall be submitted. In the résumé, describe the qualifications, experience, and hire dates of the staff who would be assigned to this project. Résumés should include a description of relevant project experience related to each staff member's area of expertise. The résumés shall include at least two references from previous assignments.
- 7. Organization Chart/Proposed Project Team - An organization chart containing the names of all key personnel, joint venture partners (if any) and sub-consultants, if any, with titles and their specific task assignment for this contract shall be provided in this section.
- 8. Other Information - This section shall contain all other pertinent information regarding this submittal e.g. description of in-house resources for prime respondent (i.e., computer capabilities, software applications, and modeling programs, etc.).
- 9. Schedule of Rates – The Respondent shall provide one Schedule of Rates in a sealed envelope. Please include projected overall project cost and hourly rates of all team members assigned to this endeavor including those costs associated with sub-consultants or joint-venture partners. For email submission, include this information in a separate document.

**RFP #6667-17**

**ASSESSMENT OF THE THREE-DIMENSIONAL STRUCTURE OF RIPARIAN  
HABITAT ALONG FOOTHILLS AND PLAINS STREAMS**

**BID TAB:**

<u>Item Number</u>	<u>Item Description</u>	<u>Cost</u>
1.	Processing and Analysis of Existing Data	\$_____
2.	Acquisition of New Data (e.g. aerial LiDAR, TLS, multispectral imagery, etc.)	\$_____
3.	Validation/Verification of Existing and Collected Data (e.g. ground truthing, etc.)	\$_____
4.	Final Report and Recommendations	\$_____
5.	Geospatial Map Products	\$_____
<b>BID TOTAL</b>		<b>\$_____</b>

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Company Name:

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Name of person and title submitting bid (PLEASE PRINT):

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Signature:

**RFP #6667-17****ASSESSMENT OF THE THREE-DIMENSIONAL STRUCTURE OF RIPARIAN HABITAT ALONG FOOTHILLS AND PLAINS STREAMS****REVIEW AND ASSESSMENT**

Consulting firms will be evaluated on the following criteria. These criteria will be the basis for review of the written proposals and interview session.

<b>VALUE</b>	<b>QUALIFICATION</b>	<b>STANDARD</b>
25%	Project Approach	Does the proposal show an understanding of the project objective, methodology to be used and results that are desired from the project?
20%	Assigned Personnel	Do the persons who will be working on the project have the necessary skills? Are sufficient people of the requisite skills assigned to the project?
20%	Experience with Similar Projects	Has the firm completed previous projects of this scope and type? Project experiences, at a minimum, include vegetation analysis and classification; habitat evaluation/classification; processing of remotely sensed data; habitat and wildlife monitoring protocol evaluation; and other methodologies?
15%	Availability and Project Schedule	Can the work be completed in the necessary time? Can the target start and completion dates be met? Are other qualified personnel available to assist in meeting the project schedule if required? Is the project team available to attend meetings as required by the Scope of Work?
10%	Firm Capabilities	Does the firm have the support capabilities the assigned personnel require?
5%	Project Commitment	Will the firm provide the project services and specifics as outlined in this RFP? Is the firm interested and willing to abide by the conditions and specifications as outlined in this RFP?
5%	Cost and Effort	Do the proposed cost and work hours compare favorably with the project Manager's estimate? Are the work hours presented reasonable for the effort required in each project task or phase?

**RFP #6667-17****ASSESSMENT OF THE THREE-DIMENSIONAL STRUCTURE OF RIPARIAN HABITAT ALONG FOOTHILLS AND PLAINS STREAMS****SIGNATURE PAGE:****SIGN AND RETURN THIS SUBMITTAL PAGE WITH YOUR BID.**

Contact Information	Response
Company Name including DBA	
List type of organization (Corporation, Partnership, etc)	
Name and Title of Person authorized to contract with Boulder County	
Name and Title of Person submitting Bid	
Email address for Person submitting Bid	
Company Address	
Company Telephone Number	
Company Website	
Company Fax Number	

**By signing below I certify that:**

I am authorized to bid on my company's behalf.

I am not currently an employee of Boulder County.

None of my employees or agents is currently an employee of Boulder County.

I am not related to any Boulder County employee or Elected Official.

**I am not a Public Employees' Retirement Association (PERA) retiree.**

\_\_\_\_\_  
**Signature of Person Authorized to Bid on  
Company's Behalf**

\_\_\_\_\_  
**Date**

Note: If you cannot certify the above statements, please explain in a statement of explanation.

**COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER  
RECOVERY (CDBG-DR)  
RESILIENCY PLANNING GRANT AGREEMENT**

**Between**

**STATE OF COLORADO  
DEPARTMENT OF LOCAL AFFAIRS**

**And**

**BOULDER COUNTY**

**Summary**

Award Amount: \$296,567.00

**Agreement Identification:**

Contract Encumbrance #: F7DR2P16004 (DOLA's primary contract identification #)  
Contract Management System #: 92252 (State of Colorado's contract tracking #)

**Project Information:**

Project/Award Number: CDBG-DR P16-004  
Project Name: Boulder County Recovery Planning Projects (3)  
Performance Period: Start Date: \_\_\_\_\_ End Date: 1/31/2018  
Brief Description of Project / Assistance: The goal of this Project is for Boulder County to complete three planning subprojects.

**Program & Funding Information:**

Program Name: Community Development Block Grant Disaster Recovery (CDBG-DR)  
Funding source: Federal Funds  
Catalog of Federal Domestic Assistance (CFDA) Number (if federal funds): 14.269



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### 1. PARTIES

This Agreement (hereinafter called “**Grant**”) is entered into by and between the **Boulder County** (hereinafter called “**Grantee**”), and the STATE OF COLORADO acting by and through the Department of Local Affairs for the benefit of the Division of Local Government (hereinafter called the “**State**” or “**DOLA**”).

### 2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY.

This Grant shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the “**Effective Date**”). The State shall not be liable to pay or reimburse Grantee for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to *(see checked option(s) below)*:

- A. ☒ The Effective Date.
- B. ☐ The Effective Date; provided, however, that all Project costs, if specifically authorized by the federal funding authority, incurred on or after March 1, 20XX, may be submitted for reimbursement as if incurred after the Effective Date.
- C. ☐ insert date for authorized Pre-agreement Costs (as such term is defined in §4), if specifically authorized by the funding authority. Such costs may be submitted for reimbursement as if incurred after the Effective Date.

### 3. RECITALS

**A. Authority, Appropriation, and Approval**

Authority to enter into this Grant exists in CRS §24-32-106 and funds have been budgeted, appropriated and otherwise made available pursuant to the Disaster Relief Appropriations Act of 2013 (Pub. L. 113-2) and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

**B. Consideration**

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Grant.

**C. Purpose**

The purpose of this Grant is described in **Exhibit B**.

**D. References**

All references in this Grant to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

**4. DEFINITIONS**

The following terms as used herein shall be construed and interpreted as follows:

**A. Beneficiary**

“Beneficiary” shall have the meaning given in **Exhibit B**.

**B. Budget**

“Budget” means the budget for the Project and/or Work described in **Exhibit B**.

**C. Closeout Certification**

“Closeout Certification” means the Grantee’s certification of completion of Work submitted on a form provided by the State.

**D. Evaluation**

“Evaluation” means the process of examining Grantee’s Work and rating it based on criteria established in **§6, Exhibit B** and Project Performance Plan.

**E. Exhibits and other Attachments**

The following are attached hereto and incorporated by reference herein:

- i. Exhibit A (Applicable Laws)
- ii. Exhibit B (Statement of Project/Budget)
- iii. Exhibit C (Option Letter)
- iv. Exhibit D (Supplemental Provisions for Federal Funding Accountability and Transparency Act of 2006 (FFATA))
- v. Exhibit E (FFATA Data Report Form)
- vi. Exhibit F (Procedure to Prevent Duplication of Benefits)
- vii. Exhibit G (Project Performance Plan)

**F. Goods**

“Goods” means tangible material acquired, produced, or delivered by Grantee either separately or in conjunction with the Services Grantee renders hereunder.

**G. Grant**

“Grant” means this Agreement, its terms and conditions, attached exhibits, documents incorporated by reference pursuant to the terms of this Grant, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law, Fiscal Rules, and State Controller Policies.

**H. Grant Funds**

“Grant Funds” means available funds payable by the State to Grantee pursuant to this Grant.

**I. Party or Parties**

“Party” means the State or Grantee and “Parties” means both the State and Grantee.

**J. Pay Request(s)**

“Pay Request(s)” means the Grantee’s payment request(s) for Work submitted on form(s) provided by the State and including all supporting documentation (including invoices) and as specified in **Exhibit B**.

**K. Pre-agreement costs**

“Pre-agreement costs,” when applicable, means the costs incurred on or after the date as specified in §2 above, and prior to the Effective Date of this Grant. Such costs shall have been detailed in Grantee’s grant application and specifically authorized by the State and incorporated herein pursuant to **Exhibit B**.

**L. Project**

“Project” means the project described in **Exhibit B**, which includes the Work.

**M. Project Closeout**

“Project Closeout” means the submission by the Grantee to the State of an actual final Pay Request, a final Status Report and a Closeout Certification.

**N. Project Performance Plan**

“Project Performance Plan” means the milestones, performance goals and timelines for the Project identified in the project performance plan which is attached to this Grant.

**O. Program**

“Program” means the grant program specified on the first page of this Grant that provides the funding for this Grant.

**P. Review**

“Review” means examining Grantee’s Work to ensure that it is adequate, accurate, correct and in accordance with the criteria established in §6, **Exhibit B** and Project Performance Plan.

**Q. Services**

“Services” means the required services to be performed by Grantee pursuant to this Grant.

**R. Status Report(s)**

“Status Report(s)” means the Grantee’s status report(s) on the Work submitted on form(s) provided by the State.

**S. Subcontractor**

“Subcontractor” means third-parties, if any, engaged by Grantee to carry out specific vendor related Services and Goods.

**T. Subgrantee**

“Subgrantee” means third-parties, if any, engaged by Grantee to aid in performance of its obligations. Subgrantee is bound by the same overall programmatic and grant requirements as Grantee.

**U. Subject Property**

“Subject Property” means the real property, if any, for which Grant Funds are used to construct, or rehabilitate.

**V. Work**

“Work” means the tasks and activities Grantee is required to perform to fulfill its obligations under this Grant and **Exhibit B**, including the performance of the Services and delivery of the Goods.

**W. Work Product**

“Work Product” means the tangible or intangible results of Grantee’s Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

**5. TERM****A. Initial Term-Work Commencement**

The Parties’ respective performances under this Grant shall commence on the Effective Date. This Grant shall terminate on **January 31, 2018** unless sooner terminated or further extended as specified elsewhere herein.

**B. Two Month Extension**

The State, at its sole discretion upon written notice to Grantee as provided in §16, may unilaterally extend the term of this Grant for a period not to exceed two months if the Parties are negotiating a replacement

Grant (and not merely seeking a term extension) at or near the end of any initial term or any extension thereof. The provisions of this Grant in effect when such notice is given, including, but not limited to prices, rates, and delivery requirements, shall remain in effect during the two month extension. The two-month extension shall immediately terminate when and if a replacement Grant is approved and signed by the Colorado State Controller.

## **6. STATEMENT OF PROJECT**

### **A. Completion**

Grantee shall complete the Work and its other obligations as described herein and in **Exhibit B**. Except as specified in §2 above, the State shall not be liable to compensate Grantee for any Work performed prior to the Effective Date or after the termination of this Grant.

### **B. Goods and Services**

Grantee shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Grant Funds and shall not increase the maximum amount payable hereunder by the State.

### **C. Employees**

All persons employed by Grantee or Subgrantees shall be considered Grantee's or Subgrantees' employee(s) for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Grant.

## **7. PAYMENTS TO GRANTEE**

The State shall, in accordance with the provisions of this §7, pay Grantee in the following amounts and using the methods set forth below:

### **A. Maximum Amount**

The maximum amount payable under this Grant to Grantee by the State is **\$296,567.00 (TWO HUNDRED NINETY SIX THOUSAND, FIVE HUNDRED SIXTY SEVEN DOLLARS and XX/100)**, as determined by the State from available funds. Grantee agrees to provide any additional funds required for the successful completion of the Work. Payments to Grantee are limited to the unpaid obligated balance of the Grant as set forth in Statement of Project/Budget.

### **B. Payment**

#### **i. Payments**

Any payment allowed under this Grant shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or such Exhibit. Grantee shall initiate any payment requests by submitting invoices to the State in the form and manner set forth and approved by the State.

#### **ii. Interest**

The State shall not pay interest on Grantee invoices. The State shall fully pay each invoice within 45 days of receipt thereof if the amount invoiced represents performance by Grantee previously accepted by the State.

#### **iii. Available Funds-Contingency-Termination**

The State is prohibited by law from making fiscal commitments beyond the term of the State's current fiscal year. Therefore, Grantee's compensation is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions, set forth below. If federal funds are used with this Grant in whole or in part, the State's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Grant shall be made only from available funds encumbered for this Grant and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not fully appropriated, or otherwise become unavailable for this Grant, the State may immediately terminate this Grant in whole or in part to the extent of funding reduction without further liability in accordance with the provisions herein.

#### **iv. Erroneous Payments**

At the State's sole discretion, payments made to Grantee in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by Grantee,

may be recovered from Grantee by deduction from subsequent payments under this Grant or other grants or agreements between the State and Grantee or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any person or entity other than the State.

**v. Retroactive Payments**

If specified in §2, the State shall pay Grantee for costs or expenses incurred or performance by the Grantee prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules and regulations applicable to the Work provide for such retroactive payments to the Grantee. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or such Exhibit. Grantee shall initiate any payment request by submitting invoices to the State in the form and manner set forth and approved by the State.

**C. Use of Funds**

Grant Funds shall be used only for eligible costs identified herein and/or in **Exhibit B**. Modifications to uses of such Grant Funds shall be made in accordance with **Exhibit B**. If an option letter is required for a Project Budget Line Item adjustment, Minor Budget Adjustment or True-Up Budget Proposal (as such terms are defined in **Exhibit B**), the State shall provide written notice to Grantee in a form substantially equivalent to **Exhibit C** (each an “**Option Letter**”). If exercised, the provisions of the Option Letter shall become part of and be incorporated into this Grant.

**D. Other Funds**

Grantee shall provide other funds in accordance with **Exhibit B**.

**8. REPORTING - NOTIFICATION**

Reports, Evaluations, and Reviews required under this §8 shall be in accordance with the procedures of and in such form as prescribed by the State and in accordance with §19, if applicable.

**A. Performance, Progress, Personnel, and Funds**

State shall submit a report to the Grantee upon expiration or sooner termination of this Grant, containing an Evaluation and Review of Grantee’s performance and the final status of Grantee’s obligations hereunder. In addition, Grantee shall comply with all reporting requirements, if any, set forth in **Exhibit B** and the Project Performance Plan.

**B. Litigation Reporting**

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Grant or which may affect Grantee’s ability to perform its obligations hereunder, Grantee shall notify the State of such action and deliver copies of such pleadings to the State’s principal representative as identified herein. If the State’s principal representative is not then serving, such notice and copies shall be delivered to the Executive Director of DOLA.

**C. Noncompliance**

Grantee’s failure to provide reports and notify the State in a timely manner in accordance with this §8 may result in the delay of payment of funds and/or termination as provided under this Grant.

**D. Subgrants/Subcontracts**

Copies of any and all subgrants and subcontracts entered into by Grantee to perform its obligations hereunder shall be submitted to the State or its principal representative. Any and all subgrants and subcontracts entered into by Grantee related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subgrants and subcontracts be governed by the laws of the State of Colorado.

**9. GRANTEE RECORDS**

Grantee shall make, keep, maintain and allow inspection and monitoring of the following records:

**A. Maintenance**

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records (the “**Record Retention Period**”) until the last to occur of the following:

- (i) a period of five years after the State's CDBG –DR grant is completed or terminated and closed out with HUD,
- (ii) for such further period as may be necessary to resolve any pending matters, or
- (iii) if an audit is occurring, or Grantee has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved.

#### **B. Inspection**

Grantee shall permit the State, the federal government (if Grant Funds include federal funds) and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Grantee's records related to this Grant during the Record Retention Period for a period of five years following termination of this Grant or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate Grantee's performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Grant, including any extension. If the Work fails to conform to the requirements of this Grant, the State may require Grantee promptly to bring the Work into conformity with Grant requirements, at Grantee's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Grantee to take necessary action to ensure that future performance conforms to Grant requirements and exercise the remedies available under this Grant, at law or in equity in lieu of or in conjunction with such corrective measures.

#### **C. Monitoring**

- i. Grantee.** Grantee shall permit the State, the federal government (if Grant Funds include federal funds), and other governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Grantee pursuant to the terms of this Grant using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Grantee's performance hereunder.
- ii. Subgrantee/Subcontractor.** Grantee shall monitor its Subgrantees and/or Subcontractors, if any, during the term of this Grant. Results of such monitoring shall be documented by Grantee and maintained on file.

#### **D. Final Audit Report**

Grantee shall provide a copy of its audit report(s) to DOLA as specified in **Exhibit B**.

### **10. CONFIDENTIAL INFORMATION-STATE RECORDS**

Grantee shall comply with the provisions of this §10 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, state records, personnel records, and information concerning individuals.

#### **A. Confidentiality**

Grantee shall keep all State records and information confidential at all times and comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of Grantee shall be immediately forwarded to the State's principal representative. Except as otherwise provided in this Grant, Grantee shall keep all tenant, patient and offender information confidential.

#### **B. Notification**

Grantee shall notify its agent, employees, Subgrantees, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

#### **C. Use, Security, and Retention**

Confidential information of any kind shall not be distributed or sold to any third party or used by Grantee or its agents in any way, except as authorized by this Grant or approved in writing by the State. Grantee shall provide and maintain a secure environment that ensures confidentiality of all State records and other

confidential information wherever located. Confidential information shall not be retained in any files or otherwise by Grantee or its agents, except as permitted in this Grant or approved in writing by the State.

**D. Disclosure-Liability**

Disclosure of State records or other confidential information by Grantee for any reason may be cause for legal action by third parties against Grantee, the State or their respective agents. Grantee shall, to the extent permitted by law, indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to this §10.

**E. Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

DOLA is not a covered entity under HIPAA for purposes of this Grant. If the Grantee is a covered entity under HIPAA, it shall comply with the requirements of HIPAA, and in all instances shall comply with all other federal and state laws protecting the confidentiality of patient information.

**11. CONFLICTS OF INTEREST**

Grantee shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Grantee's obligations hereunder. Grantee acknowledges that with respect to this Grant, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations to the State hereunder. If a conflict or appearance exists, or if Grantee is uncertain whether a conflict or the appearance of a conflict of interest exists, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Grant.

**12. REPRESENTATIONS AND WARRANTIES**

Grantee makes the following specific representations and warranties, each of which was relied on by the State in entering into this Grant.

**A. Standard and Manner of Performance**

Grantee shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

**B. Legal Authority – Grantee and Grantee's Signatory**

Grantee warrants that it possesses the legal authority to enter into this Grant and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Grant, or any part thereof, and to bind Grantee to its terms. If requested by the State, Grantee shall provide the State with proof of Grantee's authority to enter into this Grant within 15 days of receiving such request.

**C. Licenses, Permits, etc.**

Grantee represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder. Grantee warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Grant, without reimbursement by the State or other adjustment in Grant Funds. Additionally, all employees and agents of Grantee performing Services under this Grant shall hold all required licenses or certifications, if any, to perform their responsibilities. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Grantee to properly perform the terms of this Grant shall be deemed to be a material breach by Grantee and constitute grounds for termination of this Grant.

**D. Exclusion, Debarment and/or Suspension**

Grantee represents and warrants that Grantee, or its employees, Subgrantees or authorized Subcontractors, are not presently excluded from participation, debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or otherwise ineligible to participate in a federal payment program by any federal or State of Colorado department or agency. If Grantee, Subgrantee, or any of their respective subcontractors, employees or authorized agents, is excluded from participation, or becomes otherwise ineligible to participate in any such program during the term of this Grant, Grantee will notify the State in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to Grantee, the State, in its sole discretion, reserves the right to immediately cease contracting with Grantee and terminate this Grant without penalty.

**13. INSURANCE**

Grantee and its Subgrantees shall obtain and maintain insurance as specified in this section at all times during the term of this Grant: All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Grantee and the State.

**A. Grantee****i. Public Entities**

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), then Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Grantee shall show proof of such insurance satisfactory to the State, if requested by the State. Grantee shall require each subgrant with Subgrantees that are public entities, providing Goods or Services hereunder, to include the insurance requirements necessary to meet Subgrantee's liabilities under the GIA.

**ii. Non-Public Entities**

If Grantee is not a "public entity" within the meaning of the GIA, Grantee shall obtain and maintain during the term of this Grant insurance coverage and policies meeting the same requirements set forth in §13(B) with respect to Subgrantees that are not "public entities".

**B. Grantees, Subgrantees and Subcontractors**

Grantee shall require each subgrant with a Subgrantee and each contract with a Subcontractor, other than those that are public entities, providing Goods or Services in connection with this Grant, to include insurance requirements substantially similar to the following:

**i. Workers' Compensation**

Workers' Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Grantee, Subgrantee and Subcontractor employees acting within the course and scope of their employment.

**ii. General Liability**

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: (a) \$1,000,000 each occurrence; (b) \$1,000,000 general aggregate; (c) \$1,000,000 products and completed operations aggregate; and (d) \$50,000 any one fire.

**iii. Automobile Liability**

Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

**iv. Malpractice/Professional Liability Insurance**

This section ☒ shall | ☐ shall not apply to this Grant.

Grantee, Subgrantees and Subcontractors shall maintain in full force and effect a Professional Liability Insurance Policy in the minimum amount of \$1,000,000 per occurrence and \$3,000,000 in the aggregate, written on an occurrence form that provides coverage for its work undertaken pursuant to this Grant. If a policy written on an occurrence form is not commercially available, the claims-made policy shall remain in effect for the duration of this Grant and for at least two years beyond the completion and acceptance of the work under this Grant, or, alternatively, a two year extended



reporting period must be purchased. The Grantee, Subgrantee or Subcontractor shall be responsible for all claims, damages, losses or expenses, including attorney's fees, arising out of or resulting from such party's performance of professional services under this Grant, a subcontract or subgrant.

**v. Umbrella Liability Insurance**

For construction projects exceeding \$10,000,000, Grantee, Subgrantees and Subcontractors shall maintain umbrella/excess liability insurance on an occurrence basis in excess of the underlying insurance described in §13(B)(i)-(iv) above. Coverage shall follow the terms of the underlying insurance, included the additional insured and waiver of subrogation provisions. The amounts of insurance required in subsections above may be satisfied by the Grantee, Subgrantee and Subcontractor purchasing coverage for the limits specified or by any combination of underlying and umbrella limits, so long as the total amount of insurance is not less than the limits specified in each section previously mentioned. The insurance shall have a minimum amount of \$5,000,000 per occurrence and \$5,000,000 in the aggregate.

**vi. Property Insurance**

*This subsection shall apply if Grant Funds are provided for the acquisition, construction, or rehabilitation of real property.*

Insurance on the buildings and other improvements now existing or hereafter erected on the premises and on the fixtures and personal property included in the Subject Property against loss by fire, other hazards covered by the so called "all risk" form of policy and such other perils as State shall from time to time require with respect to properties of the nature and in the geographical area of the Subject Properties, and to be in an amount at least equal to the replacement cost value of the Subject Property. Grantor will at its sole cost and expense, from time to time and at any time, at the request of State provide State with evidence satisfactory to State of the replacement cost of the Subject Property.

**vii. Flood Insurance**

If the Subject Property or any part thereof is at any time located in a designated official flood hazard area, flood insurance insuring the buildings and improvements now existing or hereafter erected on the Subject Property and the personal property used in the operation thereof in an amount equal to the lesser of the amount required for property insurance identified in §vi above or the maximum limit of coverage made available with respect to such buildings and improvements and personal property under applicable federal laws and the regulations issued thereunder.

**viii. Builder's Risk Insurance**

*This subsection shall apply if Grant Funds are provided for construction or rehabilitation of real property.*

Grantee, Subgrantee and/or Subcontractor shall purchase and maintain property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial construction/rehabilitation costs, plus value of subsequent modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the property owner has an insurable interest in the property.

- a) The insurance shall include interests of the property owner, Grantee, Subgrantee, Subcontractors in the Project as named insureds.
- b) All associated deductibles shall be the responsibility of the Grantee, Subcontractor and Subgrantee. Such policy may have a deductible clause but not to exceed \$10,000.
- c) Property insurance shall be on an "all risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Grantee's, Subgrantee's and Subcontractor's services and expenses required as a result of such insured loss.

- d) Builders Risk coverage shall include partial use by Grantee and/or property owner.
- e) The amount of such insurance shall be increased to include the cost of any additional work to be done on the Project, or materials or equipment to be incorporated in the Project, under other independent contracts let or to be let. In such event, Subgrantee and Subcontractor shall be reimbursed for this cost as his or her share of the insurance in the same ratio as the ratio of the insurance represented by such independent contracts let or to be let to the total insurance carried.

**ix. Pollution Liability Insurance**

If Grantee and/or its Subgrantee or Subcontractor is providing directly or indirectly work with pollution/environmental hazards, they must provide or cause those conducting the work to provide Pollution Liability Insurance coverage. Pollution Liability policy must include contractual liability coverage. The policy limits shall be in the amount of \$1,000,000 with maximum deductible of \$25,000 to be paid by the Grantee's Subcontractor and/or Subgrantee.

**C. Miscellaneous Insurance Provisions**

Certificates of Insurance and/or insurance policies required under this Grant shall be subject to the following stipulations and additional requirements:

- i. **Deductible.** Any and all deductibles or self-insured retentions contained in any Insurance policy shall be assumed by and at the sole risk of the Grantee, its Subgrantees or Subcontractors,
- ii. **In Force.** If any of the said policies shall fail at any time to meet the requirements of the Grant as to form or substance, or if a company issuing any such policy shall be or at any time cease to be approved by the Division of Insurance of the State of Colorado, or be or cease to be in compliance with any stricter requirements of the Grant, the Grantee, its Subgrantee and its Subcontractor shall promptly obtain a new policy.
- iii. **Insurer.** All requisite insurance shall be obtained from financially responsible insurance companies, authorized to do business in the State of Colorado and acceptable to Grantee,

**iv. Additional Insured**

Grantee and the State shall be named as additional insureds on the Commercial General Liability and Automobile Liability Insurance policies (leases and construction Grants require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent).

**v. Primacy of Coverage**

Coverage required of Grantee, Subgrantees and Subcontractors shall be primary over any insurance or self-insurance program carried by Grantee or the State.

**vi. Cancellation**

The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the Grantee and Grantee shall forward such notice to the State in accordance with §16 (Notices and Representatives) within seven days of Grantee's receipt of such notice.

**vii. Subrogation Waiver**

All insurance policies in any way related to this Grant and secured and maintained by Grantee or its Subgrantees and Subcontractors as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

**D. Certificates**

Grantee, Subgrantee and Subcontractor shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Grant or of their respective subcontract or subgrant. No later than 15 days prior to the expiration date of any such coverage, Grantee, Subgrantee and Subcontractor shall deliver to the State or Grantee certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Grant, subgrant or subcontract, Grantee, Subgrantee and Subcontractor shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

**14. BREACH****A. Defined**

In addition to any breaches specified in other sections of this Grant, the failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner, constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

**B. Notice and Cure Period**

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §16. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §15. Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

**15. REMEDIES**

Except for the remedies listed in §15(C) which do not require a notice and cure period for Grantee's breach and may be immediately exercised by the State, if Grantee is in breach under any provision of this Grant or if the State terminates this Grant pursuant to §15(B), the State shall have the remedies listed in this §15 in addition to all other remedies set forth in other sections of this Grant following the notice and cure period set forth in §14(B), if applicable. The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

**A. Termination for Cause and/or Breach**

If Grantee fails to perform any of its obligations hereunder with such diligence as is required to ensure its completion in accordance with the provisions of this Grant and in a timely manner, the State may notify Grantee of such non-performance in accordance with the provisions herein. If Grantee thereafter fails to promptly cure such non-performance within the cure period, the State, at its option, may terminate this entire Grant or such part of this Grant as to which there has been delay or a failure to properly perform. Exercise by the State of this right shall not be deemed a breach of its obligations hereunder. Grantee shall continue performance of this Grant to the extent not terminated, if any.

**i. Obligations and Rights**

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and subgrants/subcontracts with third parties. However, Grantee shall complete and deliver to the State all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Grant's terms. At the sole discretion of the State, Grantee shall assign to the State all of Grantee's right, title, and interest under such terminated orders or subgrants/subcontracts. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee in which the State has an interest. All materials owned by the State in the possession of Grantee shall be immediately returned to the State. All Work Product, at the option of the State, shall be delivered by Grantee to the State and shall become the State's property.

**ii. Payments**

The State shall reimburse Grantee only for accepted performance up to the date of termination. If, after termination by the State, it is determined that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Grant had been terminated in the public interest, as described herein.

**iii. Damages and Withholding**

Notwithstanding any other remedial action by the State, Grantee also shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Grant by Grantee and the

State may withhold any payment to Grantee for the purpose of mitigating the State's damages, until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due to Grantee as the State deems necessary to protect the State, including loss as a result of outstanding liens or claims of former lien holders, or to reimburse the State for the excess costs incurred in procuring similar goods or services. Grantee shall be liable for excess costs incurred by the State in procuring from third parties replacement Work, Services or substitute Goods as cover.

#### **B. Early Termination in the Public Interest**

The State is entering into this Grant for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or Courts. If this Grant ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Grant in whole or in part. Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder. This subsection shall not apply to a termination of this Grant by the State for cause or breach by Grantee, which shall be governed by §15(A) or as otherwise specifically provided for herein.

##### **i. Method and Content**

The State shall notify Grantee of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

##### **ii. Obligations and Rights**

Upon receipt of a termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15(A)(i).

##### **iii. Payments**

If this Grant is terminated by the State pursuant to this §15(B), Grantee shall be paid an amount which bears the same ratio to the total reimbursement under this Grant as the Services satisfactorily performed bear to the total Services covered by this Grant, less payments previously made. Additionally, if this Grant is less than 60% completed, the State may reimburse Grantee for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Grant) incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

#### **C. Untimely Expenditure of Funds**

The CDBG-DR appropriation (the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2)) requires that all funds must be fully expended within 24 months of the date HUD (as defined in Exhibit B) obligates the State's allocation. HUD requires that the State implement procedures to determine timely expenditures of Grantees. To fulfill this requirement, the State will track performance measures and expenditures as described in the Statement of Project/Budget, **Exhibit B**, and in the Project Performance Plan (collectively, the "Milestones"). If, at any time during the term of this Grant, State determines the Project is not proceeding timely in accordance with its Milestones, State may elect to take one or more of the following actions, which shall not be deemed a breach of its obligations hereunder:

**i. Technical Assistance.** State may elect to conduct on-site monitoring and work closely with Grantee to until the Project is back on schedule. State shall provide prior written notice to Grantee if its elects to conduct on-site monitoring, which shall be conducted during normal business hours and shall not unduly disrupt Grantee's business operations.

**ii. Terminate Grant.** The State, at its option, may terminate this entire Grant if Grantee has failed to properly meet the Project's Milestones. Grantee shall continue performance of this Grant to the extent not terminated, if any.

##### **a) Method and Content.**

The State shall notify Grantee of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

##### **b) Obligations and Rights.**

Upon receipt of a termination notice and to the extent specified in such termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15(A)(i).

**c) Deobligation of Grant Funds; Repayment by Grantee of Received Funds.**

If this Grant is terminated by the State pursuant to this §15(C)(ii), State shall de-obligate any remaining unexpended Grant Funds for the Project, and shall provide notice to Grantee that such Project has failed to meet its Milestones and the corresponding HUD timeliness requirements and that as a result, Grantee is required to immediately return to the State any previously received Grant Funds for the Project.

**D. Remedies Not Involving Termination**

The State, at its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

**i. Suspend Performance**

Suspend Grantee's performance with respect to all or any portion of this Grant pending necessary corrective action as specified by the State without entitling Grantee to an adjustment in price/cost or performance schedule. Grantee shall promptly cease performance and incurring costs in accordance with the State's directive and the State shall not be liable for costs incurred by Grantee after the suspension of performance under this provision.

**ii. Withhold Payment**

Withhold payment to Grantee until corrections in Grantee's performance are satisfactorily made and completed.

**iii. Deny Payment**

Deny payment for those obligations not performed, that due to Grantee's actions or inactions, cannot be performed or, if performed, would be of no value to the State; provided, that any denial of payment shall be reasonably related to the value to the State of the obligations not performed.

**iv. Removal**

Demand removal of any of Grantee's employees, agents, or Subgrantees whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Grant is deemed to be contrary to the public interest or not in the State's best interest.

**v. Intellectual Property**

If Grantee infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Grant, Grantee shall, at the State's option (a) obtain for the State or Grantee the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the State.

**16. NOTICES and REPRESENTATIVES**

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

**A. State:**

Chantal Unfug, Division Director  
Division of Local Government  
Colorado Department of Local Affairs  
1313 Sherman Street, Room 521  
Denver, Colorado 80203  
Email: chantal.unfug@state.co.us

**B. Grantee:**

Elise Jones, Chair  
Boulder County Board of Commissioners  
1325 Pearl St.  
Boulder, CO 80302  
Email: ejones@bouldercounty.org

**17. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE**

This section ☐ shall | ☒ shall not apply to this Grant.

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Grantee in the performance of its obligations under this Grant shall be the non-exclusive property of the State and, all Work Product shall be delivered to the State by Grantee upon completion or termination hereof. The State's non-exclusive rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works.

**18. GOVERNMENTAL IMMUNITY**

Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the GIA. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the GIA and the risk management statutes, CRS §24-30-1501, et seq., as amended.

**19. STATEWIDE CONTRACT MANAGEMENT SYSTEM**

If the maximum amount payable to Grantee under this Grant is greater than \$100,000 either on the Effective Date or at anytime thereafter, this §19 applies.

Grantee agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state Grants and inclusion of Grant performance information in a statewide Contract Management System.

Grantee's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Grant, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Grantee's performance shall be part of the normal Grant administration process and Grantee's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Grantee's obligations under this Grant shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Grantee's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Grant term. Grantee shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Grantee demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Department of Local Affairs, and showing of good cause, may debar Grantee and prohibit Grantee from receiving future grants and bidding on future contracts. Grantee may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Grantee, by the Executive Director, upon a showing of good cause.

**20. RESTRICTION ON PUBLIC BENEFITS**

This section ☐ shall | ☒ shall not apply to this Grant.

Grantee must confirm that any individual natural person is lawfully present in the United States pursuant to CRS §24-76.5-101 et seq. when such individual applies for public benefits provided under this Grant by requiring the applicant to:

- A. Produce an identification document in accordance with §2.1.1 through §2.1.3 of Colorado Department of Revenue's Rule #1 CCR 201-17, Rule for Evidence of Lawful Presence, as amended.
- B. Execute an affidavit, Residency Declaration, stating
  - i. That he or she is a United States citizen or legal permanent resident; or
  - ii. That he or she is otherwise lawfully present in the United States pursuant to federal law.

Notwithstanding the foregoing, to the extent that there is any conflict with the provisions above or those set forth in the Residency Declaration and any provision of federal law, the provisions of federal law shall prevail.

**21. GENERAL PROVISIONS****A. Assignment and Subgrants**

Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or subgranted without the prior, written consent of the State. Any attempt at assignment, transfer, or subgranting without such consent shall be void. All assignments, subgrants, or subcontracts approved by Grantee or the State are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of subgranting and subcontracting arrangements and performance.

**B. Binding Effect**

Except as otherwise provided in §21(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

**C. Captions**

The captions and headings in this Grant are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

**D. Counterparts**

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

**E. Entire Understanding**

This Grant represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

**F. Indemnification-General**

Grantee shall, to the extent permitted by law, indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to the terms of this Grant; however, the provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the GIA, or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended.

**G. Jurisdiction and Venue**

All suits, actions, or proceedings related to this Grant shall be held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

**H. List of Selected Applicable Laws**

At all times during the performance of this Grant, Grantee shall comply with all applicable Federal and State laws and their implementing regulations, currently in existence and as hereafter amended, including without limitation those set forth on **Exhibit A**, Applicable Laws. Grantee also shall require compliance with such laws and regulations by subgrantees under subgrants permitted by this Grant.

**I. Use Covenants, Deed Restrictions and Conservation Easements**

This section ☐ shall | ☒ shall not apply to this Grant.

For Subject Property that is owned by Grantee upon execution of this Grant, Grantee shall record a Use Covenant, in the form provided by the State, with the county in which the property resides as soon as reasonably practicable after execution of this Grant. For Subject Property acquired by Grantee using Grant Funds, Grantee shall record a Use Covenant, in the form provided by the State, with the county in which the property resides as soon as reasonably practicable after acquisition of such property. For Subject Property acquired by Grantee using Grant Funds for flood mitigation, Grantee shall record a Deed Restriction and/or Conservation Easement, in the forms provided by the State, with the county in which the property resides as soon as reasonably practicable after acquisition of such property.

**J. Modification****i. By the Parties**

Except as specifically provided in this Grant, modifications of this Grant shall not be effective unless agreed to in writing by the Parties in an amendment hereto, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATION OF CONTRACTS - TOOLS AND FORMS. Changes to the Grant shall be authorized to be approved by the following State or DOLA parties:

**a) Approval by Division Director**

The Division Director of DOLA or his delegate shall have authority to approve changes to the Responsible Administrator and Key Personnel specified in §6.1 of Exhibit B and the Principal Representative in §16.

**b) Approval by DOLA Controller**

The DOLA Controller shall have authority to approve all changes to the Grant which are not reserved to the Division Director above.

**ii. By Operation of Law**

This Grant is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Grant on the effective date of such change, as if fully set forth herein.

**K. Order of Precedence**

The provisions of this Grant shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Grant and its exhibits and attachments including, but not limited to, those provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Exhibit D (Supplemental Provisions for Federal Funding Accountability and Transparency Act of 2006)
- ii. Colorado Special Provisions (§22 of the main body of this Grant)
- iii. Exhibit B (Statement of Project/Budget)
- iv. The provisions of the main body of this Grant (excluding §22, Colorado Special Provisions and the cover page of this Grant)
- v. Exhibit F (Procedure to Prevent Duplication of Benefits)
- vi. Exhibit G (Project Performance Plan)
- vii. Exhibit A (Applicable Laws)
- viii. Any executed Option Letter
- ix. The cover page of this Grant
- x. Any document incorporated by reference which is not included in any item listed in (i) through (ix) above

**L. Severability**

Provided this Grant can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.



**M. Survival of Certain Grant Terms**

Notwithstanding anything herein to the contrary, provisions of this Grant requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Grantee fails to perform or comply as required.

**N. Taxes**

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Grantee shall be solely liable for paying such taxes as the State is prohibited from paying for or reimbursing Grantee for them.

**O. Third Party Beneficiaries**

Enforcement of this Grant and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

**P. Waiver**

Waiver of any breach of a term, provision, or requirement of this Grant, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

**Q. CORA Disclosure**

To the extent not prohibited by federal law, this Grant and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

**22. COLORADO SPECIAL PROVISIONS**

A. The Special Provisions apply to all Grants except where noted in *italics*.

**i. CONTROLLER'S APPROVAL. CRS §24-30-202 (1).**

This Grant shall not be deemed valid until it has been approved by the Colorado State Controller or designee.

**ii. FUND AVAILABILITY. CRS §24-30-202(5.5).**

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

**iii. GOVERNMENTAL IMMUNITY.**

No term or condition of this Grant shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

**iv. INDEPENDENT CONTRACTOR**

Grantee shall perform its duties hereunder as an independent Grantee and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits shall be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Grant. Grantee shall not have authorization, express or implied, to bind the State to any Grant, liability or understanding, except as expressly set forth herein. Grantee shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

**v. COMPLIANCE WITH LAW.**

Grantee shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

**vi. CHOICE OF LAW.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this grant. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Grant, to the extent capable of execution.

**vii. BINDING ARBITRATION PROHIBITED.**

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Grant or incorporated herein by reference shall be null and void.

**viii. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.**

State or other public funds payable under this Grant shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Grant and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Grant, including, without limitation, immediate termination of this Grant and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**ix. EMPLOYEE FINANCIAL INTEREST. CRS §§24-18-201 and 24-50-507.**

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Grant. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

**x. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4.**

[*Not applicable to intergovernmental agreements*] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

**xi. PUBLIC GRANTS FOR SERVICES. CRS §8-17.5-101.**

[*Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental Agreements, or information technology services or products and services*] Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who shall perform work under this Grant and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Grant, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant or enter into a grant with a Subgrantee that fails to certify to Grantee that the Subgrantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant. Grantee (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Grant is being performed, (b) shall notify the Subgrantee and the granting State agency within three days if Grantee has actual knowledge that a Subgrantee is employing or contracting with an illegal alien for work under this Grant, (c) shall terminate the Subgrant if a Subgrantee does not

stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the granting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the granting State agency, institution of higher education or political subdivision may terminate this Grant for breach and, if so terminated, Grantee shall be liable for damages.

**xii. PUBLIC GRANTS WITH NATURAL PERSONS. CRS §24-76.5-101.**

Grantee, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the Effective Date of this Grant.

(Colorado Special Provisions - effective 1/1/09)

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CDBG DR P16-004 – Boulder County Recovery Planning Projects (3)

CMS #92252

**SIGNATURE PAGE****THE PARTIES HERETO HAVE EXECUTED THIS GRANT**

\* Persons signing for Grantee hereby swear and affirm that they are authorized to act on Grantee's behalf and acknowledge that the State is relying on their representations to that effect.

**GRANTEE  
BOULDER COUNTY**

By: Elise Jones

Title: Chair, Boulder County Board of Commissioners



\*Signature

Date: 08/02/2016

**STATE OF COLORADO****John W. Hickenlooper, GOVERNOR  
DEPARTMENT OF LOCAL AFFAIRS**By: 

Irv Halter, Executive Director

Date: 8/12/16

**PRE-APPROVED FORM CONTRACT REVIEWER**By: 

Andy Hill, Community Development Office Program Manager

Date: 8/10/2016

**ALL GRANTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

CRS §24-30-202 requires the State Controller to approve all State grants. This Grant is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.

**STATE CONTROLLER****Robert Jaros, CPA, MBA, JD**By: 

Janet Miks, CPA, Controller Delegate

Date: 8/16/16

**EXHIBIT A – APPLICABLE LAWS**

Laws, regulations, and authoritative guidance incorporated into this Grant include, without limitation:

1. Housing and Community Development Act of 1974, Pub L, No. 93-383, as amended.
2. 24 CFR Part 570, Community Development Block Grants.
3. State of Colorado Community Development Block Grant (CDBG) Guidebook, available on DOLA's website.
4. Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub L, No 93-288, as amended.
5. 24 CFR Parts 0-91 Housing and Urban Development.
6. 24 CFR Subtitle B, Chapter I – XXV, HUD.
7. 24 CFR Part 58, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.
8. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
9. CRS §29-1-601 et seq., Local Government Audit Law.
10. CRS §24-32-106 – Powers of the director provision.
11. CRS §24-32-705(1)(i) – DOH ability to accept and receive grants
12. 16 USC §469 et seq., Historic Preservation
13. 2 USC Chapter 26, Disclosure of Lobbying Activities.
14. 5 USC §552a, Public Information; agency rules, opinions, order, records and proceedings (Privacy Act 1974).
15. 8 USC §1101-1646, Immigration and Nationality.
16. 12 USC §§1701- 1701z-15, National Housing Act.
17. 15 USC Chapter 49, Fire Prevention and Control.
18. 16 USC Chapters 1-92, Conservation.
19. 16 USC §469 et seq., Historic Preservation
20. 16 USC §1531 et seq., Endangered Species
21. 16 USC §1271 et seq., Wild and Scenic Rivers
22. 20 USC Chapter 38, Discrimination Based on Sex or Blindness (Title IX, as amended, Education Amendment of 1972).
23. 29 USC Chapter 8, §§201, 206, et seq., as amended, Labor.
24. 29 USC Chapter 14 Age Discrimination in Employment.
25. 29 USC Chapter 16, §§793-794, et seq., as amended, Vocational Rehabilitation and Other Rehabilitation Services.
26. 31 USC Subtitles I – VI, Money and Finance.
27. 40 USC Subtitle I, Federal Property and Administrative Services.
28. 40 USC Subtitle II, Public Buildings and Works.
29. 40 USC §§ 3141 – 3148, Wage Rate Requirements (Davis Bacon).
30. 40 USC §§ 3701 – 3708, Contract Work Hours and Safety Standards Act.
31. 40 CFR Parts 1500-1508, Council on Environmental Quality (Regulations Implementing NEPA).
32. 41 CFR Chapter 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.
33. 41 USC § 6502, et seq., Walsh-Healey Public Contracts Act.
34. 41 USC Chapter 81, Drug Free Workplace.
35. 42 USC Chapter 6A, Public Health Service.
36. 42 USC Chapter 21, Civil Rights.
37. 42 USC Chapter 45 Fair Housing.
38. 42 USC Chapter 50, National Flood Insurance.
39. 42 USC Chapter 55, National Environmental Policy.
40. 42 USC Chapter 63, Lead-Based Paint Poisoning Prevention.

41. 42 USC Chapter 69, Community Development.
42. 42 USC Chapter 76, Age Discrimination in Federally Assisted Programs.
43. 42 USC Chapter 85, Air Pollution Prevention and Control.
44. 42 USC Chapter 89, Congregate Housing Services.
45. 42 USC Chapter 126, Equal Opportunity for Individuals with Disabilities.
46. 42 USC Chapter 130, National Affordable Housing.
47. 42 USC §§300f – 300j-26, Safe Drinking Water
48. 49 CFR Part 24, as amended, Uniform Relocation Assistance and Real Property for Federal and Federally Assisted Programs.
49. CRS §24-34-301, et seq., Colorado Civil Rights Division.
50. CRS §24-34-501, et seq. Housing Practices.
51. CRS §24-75-601 et seq., Legal Investment of Public Funds.
52. Executive Order 11063, HUD Equal Opportunity in Housing, as amended by Executive Order 12259, Leadership and Coordination of Fair Housing in Federal Programs.
53. Executive Order 11593, Protection and Enhancement of the Cultural Environment.
54. Executive Order 11988, Floodplain Management.
55. Executive Order 11990, Protection of Wetlands
56. Public Law 110-289, Housing and Economic Recovery Act of 2008.
57. Public Law 111-203, Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.
58. Compliance with all applicable standards, orders, or requirements issued pursuant to section 508 of the Clean Water Act (33 USC §1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). (Applicable to contracts, subcontracts, and subgrants of amounts in excess of \$100,000).
59. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871). [53 FR 8068, March 11, 1988, as amended at 60 FR 19639, Apr. 19, 1995].

**EXHIBIT B – STATEMENT OF PROJECT/BUDGET (SOP)****1. GENERAL DESCRIPTION OF THE PROJECT.**

**1.1 Purpose.** The Colorado Department of Local Affairs (“**DOLA**”) is leading Colorado’s housing and economic recovery effort in response to severe flooding that occurred September 9 through September 15, 2013. On September 14, 2013, President Barack Obama signed FEMA-DR-4145-CO; subsequent amendments to date have declared 18 counties as a Presidential Disaster Area: Adams, Arapahoe, Boulder, Clear Creek, Crowley, Denver, El Paso, Fremont, Gilpin, Jefferson, Lake, Larimer, Lincoln, Logan, Morgan, Sedgwick, Washington, and Weld. On December 16, 2013, the U.S. Department of Housing and Urban Development (“**HUD**”) published a notice in the Federal Register at Fed. Reg. 76,154 – 76,160 (December 16, 2013), which allocates Community Development Block Grant-Disaster Recovery (“**CDBG-DR**”) funds to the State of Colorado (the “**Colorado Notice**”). Boulder, Larimer, and Weld counties have been designated as the “most impacted and distressed” counties in the Colorado Notice, and 80% of the CDBG-DR allocation provided under the Colorado Notice must address unmet needs within these three counties. As a requirement of funding, in cooperation with impacted communities, DOLA developed and HUD approved an action plan (the “**Initial Action Plan**”), which assessed the short term and long term housing, infrastructure, and economic needs in the flood-impacted areas, and developed a strategy for addressing the needs. The Initial Action Plan shall be amended as necessary and available on DOLA’s website (collectively, the “**Action Plan**”). This Project implements an element of the resiliency planning component of the Action Plan for authorized disaster recovery activities (collectively, “**Authorized Activities**”). Additional requirements for Authorized Activities are published in notices in the Federal Register at Fed. Reg 14,329-14,349 (March 5, 2013) (the “**March Notice**”) and Fed. Reg. 23,578-23,581 (April 19, 2013) (the “**April Notice**”). The Colorado Notice, March Notice and April Notice are collectively, the “**Notices**”.

**1.2 Action Plan Amendment #1 Substantial Amendment for the Second Allocation.** For performance of projects funded by federal funds committed as a result of the Action Plan Amendment #1 Substantial Amendment for the Second Allocation of CDBG-Disaster Recovery, approved November 10, 2014, this provision also applies in addition to the above: a notice in the Federal Register at Fed. Reg. 31,964 – 31,973 (June 3, 2014). Action Plan Amendment #1 added Teller County to the list of declared counties and Federally declared wildland fire events to eligible events.

**1.3 Project Description.** This Project consists of the three Subprojects listed below:

**1.3.1 Subproject A: Creating Room for the River:**

Subproject A will study and develop a long-term plan to remove and reduce development in identified hazard areas within Boulder County. The Plan will contain guidelines, policies and criteria for property acquisition, structure elevation, structure relocation, decommissioning of private accesses or other means as identified through the process. Specifically **Subproject A will:**

**A.** Identify areas of high risk including floodways, floodplain, erosion, landslide, debris flow and extreme fire danger.

**B.** Develop overlay mapping to show hazard analysis results and development within the county.

**C.** Develop a program plan, including an overall program approach and funding strategy, as well as policies and criteria for selecting participating properties. This

plan will position the county to launch a program in an efficient and timely manner, and to proactively remove properties and residents from harm's way.

**E. Deliverables include:** This Subproject A will result in a plan and associated policies addressing how Boulder County will work in the future to actively purchase properties or provide assistance for structure relocation, elevation change or other mitigation measures. The Plan will identify targets for future funding and identify priorities for acquisition. It will also include a three year implementation and action plan.

### **1.3.2 Subproject B: Prepare, Practice, Respond, Recover-Instilling Resiliency:**

This Subproject B build upon and help coordinate Boulder County's ability to respond to disasters in an efficient manner. This effort will result in a broader and integrated countywide approach, utilize the Colorado Resiliency Framework, build on the Boulder County Local Resiliency Plan, and develop goals and strategies for how to implement phases of resilience: preparation, response, recovery, and mitigation. The developed plan will determine organizational needs and develop organizational capacity to implement internal processes and programs. **Deliverables include a report with the following elements:**

- A.** Coordinated response, recovery and resiliency plan: The plan will include both internal coordination measures by defining programs and roles as well as how different positions and programs relate and tie to community planning and state and federal disaster response efforts. The plan will include a County and departmental organizational chart and functional responsibility matrix. The matrix will also define internal functions and positions and their relationship to external positions, functions and programs (State, FEMA, BOCO Strong, other cities and towns).
- B.** Implementation and training program: The implementation and training program will ensure definition of roles and provide an integration and understanding of other local, state and federal planning and disaster response efforts.
- C.** Related plans and programs which shall be reviewed and adjusted based on this process.

### **1.3.3 Subproject C: Post-Flood Assessment of Natural Resource and Recovery**

**Planning:** This effort is an assessment of habitat conditions suitable to support the federally threatened Preble's meadow jumping mouse (PMJM) -an indicator species for assessing riparian health. The assessment will inform a recovery plan to support restoration of a self-sustaining and ecologically functioning riparian ecosystem that supports enhanced water quality, increased flood resiliency, stream stability, and natural amenities. This assessment will also provide a framework for monitoring riparian condition into the future. **Deliverables Include:**

- A.** Comprehensive assessment of riparian corridors and adjacent floodplains to include: PMJM studies, habitat assessments related to fish and macro-invertebrate sampling and riparian assessments by researchers and Boulder County staff.
- B.** Narrative assessment of current site conditions and trends including the



impacts of invasive/non-native plants.

**C.** Mapping that delineates riparian extent, habitat classification, potential restoration areas, movement barriers, etc.

**D.** Identification of issues including lack of connectivity for PMJM.

**E.** Recommendations on recovery efforts prioritization based on connectivity and habitat condition assessments relative to PMJM ecology;

**F.** Recommendations on areas to maintain in current conditions including incorporation of natural ecological function(s);

**G.** Recommended methodology to monitor long-term recovery success and successional trajectory of riparian habitat in Boulder County including a compilation and synthesis of existing data and a methodology for a cohesive and comprehensive long-term riparian monitoring plan.

**1.3.4** Final deliverables for all Projects are to be sent to the State electronically and will include a report summarizing and documenting the process to complete each Project.

**1.4 Responsibilities.** Grantee shall be responsible for the completion of the Project, administration of this Grant, and to provide required documentation to the State as specified herein.

**1.5 Service Area.** The performance of the Services for this Grant shall be located in Boulder County ("Service Area").

**1.6 Program Income.** This Subproject ☐ shall or ☒ shall not generate Program Income.

## 2. DEFINITIONS

**2.1 Advance Payment.** "Advance Payment" means the use of Grant Funds to pay for Work that has been completed and invoiced to DOLA, but for which the Grantee has not paid such consultant invoices.

**2.2 Beneficiary.** "Beneficiary" for this Project is (check one):

☐ the persons and/or households who are the end users that benefit from this Project which is funded with Grant Funds.

☒ the area that benefits from this Project which is funded with Grant Funds.

**2.3 Business Day.** "Business Day" means a day during which the State is open for business, excluding weekends and legal public holidays.

**2.4 CDBG Guidebook.** "CDBG Guidebook" means the DOLA CDBG Guidebook. It is updated periodically and available on DOLA's website.

**2.5 Conservation Easement.** "Conservation Easement" means the conservation easement that limits uses of, and lists requirements for, the real property which is part of the Project and which may be attached. Conservation Easements only apply if they are attached to this Grant.

**2.6 Cost Savings.** "Cost Savings" means the Project budget amount less the amount expended to complete the Project Work. Cost Savings are determined at the time the Project Work is completed and the final payment request is submitted by the Grantee to the State. Cost Savings do not result in payment by the State to Grantee above actual expenditures beyond the required ratio, but de-obligates unexpended Grant Funds. The State shall provide written notice to Grantee verifying any Cost Savings.

- 2.7 Cumulative Basis.** "Cumulative Basis" means a cumulative or increasing accumulation of additional expenses within a specific Project Budget Line Item starting with the initial amount approved in §4.2, Project Budget as of the Effective Date. Such starting point will reset with an amendment to this Grant approved by the DOLA Controller changing the Project Budget Line Item amount or the Project Budget Line Item has been amended through an approved True-up Budget Proposal.
- 2.8 Deed Restriction.** "Deed Restriction" means the deed restriction that may be attached and which limits uses of Subproject real property. Deed Restrictions only apply if they are attached to this Grant.
- 2.9 Eligible Expenses.** "Eligible Expenses" are the costs of performing approved and eligible Subproject activities pursuant to this Exhibit. Such Eligible Expenses are specified in the Action Plan and must comply with all CDBG-DR requirements, State Fiscal Rules, this Exhibit and the Grant Agreement.
- 2.10 HUD.** "HUD" is the Department of Housing and Urban Development.
- 2.11 Low- and Moderate-Income Persons.** This subsection ☐ is, or ☒ is not applicable.
- "Low- and Moderate-Income Persons" for this Project are (check one):
- ☐ Those persons who are members of families whose incomes are at or below 80% of area median income, determined by HUD and which shall be posted by HUD on its website, or
- ☐ Those persons who reside in areas that have been determined by HUD, based upon the 2000 Census data, to be at or below 80% of area median income areas, as further specified in the National Objective in §3.2 below, or
- ☐ Those persons belonging to clientele groups (as such term is defined by HUD) who are presumed by HUD to be at or below 80% of area median income, as further specified in the National Objective in §3.2 below, or
- ☐ Those persons who are members of families whose incomes are at or below 80% of area median income as determined by utilizing an income survey methodology approved by HUD.
- 2.12 Lump Sum Budgeting.** "Lump Sum Budgeting" means a very general, non specific budget for a multi-component project that leaves all discretion with the recipient of the grant for use of grant funds. For purposes of this definition, "component" means a distinct period or stage in a sequence of events to complete a project. For example, a multi-component construction project not using Lump Sum Budgeting may include separate line items for Real Property Acquisition, Design, Utilities, and Construction. A multi-component construction project using Lump Sum Budgeting may only include a line item for Construction. Lump Sum Budgeting is not permitted under this Grant.
- 2.13 National Objective.** "National Objective" means those objectives approved by HUD and listed in §3.2 of this **Exhibit B**.
- 2.14 Other Funds.** "Other Funds" means funding provided by other federal, state, local or private sources for the Project. Other Funds are good faith estimates and do not include Grant Funds.
- 2.15 Pre-agreement Costs.** "Pre-agreement Costs" are those costs specifically authorized as pre-agreement costs by DOLA and which are specifically authorized by the federal funding source.

- 2.16 Project Budget Line Item.** “Project Budget Line Item” means each line for Project activities specified and approved in the Project Budget in **§4.2**.
- 2.17 Project Performance Plan.** “Project Performance Plan” means the milestones, performance goals and timelines for the Project identified in **Exhibit G**.
- 2.18 Program Income.** “Program Income” shall have the meaning given at §VI.17.a. of the March Notice and 24 CFR §570.500(a).
- 2.19 Substantial Completion.** “Substantial Completion” for the Project shall have the meaning given in **§5.7** of this Exhibit and the Project Performance Plan.
- 2.20 Use Covenant.** “Use Covenant” means the use covenant that limits uses of Project real property, and which may be attached. Use Covenants only apply if they are attached to this Grant.

### **3. DELIVERABLES**

- 3.1 Outcome.** The final outcome of this Project is to complete three(3) planning projects in accordance with this Grant and Grantee's CDBG-DR grant application.
- 3.2 National Objective.** Pursuant to 24 CFR §570.208 (Criteria for national objectives), CDBG funds expended for planning and administrative costs under 24 CFR §570.205 and §570.206 are considered to address the national objectives. This Project is considered to address national objectives because all Grant Funds are expended for planning and/or capacity building costs under 24 CFR §570.205.
- 3.3 Project Performance Plan.** The Parties shall comply with the milestones, performance goals and timelines in the Project Performance Plan.

### **4. FUNDING**

The State provided funds shall be limited to the amount specified under the “Grant Funds” column of **§4.2**, Project Budget, below.

- 4.1 Other Funds.** Grantee shall provide the required Other Funds as listed in the “Other Funds” column of **§4.2** below during the term of this Project.

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**4.2 Project Budget**

<b>Budget</b>	<b>Total Cost</b>	<b>Grant Funds</b>	<b>Other Funds</b>	<b>Other Fund Source</b>
<b>Subproject A: Creating Room for the River</b>				
Consultant Services and Project Delivery Expenses	\$54,417	\$54,417	\$0	None
<b>Subproject A Subtotal: Creating Room for the River</b>	<b>\$54,417</b>	<b>\$54,417</b>	<b>\$0</b>	<b>None</b>
<b>Subproject B: Prepare, Practice, Respond, Recover – Instilling Resiliency</b>				
Consultant Services and Project Delivery Expenses	\$102,650	\$102,650	\$0	None
<b>Subproject B Subtotal: Prepare, Practice, Respond, Recover – Instilling Resiliency</b>	<b>\$102,650</b>	<b>\$102,650</b>	<b>\$0</b>	<b>None</b>
<b>Subproject C: Post-Flood Assessment of Natural Resource and Recovery Planning</b>				
Consultant Services and Project Delivery Expenses	\$139,500	\$139,500	\$0	None
<b>Subproject C Subtotal: Post-Flood Assessment of Natural Resource and Recovery Planning</b>	<b>\$139,500</b>	<b>\$139,500</b>	<b>\$0</b>	<b>None</b>
<b>Total all projects</b>	<b>\$296,567</b>	<b>\$296,567</b>	<b>\$0</b>	<b>None</b>

If administrative expenses are included as Eligible Expenses, there must be a separate Project Budget Line Item for such expenses. Project Delivery Expenses must comply with Cost Principles 2 CFR 200.

**4.3 Project Budget Line Item Adjustments.** Project Budget Line Item adjustments pursuant to this Section shall not change the total awarded or contracted amount of the Grant Funds for the Project. Increases to Grant Funds for a Project require an amendment. Calculations in §§4.3.1 and 4.3.2 must be made on a Cumulative Basis.

**4.3.1** Grantee shall have authority to adjust individual Project Budget Line Items without approval of the State up to an aggregate of 10% of such Project Budget Line Item from which the funds are moved. Such authority shall not allow Grantee to transfer to or between administration budget lines (E.g. development fees, overhead and project delivery). Grantee shall send written notification of allowed adjustments to the State within 30 days of such adjustment.

**4.3.2** All changes to individual Project Budget Line Items which are in excess of 10% but less than 24.99% of such Project Budget Line Item from which the funds are moved shall require prior written approval of the DOLA Controller. Grantee shall submit a written request for changes pursuant to this Section to DOLA. Such request shall include the amount of such request, the reason for the request and any necessary documentation. If DOLA approves such request, DOLA shall unilaterally execute an Option Letter accepting such request pursuant to §7(C) of the Grant Agreement.

Grantee is not authorized to perform until Grantee receives an executed Option Letter accepting such change.

**4.3.3** All changes to individual Project Budget Line Items which are in excess of 24.99% of such Project Budget Line Item from which the funds are moved shall require a prior written amendment executed by the Grantee and DOLA pursuant to §21(J) of the Grant Agreement. Grantee shall submit a written request for changes pursuant to this Section to DOLA. Such request shall include the amount of such request, the reason for the request and any necessary documentation. Grantee is not authorized to perform until a bi-lateral amendment is fully executed by the DOLA Controller accepting such change.

**4.3.4 Signature Authority.** All Grantee notices and requests submitted to DOLA pursuant to this §4.3 (each a “**Line Item Proposal**”), must be signed and dated by a person authorized to bind the Grantee to such Line Item Proposal.

#### **4.4 Overall Budget Adjustments.**

**4.4.1** All changes to the overall Project Budget which are less than 24.99% (each a “**Minor Budget Adjustment**”) shall require prior written approval of the DOLA Controller. Grantee’s Responsible Administrator shall submit a written request for changes pursuant to this Section to DOLA. Such request shall include the amount of such request, the reason for the request and any necessary documentation. If DOLA approves such request, DOLA shall unilaterally execute an Option Letter accepting such request pursuant to §7(C) of the Grant Agreement. Grantee is not authorized to perform until Grantee receives an executed Option Letter accepting such change. Minor Budget Adjustments shall not increase the Grant Funds.

**4.4.2 Exception for Setting Final Initial Budget.** Within 30 days of bid opening for its selection of its prime Subcontractor, Grantee shall submit a written request for changes to the overall Project Budget to revise the initial overall Budget estimate to align it with current market conditions (a “**True-up Budget Proposal**”). Grantee’s Responsible Administrator shall submit a written request for changes pursuant to this Section to DOLA. Such request shall include the amount of such request, the reason for the request and any necessary documentation. If DOLA approves such request, DOLA shall unilaterally execute an Option Letter accepting such request pursuant to §7(C) of the Grant Agreement. Grantee is not authorized to perform until Grantee receives an executed Option Letter accepting such change. True-up Budget Proposals shall not increase the Grant Funds. The overall Budget adjustment permitted by this §4.4.2 is only permitted once under this Grant.

**4.4.3 Other Budget Changes.** All changes to the overall Project Budget which are in excess of 24.99% shall require a prior written amendment executed by the Grantee and DOLA pursuant to §21(J) of the Grant Agreement. Grantee shall submit a written request for changes pursuant to this Section to DOLA. Such request shall include the amount of such request, the reason for the request and any necessary documentation. Grantee is not authorized to perform until a bi-lateral amendment is fully executed by the DOLA Controller accepting such change.

**4.4.4 Signature Authority.** All Grantee notices and requests submitted to DOLA pursuant to this §4.4 (each a “**Budget Proposal**”), must be signed and dated by a person authorized to bind the Grantee to such Budget Proposal.

## 5. PAYMENT

Payments shall be made in accordance with this section and the provisions set forth in §7 of the Grant Agreement. Grantee's requests for funds from this Grant shall be for the reimbursement of actual Eligible Expenses.

**5.1 Payment Schedule.** The State shall make payment to Grantee pursuant to accepted Pay Requests until 95% of Grant Funds have been disbursed; the final 5% shall be disbursed in accordance with §5.5.

**5.2 Advance Payments.** This subsection ☐ is, or ☒ is not applicable.

DOLA Controller has previously approved in writing Advance Payments for this Project. If Work is subcontracted or subgranted, such Subcontractors and/or Subgrantees are not previously paid, Grantee shall disburse Grant Funds received from the State to such Subcontractor or Subgrantee within three Business Days of receipt. Grantee shall provide DOLA with proof of payment within three Business Days of such payment. Excess funds shall be returned to DOLA.

To maximize the use of Grant Funds, the State shall evaluate Grantee's expenditure of the Grant Funds for timeliness and compliance with the terms of this Grant and Exhibit. DOLA reserves the right to recapture advanced Grant Funds when Grantee has not or is not complying with the terms of this Grant and/or Exhibit.

**5.3 Remittance Address.** If mailed, payments shall be remitted to the following address unless changed in accordance with §16 of the Grant Agreement:

Boulder County Board of Commissioners P.O. Box 471 Boulder, CO 80306
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**5.4 Interest.** If Advance Payments are authorized, Grantee or Subgrantee may keep interest earned from all federal funds received by Grantee or Subgrantee up to \$100 per year (calculated on Grantee's fiscal year) for administrative expenses. All interest earned in excess of \$100 shall be remitted to DOLA.

### 5.5 Milestones.

Project Activity	Milestone	Target Date
<b>Subproject A: Creating Room for the River</b>		
Request for Proposals (RFP)	Release RFP.	By: October 31, 2016
Consultant selection	Hire consultant.	By: December 16, 2016.
Study initiated: mapping, property risk factors, evaluation criteria	Mapping overlays, hazard evaluation, mitigation potential, collaboration with municipalities and special districts.	By: May 31, 2017.
Draft 3 year implementation plan and public input	Draft Plan and policies.	By: September 15, 2017.
Final 3 year implementation action plan	Project final report.	By: December 15, 2017.

<b>Subproject B: Prepare, Practice, Respond, Recover – Instilling Resiliency</b>		
Request for Proposals (RFP)	Release RFP	Within 60 days of the executed Grant Agreement.
Consultant selection	Hire consultant.	By: October 30, 2016.
Coordinated Response Plan	Draft Coordinated Response and Implementation Training Plans.	By: April 1, 2017.
Implementation Training Plan	Training of county and other staff.	By: July 1, 2017.
Final Coordinated Response Plan and Implementation Training Program	Project final report.	By: December 15, 2017.
<b>Subproject C: Post-Flood Assessment of Natural Resource and Recovery Planning</b>		
Request for Proposals (RFP)	Release RFP.	Within 60 days of the executed Grant Agreement.
Consultant selection	Hire Consultant.	By: October 30, 2016.
Analysis and field work	Assessment, mapping, field work, policy development.	Through: July 1, 2017.
Draft Riparian Recovery and Monitoring Plan Report	Draft Plan.	By: September 1, 2017.
Final Riparian Recovery and Monitoring Plan Report	Final Plan delivered.	By: December 15, 2017.

\*If Target Date for such Milestone(s) is/are not met, the State has the authority to use any remedies stated in the Grant, including, but not limited to, those specified in §15(C) of the Grant Agreement which allow the State, at its sole discretion, to provide technical assistance and/or termination of the Project..

- 5.6 Quarterly Pay Requests.** Beginning the earlier to occur of January 10th, April 10th, July 10th, or October 10<sup>th</sup> after commencement of Work under this Project and for each quarter thereafter until termination of this Project, Grantee shall submit Pay Requests using a form provided by the State. The State shall pay the Grantee for actual expenditures made in the performance of this Project based on the submission of Pay Requests. The Grantee shall submit Pay Requests setting forth a detailed description and provide documentation (including invoices) of the amounts and types of reimbursable expenses. For months in which there are no expenditures to reimburse, Grantee shall indicate zero (0) in the request. The Pay Request shall contain actual expenditures of Grant Funds incurred in the period by Project Budget Line Item pursuant to §4.2 of this Statement of Project/Budget as well as a projection of all Project Work expected to be accomplished in the following month, including an estimate of Grant Funds to be expended. This report is due within 10 days of the end of the reporting quarter or more frequently at the discretion of the Grantee. See Project Performance Plan for specific submittal dates.

- 5.7 Final Payment/Substantial Completion.** Final payment for this Project shall not be released by DOLA until Grantee has submitted a final Pay Request and achieved substantial completion, which includes completion of the Project Work; completion, submission, and DOLA's acceptance of all interim reports; completion of on-site Project monitoring by DOLA, including approval of all corrective action taken on any identified findings or concerns; and submission by Grantee and acceptance by DOLA of the Project Completion Report (collectively, "**Substantial Completion**"). For the purposes of this Grant, "completion of the Project Work" means the following :

☒ **For planning programs:** Completion and submission of the planning document and receipt of final invoicing for such Work completed and as defined in 24 CFR § 570.205.

- 5.8 Eligible Expenses.** Pay Requests shall include only Eligible Expenses in accordance with §4.2. Eligible Expenses do not include administrative expenses.

- 5.9 Cost Savings.** Cost Savings derived while completing the Project shall be (choose one):

☐ split on a pro-rata basis between the State and Grantee

☒ returned to the State

## 6. ADMINISTRATIVE REQUIREMENTS

These funds will be administered by Grantee, in accordance with the requirements of this Grant, the Action Plan, **Exhibit B** and Project Performance Plan. Grantee shall comply with the administration requirements set forth in the most recent State Community Development Block Grant Guidebook, or such requirements as may be subsequently amended by the State, which shall be available on DOLA's website.

### 6.1 Personnel.

**6.1.1 Responsible Administrator.** Grantee's performance hereunder shall be under the direct supervision of **Dale Case, ([dcase@bouldercounty.org](mailto:dcase@bouldercounty.org)) for Subproject A and B and Bridgette McCarthy ([bmccarthy@bouldercounty.org](mailto:bmccarthy@bouldercounty.org)) for Subproject C**, an employee or agent of Grantee, who is hereby designated as the Responsible Administrator of this Subproject.

**6.1.2 Other Key Personnel:** **Julie McKay ([jmckay@bouldercounty.org](mailto:jmckay@bouldercounty.org)) for Subproject A and B and Susan Spaulding ([sspaulding@bouldercounty.org](mailto:sspaulding@bouldercounty.org)) for Subproject C**. Such key personnel shall be updated through the approval process in §6.1.3.

**6.1.3 Replacement.** Grantee shall immediately notify DOLA if any Key Personnel cease to serve. Provided there is a good-faith reason for the change, if Grantee wishes to replace its Key Personnel, it shall notify DOLA and seek its approval, which shall be at DOLA's sole discretion, as DOLA issued this Grant in part in reliance on Grantee's representations regarding Key Personnel. Such notice shall specify why the change is necessary, who the proposed replacement is, what his/her qualifications are, and when the change will take effect. Anytime Key Personnel cease to serve, DOLA, in its sole discretion, may direct Grantee to suspend work on the Subproject until such time as replacements are approved. All notices sent under this subsection shall be sent in accordance with §16 of the Grant Agreement.

- 6.2 Accounting.** Grantee shall maintain properly segregated accounts of Grant Funds, and Other Funds associated with the Project and make those records available to the State upon request. All receipts and expenditures associated with the Project shall be documented in a detailed and specific manner, in accordance with this Exhibit.



- 6.3 Audit Report.** If an audit is performed on Grantee's records for any fiscal year covering a portion of the term of this Grant or any other grants/contracts with DOLA, Grantee shall promptly submit the final audit report, including a report in accordance with the Single Audit Act, to:

Department of Local Affairs  
Accounting & Financial Services  
1313 Sherman Street, Room 323  
Denver, CO 80203  
  
Or Email to: [dola.audit@state.co.us](mailto:dola.audit@state.co.us)

- 6.4 Prevention and Detection of Waste, Fraud, and Abuse.** Grantee shall certify that all reported information submitted to State is complete and accurate. Grantee shall work with State staff to review project budgets, financial projections and other supporting documents to ensure that Grant Funds are responsibly expended and are used on projects that are necessary and feasible. Grantee shall allow State, or State's authorized agent, full on-site monitoring including site visits and inspections (if applicable), file review and administrative review to ensure compliance with requirements, no duplication of benefits occurred, that any long-term affordability requirements are met and all payments disbursed are eligible and reasonable. Grantee warrants that it has adequate procedures to detect fraud, waste and/or abuse in its programs and/or expenditures. If Grantee suspects or has knowledge of any waste, fraud and/or abuse of Grant Funds, Grantee shall immediately provide written notice to State of such waste, fraud and/or abuse and Grantee shall be liable to the State to repay/reimburse State for any waste, fraud and/or abuse of Grant Funds.
- 6.5 Prevention of Duplication of Benefits.** The CDBG-DR appropriation (Pub. L. 113-2), and the Stafford Act, direct that Beneficiaries of federal disaster assistance not receive duplication of benefits from any resources available to them between federal, state, local, and certain private sources.

**6.5.1 Determine Maximum Eligible Benefit.** Prior to awarding Grant Funds to Grantee, DOLA reviewed information submitted by the Grantee, pursuant to DOLA's Procedure to Prevent Duplication of Benefits (attached as **Exhibit F**). The Grant Funds awarded pursuant to this Grant do not exceed DOLA's determination of Grantee's unmet need for each Subproject.

**6.5.2 Recapture and Reimbursement of Duplicative Benefits.** Grantee acknowledges that the source and amount of any and all additional funds received for costs associated with the disaster will be reported to DOLA within 15 calendar days of receipt. If DOLA determines the additional funds to be duplicative, the Grant Funds will be reduced by and/or the Grantee will be required to repay any disbursed duplicative amount.

**6.5.3 Subrogation.** Grantee hereby assigns to the State all of Grantee's future rights to reimbursement and all payments received that are determined in the sole discretion of the State to be a duplication of benefits.

**6.5.4 Completion Monitoring.** Upon Substantial Completion of the Project, Grantee will report and certify to DOLA whether additional funds were received for disaster related expenses, the source, the amount, and date of receipt. If additional funds were received and DOLA determines they are duplicative, the Grantee must repay the duplicative amount to DOLA.

**6.5.5 On-going Monitoring.** One year after Substantial Completion of the Project, Grantee will report and certify whether additional funds were received for disaster related expenses, the source, the amount, and date of receipt. If additional funds were received that are determined to be duplicative, the Grantee must repay the duplicative amount to DOLA.

- 6.6 Reporting.** Grantee shall submit the following reports to DOLA using the state-provided forms. DOLA may withhold payment(s) or take additional action described in §15 of the Grant Agreement, if such reports are not submitted timely. When there is a conflict between the reporting requirement in this section and the CDBG Guidebook, the stricter requirement shall prevail.

**6.6.1 Pay Requests.** Pay Requests are due in accordance with §5.6 of this Exhibit B.

**6.6.2 Financial Status Report.** This Report is due within 10 calendar days of the end of each quarter until the Project has been closed out with the State.

**6.6.3 Performance Reports.** The Project Performance Plan report for the Project shall be submitted within 10 calendar days of the end of each quarter until the Project has been closed out with the State.

**6.6.4 Project Completion Report.** Within 30 days of the earlier of termination or completion of the Project, the Grantee shall submit one copy of the Project Completion Report, and two copies of the final Financial Status Report.

- 6.7 Monitoring/Inspections.** The State shall monitor this Grant in accordance with this Exhibit and §9 of the Grant Agreement.

**6.7.1 Grantee.** Prior to submitting a request for payment, Grantee must inspect as described below in §§6.7.1.1 through 6.7.1.2 and certify that it meets the requirements and standards of the Notices and the Action Plan. Grantee's payment request to DOLA must include documentation of inspection and approval.

**6.7.1.1 For Planning:** Grantee shall inspect planning documents for progress that is consistent with the Subcontractor invoice.

**6.7.1.2 For hiring temporary Planning employees (supporting planning activities defined in 24 CFR §570.205):** Grantee shall inspect a schedule of hourly rates, timesheets of the individuals signed by the employee and supervisor, and bank records demonstrating payroll payments have been disbursed for the period of the Pay Request.

**6.7.2 DOLA.**

**6.7.2.1** At its sole discretion, DOLA, or its authorized agent, may perform an inspection of the Work and/or Subject Property, as applicable, prior to release of requested payment.

**6.7.2.2** Prior to Substantial Completion of the Project, DOLA or its authorized agent shall perform an inspection of the Work and/or Subject Property, and shall have access to all Grantee financial, administrative, and Beneficiary records related to the Project. Release of final payment shall be subject to acceptable completion of this monitoring, per §5.2, above.

- 6.8 Procurement Standards.** Selection of subcontractors and purchase of materials to accomplish a Project shall follow appropriate procurement standards as outlined in DOLA's

CDBG Guidebook, *Financial Management* Section. If the standards in the CDBG Guidebook conflict with this Grant, the provisions of this Grant shall prevail. Procurement documentation shall be submitted to DOLA at the time of occurrence.

- 6.9 Environmental Requirements.** Grantee shall comply with all HUD and other federal environmental requirements and shall not obligate Grant Funds prior to compliance with all federal environmental requirements in 24 CFR Part 58 and receipt of the written release of funds from the State.
- 6.10 The Federal Funding Accountability and Transparency Act of 2006 as Amended 10/15/2010 (FFATA).** The Grantee and Subgrantee (if any) shall comply with all the requirements of the Federal Funding Accountability and Transparency Act in accordance with the provisions set forth in **Exhibit D**.
- 6.11 Program Income.** This Project ☐ shall or ☒ shall not generate Program Income.  
For the purpose of these Grant Funds, Program Income is defined at §VI.17.a. of the “March Notice” and 24 CFR §570.500(a). This Project is not anticipated to generate Program Income; however, if it does, Grantee shall return such Program Income to DOLA on a calendar quarterly basis within 20 days of the end of such quarter. Grantee shall track and account for all Program Income in accordance with the requirements in the CDBG-DR Program Income Guidelines (available on DOLA’s website) and 24 CFR 570.504.
- 6.12 Davis-Bacon Act.** This subsection ☐ is, or ☒ is not applicable.  
Grantee shall comply with all the requirements set forth in 24 CFR §570.603 (Davis-Bacon Act). If applicable, the responsible party for oversight of compliance shall be designated in the PPP.
- 6.13 Section 3 of the HUD Act of 1968 and 24 CFR Part 135.** To the greatest extent feasible, the Grantee and Subgrantee (if applicable) will provide opportunities for training and employment that arise from this HUD-financed project, will give preference in hiring to persons whose income is equal to or less than 80% of Area Median Income (AMI), and will give preference in contracting to businesses owned in substantial part by persons, or that substantially employ persons, whose income is equal to or less than 80% of AMI in the Subproject area.  
  
In addition, Grantee shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity, as such term is defined below herein, or contract with small businesses that are owned and operated by persons residing in the vicinity of such projects. Note: This local hiring requirement does not replace the responsibilities of Grantee under Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135, except to the extent the obligations may be in direct conflict. For the purposes of this Grant, “vicinity” is defined as each neighborhood identified by the Grantee and approved by the State as being the areas of greatest need. “Small business” means a business that meets the criteria set forth in section 3(a) of the Small Business Act.
- 6.14 Minority and Women Business Enterprises (24 CFR 570.506(g)(6)).** To the greatest extent feasible, the Grantee and Subgrantee (if applicable) will take affirmative steps to assure that minority business and women’s business enterprises have an equal opportunity to obtain or compete for subcontracts to be paid with CDBG-DR funds.
- 6.15 Uniform Relocation Act (URA).** Grantee and Subgrantee are required to follow a URA Residential Anti-displacement and Relocation Assistance Plan when designing their programs in that obligations related to voluntary and involuntary property acquisition activities for

vacant and abandoned property apply. Grantee shall follow the alternative relocation requirements associated with these Grant Funds, which are specified in the March Notice.

**6.16 System of Award Management (SAM) and Data Universal Numbering System (DUNS).**

In accordance with Section 3 of **Exhibit D (FFATA)** Grantee is required to register with the System of Award Management (SAM) and have an active registration in SAM in accordance with 2 CFR Part 25. Grantee shall provide its DUNS number to the State and shall update Grantee's information at least annually after the registration and more frequently if required by changes in Grantee's information.

**6.17 Termination for Convenience.** In addition to the Remedies listed in §15 of the main Grant Agreement, this Grant may be terminated in whole or part as follows:

**6.17.1** By the State with consent of the Grantee in which case the Grantee and State shall agree upon the termination conditions including the effective date and in the case of partial termination, the portion to be terminated.

**6.17.2** By the Grantee upon written notification to the State, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the States determines that the remaining portion of the Grant will not accomplish the purposes for which the Grant was made, the State may terminate the Grant in its entirety.

**6.18 Reversion of Assets**

**6.18.1** Upon expiration of this Grant, Grantee shall transfer to the State any CDBG Funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG Funds. Any real property under the Grantee's control that was acquired or improved in whole or in part with CDBG funds (including CDBG Funds provided to the Grantee in the form of a loan) in excess of \$25,000 is either:

- A.** Used to meet one of the national objectives in §570.208 (formerly §570.901) until five years after expiration of the Grant Agreement, or for such longer period of time as determined to be appropriate by the State; or
- B.** Not used in accordance with paragraph 6.18.1 (A) of this section, in which event the Grantee shall pay the State an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the State. (No payment is required after the period of time specified in paragraph 6.18.1 (A) of this section.) [53 FR 8058, Mar. 11, 1988, as amended at 53 FR 41331, Oct. 21, 1988; 57 FR 27120, June 17, 1992; 60 FR 56915, Nov. 9, 1995; 68 FR 56405, Sept. 30, 2003]

**6.19 Recapture and Repayment**

**6.19.1 Recapture** Upon completion of the Project for which Funds were awarded, Grantee shall report and certify whether additional funds were received for disaster-related expenses, the amount, and when funds were received. If additional funds were received that are determined to be duplicative, the State shall recapture the total amount of additional funds received.

**6.19.2 Repayment** One year after completion of Project, for which Grant Funds were awarded, the Grantee must report and certify whether additional funds were received for disaster-related expenses, the amount, and when funds were received. If additional funds were received that are determined to be duplicative, the Grantee must repay the State the total amount of additional funds received.

**6.20 Uniform Administrative Requirements.**

Grantee agrees to comply with all applicable uniform administrative requirements as described in 24 CFR §570.502.

**6.21 Other Program Requirements.**

Grantee agrees to carry out each activity of this Project in compliance with all Federal laws and regulations described in 24 CFR §570, Subpart K except that:

- A. Grantee does not assume the State's environmental responsibilities described at §570.604.
- B. Grantee does not assume the State's responsibility for initiating the review process under the provisions of 24 CFR part 52.

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**Exhibit C -Form of Option Letter**

Date:	Original Grant CMS #:	Option Letter #	CMS Routing #
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**1) OPTIONS:**

- a. Option to issue a new Project Budget (§4.3 of the Project Scope of Work/Budget) for a Project Budget Line Item adjustment of §4.2.
- b. Option to issue a new Project Budget (§4.4.1 of the Project Scope of Work/Budget) for a Minor Budget Adjustment of §4.2.
- c. Option to issue a new Project Budget (§4.4.2 of the Project Scope of Work/Budget) for a True-up Budget Proposal of §4.2.

**2) REQUIRED PROVISIONS.** All Option Letters shall contain the appropriate provisions set forth below:

- a. **For use with Option 1(a):** In accordance with §7(C) of the Original Grant referenced above between the State of Colorado, acting by and through the Colorado Department of Local Affairs, and Contractor's Name ("Grantee") and §4.3 of the Project Scope of Work for \_\_\_\_\_ (the "Project SOW"), the State hereby approves the Line Item Proposal on the attached revised Project Budget for §4.2 of the Project SOW. Section 4.2 of the Project SOW of the Original Grant is hereby deleted and replaced with the attached §4.2. All references to §4.2 of the Project SOW in the Original Grant shall refer to the attached Exhibit. Project Budget Line Item adjustments shall not increase the Grant Funds for a Project. The total value of the Grant is unchanged.
- b. **For use with Option 1(b):** In accordance with §7(C) of the Original Grant referenced above between the State of Colorado, acting by and through the Colorado Department of Local Affairs, and Contractor's Name ("Grantee") and §4.4.1 of the Project Scope of Work for \_\_\_\_\_ (the "Project SOW"), the State hereby approves the Minor Budget Adjustment on the attached revised Project Budget for §4.2 of the Project SOW. Section 4.2 of the Project SOW of the Original Grant is hereby deleted and replaced with the attached §4.2. All references to §4.2 of the Project SOW in the Original Grant shall refer to the attached Exhibit. Minor Budget Adjustments shall not increase the Grant Funds for a Project. The total value of the Grant is unchanged.
- For use with Option 1(c):** In accordance with §7(C) of the Original Grant referenced above between the State of Colorado, acting by and through the Colorado Department of Local Affairs, and Contractor's Name ("Grantee") and §4.4.2 of the Project Scope of Work for \_\_\_\_\_ (the "Project SOW"), the State hereby approves the True-up Budget Proposal on the attached revised Project Budget for §4.2 of the Project SOW. Section 4.2 of the Project SOW of the Original Grant is hereby deleted and replaced with the attached §4.2. All references to §4.2 of the Project SOW in the Original Grant shall refer to the attached Exhibit. True-up Budget Proposal adjustments shall not increase the Grant Funds for a Project. The total value of the Grant is unchanged.

**3) Effective Date.** The effective date of this Option Letter is upon approval of the State Controller or Insert start date, whichever is later.

STATE OF COLORADO  
John W. Hickenlooper GOVERNOR  
Colorado Department of Local Affairs

By: Irv Halter, Executive Director

Date: \_\_\_\_\_

**ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

CRS §24-30-202 requires the State Controller to approve all State contracts. This Option Letter is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER  
Robert Jaros, CPA, MBA, JD

By: \_\_\_\_\_  
Janet Miks, CPA, Controller Delegate

Date: \_\_\_\_\_

SAMPLE - DO NOT SIGN

**EXHIBIT D – Supplemental Provisions for FFATA**

**State of Colorado  
Supplemental Provisions for  
Federally Funded Contracts, Grants, and Purchase Orders  
Subject to  
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As  
Amended  
Revised as of 3-20-13**

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

- 1. Definitions.** For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

- 1.1. "Award"** means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- 1.1.1.** Grants;
- 1.1.2.** Contracts;
- 1.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.4.** Loans;
- 1.1.5.** Loan Guarantees;
- 1.1.6.** Subsidies;
- 1.1.7.** Insurance;
- 1.1.8.** Food commodities;
- 1.1.9.** Direct appropriations;
- 1.1.10.** Assessed and voluntary contributions; and
- 1.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award **does not** include:

- 1.1.12.** Technical assistance, which provides services in lieu of money;
- 1.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 1.1.14.** Any award classified for security purposes; or
- 1.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

- 1.2. "Contract"** means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.
- 1.3. "Contractor"** means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.
- 1.4. "Data Universal Numbering System (DUNS) Number"** means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet's website may be found at: <http://fedgov.dnb.com/webform>.



- 1.5. **"Entity"** means all of the following as defined at 2 CFR part 25, subpart C;
- 1.5.1. A governmental organization, which is a State, local government, or Indian Tribe;
  - 1.5.2. A foreign public entity;
  - 1.5.3. A domestic or foreign non-profit organization;
  - 1.5.4. A domestic or foreign for-profit organization; and
  - 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **"Executive"** means an officer, managing partner or any other employee in a management position.
- 1.7. **"Federal Award Identification Number (FAIN)"** means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.8. **"FFATA"** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the "Transparency Act."
- 1.9. **"Prime Recipient"** means a Colorado State agency or institution of higher education that receives an Award.
- 1.10. **"Subaward"** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient's support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- 1.11. **"Subrecipient"** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term "Subrecipient" includes and may be referred to as Subgrantee.
- 1.12. **"Subrecipient Parent DUNS Number"** means the subrecipient parent organization's 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient's System for Award Management (SAM) profile, if applicable.
- 1.13. **"Supplemental Provisions"** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- 1.14. **"System for Award Management (SAM)"** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.15. **"Total Compensation"** means the cash and noncash dollar value earned by an Executive during the Prime Recipient's or Subrecipient's preceding fiscal year and includes the following:
- 1.15.1. Salary and bonus;
  - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
  - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
  - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
  - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
  - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.

- 1.16. "Transparency Act"** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 1.17 "Vendor"** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.
- 2. Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3. System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
- 3.1. SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 3.2. DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
- 4. Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
- 4.1.** The total Federal funding authorized to date under the Award is \$25,000 or more; and
- 4.2.** In the preceding fiscal year, Contractor received:
- 4.2.1.** 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 4.2.2.** \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 4.3.** The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
- 5. Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
- 6. Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions applies to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the

Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.

**7. Subrecipient Reporting Requirements.** If Contractor is a Subrecipient, Contractor shall report as set forth below.

**7.1 To SAM.** A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

- 7.1.1** Subrecipient DUNS Number;
- 7.1.2** Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;
- 7.1.3** Subrecipient Parent DUNS Number;
- 7.1.4** Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
- 7.1.5** Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
- 7.1.6** Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

**7.2 To Prime Recipient.** A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

- 7.2.1** Subrecipient's DUNS Number as registered in SAM.
- 7.2.2** Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

**8. Exemptions.**

- 8.1.** These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 8.2** A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.
- 8.3** Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.
- 8.4** There are no Transparency Act reporting requirements for Vendors.

**9. Event of Default.** Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

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**Exhibit E - Federal Funding Accountability and Transparency Act (FFATA)  
Data Report Form**

**Reporting is required for initial awards of \$25,000 or more  
or award modifications that result in a total award of \$25,000 or more.**

Information Field Definitions can be found in Exhibit D	Response
1. Grantee's DUNS Number:	075755199
2. Grantee's Legal Name:	Boulder County
3. Grantee's Parent DUNS Number: (Report ONLY if different from Grantee DUNS number)	
4. Location of Grantee Receiving Award: (Full street address, including City, State and Zip+4)	1325 Pearl St., Boulder, CO 80302-5247
5. Primary Location of Performance of the Award: (City, State and Zip+4)	Boulder, CO; 2nd Congressional District
	Answer True or False
6. In the preceding fiscal year, Grantee received:	True
a. \$25,000,000 or more in annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or sub-awards subject to the Transparency Act.	
b. 80% or more of its annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or sub-awards subject to the Transparency Act.	False
c. The public does not have access to information about the compensation of its five most highly compensated Executives through periodic reports filed through the Securities Exchange Act of 1934 or the IRS.	True

**An answer to question 7 is required ONLY when all answers to questions 6 are true.**

7. Names and total compensation of the five (5) most highly compensated Executives for the preceding fiscal year:

Print Name

Compensation Amount

N/A

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By signing below, I certify the information contained in this report is complete and accurate to the best of my knowledge.

  
Signature of Responsible Administrator

Date

08/02/16

## **EXHIBIT F**

### **PROCEDURE TO PREVENT DUPLICATION OF BENEFITS**

For activities carried out by subrecipients, the designated administrator of the activity will be contractually required to complete this procedure and submit documentation for review before the responsible State agency will release payment.

#### **PROCEDURE**

- a. Prior to assistance
  - i. Identify total need
    - 1. Determine the specific purpose for the CDBG-DR request
    - 2. Total need will be determined by project type (e.g. homeowner rehabilitation cost estimate, infrastructure reconstruction cost estimate).  
The total need must be documented.
    - 3. All costs included in total need must be reasonable and necessary.
  - ii. Identify all other potentially duplicative sources of funding received and reasonably anticipated
    - 1. For individuals as well as entities, the application for assistance will require documentation for all sources of funding received or reasonably anticipated, and certification that all assistance is reported.
    - 2. 3<sup>rd</sup> party verify when possible (FEMA, SBA)
  - iii. Determine which funding sources to include in and exclude from unmet need calculation (based upon guidance in Fed. Reg. 71,060 – 71,066 (November 16, 2011)) and deduct assistance determined to be duplicative
  - iv. Apply program cap, if applicable
  - v. Arrive at maximum award
  - vi. Execute grant/loan agreement with recipient, including provision that all additional funds received will be reported to the State or subrecipient program administrator within 15 calendar days. If the additional funds are determined to be duplicative, the award will be reduced and/or the recipient will be required to repay any disbursed duplicative benefit.
- b. Upon completion of activity for which funds were awarded
  - i. Require recipient to report and certify whether additional funds were received for disaster-related expenses, the amount, and when funds were received. If additional funds were received that are determined to be duplicative, require repayment.
- c. One year after completion of activity for which funds were awarded
  - i. Require recipient to report and certify whether additional funds were received for disaster-related expenses, the amount, and when funds were received. If additional funds were received that are determined to be duplicative, require repayment.

#### **RESPONSIBLE PERSONNEL**

- a. The Department of Local Affairs, Executive Director's Office
  - i. CDBG DR Program Manager – overall program management
  - ii. Accounting and Financial Services – fiscal control

- iii. Communications
- b. Economic Development
  - i. Office of Economic Development and International Trade
    - 1. Economic development specialist – initial calculation and follow-up
  - ii. Colorado Department of Agriculture
    - 1. Program manager – initial calculation and follow-up

## EXHIBIT G – PROJECT PERFORMANCE PLAN

Funding: CDBG-DR	Name of Grantee Boulder County		
Project Number: P16-004	Name of Project Boulder County Recovery Planning Projects (3)		
DESCRIPTION OF PROJECT:	The goal of this Project is for Boulder County to complete the following three planning subprojects: <b>Subproject A</b> Creating Room for the River, <b>Subproject B</b> Prepare Practice, Respond, Recover-Instilling Resiliency and <b>Subproject C</b> Post-Flood Assessment of Natural Resource and Recovery Planning.		
DOLA Staff: Tim Katers- CDBG-DR Resilience Planning Program Manager, (303) 864-7888, (tim.katers@state.co.us)			
MILESTONES – Grantee shall...	By:	STATE ROLE- DOLA shall...	
Subproject A: Creating Room for the River			
Release Request for Proposal (RFP)	October 31, 2016	Assist Grantee with RFP process as necessary. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Hire Consultant	December 16, 2016	Review selection and award documentation, and copy of subcontract(s) and/or sub-grant(s) for project file. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Initiate Study: Mapping overlays, hazard evaluation, mitigation potential, collaboration with municipalities and special districts.	May 31, 2017	Monitor progress reports from the Grantee. Help Grantee identify if/when a Grant Agreement amendment is needed. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Draft three year implementation plan and public input.	September 15, 2017	Review draft three year implementation plan. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Complete final three year implementation action plan.	December 15, 2017	Review final plan. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>

<b>Subproject B: Prepare, Practice, Respond, Recover-Instilling Resiliency</b>			
Release Request for Proposal (RFP)	Within 60 days of the Effective Date of this Grant Agreement.	Assist Grantee with RFP process as necessary. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Hire Consultant	October 30, 2016	Review selection and award documentation, and copy of subcontract(s) and/or sub-grant(s) for project file. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Complete Assessment, mapping, field work, policy development.	April 1, 2017	Monitor progress reports from the Grantee. Help Grantee identify if/when a Grant Agreement amendment is needed. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Draft implementation training pan.	July 1, 2017	Review draft implementation training plan. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Complete Final Coordinated Response Plan and Implementation Training Program.	December 15, 2017	Review final plan. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
<b>Subproject C: Post –Flood Assessment of Natural Resource and Recovery Planning</b>			
Release Request for Proposal (RFP)	Within 60 days of the Effective Date of this Grant Agreement.	Assist Grantee with RFP process as necessary. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Hire Consultant	October 30, 2016	Review selection and award documentation, and copy of subcontract(s) and/or sub-grant(s) for project file. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>



Complete Assessment, mapping, field work, policy development.	Through July 1, 2017	Monitor progress reports from the Grantee. Help Grantee identify if/when a Grant Agreement amendment is needed. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Draft Riparian Recovery and Monitoring Plan Report.	September 1, 2017	Review draft Riparian Recovery and Monitoring Plan Report. Provide feedback to Grantee identifying issues or concerns, if any.	ACHIEVED: <u>MM/DD/20YY</u>
Complete final Riparian Recovery and Monitoring Plan Report.	December 15, 2017	Review final Riparian Recovery and Monitoring Plan Report. Provide feedback to Grantee identifying issues or concerns, if any.	

<p>Submit <b>quarterly progress reports</b>, which includes: Project Performance Plan accomplishments and a Financial Summary Report for:</p> <p>3<sup>rd</sup> Quarter 2016  4<sup>th</sup> Quarter 2016  1<sup>st</sup> Quarter 2017  2<sup>nd</sup> Quarter 2017  3<sup>rd</sup> Quarter 2017  4<sup>th</sup> Quarter 2017</p> <p>Progress shall be evaluated by the Grantee and documented and included at least upon submittal of Quarterly Progress Reports. Such evaluation shall consist of at least the following monitoring method:</p> <p>a) Question and answer sessions with the Consultant(s) to confirm understanding by all parties as to the nature of the Work and how far along it should be dependent upon the Quarter under review. Specifically, such sessions will determine if:</p> <p>i) A percentage of the three planning subprojects have been developed as per agreed time-line as would be expected under this Grant and described in Exhibit B.</p>	<p>(10 calendar days after each quarter):</p> <p>October 10, 2016  January 10, 2017  April 10, 2016  July 10, 2016  October 10, 2017  January 10, 2018</p>	<p>Review documents and provide follow up technical assistance as necessary.</p> <p>If needed, respond to a request for training within 10 days.</p>	<p>ACHIEVED: <u>MM/DD/20YY</u></p> <p>ACHIEVED: <u>MM/DD/20YY</u></p> <p>ACHIEVED: <u>MM/DD/20YY</u></p> <p>ACHIEVED: <u>MM/DD/20YY</u></p>
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Submit <b>Pay Requests</b> including supporting documentation of expenses. <b>Pay requests are recommended to be submitted on a monthly basis.</b> Pay requests must be submitted at a minimum quarterly basis. Supporting documentation must be included in all pay requests.	<b>Recommended monthly.</b>  Required 10 calendar days after each quarter.	Review backup documentation and proof of payment prior to approving pay request. Reimbursement should not exceed pro rata share.	<b>ACHIEVED: <u>MM/DD/20YY</u></b>
Submit the <b>Project Final Report</b> to DOLA within 30 days after Project Completion. <b>Project Final Report</b> must be completed prior to the expiration of this Grant Agreement.	January 16, 2018	Process the Final Report, final payment and de-obligate any remaining Grant Funds within 30 days of receiving a complete Project Final Report.	<b>ACHIEVED: <u>MM/DD/20YY</u></b>

## QUARTERLY QUESTIONS

List Reimbursement Requests for the three months being reported on:	
<b><u>Month</u></b>	January <b><u>Amount</u></b>
<b><u>Month</u></b>	January <b><u>Amount</u></b>
<b><u>Month</u></b>	January <b><u>Amount</u></b>
Were any months "zero payment" (no costs incurred) during this quarter? If so, please provide an explanation.	
What are the forecasted costs for the next quarter?	
Are the budget lines still adequate? Is a contract amendment needed at this time? Are there any anticipated concerns or issues?	
Do you foresee any potential problems meeting the Grant Agreement completion deadline?	
Were previously identified problems (if any) corrected? Was a budget adjustment needed/done to address the problem(s)?	

# ATTACHMENT B

## EXHIBIT "A"

### Employee Self-Affirmation Form for Contractors and Subcontractors Subject to Section 3

This position is funded by Community Development Block Grant- Disaster Recovery (CDBG-DR), which Boulder County receives through the Federal Department of Housing and Urban Development (HUD). To comply with Section 3 of the Housing and Urban Development Act of 1968, HUD requires CDBG-DR funded projects to collect residency and income information for persons involved with construction-related contracts of \$100,000 or more. **Your response is voluntary, confidential, and has no effect on your employment.** However, the information on the form will be used by the County to provide information to the federal government to support your position. ☐ YES ☐ NO

If NO, skip directly to the signature block at the end of the form.

2. If YES, are you a resident of Boulder Colorado public housing? ☐ YES ☐ NO  
If NO, skip directly to the signature block at the end of the form.

3. Please review the chart below. Find the number of persons in your household and then **check the box** that contains the income range you believe your **household** earns on an annual basis. Income is defined as the total annual income of all family and non-family members 18+ years old living within the household. All sources of income must be counted from all persons in the household.

**Please check your Income Range based on your household size (for example if there are 5 people in your household, go to HH of 5; if there are 8 or more in your household go to HH of 8):**

HH of 1:	<input type="checkbox"/> \$0 - \$48,100	<input type="checkbox"/> \$48,101+
HH of 2:	<input type="checkbox"/> \$0 - \$55,000	<input type="checkbox"/> \$55,001+
HH of 3:	<input type="checkbox"/> \$0 - \$61,850	<input type="checkbox"/> \$61,851+
HH of 4:	<input type="checkbox"/> \$0 - \$68,700	<input type="checkbox"/> \$68,701+
HH of 5:	<input type="checkbox"/> \$0 - \$74,200	<input type="checkbox"/> \$74,201+
HH of 6:	<input type="checkbox"/> \$0 - \$79,700	<input type="checkbox"/> \$79,701+
HH of 7:	<input type="checkbox"/> \$0 - \$85,200	<input type="checkbox"/> \$85,201+
HH of 8:	<input type="checkbox"/> \$0 - \$90,700	<input type="checkbox"/> \$90,701+

4. Please check the box that most accurately describes your job classification.

<input type="checkbox"/> Professional	<input type="checkbox"/> Technician
<input type="checkbox"/> Office and Clerical	<input type="checkbox"/> Official / Manager
<input type="checkbox"/> Sales	<input type="checkbox"/> Craft Worker (skilled)
<input type="checkbox"/> Operative (semiskilled)	<input type="checkbox"/> Laborer (unskilled)
<input type="checkbox"/> Service Worker	<input type="checkbox"/> Other: _____

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Date Hired \_\_\_\_\_

**"THIS FORM WILL BE CONSIDERED "INCOMPLETE" WITHOUT A SIGNATURE AND DATE.**

**EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.**

# Community Development Block Grant-Disaster Recovery - Section 3 Package for Contractors

## What is Section 3?

Your contract is being funded by Federal Community Development Block Grant Program (CDBG-DR) funds that Boulder County receives through the U.S. Department of Housing and Urban Development (HUD). These funds are subject to Section 3 of the Housing and Urban Development Act of 1968, which aims to foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The provision requires that recipients of HUD funds, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or moderate-income residents in connection with projects and activities in their neighborhoods. The enabling regulations for Section 3 can be found in 24 CFR Part 135.

Section 3 applies to CDBG-DR-funded contracts and subcontracts in excess of \$100,000 that are for:

- 1) housing construction and/or rehabilitation (including reduction and abatement of lead-based paint hazards);
- 2) construction-related job training;
- 3) public construction projects; or
- 4) professional and/or clerical services associated with CDBG-DR-funded construction and rehabilitation, such as architectural, engineering, administrative and payroll services, etc.

## Your Basic Responsibilities as a Section 3 Contractor

As a recipient of a CDBG-DR-funded contract for construction/rehabilitation-related work in excess of \$100,000, you must:

1. Document the number of new employment opportunities and the number of construction and public works training positions generated by the CDBG-DR-funded project and whether those positions are filled by Section 3 residents.

### Who are Section 3 residents?

In Boulder County, Section 3 residents are public housing residents or persons who have a household income that falls below HUD's income limits. Low- or moderate-income is defined as 80% of the area median income (AMI) or below. HUD's income limits are updated annually every December. Detailed information regarding income limits can be found on HUD's website at: [www.huduser.org/portal/datasets/il.html](http://www.huduser.org/portal/datasets/il.html)

For Boulder County, the income limits (FY2015) that apply for the majority of this reporting period are listed below. If FY2014 or FY2013 data is needed, please contact the CDBG-DR Unit at Boulder County Housing Human Services.

Household Size	Very Low-Income	Low-Income	Moderate-Income	Non-Low- or Moderate-Income
HH of 1:	\$20,900	\$34,800	\$46,100	\$46,100+
HH of 2:	\$23,850	\$39,800	\$52,650	\$52,650+
HH of 3:	\$26,850	\$44,750	\$59,250	\$59,250+
HH of 4:	\$29,800	\$49,700	\$65,800	\$65,800+
HH of 5:	\$32,200	\$53,700	\$71,100	\$71,100+
HH of 6:	\$34,600	\$57,700	\$76,350	\$76,350+
HH of 7:	\$37,000	\$61,650	\$81,600	\$81,600+
HH of 8:	\$40,890	\$65,650	\$86,900	\$86,900+

To document the income of your employees, you should utilize the "Employee Self-Affirmation Form" found later in this package. It is not mandatory that employees complete these forms. However, you should explain to your staff the importance of the form and that this information helps the County and your company document compliance with federal regulations.

## Community Development Block Grant-Disaster Recovery - Section 3 Package for Contractors

2. Document the number of all Section 3 and non-Section 3 employees already on staff.

### What is a Section 3 employee?

A Section 3 employee is either:

- An employee who is currently a Section 3 resident; or
- An employee hired within the past three years, who was a Section 3 resident upon hire, but whose household income/housing status no longer qualifies him/her as a Section 3 resident. Employers may claim credit for these positions for three years after this individual's date of hire.

3. If you have a collective bargaining agreement with any labor organization or other group of workers, send them a notice advising them of your Section 3 requirements. The notice shall set forth the minimum number and job titles subject to hire, availability of apprenticeship and training positions, and the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin. You must also post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice.
4. Provide adequate notification to Section 3 residents about possible employment and training opportunities that result from the CDBG-DR-funded project. Methods of notifying residents include utilizing local media outlets, prominently displaying signs at the project sites, and/or notifying local community organizations.
5. Submit annual reports that summarize the number of Section 3 new hires, employees, and trainees for each year that your contract is open. A completed "Summary Report Form for Contractors and Subcontractors" (attached) should be returned to the County agency administering your contract in a timely manner and must be submitted annually and at project end, covering each year your contract is open.
6. Maintain the Section 3 employment documentation in your files for a minimum of five years.

### Further Responsibilities

Any subcontract in excess of \$100,000 that you award as part of this project is also subject to the Section 3 requirements. Accordingly, you must also:

1. Report to the agency administering your contract the number, dollar value, and types of subcontracts awarded.
2. Report whether each subcontractor is a Section 3 Business Concern.

### What is a Section 3 Business Concern?

A Section 3 Business Concern is a business that:

- Is 51% or more owned by Section 3 residents;
- Employs Section 3 residents for at least 30 percent of its full-time, permanent staff; or
- Provides evidence of a commitment to subcontract to Section 3 business concerns, 25% or more of the dollar amount of the awarded contract.

## Community Development Block Grant-Disaster Recovery - Section 3 Package for Contractors

3. To the greatest extent feasible, pursue contracting opportunities with Section 3 business concerns, in the following order of priority:

- I. business concerns that are 51% or more owned by residents of the housing development at which the work is performed, or whose full-time, permanent workforce includes 30% of these persons as employees; or
- II. business concerns that are 51% or more owned by residents of Boulder County's public housing development(s) other than the housing development where the work is to be performed; or whose full-time permanent workforce includes 30% of these persons as employees.

Your compliance with these requirements is essential to the County meeting its federally mandated Section 3 goals, which are, on a calendar year basis:

- 30% of all new hires on applicable projects will be Section 3 residents; **and**
- 10% of the total dollar amount of all contracts' building trades work will be with Section 3 Business Concerns; **and**
- 3% of the total dollar amount of all other applicable contracts per calendar year will be with Section 3 Business Concerns.

Your Section 3 information will be aggregated and reported to HUD on a countywide basis. HUD reviews the County's annual reports, investigates complaints, and reserves the right to monitor the performance of the County's contractors. In the event of a monitoring, HUD will examine employment and contract records for evidence of actions taken to train and employ Section 3 residents and to award contracts to Section 3 businesses.

Specifically, HUD will review:

- Whether all contracts awarded by the HUD grantee contain the required Section 3 clause in all applicable contracts (exact language can be found in the "Section 3 Definitions" section);
- The number of Section 3 training opportunities coordinated by the HUD grantee;
- Whether 30% of all new hires by contractors were "Section 3 residents"; and
- Whether at least 10% of the total dollar amount of all contracts' building trades work and three percent (3%) of the total dollar amount of all other applicable contracts were awarded consistent with the requirements of being a "Section 3 Business."

**New Requirement:** If an agency does not meet the three minimum numerical goals for the reporting period, an explanation regarding best efforts is required.

### Section 3 Complaint Policy

If you have a complaint about the County's Section 3 process, you can direct it to the agency overseeing your contract. However, complaints may also be directed to HUD's Colorado Office:

U.S. Dept. of Housing and Urban Development  
1670 Broadway St • Denver, CO 80202-4801  
(800)-225-5342 • TTY (800) 877-8339

A written complaint should contain the name and address of the person filing the complaint; name and address of subject of complaint (HUD recipient, contractor or subcontractor); a description of acts or omissions in alleged violation of Section 3; and a description of the corrective action sought. Complaints must be filed no later than 180 days from the date of the action or omission upon which the complaint is based.

The County will provide a timely response to every citizen complaint. The response will be provided within 15 working days of the receipt of the complaint, if practicable.

# Community Development Block Grant-Disaster Recovery - Section 3 Package for Contractors

## Appendix - Section 3 Definitions

**Business Concern:** a business entity formed in accordance with State law, and which is licensed under State, County or municipal law to engage in the type of business activity for which it was formed.

**Contractor:** any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

**Employment Opportunities Generated by Section 3 Covered Assistance:** employment opportunities generated by the expenditure of Section 3 covered assistance (i.e., operating assistance, development assistance and modernization assistance, (as described in Section 135.3 (a) (1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3(a)(2)), including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

**Low- or moderate-income person:** a member of a household whose total annual income does not exceed 80% of the median income for the area. Single persons are considered a household of one.

**New Hires:** full-time employees for permanent, temporary or seasonal employment opportunities.

**Section 3:** Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

**Section 3 Business Concern:** a business concern

- 1) That is 51 percent or more owned by Section 3 residents; or
- 2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- 3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 above.

**Section 3 Clause:** This clause is contained in the Federal Riders that are required for all CDBG-DR funded contracts.

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training



## Community Development Block Grant-Disaster Recovery - Section 3 Package for Contractors

positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

**Section 3 Covered Assistance:** the use of \$200,000 or more of Community Development Block Grant-Disaster Recovery funds for construction, public works, and job training (related to construction and/or public works).

**Section 3 Covered Contracts:** a contract or subcontract in excess of \$100,000 (including a professional consulting contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.

**Section 3 Covered Projects:** a project that is receiving Community Development Block Grant-Disaster Recovery funds in excess of \$100,000.

**Section 3 Employee:** A Section 3 employee is either:

- An employee who is currently a Section 3 resident; or
- An employee who was hired within the past three years, was a Section 3 resident upon hire, but whose household income/housing status no longer qualifies him/her as a Section 3 resident. Employers may claim credit for these positions for three years after this individual's date of hire.

**Section 3 Resident:** a public housing resident or a resident who is considered to be a low- or moderate-income person.

**Subcontractor:** any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

# Community Development Block Grant-Disaster Recovery - Section 3 Package for Contractors

## INCLUDE IN ALL BIDS

### MBE/WBE Clause

***The prime contractor, if subcontracts are to be let, is required to take the following affirmative steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority business firms, women's business enterprises, and labor surplus area firms.***

- (1) Place qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small and minority business and women's business enterprises;
- (4) Establish delivery schedules when the requirements of the work permit, which will encourage participation by small and minority-owned businesses and women-owned business enterprises;
- (5) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency Department of Commerce; and
- (6) Require the subcontractor, if further subcontracts are to be let, to take the affirmative steps in paragraphs (1) through (5).

Contractor should clearly document the communication and outreach to the certified business. Documentation may include mail logs, phone logs, or similar records documenting the use of the above identified sources of information about MBE/WBE firms, the efforts to contact them, and other efforts to meet the above requirements:

The links below can aid in soliciting qualified small and minority business and women's business enterprises in the state of Colorado.

[Diverse Business Directory](#) (Control + Click to follow the link)

[Colorado Unified Certification Program \(UCP\) Directory](#) (Control + Click to follow the link)

**NOTE:** The above links are not meant to be comprehensive. Contractors are encouraging to use other available sources.

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## Employee Self-Affirmation Form for Contractors and Subcontractors Subject to Section 3

This position is funded by Community Development Block Grant- Disaster Recovery (CDBG-DR), which Boulder County receives through the Federal Department of Housing and Urban Development (HUD). To comply with Section 3 of the Housing and Urban Development Act of 1968, HUD requires CDBG-DR funded projects to collect residency and income information for persons involved with construction-related contracts of \$100,000 or more. **Your response is voluntary, confidential, and has no effect on your employment.** However, the information on the form will help the County maintain the federal funds that support your position.

1. Do you wish to provide information to the County? ☐ YES ☐ NO  
If NO, skip directly to the signature block at the end of the form.
2. If YES, are you a resident of Boulder Colorado public housing? ☐ YES ☐ NO  
If NO, skip directly to the signature block at the end of the form.
3. Please review the chart below. Find the number of persons in your household and then **check the box** that contains the income range you believe your **household** earns on an annual basis. Income is defined as the total annual income of all family and non-family members 18+ years old living within the household. All sources of income must be counted from all persons in the household.

**Please check your Income Range based on your household size (for example if there are 5 people in your household, go to HH of 5; if there are 8 or more in your household go to HH of 8):**

HH of 1:	<input type="checkbox"/> \$0 - \$48,100	<input type="checkbox"/> \$48,101+
HH of 2:	<input type="checkbox"/> \$0 - \$55,000	<input type="checkbox"/> \$55,001+
HH of 3:	<input type="checkbox"/> \$0 - \$61,850	<input type="checkbox"/> \$61,851+
HH of 4:	<input type="checkbox"/> \$0 - \$68,700	<input type="checkbox"/> \$68,701+
HH of 5:	<input type="checkbox"/> \$0 - \$74,200	<input type="checkbox"/> \$74,201+
HH of 6:	<input type="checkbox"/> \$0 - \$79,700	<input type="checkbox"/> \$79,701+
HH of 7:	<input type="checkbox"/> \$0 - \$85,200	<input type="checkbox"/> \$85,201+
HH of 8:	<input type="checkbox"/> \$0 - \$90,700	<input type="checkbox"/> \$90,701+

4. Please check the box that most accurately describes your job classification.

<input type="checkbox"/> Professional	<input type="checkbox"/> Technician
<input type="checkbox"/> Office and Clerical	<input type="checkbox"/> Official / Manager
<input type="checkbox"/> Sales	<input type="checkbox"/> Craft Worker (skilled)
<input type="checkbox"/> Operative (semiskilled)	<input type="checkbox"/> Laborer (unskilled)
<input type="checkbox"/> Service Worker	<input type="checkbox"/> Other: _____

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief.

Signature \_\_\_\_\_

Date \_\_\_\_\_

Print Name \_\_\_\_\_

Date Hired \_\_\_\_\_

**\*THIS FORM WILL BE CONSIDERED "INCOMPLETE" WITHOUT A SIGNATURE AND DATE.**

**EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.**

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**Community Development Block Grant-Disaster Recovery (CDBG-DR)  
Section 3 Summary Report Form for Contractors and Subcontractors**

Your contract is funded either in whole or in part by Community Development Block Grant-Disaster Recovery (CDBG-DR), which is provided to Boulder County through the U.S. Department of Housing and Urban Development (HUD). HUD requires the County to collect work staff information on every contractor, subcontractor, etc. that receives a CDBG-DR funded, construction-related contract in excess of \$100,000, to ensure the County's compliance with Section 3 of the U.S. Housing & Urban Development Act of 1968. Section 3 requires recipients of HUD financial assistance to provide training, employment and contracting opportunities to Section 3 residents and businesses to the greatest extent feasible, consistent with existing federal, state, and local laws and regulations.

These forms must be completed by all firms working on a Section 3-covered project whose contract amount exceeds \$100,000, even if the firm is not a "Section 3 Business."

You must complete these forms for each year that your CDBG-DR contract is open. **The forms must be submitted to your funding agency in a timely manner and cover the reporting period during which the project was started: FY2013 (Oct 1, 2012-Sept 30, 2013), FY2014 (Oct 1, 2013-Sept 30, 2014), FY2015 (Oct 1, 2014-Sept 30, 2015). FY2016 will use the FY2015 numbers until updated numbers are released.** If you subcontracted with another firm in excess of \$100,000 as part of this project, please forward the subcontractor a separate copy of this form and have them complete Parts II-V.

**PART I: CONTRACTOR INFORMATION**

Complete this section if you are the prime contractor on a CDBG-DR-funded project.

County Agency Overseeing Contract: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Site: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Report Period: \_\_\_\_\_

Contract Amount: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

**PART II: SUBCONTRACTOR INFORMATION**

Complete this section if you are a subcontractor on a CDBG-DR-funded project.

Name of Firm: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Firm Overseeing Subcontract: \_\_\_\_\_

Subcontract Amount: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Summary Report Form for Contractors - Page 1

**Community Development Block Grant-Disaster Recovery (CDBG-DR)  
Section 3 Summary Report Form for Contractors and Subcontractors**

**Part III: Employment and Training Opportunities**

1. Did your firm hire or train any new individuals in connection with any CDBG-DR-funded construction projects within the past calendar year?

☐ YES ☐ NO

2. Please complete the chart below.

Job Category	TOTAL Number of New Hires <sup>1</sup>	Number of New Hires That Are Section 3 Residents <sup>2</sup>	TOTAL Number of Employees and Trainees <sup>3</sup>	Number of Section 3 Employees and Trainees <sup>4</sup>
Professionals				
Technicians				
Office and Clerical				
Officials and Managers				
Sales				
Craft Workers (skilled)				
Operatives (semiskilled)				
Laborers (unskilled)				
Service Workers				
Other (List below)				
<b>Total</b>				

<sup>1</sup>Enter the number of new hires for each category of worker in connection with this award. **New Hire** refers to a person who was hired in connection with the Section 3-covered project and was hired during the period covered by this report.

<sup>2</sup>Enter the number of Section 3 new hires for each category of workers identified in Column A in connection with this award. **Section 3 new hire** refers to a person from a low- and moderate-income household who was hired in connection with the Section 3-covered project and was hired during the period covered by this report.

<sup>3</sup>Enter the total number of all CDBG-DR-funded employees and trainees on staff that work in connection with this award.

<sup>4</sup>Enter the number of all Section 3 Residents (including new hires) on the staff that work in connection with this award.

3. Did your firm hire any subcontractors in connection with this award?

☐ YES ☐ NO

4. If yes, was the value of any of these subcontracts in excess of \$100,000?

☐ YES\* ☐ NO

**\*If you answered yes, please forward each subcontractor a separate copy of this form and have them complete Parts II-V.**

**Community Development Block Grant-Disaster Recovery (CDBG-DR)  
Section 3 Summary Report Form for Contractors and Subcontractors**

**Part IV. Contracts Awarded**

1. Construction Contracts:
  - A. Total dollar amount of all contracts awarded under your project contract:
  - B. Total dollar amount of sub-contracts awarded to Section 3 businesses:
  - C. Percentage of the total dollar amount that was contracted to Section 3 businesses:
  - D. Total number of Section 3 businesses receiving (sub)contracts:
2. Non-Construction Contracts:
  - A. Total dollar amount of all non-construction contracts awarded under your project:
  - B. Total dollar amount of non-construction sub-contracts awarded to Section 3 businesses:
  - C. Percentage of the total dollar amount that was contracted to Section 3 businesses:
  - D. Total number of Section 3 businesses receiving non-construction (sub)contracts:

\$	
\$	
%	
\$	
\$	
%	

**Part V: Summary of Efforts**

1. Did your firm recruit low- or moderate-income residents through local advertising media; signs prominently displayed at the project sites; contacts with community organizations, and/or private or public agencies operating within Boulder County?  
  

☐ YES
☐ NO
2. Did your firm participate in a HUD program or other program that promotes the training or employment of Section 3 residents?  
  

☐ YES
☐ NO
3. Did your firm participate in a HUD program or other program that promotes the awards of contracts to business concerns which meet the definition of Section 3 business concerns?  
  

☐ YES
☐ NO
4. If you answered "Yes" to any of the previous questions, please describe your efforts in the space below.



**Community Development Block Grant-Disaster Recovery (CDBG-DR)  
Section 3 Summary Report Form for Contractors and Subcontractors**

5. If your firm was unable to meet any of the goals (shown above outlined on page 3 of this Section 3 Package for Contractors, please use the space below to provide an explanation of why it was not feasible for you to meet the goal(s).

**Part VI: Signature**

**I affirm that the statements contained in this report are true, complete, and correct to the best of my knowledge and belief.**

\_\_\_\_\_  
Signature of Authorized Representative of Contractor / Subcontractor

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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**SECTION 3  
BUSINESS CERTIFICATION PACKET**

Your contract is funded either in whole or in part by the Community Development Block Grant- Disaster Recovery grant (CDBG-DR), which is provided through the United States Department of Housing and Urban Development (HUD). HUD requires the County to collect work staff information on every developer, contractor, subcontractor, etc. that receives a CDBG-DR funded, construction-related contract in excess of \$100,000, to ensure the County's compliance with Section 3 of the U.S. Housing & Urban Development Act of 1968. Section 3 requires recipients of HUD financial assistance to provide training, employment and contracting opportunities to Section 3 residents and businesses to the greatest extent feasible, consistent with existing federal, state, and local laws and regulations.

You can utilize this form to pre-certify that you are a Section 3 business concern during the RFP process or after being awarded a CDBG-DR funded contract.

Company: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

County Agency Overseeing Contract: \_\_\_\_\_

Please answer the following questions:

1. Is your company currently registered as a certified Section 3 business with HUD?

☐ YES

☐ NO

2. Is your business owned (51% or more) by Section 3 residents (see definition on first page of this Package)?

☐ YES

☐ NO

3. Are 30% (or more) of your permanent, full time employees Section 3 residents?

☐ YES

☐ NO

4. Can your business provide evidence of a firm commitment to subcontract more than 25% of the total dollar amount of this contract to any business that meets the criteria noted in questions 1-3 above?

☐ YES

☐ NO

### SECTION 3 BUSINESS CERTIFICATION PACKET

If you plan to subcontract for any of the work on this project, please complete the chart below with each subcontracting firm and return the form to the funding County agency.

Subcontractor Name	Address	Type of Contract (i.e. specified building trade, professional services, etc.)	Amount of Subcontract	Is this business a Section 3 business?*
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	
			\$	

\*If YES, a Section 3 Business Questionnaire should be completed by the subcontractor and must be attached.

*I certify that the above statements are true, complete, and correct to the best of my knowledge and belief.*

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**COPY THIS FORM AS NEEDED**

## CONTRACTOR'S SECTION 3 PLAN

(Required if contract exceeds \$100,000)

NOTICE: Must be completed and submitted by all contractors and subcontractors

\_\_\_\_\_ agrees to implement the following specific affirmative action steps directed at increasing the utilization of lower income residents and businesses within the county.

- A. The boundaries of the Section 3 covered project area is Boulder County, Colorado and where advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B. To attempt to recruit from within the county the necessary number of lower income residents through the use of local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as State Employment Service and or Workforce Boulder County.
- C. To maintain a list of all lower income residents who have applied either on their own or on referral from any source and to employ such persons if otherwise eligible and if a vacancy exists.
- D. To insert this Section 3 Plan in all bid documents and to require all bidders on subcontracts to submit a Section 3 Plan including utilization goals and the specific steps planned to accomplish these goals.
- E. To ensure that subcontracts, which are typically made on a negotiated rather than a bid basis, in areas other than Section 3 covered project areas, are also made on a negotiated basis whenever feasible, if solicited in a Section 3 covered project area.
- F. To formally contact unions, subcontractors, and trade associations to secure their cooperation for this program.
- G. To ensure that all appropriate project area business concerns are notified of pending subcontracting opportunities.
- H. To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken.
- I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 Plan.
- J. To complete all necessary forms for the appropriate contract period(s).

As officers and representatives of \_\_\_\_\_, we the undersigned have read and fully agree to this Section 3 Plan, and become a party to the full implementation of this program.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**CERTIFICATION OF CONTRACTOR/SUBCONTRACTOR REGARDING  
SECTION 3 AND SEGREGATED FACILITIES**

NOTICE: Must *be completed and submitted* by the selected contractor

\_\_\_\_\_  
Name of Contractor or Sub-Contractor

\_\_\_\_\_  
Project Name and IFB Number

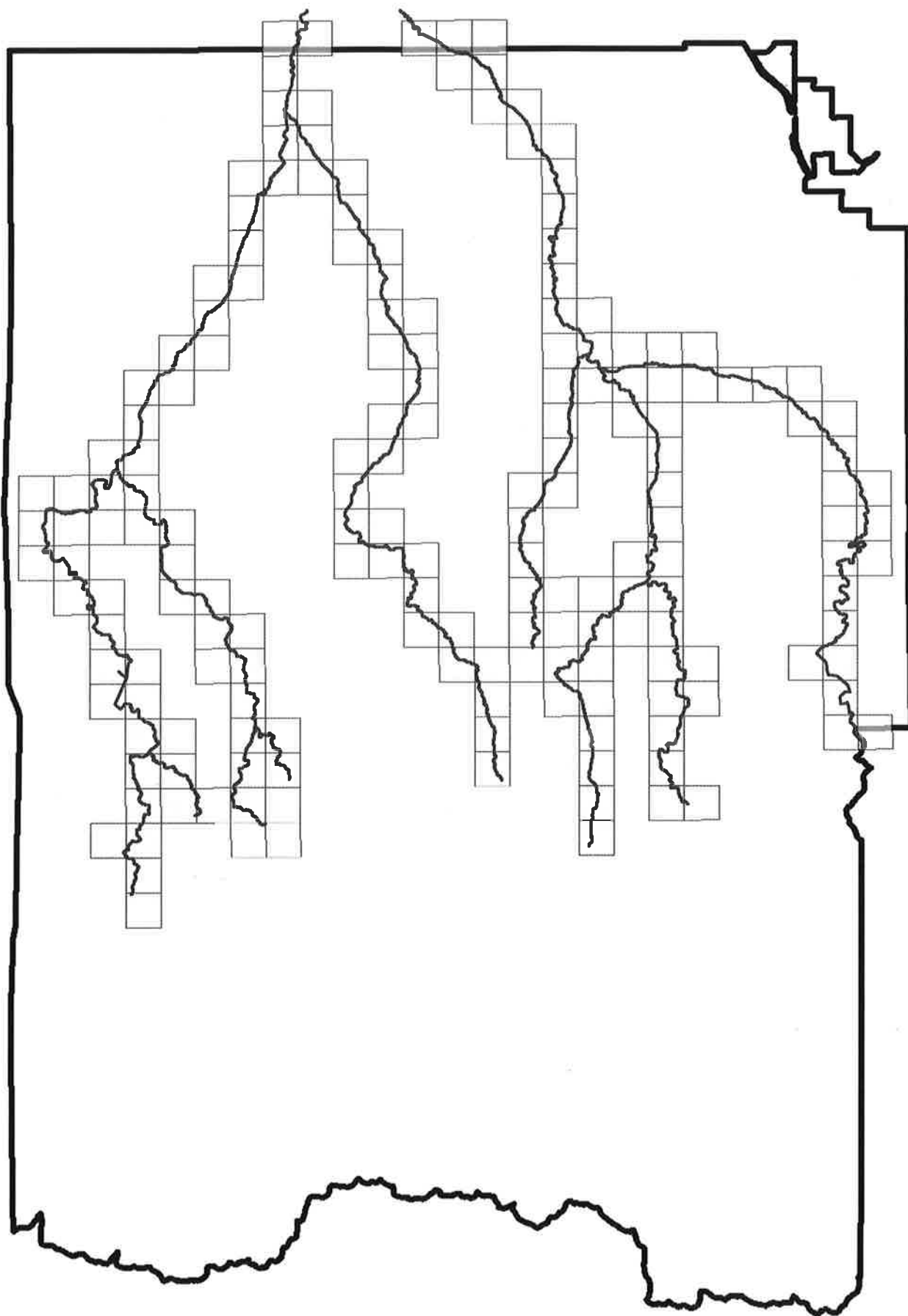
The undersigned hereby certifies that:

- (a) Section 3 provisions are included in the Contract.
- (b) The above state company is a signatory to the Contractor's Section 3 Plan.
- (b) No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.

\_\_\_\_\_  
Name and Title of Signer (Type of Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



 Boulder County  LAS Extent  Stream

# ATTACHMENT D

## BOULDER COUNTY CONTRACT FOR SERVICES

THIS CONTRACT ("Contract") is entered into between the COUNTY OF BOULDER, State of Colorado, acting by and through its Board of County Commissioners ("County") and LEGAL COMPANY NAME INCLUDING DBA ("Consultant"), a Colorado Corporation.

In consideration of the rights and obligations specified below, the County and the Consultant agree as follows:

1. Incorporation into Contract: The following documents (the "Contract Documents") are each expressly incorporated into this Contract by reference:

a. The attached Bid Specifications of Boulder County RFP No. XXXX-XX and Addendum, together with any alterations and/or modifications to these Specifications ("the Bid Documents");

b. The attached Consultant's proposal in response to the Bid Document (the "Proposal") including the Consultant's fee schedule; and

c. The attached revised scope of services, attached hereto as Exhibit A (the "Scope of Services").

2. Work to be Performed: The Consultant agrees that it will, in a good and workmanlike manner, at its own cost and expense and strictly in accordance with this Contract, including all documents incorporated herein, furnish all labor, material and tools and do all work necessary, or incidental to complete the following Boulder County project: NAME OF PROJECT (hereinafter referred to as the "Project"). Contractor shall be authorized to do business in the State of Colorado and shall provide the County a current Certificate of Good Standing evidencing such authorization. Furthermore, Contractor shall be responsible for all applicable sales and employment taxes.

3. Quality of Performance: The Consultant shall perform the Contract in a manner satisfactory and acceptable to the County. The County shall be the sole judge of the quality of performance.

In providing services under this Agreement, the Consultant shall



perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality.

4. Schedule of Work: The Consultant shall perform the Work during the hours designated by the County so as to avoid inconvenience to the County and its personnel and interference with the County's operations.

5. Payment: In consideration of the foregoing, the County hereby agrees to pay to the Contractor the amounts required for the completion of the project at the base bid amount of \$XXX, all according to the provisions and subject to the conditions as set forth in the grant from the U.S. Department of Housing and Urban Development's Community Development Block Grant - Disaster Recovery Program (CDBG-DR) administered by the Colorado Department of Local Affairs (DOLA) and Contract Documents. Contractor shall submit, in writing, to Boulder County, a request for all payments.

Invoices submitted must contain sufficient information detailing all expenses. Invoices shall be submitted on company letterhead and include, but not limited to, depending on the activity completed, designated project name, date(s), type of work performed, rate per hour, number of hours worked, mileage, mileage rate, and any associated administrative fees. Additionally, all invoices should contain the current date, invoice number, amount due and current return address.

- a. Send completed invoices to:  
pospayables@bouldercounty.org or to  
Boulder County  
Parks and Open Space Department  
Attention: A/P  
5201 St. Vrain Road  
Longmont, CO 80503
- b. Failure to submit invoices in a timely manner and in accordance with the terms of this Contract may cause a delay in payment.
- c. The County reserves the right to recoup any damages incurred as a result of Consultants failure to submit invoices pursuant to the terms of this paragraph.

Upon receipt of all Deliverables as specified in paragraph 7, Deliverables, final payment shall be paid upon the satisfactory

completion of the Project. The County, in its sole discretion, shall determine satisfactory completion.

6. Term and Time: This Contract shall begin and become effective on and as of the date of execution by the parties which date is specified on the signature page of this Contract. It is further agreed that time is of the essence and work shall begin within five (5) days of execution of the Contract, and when a "Notice to Proceed" has been issued by the County, unless determined differently by the County, in its sole discretion, and be COMPLETED ON OR BY DATE, WEATHER PERMITTING, unless additional time shall be allowed by the County, in writing. The Contract shall be in full force and effect, subject to the Termination provisions as set forth in paragraph 19 of this Contract.

7. Deliverables: Upon completion of the Project, Consultant shall furnish the County with all specified Deliverables, all as related to documents incorporated into this Contract, as noted in paragraph 1, Incorporation into Contract. Final payment will not be issued until County has approved and received all said Deliverables. Consultant acknowledges final payment terms as specified in paragraph 5, Payment.

8. Representations and Warranties: Contractor represents and warrants the following to The County, as a material inducement to the County to execute this Contract, which representations and warranties shall survive the execution and delivery of this Contract, any termination of this Contract, and the final completion of the work.

- a. Execution of this Contract and performance thereof is within the Contractor's duly authorized powers;
- b. Any individual executing this Contract is authorized to do so by the Contractor;
- c. The Contractor is authorized to do business in the State of Colorado and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Work and the project; and
- d. The Contractor and its subcontractors, if any, are financially solvent, able to pay all debts as they mature, and possessed of sufficient working capital to complete the work and perform all obligations under the Contract.

9. Retainage: The County reserves the right to withhold a retainage of ten percent (10%) on any or all payments until all of the work is accepted by the County, at its sole discretion, as satisfactory and complete.

10. Consultant Licensing: General contractors, HVAC contractors, and roofing contractors require licensing through Boulder County. Electricians and plumbers must be state-licensed and registered with the Boulder County Building Safety and Inspection Division. All qualified engineering firms must be state-licensed. It is the responsibility of the Consultant to apply for and ensure the appropriate Consultant's license is obtained prior to execution of Contract and project commencement. In addition, the Consultant is responsible for submitting a copy of the current license to the Parks and Open Space Contract Coordinator as listed in paragraph 21, Notices. Project shall not proceed until said document is received by the Parks and Open Space Contract Contact, as determined by the Boulder County Building Safety and Inspection Division and/or the State of Colorado.

The Contractor will comply with all state and local licensing requirements, including but not limited to, filing the State of Colorado Statement of Foreign Entity Authority paperwork, if Contractor is not a Colorado company.

11. Indemnity: The Consultant shall be liable and responsible for any and all damages to persons or property caused by or arising out of the actions, obligations, or omissions of the Consultant, its employees, agents, representatives or other persons acting under the Consultant's direction or control in performing or failing to perform the Work under this Contract. The Consultant will indemnify and hold harmless the County, its elected and appointed officials, and its employees, agents and representatives (the "indemnified parties"), from any and all liability, claims, demands, actions, damages, losses, judgments, costs or expenses, including but not limited to attorneys' fees, which may be made or brought or which may result against any of the indemnified parties as a result or on account of the actions or omissions of the Consultant, its employees, agents or representatives, or other persons acting under the Consultant's direction or control.

12. Governmental Immunity: Nothing in this Contract shall be construed in any way to be a waiver of the County's immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended.

13. Insurance Requirements: The Consultant shall procure and maintain at its own expense, and without cost to the County, the following kinds and minimum amounts of insurance for purposes of insuring the liability risks which the Consultant has assumed until this Contract has expired or is terminated:

a. Commercial General Liability.

This coverage should be provided on an Occurrence Form, ISO CG001 or equivalent, with Minimum limits of \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate and \$2,000,000 Products Completed Operations Aggregate.

b. Automobile Liability.

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of the Contract. Minimum limits \$1,000,000 Each Accident.

c. Workers' Compensation and Employer's Liability.

Workers' Compensation must be maintained with the statutory limits. Employer's Liability is required for minimum limits of \$100,000 Each Accident/\$500,000 Disease-Policy Limit/\$100,000 Disease-Each Employee.

d. Professional Liability (Errors and Omissions).

Professional liability coverage with minimum limits of \$1,000,000 Per Loss and \$1,000,000 Aggregate. Professional Liability provisions indemnifying for loss and expense resulting from errors, omission, mistakes or malpractice is acceptable and may be written on a claims made basis. The Consultant warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

The Consultant shall forward certificates of insurance directly to the Boulder County Parks and Open Space Department, 5201 St. Vrain Road, Longmont, Colorado, 80503, Attention: demonstrating that the insurance requirements have been met prior to the commencement of Work under this Contract.

Boulder County shall be named as an additional insured for General

Liability, as designated in the contract. Additional insured shall be endorsed to the policy.

The additional insured wording shall be as follows:

County of Boulder, State of Colorado, a body corporate and politic, is named as Additional Insured.

Certificate Holder:

Boulder County

Attn: Risk Manager

P.O. Box 471

Boulder, CO 80306

Notice of Cancellation: If any insurance company refuses to provide the required notice, the Consultant or its insurance broker shall notify the County of any cancellation, suspension, and/or nonrenewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.

Additionally, the Consultant shall be required to comply with the insurance requirements as specified in the Grant Agreement. Contractor shall provide a certificate of insurance to the County, demonstrating the insurance requirements have been met prior to the commencement of Work under this Contract.

14. Nondiscrimination: The Consultant agrees to comply with the letter and spirit of the Colorado Anti-Discrimination Act, C.R.S. § 24-34-401, et seq., as amended, and all applicable local, state and federal laws respecting discrimination and unfair employment practices. Boulder County prohibits unlawful discrimination on the basis of race, color, religion, gender, gender identity, national origin, age 40 and over, disability, socio-economic status, sexual orientation, genetic information, or any other status protected by applicable federal, state or local law and the Boulder County Policy manual (of which is available upon request).

15. Nondiscrimination Provisions Binding on Subcontractors: In all solicitations, either by competitive bidding or negotiation, by the Consultant for any Work related to this Contract to be performed under a subcontract, including procurement of materials or equipment, the Consultant shall notify each potential subcontractor of the Consultant's obligations under this Contract, and of all pertinent regulations relative to nondiscrimination and unfair employment practices, as set forth above.

16. Sanctions for Noncompliance: In the event of the

Consultant's noncompliance with the nondiscrimination provisions of this Contract, as determined by the County within its sole discretion, the County shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the Consultant under the Contract until the Consultant complies with the nondiscriminatory provision set forth in paragraph 13 of this Contract; and/or
- b. cancellation, termination, or suspension of the Contract, in whole or in part, effective upon seven (7) days written notice to the Consultant pursuant to paragraph 19 of this Contract.

17. Subcontractors: The Consultant will include the provisions of paragraphs 14 through 16 in every subcontract, including procurement of materials and leases of equipment. The Consultant will take such action with respect to any subcontractor or procurement as the County of Boulder may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the County may, at its own discretion, enter into such litigation to protect the interests of the County.

18. Post Completion: Final payment made to the Consultant, on account of the work, shall not operate to relieve the Consultant of responsibility for faulty material or workmanship, and unless otherwise provided, the Consultant shall remedy any defect due thereto and pay for any damages resultant there from.

19. Termination and Related Remedies:

- a. The other provisions of this Contract notwithstanding, financial obligations of Boulder County payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. Boulder County is prohibited by law from making financial commitments beyond the term of its current fiscal year. The County has contracted for goods and/or services under this Contract and has reason to believe that sufficient funds will be available for the full term of the Contract. Where, however, for reasons beyond the control of the Board of County Commissioners as the funding entity, funds are not allocated for any fiscal period beyond the one in which this Contract is

entered into, the County shall have the right to terminate this Contract by providing seven (7) days written notice to the Consultant pursuant to paragraph 21, and will be released from any and all obligations hereunder. If the County terminates the Contract for this reason, the County and the Consultant shall be released from all obligations to perform Work and make payments hereunder, except that the County shall be required to make payment for Work which has been performed by the Consultant prior to the effective date of termination under this provision; and, conversely, the Consultant shall be required to complete any Work for which the County has made payment prior to providing written notice to the Consultant of the termination. In such an event, Boulder County is released from all liability whatsoever and will not be responsible for payment of any costs or expenses incurred in reliance upon this Contract beyond that amount which has been appropriated and made available for this Contract and neither party shall have any further liability hereunder, said Contract to cease and terminate as of such date.

b. If the Consultant defaults or persistently fails or neglects to carry out the Work in accordance with the Contract, or fails to perform any provision of the Contract, the County, after seven (7) days written notice to the Consultant and without prejudice to any other remedy it may have, may make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Consultant or, at its option, may terminate the Contract and may finish the Work by whatever method it may deem expedient, if such expense exceeds the unpaid balance of the Contract, the Consultant shall pay the difference to the County.

c. In the event the County exercises either of the termination rights specified in paragraphs 19(a) or 19(b), this Contract shall cease to be of any further force and effect, with the exception of all Contract remedies which are specified herein and may otherwise be available to the parties under the law, and with the exception of any rights or liabilities of the parties which may survive by virtue of this Contract.

d. The preceding provisions notwithstanding, the County may terminate this Contract, either in whole or in part, for any reason, whenever the County determines that such termination is in the County's best interests. Such termination shall be effective after the County provides seven (7) days written notice to the Consultant pursuant to paragraph 21.



Termination of work hereunder shall be effected by the delivery to the Consultant of a "Notice of Termination" specifying the extent to which performance of work, under the Contract, is terminated and the date upon which such termination becomes effective. After receipt of the "Notice of Termination", the Consultant shall cancel its outstanding commitments hereunder covering the procurement of materials, supplies, equipment and miscellaneous items. In addition, the Consultant shall exercise all reasonable diligence to accomplish the cancellation or diversion of its outstanding commitments covering personal services and extending beyond the date of such termination to the extent that they relate to the performance of any work terminated by the notice. The Consultant shall then submit a written claim for all outstanding amounts to the County, due within the timeframe as specified, thirty (30) days, upon receipt of "Notice of Termination", from the County.

20. Independent Consultant: The Parties recognize and agree that the Consultant is an independent Consultant for all purposes, both legal and practical, in performing services under this Contract, and that the Consultant and its agents and employees are not agents or employees of Boulder County for any purpose. As an independent Consultant, the Consultant shall be responsible for employing and directing such personnel and agents as it requires to perform the services purchased under this Contract, shall exercise complete authority over its personnel and agents, and shall be fully responsible for their actions.

Consultant acknowledges that it is not entitled to unemployment insurance benefits or workers' compensation benefits from Boulder County, its elected officials, agents, or any program administered or funded by Boulder County. Consultant shall be entitled to unemployment insurance or workers' compensation insurance only if unemployment compensation coverage or workers' compensation coverage is provided by Consultant, or some other entity that is not a party to this Contract. Consultant is obligated to pay federal and state income tax on any monies earned pursuant to this Contract.

21. Notices: For purposes of the notices required to be provided under paragraphs 13, and 19, all such notices shall be in writing, and shall be either sent by Certified U.S. Mail - Return Receipt Requested, Electronic Mail (Email) or hand-delivered to the following representatives of the parties at the following addresses:

For the County:

Parks and Open Space Department



For the Consultant:            Name of Company

In the event a notice is mailed pursuant to the provisions of this paragraph, the time periods specified in paragraph 19 shall commence to run on the day after the postmarked date of mailing.

22. Laws To Be Observed:

A. Compliance with Laws: This contract is funded in whole or in part with CDBG-DR funds through Boulder County's Community Development Block Grant - Disaster Recovery contract [CDBG-DR P15-021] as administered by the Division of Local Government, Department of Local Affairs. Consultants are responsible for complying with those regulations and restrictions normally associated with federally-funded programs and any other requirements that the state may prescribe. The Consultants shall comply with all applicable laws, ordinances and codes of the state and local government and the Consultants shall save Boulder County harmless with respect to any damages arising from any tort done in performing any of the work embraced by this contract.

B. Title VI of the Civil Rights Act of 1964: Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, creed, religion, sex or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

C. Section 109 of the Housing and Community Development Act of 1974: No person in the United States shall on the grounds of race, color, creed, religion, sex or national origin be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

D. Age Discrimination Act of 1975, as Amended: No person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance. (42 U.S.C. 610 et. seq.)

E. Section 504 of the Rehabilitation Act of 1973, as Amended: No otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funds. (29 U.S.C. 794)

F. Public Law 101-336, Americans with Disabilities Act of 1990: Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

G. Section 3 (EXHIBIT "A") of the Housing and Community Development Act of 1968 Compliance in the Provision of Training, Employment, and Business Opportunities:

i. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower-income residents of the project area; and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the project.

ii. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR 135, and all applicable rules and orders of HUD and CTED issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these provisions.

iii. The Consultants will send to each labor organization or representative of workers with which they have a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of their commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

iv. The Consultant will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant,

or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR Part 135. The Consultant will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract, unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

v. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of HUD and CTED issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant, or recipient, its consultants and subcontractors, its successors and assigned to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

23. Statutory Requirements: This Contract is subject to all statutory requirements that are or may become applicable to counties or political subdivisions of the State of Colorado generally. Without limiting the scope of this provision, the Contract is specifically subject to the following statutory requirement:

Contract payments may be withheld pursuant to C.R.S. § 38-26-107 if the County receives a verified statement that the Consultant has not paid amounts due to any person who has supplied labor or materials for the project.

24. Prohibitions on Public Contract for Services: Pursuant to Colorado Revised Statutes (C.R.S.), § 8-17.5-101, et seq., as amended, the Consultant shall meet the following requirements prior to signing this Contract (public contract for service) and for the duration thereof:

A. The Consultant shall not knowingly employ or contract

with an illegal alien to perform work under this public contract for services.

B. The Consultant shall not enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.

C. At the time of signing this public contract for services, the Consultant has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program or the Department Program.

D. The Consultant shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.

E. If Consultant obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, the Consultant shall: notify the subcontractor and the County within three days that the Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and, terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to the previous sentence, the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

F. Consultant shall comply with any reasonable requests by the Department of Labor and Employment (the Department) made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

G. If Consultant violates any provisions of this Section of this Contract, the County may terminate this Contract for breach of contract. If the Contract is so terminated, the Consultant shall be liable for actual and consequential damages to the County.

25. Amendments: This Contract may be altered, amended or repealed only on the mutual agreement of the County and the Consultant by a duly executed written instrument.

26. Assignment: This Contract shall not be assigned or subcontracted by the Consultant without the prior written consent of the County.

27. Complete Agreement/Binding Effect: This agreement represents the complete agreement between the Parties hereto and shall be fully binding upon the successors, heirs, and assigns of the Parties, if any, during the term hereof.

28. Governing Law: The laws of the State of Colorado shall govern the interpretation and enforcement of this Contract. Any litigation that may arise between the parties involving the interpretation or enforcement of the terms of this Contract shall be initiated and pursued by the parties in the Boulder Courts of the 20<sup>th</sup> Judicial District of the State of Colorado and the applicable Colorado Appellate Courts.

29. Breach: Any waiver of a breach of this Contract shall not be held to be a waiver of any other or subsequent breach of this Contract. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

30. Termination of Prior Agreements: This Contract cancels and terminates, as of its effective date, all prior agreements between the parties relating to the services covered by this Contract, whether written or oral or partly written and partly oral.

31. Invalidity Provision: Should any of the provisions of this Contract be held to be invalid or unenforceable, then the balance of the agreement shall be held to be in full force and effect as though the invalid portion was not included; provided, however, that should the invalidity or unenforceability go to the essence of the agreement or be of substantial nature, then the Party or Parties who would receive the benefit of the provision, were it not invalid or unenforceable, shall have the option to terminate this Contract, forthwith.

32. Third Party Beneficiary: The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement shall be strictly reserved to the County and the Consultant, and nothing contained in this Contract shall give or

allow any claim or right of action whatsoever by any other or third person. It is the express intent of the parties to this Contract that any person receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.

33. Conflict of Provisions: In the event of any conflict between the terms of this Contract and the terms of any attachments or addenda, the terms of this Contract shall control.

34. Information and Reports: The Consultant will provide to authorized governmental representatives, including those of the County, State and Federal Government, all information and reports which they may require for any purpose authorized by law. The Consultant will permit such authorized governmental representatives access to the Consultant's facilities, books, records, accounts, and any other relevant sources of information. Where any information required by any such authorized government representative is in the exclusive possession of a person other than the Consultant, then such Consultant shall so certify to the County, and shall explain what efforts it has made to obtain the information.

35. Records: The Consultants agree to maintain such records and follow such procedures as may be required under the state's CDBG-DR Program and any such procedures as Boulder County may prescribe. In general, such records will include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

All such records and all other records pertinent to this contract and work undertaken under this contract shall be retained by the Consultants for a period of five years after final audit of Boulder County's CDBG-DR project, unless a longer period is required to resolve audit findings or litigation. In such cases, Boulder County shall request a longer period of record retention.

Boulder County and other authorized representatives of the state and federal government shall have access to any books, documents, papers and records of the consultants which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcriptions.

Boulder County and duly authorized officials of the state and federal government shall have full access and the right to examine any pertinent documents, papers, records and books of the Consultants involving transactions related to this local program

and contract.

36. Limitation on Public Statements and Lobbying Activity: Consultants are retained to provide information and advice to Boulder County that includes confidential data, work product, and other privileged or confidential information that is protected under pertinent laws and Boulder County policies. In order to maintain the fact and appearance of absolute objectivity, loyalty, and professionalism, Consultants shall not, without the prior written consent of Boulder County, do any of the following:

a. Disclose at any time information obtained as a result of this contractual relationship to any third party;

b. Lobby any County or State agency on any pending matter while they are under contract to Boulder County;

c. Make any public statements or appear at any time to give testimony at any public meeting on the subject matters with regard to which Consultant is or was retained by Boulder County. To the extent that Boulder County provides written consent for the disclosure of information or authorizes the making of public statements, Boulder County may impose such conditions upon such disclosure or communications as it thinks appropriate, and Consultants agree to comply with those conditions. This provision shall not preclude Consultants from providing information to law enforcement officials in connection with any criminal justice investigation.

37. Ownership: The reports, drawings, specifications, electronic files, maps, field notes, data collected and other documents produced and/or furnished by the Consultant as required by the Contract Documents shall become the property of the County. Upon completion of the Project or any earlier termination of this Contract under Paragraph 19, the Consultant will gather, compile, and present to the County drawings and all other information, which reflect all changes made during the Project. All such reproductions shall be the property of the County who may use them without the Consultant's permission for any proper purpose relating to the Project, including, but not limited to, additions to or completion of the Project.

38. Execution by Counterparts; Electronic Signatures: This Contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic



signatures for execution of this Contract. Only the following two forms of electronic signatures shall be permitted to bind the Parties to this Contract: (1) Electronic or facsimile delivery of a fully executed copy of a signature page; (2) The image of the signature of an authorized signer inserted onto PDF format documents. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, CRS §§ 24-71.3-101 to - 121.

36. No Suspension or Debarment: The undersigned parties certify that they are not suspended or debarred, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549.

IN WITNESS WHEREOF, the Parties have executed and entered into this Contract as of the latter day and year indicated below.

Executed by BOULDER COUNTY on \_\_\_\_\_.

COUNTY OF BOULDER  
STATE OF COLORADO

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
Chair, Board of  
County Commissioners

\_\_\_\_\_  
Clerk to the Board  
Of Commissioners  
(SEAL)

CONSULTANT  
A COLORADO CORPORATION

\_\_\_\_\_  
Name & Title

Executed by CONSULTANT on \_\_\_\_\_  
(Date)

# CONSULTANT'S CERTIFICATION OF COMPLIANCE

Pursuant to Colorado Revised Statute, § 8-17.5-101, et seq., as amended 5/13/08, as a prerequisite to entering into a contract for services with Boulder County, Colorado, the undersigned Consultant hereby certifies that at the time of this certification, Consultant does not knowingly employ or contract with an illegal alien who will perform work under the attached contract for services and that the Consultant will participate in the E-Verify Program or Department program, as those terms are defined in C.R.S. § 8-17.5-101, et seq., in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the attached contract for services.

CONSULTANT:

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Print or Type)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Note: Registration for the E-Verify Program can be completed at:  
<https://e-verify.uscis.gov/enroll/>.

# ATTACHMENT E

## ADDENDUM TO CONTRACT US HOUSING & URBAN DEVELOPMENT (HUD) COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY (CDBG-DR) REQUIREMENTS FOR PROCUREMENT CONTRACTS

This is an addendum to the [CONTRACT NAME], RFP \_\_\_\_\_, Agreement between [CONTRACTOR] ("Contractor"), and Boulder County, (the "County").

The parties acknowledge that the above-referenced contract is subject to the provisions of 24 CFR § 85.36 and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). This addendum is hereby expressly incorporated into the agreement between Boulder County and the Contractor. To the extent that the terms of the Agreement and this Addendum conflict, the terms of this Addendum shall control. Nothing in this Addendum shall be construed as making this Agreement contingent upon a Presidential disaster declaration or HUD's approval or obligation of funds.

**The following provisions are hereby added and incorporated into the above-referenced Agreement:**

1. **EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE** (*applicable to all construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees; 24 CFR§85.36 (i)(3)*)  
Contractor agrees to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Part 60).
2. **ANTI-KICKBACK ACT COMPLIANCE** (*applicable to all contracts and subgrants for construction or repair; 24 CFR§85.36 (i)(4)*)  
Contractor agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).
3. **ACCESS TO AND RETENTION OF RECORDS**
  - A. The Contractor agrees to provide the County, HUD, the Comptroller General of the United States or any their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions. 44 CFR§13.36(i)(10).
  - B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
  - C. The Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the later of: (a) the date of termination or expiration of this Agreement or (b) the date County makes final payment under this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case, Contractor agrees to maintain same until

the County, FEMA, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. 24 CFR §85.36(i)(11).

**4. CONTRACT WORK HOURS AND SAFETY STANDARDS** *(applicable to construction contracts awarded by grantees and subgrantees in excess of \$2,000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers; 24 CFR §85.36(i)(6))*

Contractor agrees that it shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5), which are incorporated herein.

**5. NOTICE OF REPORTING REQUIREMENTS**

A. Contractor acknowledges that it has read and understands the reporting requirements of HUD stated in 24 CFR § 85.36 (i)(7) and Part III of Chapter 11 of the United States Department of Justice's Office of Justice Programs Financial Guide, and agrees to comply with any such applicable requirements.

B. The Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by HUD. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions

**6. PATENT RIGHTS** *(applicable to contracts for experimental, research, or development projects financed by HUD; 24 CFR §85.36(i)(8))*

A. **General.** If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the County and Contractor agree to take actions necessary to provide immediate notice and a detailed report to HUD.

B. Unless the Government later makes a contrary determination in writing, irrespective of Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the County and Contractor agree to take the necessary actions to provide, through HUD, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR, Part 401.

C. The Contractor agrees to include paragraphs A and B above in each third party subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by HUD.

**7. NOTICE OF REQUIREMENTS PERTAINING TO COPYRIGHTS**

A. Contractor agrees that HUD shall have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for government purposes:

(1) The copyright in any work developed with the assistance of funds provided under this Agreement;

(2) Any rights of copyright to which Contractor purchases ownership with the assistance of funds provided under this Agreement. 24 CFR § 85.36 (i) (9).

B. The Contractor agrees to include paragraph A above in each third party subcontract financed in whole or in part with Federal assistance provided by HUD. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **8. ENERGY CONSERVATION REQUIREMENTS**

A. The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. 24 CFR § 85.36(i)(13).

B. The Contractor agrees to include paragraph A above in each third party subcontract financed in whole or in part with Federal assistance provided by HUD. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **9. CLEAN AIR AND WATER REQUIREMENTS** *(applicable to all contracts and subcontracts in excess \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year; 24 CFR §85.36(i)(12))*

- A. Contractor agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- B. Contractor agrees to report each violation of these requirements to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to HUD and the appropriate EPA regional office.
- C. The Contractor agrees to include paragraph A and B above in each third party subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by HUD.

## **10. TERMINATION FOR CONVENIENCE OF COUNTY** *(applicable to all contracts in excess of \$10,000; 24 CFR §85.36(i)(2))*

- A. County shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. County shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective
- B. Upon receipt of the notice, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Agreement on the date specified by County and to minimize the liability of

Contractor and County to third parties as a result of termination. All such actions shall be subject to the prior approval of the County. Such actions shall include, without limitation:

- (1) Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by County.
- (2) Not placing any further orders or subcontracts for materials, services, equipment or other items.
- (3) Terminating all existing orders and subcontracts.
- (4) At County's direction, assigning to County any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, County shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- (5) Subject to County's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.
- (6) Completing performance of any services or work that County designates to be completed prior to the date of termination specified by County.
- (7) Taking such action as may be necessary, or as the County may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which County has or may acquire an interest.

C. Within 30 days after the specified termination date, Contractor shall submit to County an invoice, which shall set forth each of the following as a separate line item:

- (1) The reasonable cost to Contractor, without profit, for all services and other work County directed Contractor to perform prior to the specified termination date, for which services or work County has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for services or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice. Taking such action as may be necessary, or as the County may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which County has or may acquire an interest.

- (2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of County, that Contractor would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

- (3) The reasonable cost to Contractor of handling material or equipment returned to vendor, delivered to the County or otherwise disposed of as directed by the County.

- D. In no event shall County be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by County, except for those costs specifically enumerated and described in the immediately preceding subsection (c). Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs related to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under such subsection (c).
- E. In arriving at the amount due to Contractor under this Section, County may deduct:
- (4) All payments previously made by County for work or other services covered by Contractor's final invoice;
  - (5) Any claim which County may have against Contractor in connection with this Agreement;
  - (6) Any invoiced costs or expenses excluded pursuant to the immediately preceding subsection (d); and
  - (7) In instances in which, in the opinion of the County, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and County's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.
- F. County's payment obligation under this Section shall survive termination of this Agreement.

## **11. TERMINATION FOR DEFAULT**

Contractor's failure to perform or observe any term, covenant or condition of this document shall constitute an event of default under this Agreement.

- A. Each of the following shall also constitute an event of default ("Event of Default") under this Agreement:

- (1) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from County to Contractor.
- (2) Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (e) takes action for the purpose of any of the foregoing.
- (3) A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to



Contractor or with respect to any substantial part of Contractor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Contractor.

- B.** On and after any Event of Default, County shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, County shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to County on demand all costs and expenses incurred by County in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. County shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between County and Contractor all damages, losses, costs or expenses

incurred by County as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

- C.** All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy

## **12. SOCIOECONOMIC ENGAGEMENT**

Contractor will take the following affirmative steps to engage small and minority firms, women's business enterprises, and labor surplus area firms.

- A. Place qualified small and minority business and women's business enterprises on sub-contractor solicitation lists.
- B. Assure that such firms are solicited whenever they are potential sources.
- C. Divide total requirements into smaller tasks or quantities to permit maximum participation by such firms.
- D. Establish delivery schedules which encourage participation by such firms.

Except as modified herein, all terms and conditions of the existing contract between the parties remain in full force and effect.

**IF THIS ADDENDUM IS INCORPORATED BY REFERENCE INTO THE CONTRACT, THE PARTIES DO NOT NEED TO SIGN THE ADDENDUM, AND THE SIGNATURE BLOCKS MAY BE REMOVED**

Accepted by **[CONTRACTOR]** on

\_\_\_\_\_  
(Date)

By: \_\_\_\_\_  
TITLE

Accepted by **BOULDER COUNTY** on

\_\_\_\_\_  
(Date)

\_\_\_\_\_

## ATTACHMENT F

### BOULDER COUNTY METADATA STANDARDS

#### I. INTRODUCTION

##### **Purpose**

The purpose of this document is to define what metadata is, why it should be used, and to define Boulder County metadata standards and implementation. Compliance with these standards will facilitate data sharing, integration and compatibility among users of the Boulder County GIS System. Furthermore, it will help Boulder County maintain the value of the significant investment it has made to geospatial data. The objective of these standards is to provide guidelines that enable the creation of compete and consistent metadata for GIS data by Boulder County GIS users.

##### **What are Metadata?**

A metadata record is a file of information, usually presented as an XML document, which captures the basic characteristics of a data or information resource. It represents who, what, when, where, why and how of the resource. Geospatial metadata are used to document geographic digital resources such as Geographic Information System (GIS) files, geospatial databases, and imagery. A geospatial metadata record includes core library catalog elements such as Title, Abstract, and Publication Data; geographic elements such as Geographic Extent and Projection Information; and database elements such as Attribute Label Definitions and Attribute Domain Values (source: fgdc.gov).

##### **Why use Metadata?**

Metadata helps people who use geospatial data find the data they need and determine how best to use it. Metadata supports producers in locating and using their own data resources and data consumers in locating and using data resources produced by others. Metadata also supports:

##### **Data Management requirements to:**

- preserve the data history so that it can be re-used or adapted,
- assess the age and character of data holdings to determine which data should be maintained, updated, or deleted,
- instill data accountability by requiring a data steward to state what you know about the data and realizing what you don't, but should, know about your data
- limit data liability by explicitly designating the effective and administrative limits of use of the data.

##### **Project Management requirements to:**

- plan and document the data types and content needed to support the project
- monitor data development by regular review of the process steps completed and recorded within the metadata
- provide all project participants a common language of attributes and process methods and a place to record and share their progress
- access the lineage and content of outsourced data production by requiring robust metadata as a contract deliverable.

As personnel change in an organization, institutional knowledge leaves the organization. Undocumented data can lose their value. Subsequent workers may have little understanding of the contents and uses for a digital database and may find they can't trust results generated from these data. Also, lack of knowledge about other organizations' data

can lead to duplication of effort. It may seem burdensome to add the cost of generating metadata to the cost of data collection, but in the long run metadata are worth it.

Source: fgdc.gov

## **II. CREATION AND MAINTENANCE**

### **1. Spatial Metadata**

- a. Must adhere to the International Organization for Standardization (ISO) 19139 Metadata Standard, and also include a Use Limitation.
- b. Boulder County ArcGIS users should use the ArcGIS editor in ArcCatalog to create and maintain metadata. They should set their Metadata Style to "ISO 19139 Metadata Implementation Specification", our standard style. In the ArcGIS editor, with this style set, there are three main sections, with multiple subsections, that encompass our required elements along with optional elements:
  - i. Overview Section
    - a. Item Description
    - b. Topics and Keywords
    - c. Citation
    - d. Citation Contacts
    - e. Locales
  - ii. Metadata Section
    - a. Details
    - b. Contacts
    - c. Maintenance
    - d. Constraints
  - iii. Resource Section
    - a. Details
    - b. Extents
    - c. Points of Contact
    - d. Maintenance
    - e. Constraints
    - f. Spatial Reference
    - g. Spatial Data Representation
    - h. Content
    - i. Quality
    - j. Lineage
    - k. Distribution
    - l. Fields
    - m. References
    - n. Geoprocessing History
- c. A list of required metadata elements, each with a description or definition of the element, can be found in Appendix A – Required Metadata Entry Guide.
- d. Submission of spatial metadata for import to our master SDE (REGIS1) must be in XML format. This is the Boulder County GIS standard.

### **2. Database Metadata**

- a. Build database metadata into the data dictionary.
- b. Coordinate system metadata must be submitted in an Excel spreadsheet.

3. Cartography Metadata
  - a. Single map metadata must be submitted as a text file, and should be present on the map itself.
  - b. Map series metadata must be XML format.
4. Analysis Metadata
  - a. Document purpose, resources, and methodology to edit or create analysis data.
  - b. Analysis metadata must be submitted in text document.
5. Document Imaging Metadata
  - a. Document imaging metadata must be submitted in an Excel spreadsheet.
6. Application Metadata
  - a. Document purpose, resources, and dependencies of application
  - b. Application metadata must be submitted as a text file.
7. Project Metadata
  - a. Project metadata must be submitted as a text file.

### **III. SUBMITTAL REQUIREMENTS**

See Appendix A for a list of standard data that must be submitted for all spatial data.

### **IV. SPECIFIC REQUIREMENTS**

#### **1. Boulder County GIS Spatial Data Standards**

See Appendix A for required fields for spatial metadata.

#### **2. Boulder County Database Standards**

Metadata for databases will be built into the Database Dictionary. Additionally, coordinate system metadata is required for databases with coordinate information.

SPATIAL REFERENCE  
COORDINATE SYSTEM  
MAP PROJECTION  
PLANAR COORDINATE INFORMATION  
GEODETIC MODEL  
DATA QUALITY INFORMATION  
SOURCE INFORMATION  
PROCESS STEP  
ACCURACY

#### **3. Boulder County Cartography Standards**

The following pieces of information are recommended on individual maps:

ORIGINATOR  
PUBLICATION DATE  
TITLE  
LOCATION

TIME PERIOD OF CONTENT  
TIME PERIOD INFORMATION  
CURRENTNESS REFERENCE  
USE CONSTRAINTS  
POINT OF CONTACT  
POSITIONAL ACCURACY  
LINEAGE  
SOURCE INFORMATION  
SOURCE SCALE DENOMINATOR  
TYPE OF SOURCE MEDIA  
SOURCE TIME PERIOD OF CONTENT

Maps published as part of a series may include additional information, such as:

UPDATE FREQUENCY  
CROSS REFERENCE

#### **4. Boulder County Analysis Standards**

All required spatial metadata is required for analysis submittals. See Appendix A – Required Metadata Entry Guide, for a guide to each required field, including descriptions. The following special fields are also required. Entries may have either standardized responses or free form fields.

FINAL GIS DATA  
DEFINITIONS AND USE OF DATASETS

#### **5. Boulder County Project Standards**

Submitted project documents (e.g. MXDs) should include the following information in a readme file.

LAYERS  
FORMAT  
VERSION  
EXTENSIONS OR ADD-INS  
PURPOSE  
SYMBOLGY

### **V. REFERENCE INFORMATION**

1. Metadata and ArcGIS; on-line virtual campus class  
[Creating and Maintaining Metadata Using ArcGIS Desktop](#)
2. International Organization for Standards at <http://www.iso.org/iso/home.html>
3. Federal Geographic Data Committee at <http://www.fgdc.gov/>
4. National Geophysical Data Center at  
[https://www.ngdc.noaa.gov/wiki/index.php?title=ISO\\_Metadata\\_Standard](https://www.ngdc.noaa.gov/wiki/index.php?title=ISO_Metadata_Standard)

## **APPENDIX A – REQUIRED METADATA ENTRY GUIDE**

### **List of Required Fields Not Automatically Provided**

This list is of metadata the user must enter. Required fields specified here are Boulder County policy as of June, 2013. ArcGIS automatically fills in many fields that are also required, and are not listed here. All other fields not listed here and not automatically filled in, are optional and should be filled out as necessary. The paths below are the categories to drill down through, in the ArcGIS editor, to enter or edit a particular field. The text below provides descriptions/explanations for the use of each required metadata field. These descriptions/explanations can also be seen at the bottom of the page, when you edit a field. Some entries have prescribed responses listed in a drop down box. Some have standard verbiage that is shown within quotes.

Boulder County users must adhere to the ISO 19139 Metadata Implementation Specification, which requires elements 1 through 6 below. Element 7 is not required by the ISO 19139 Metadata Implementation Specification, but is an additional element required by Boulder County.

1. Overview/Item Description/Description (Abstract) – A brief narrative summary of the resource’s content. In metadata standards this information is known as the abstract. ArcGIS Online refers to this information as the resource’s description. For geoprocessing tools, this information is referred to as the tool’s summary. Data type: Character String. From: ISO 19115.
2. Overview/Topics & Keywords/Topic Categories - Identifies the primary themes associated with the resource’s content. For example, if the resource describes soil conditions, the farming, geoscientific, and environment themes might all apply. This information is required if the spatial resource’s hierarchy level is “dataset”. Data type: MD\_TopicCategoryCode. From: ISO 19115:2003. Nineteen categories are available.
3. Overview/Citation - At least one citation date.
  - a. Date Created - The date when the cited resource was created. Data Type: Date. From: ISO 19115:2003
  - b. Date Published – The date when the cited resource was published. Data Type: Date. From: ISO 19115:2003
  - c. Date Revised - The date when the cited resource was revised. Data Type: Date. From: ISO 19115:2003
4. Metadata/Contacts/Contact
  - a. At least one Contact Name which is the name of a person associated with the resource. The name of an individual, organization, or position must be provided. Data type: Character String. From: ISO 19115: 2003.
  - b. At least one Contact Role which identifies the association between the responsible party and the resource. Data type: CI\_RoleCode. From: ISO 19115:2003. Contact Role has a drop down menu that lists the domain.
5. Resource/Distribution/Distribution Format/Format Version – The version of the transfer format, if appropriate; for example, a date or number. Data type: Character String. From: ISO 19115:2003.

As of the publication of this document, “10.2” is a valid entry for this field.

6. Resource/Fields/Details

- a. Entity Type Definition – A description of the features, objects, or cells contained by the dataset. Data type: Character String. From: FGDC CSDGM.
  - b. Entity Type Definition Source – The authority that provided the definition. Data type: Character String. From: FGDC CSDGM.
  - c. Attribute Definition unless automatically generated – A description of the data contained by the field. Data type: Character String. From: FGDC CSDGM.
  - d. Attribute Definition Source unless automatically generated – The authority that provided the definition. Data type: Character String. From: FGDC CSDGM.
  - e. Domain - For each attribute that has a domain, you must fill in the domain type. There are 3 types of domains and whichever one you pick requires different information.
    - (1) Enumerated - If you pick the enumerated domain, you must input:
      - (a) Value – Describes one of the repeating values that may occur in the field. Coded values may be stored in the column to represent a repeating value to use less storage space. A text column should only be described as having an enumerated domain if there is a defined range of specific values that are possible. Data type: Character String. From: FGDC CSDGM.
      - (b) Definition – A description of the value or code stored in this field. Data type: Character String. From: FGDC CSDGM.
      - (c) Definition Source - The authority that provided the description of the value. Data type: Character String. From: FGDC CSDGM.
    - (2) Range - If you pick the range domain, you must input:
      - (a) Minimum - For numeric columns, the least value that can be stored in the field. Data type: Character String. From: FGDC CSDGM.
      - (b) Maximum – The greatest value that can be stored in the field. Data type: Character String. From: FGDC CSDGM.
    - (3) Codeset - If you pick the codeset domain, you must input:
      - (a) Name – If the enumerated or coded values stored in the field are specified by an authority, provide the title for this set of values. Data type: Character String. From: FGDC CSDGM.
      - (b) Source – The authority that defined the set of values stored in this field. Data type: Character String. From: FGDC CSDGM.
7. Overview/Item Description/Use Limitation. – The Boulder County legal department has approved this use limitation:

“This data has been developed by Boulder County and may also include data from third-party sources. Boulder County makes no warranties, representations or guarantees, either expressed or implied, as to the completeness, accuracy or correctness of the data, nor accepts or assumes any liability arising from or for any incorrect, incomplete or misleading data provided pursuant to the use of this data. There are no warranties and/or representations, either expressed or implied, of merchantability or fitness of the data for a particular purpose or use.”

### **Using the ArcGIS Editor**

The ArcGIS editor, when set to style “ISO 19139 Metadata Implementation Specification”, helps the user follow the ISO 19139 Metadata Standard. In the editor, along the left hand side, an x next to a subsection means there is at least one required element within that subsection that is missing. When a user clicks on that subsection, at least one message will appear at the top of the right hand side, preceded by !. These messages tell a user what elements need to be entered.



This metadata style has rules about the elements that are required to create metadata that complies with our standards. If a metadata element has a red background, this indicates there is a problem with its value. A value may be mandatory in this metadata element with the current metadata style, but one hasn't been provided. Or, the wrong type of value may have been provided for the element. For example, if an element is supposed to contain an integer but instead a real number has been provided, the element's input control will have a red background.

Use Limitation, in the Overview Section, in the Item Description category, is required by Boulder County, not by ISO 19139. Therefore, there are no features that remind a user to enter the required information. That required information is shown in 7, above.