



**Boulder County Purchasing**  
**1325 Pearl Street**  
**Boulder, CO 80302**  
[purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org)

**REQUEST FOR PROPOSAL**  
**COVER PAGE**

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RFP Number:	<b>7015-19</b>
RFP Title:	<b>Boulder County Cannabis Cultivators Energy Efficiency Assessment</b>
RFP Questions Due:	February 19, 2019
Pre-Proposal Meeting:	N/A
Submittal Due Date:	March 1, 2019
Email Address:	<a href="mailto:purchasing@bouldercounty.org">purchasing@bouldercounty.org</a>
Documents included in this package:	Proposal Instructions Terms and Conditions Specifications Insurance and W-9 Requirements Submittal Checklist Proposal Section Evaluation Criteria Signature Page Sample Contract



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## **PROPOSAL INSTRUCTIONS**

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### **1. Purpose/Background**

Boulder County approved and allowed the cannabis industry to be part of the legal business community in unincorporated Boulder County per the 2013-102 Resolution. However, because of the county's sustainability and climate action goals, the Boulder County marijuana license requirements require the industry to offset its impacts by the following; cultivation facilities must report energy use and offset the electricity used above a "baseline consumption value" (per the county calculations). More information can be found in [Resolution 2014-41](#). Offsetting the electricity use is done in one of three ways, yet barriers persist, so most pay into the Energy Impact Offset Fund (EIOF).

The offset fund dollars are spent on projects which offset the high energy intensity of cannabis cultivation. More specifically the county and its EIOF committee have focused expenditures of the fund to assist the cultivation community in understanding and reducing their energy demand. This project's objectives include:

1. Conduct assessments to provide Boulder County cultivators with best energy efficiency practices through behaviors, tactics, and equipment.
2. Help the county better understand the landscape of the licensed cultivation facilities' efficiency opportunities, barriers, and challenges to operating at their optimal performance.

More information about Boulder County's;

- [Marijuana licensing requirements](#)
- [EIOF committee](#)

### **2. Written Inquiries**

All inquiries regarding this RFP will be submitted via email to the Boulder County Purchasing Office at [purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org) on or before 2:00 p.m. **February 19, 2019**. A response from the county to all inquiries will be posted and sent via email no later than **February 22, 2019**.

**Please do not contact any other county department or personnel with questions or for information regarding this solicitation.**

### **3. Submittal Instructions**

Submittals are due at the Administrative Services Information Desk or email box (preferred) listed below, for time and date recording on or before **2:00 p.m. Mountain Time on March 1, 2019**.

**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 email box listed below. Submittals sent to any other box will NOT be forwarded or accepted. This email 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.**

**Email**      [purchasing@bouldercounty.org](mailto:purchasing@bouldercounty.org); identified as **RFP # 7015-19** 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 # 7015-19**, to the Administrative Services Information Desk located at 1325 Pearl 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 proposer 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 proposer.

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.



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## **TERMS AND CONDITIONS**

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1. Proposers are expected to examine the drawing, specifications, schedule of delivery, and all instructions. Failure to do so will be at the proposer's risk.
2. Each proposer will furnish the information required in the Request for Proposals.
3. The Contract/Purchase Order will be awarded to that responsible proposer 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 proposals 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 will be withdrawn for a period of thirty (30) days subsequent to the opening of proposals without the consent of the County Purchasing Agent or delegated representative.
6. A signed purchase order or contract furnished to the successful proposer 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 ensure that the proposal arrives at the Administrative Services Information Desk prior to the time indicated in the "Request for Proposals."
8. The proposed price will 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 will 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 will 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 proposal 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. Proposers 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. Proposers 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 will 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/>.



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## **SPECIFICATIONS**

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### **Project Description**

Boulder County is seeking a qualified consultant (s) to provide energy efficiency assessments and opportunities to its licensed cannabis cultivators. Currently, Boulder County has 14 licensed cannabis cultivators. The goal is to provide at least 5, if not all 14, of these cultivators an energy assessment that provides baseline energy information for the owners and/or operations manager, and suggested energy efficiency measures to reduce energy consumption and costs per unit of production. The following is an outline of the project and what the bid proposal should be based on.

### **1. Energy Assessments**

Whether it's Boulder County or Partners for a Clean Environment staff making the initial contact and scheduling the on-site assessment, the assessment will include a discussion with owners/operators and walk-through of the facility to gather the following information, which is a sample and not completely inclusive:

- Address
- Type of building
- Building and/or space square footage of cultivation facility and individual rooms
- Rough design of space layout
- List of all major energy-consuming equipment, including details on size, number of units, model numbers, fuel sources used for the equipment, etc.
  - Lighting
  - Mechanical heating and cooling and ventilation equipment
  - Dehumidification equipment
  - Water heating
- Note the electric meter hook-up for the space
  - Master meter
  - Sub-metered
  - Multiple meters
- Natural gas meter
  - Gas provider
- Production Data
  - Gather production data to be used in an energy productivity metric and stating how to keep it confidential

## **2. Utility Bills Analysis**

For each assessed facility, it is imperative that energy use data is gathered and analyzed as part of the efforts to understand efficiency opportunities.

- One of the following
  - i. Receive access to each facility's on-line Xcel Energy portal and download the last two years of electric use or
  - ii. Request Boulder County's eGauge interval circuit level energy use data for each facility
- Request other fuel usage such as natural gas, propane, etc.
- Perform a high-level analysis of the energy use
- Explain and calculate electricity monthly demand charges for each facility

## **3. Energy Efficiency Opportunity Analysis**

For each assessed facility, it will be important to identify energy efficiency or energy management opportunities for the owner to consider. The energy efficiency measures identified should include low-cost operations and maintenance (O&M) measures as well as more expensive options (equipment upgrades) that could be implemented as part of any planned expansions or major retrofits. Any identified energy efficiency opportunity should include a simple payback or return on investment (ROI) calculation. As part of that, all identified utility or local program rebates should be included.

## **4. Summary of Interest**

To fully understand each facility's situation it will be critical for the consultant to have a discussion on the owner's motivating drivers and interest in sustainability and efficiency. The cannabis industry landscape is changing quickly and it's in the county's best interest to understand the climate and motivators of the local industry. The information can be provided in a summary high level format, describing trends, concerns, issues and interests of the cultivators.

## **5. Final Report**

A final assessment report will be delivered to each participating cultivation facility. Additionally, a final summary report will be delivered to the county, and it would include the following elements to summarize the work performed, without disclosing names or addresses of individual businesses:

- Summary of current lighting technologies used in vegetative and flower rooms
- Summary of current cooling and dehumidification technologies used
- List of low-cost energy efficiency recommendations and payback periods
- List of more expensive energy efficiency suggestions and payback periods
- Recommendations for an ongoing cannabis-sector energy efficiency program for Boulder County.

### **Privacy**

All information collected is property of the cultivation facility being investigated and may not be shared or used for outside projects without consent from the cultivation facility. Non-Disclosure Agreements will be assigned before work begins to protect the privacy of cultivation facilities.



**Procurement Schedule**

Note: The County reserves the right to adjust this schedule as necessary.

**Tentative selection schedule**

RFP issues	February 7, 2019
Final RFP questions due	February 19, 2019
Final RFP answers	February 22, 2019
Bid proposals due	March 1, 2019
Finalist selection	March 5, 2019
Finalist interviews if needed (please reserve this date)	Week of March 5, 2019
Contractor selection	March 12, 2019
Contract negotiations complete	April 1, 2019



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## **INSURANCE AND W-9 REQUIREMENTS**

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### **INSURANCE REQUIREMENTS**

**General Liability**                    \$1,000,000 Each Occurrence  
   \$2,000,000 General Aggregate  
   \$2,000,000 Products Completed Operations Aggregate  
   3 years Products/Completed Operations

**Automobile Liability**                \$1,000,000 Each Accident  
   \*Including Hired & Non-Owned Auto

**Worker's Compensation and Employer's Liability**  
   Statutory limits

**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 30 days after an award.

### **W-9 REQUIREMENT**

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



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## SUBMITTAL SECTION

The proposer’s attention is especially called to the items listed below, which must be submitted in full as part of the PROPOSAL. Failure to submit any of the documents listed below as a part of your PROPOSAL, or failure to acknowledge any addendum in writing with your PROPOSAL, or submitting a proposal on any condition, limitation or provision not officially invited in this Request for Proposal (RFP) may be cause for rejection of the PROPOSAL.

**THIS CHECKLIST MUST BE SUBMITTED AS PART OF YOUR PROPOSAL PACKAGE:** Proposer will check each box indicating compliance:

INCLUDED	ITEM
	Name and Address of the Partners and Subcontractors if applicable
	A detailed project schedule
	Information on the relevant experience of key personnel
	Submit a copy of any contract you would require to be executed in this process
	Submit three references for similar projects your company has completed within the last three years and contact information. <ol style="list-style-type: none"> <li>a. Service performed</li> <li>b. Client</li> <li>c. Contact person</li> <li>d. Phone number</li> <li>e. Does your company have any specific advantages you can offer in providing this service?</li> </ol>
	Provide a written response to the questions below: <ol style="list-style-type: none"> <li>a. How many months/years has your company performed services similar to those requested?</li> <li>b. How many cannabis facilities have your team performed similar assessments on?</li> <li>c. How many industrial facilities has your team performed similar assessments on?</li> <li>d. What engineering experience and tools does your team possess to analytically assess cannabis facilities?</li> </ol>

	b. How familiar are you with the services to be performed in this RFP? List past projects of similar nature.
	Proposed cost. Provide your proposed cost breakdown based on the project description including time estimates per assessment or blocks of assessments completed and rates for personnel assigned to this project. Please provide total costs for 8 and 13 facilities being assessed.
	Comments. Any reservations, conditions, or constraints regarding this RFP.
	Insurance Certificate
	W-9
	Signature Page
	Addendum Acknowledgement(s) (If Applicable)



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**PROPOSAL SECTION**

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Item Description

Cost

Total Cost for 8 Site Assessments

\$\_\_\_\_\_

Total Cost for 13 Site Assessments

\$\_\_\_\_\_

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Company Name

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Name of person and title submitting BID (PLEASE PRINT)

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Signature of Bidder

Date



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## EVALUATION CRITERIA

The proposals will be reviewed by a selection committee. The committee may request additional information from vendors or request interviews with one or more vendors. Final evaluation and selection may be based on, but not limited to, any or all of the following:

- Information presented in proposal
- Ability of the vendor to provide quality and timely products and services
- Qualifications and experience of the vendor
- Reference checks
- Interview
- Proposed pricing
- Proposed timeline
- Any other relevant and appropriate factors as determined by the county

**A guiding scoring matrix with the order and priority of criteria to be used by the county in its evaluation and selection process is shown below:**

Description	Points
Responsiveness to the needs of Boulder County including the proposed solutions offered, the means and methods of accomplishing the services, and the scope of services offered.	10
Expertise and Prior Related Experience	10
Proposed Pricing Relative to Service Offered	10
<b>Total Possible</b>	<b>30</b>



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### SIGNATURE PAGE

Contact Information	Response
Company Name including DBA	
List Type of Organization (Corporation, Partnership, etc.)	
Name, Title, and Email Address of Person Authorized to Contract with Boulder County	
Company Address	
Company Phone Number	
Company Website	

**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.
- (Sole Proprietorships Only) 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.

## BOULDER COUNTY (name of service contracting for) CONTRACT

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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 (name of company) ("Contractor"), (collectively, the "Parties").

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

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

- a. *The Invitation for Bid and Bid Specifications of Boulder County Bid No. \_\_\_\_\_* together with any alterations and/or modifications to these Specifications (the "Bid Documents"); **[if applicable]**
- b. Contractor's proposal in response to the Bid Document (the "Proposal"); **[if applicable]**
- c. The scope of services, attached hereto as Exhibit A (the "Scope of Services"); **[if applicable]** and
- d. The fee schedule, attached hereto as Exhibit B (the "Fee Schedule"). **[if applicable]**

2. Work to be Performed: The Contractor will, in a good and workmanlike manner and at its own cost and expense, furnish all labor and equipment and do all work necessary and incidental to performing (specify type of work) as specified in the Contract Documents and this Contract (the "Work"). The Contractor shall perform the Work in strict accordance with the Bid Documents and this Contract.

3. Term of Contract: This Contract shall begin and become effective on the date of execution by the parties, which date is the date specified on the signature page of this Contract. Under this Contract, the Contractor shall begin Work on (date) and shall continue through (date).

4. Payment for Work Performed: In consideration of the Work to be performed by the Contractor, and subject to paragraph 14, the County shall pay to the Contractor, in accordance with the Bid Documents, \$ (contract price).

5. Extension and/or Renewal of Contract Term:

- a. The County, in its sole discretion, may elect to extend the term of this Contract. In the event the County elects to exercise this right, it shall send notice to Contractor, pursuant to paragraph 15, of its intent to extend the term of the Contract. The notice shall set forth the length of the extension.
- b. Upon agreement by the parties, this Contract may be renewed for four additional one-year periods through date during which time this Contract shall be in full



force and effect, subject to the termination provisions of paragraph 14. If this option to renew is exercised, the parties shall execute a written agreement no later than thirty (30) days before the expiration of this Contract or any subsequent renewals.

- c. All the provisions of this Contract shall remain in full force and effect during any extension or renewed term except that the scope of services and compensation to be paid to Contractor during any extension or renewed term shall be mutually agreed upon prior to the commencement of any extension or renewed term. The agreed upon scope of services and compensation shall be reduced to writing, signed by both parties, and attached to this Contract.
- d. **TEN CALENDAR DAYS BEFORE THE COMMENCEMENT OF ANY EXTENDED TERM THE CONTRACTOR SHALL SUBMIT TO THE COUNTY PROOF OF INSURANCE AS REQUIRED IN PARAGRAPH 9.**
- e. Should the Parties fail to agree upon the scope of services or compensation to be paid to Contractor for any extension or renewed term, or should Contractor fail to submit the required documents within the time period specified in paragraph 5(d), then this Contract shall terminate at the end of the then current term and no extension or renewal of the term of the Contract shall occur.

6. Quality of Performance: The Contractor 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.

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

8. Indemnity: The Contractor shall be liable and responsible for all damages to persons or property caused by or arising out of the actions, obligations, or omissions of the Contractor, its employees, agents, representatives or other persons acting under the Contractor's direction or control in performing or failing to perform the Work under this Contract. The Contractor 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 Contractor, its employees, agents or representatives, or other persons acting under the Contractor's direction or control.

9. Insurance Requirements: The Contractor 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 Contractor has assumed until this Contract has expired or is terminated:

a. Commercial General Liability.

***Non-Construction contracts use the following language:***

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.

***Construction Contracts only – include the following paragraph:***

Coverage should be provided on an Occurrence form, ISO CG0001 or equivalent. The policy shall be endorsed to include Additional Insured endorsements CG 2010 (or equivalent), Designated Construction Projects General Aggregate Endorsement CG2503 (or equivalent) and Additional Insured (for products/completed operations) CG 2037 (or equivalent). Minimum limits required of \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate and \$2,000,000 Products Completed Operations Aggregate". The County requires Products/Completed Operations coverage to be provided 2 years after completion of construction. An endorsement must be included with the certificate.

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.

***This coverage may not be required if Contractor is not using a vehicle as part of its performance under the contract.***

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.

***This coverage may not be required if contractor is not mandated under State law to maintain this coverage.***

d. Umbrella / Excess Insurance

Umbrella/Excess Liability insurance in the amount \$X,000,000.00, following form.

e. 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 contractor 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.

f. **Pollution Liability.**

Coverage shall cover the Contractor's completed operations. The coverage must also include sudden and gradual pollution conditions including clean-up costs when mandated by governmental authority, when required by law or as a result of a third party claim. Minimum limits required are \$1,000,000 Per Loss and \$1,000,000 Aggregate. If the coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning from the time that work under this contract is completed.

g. **Commercial Crime Insurance / Third Party Fidelity Bond**

The Crime limit shall be \$1,000,000 Per Loss and include an endorsement for "Employee Theft of Client Property". This third party coverage can also be provided by obtaining a third party fidelity bond

h. **Privacy / Cyber Liability Insurance (HIPAA Compliance)**

As a provider of a service which *may* require the knowledge and retention of HIPPA sensitive personal information of clients served, the following minimum insurance limits are required:

- Contractors with 10 or fewer clients: \$50,000.
- Contractors with 11 – 15 clients: \$500,000.
- Contractors with more than 25 clients: \$1,000,000.

The Contractor shall provide a Certificate of Insurance to Boulder County 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 and Pollution Liability, as designated in the contract. Additional insured shall be endorsed to the policy.

**THE ADDITIONAL INSURED WORDING SHOULD BE AS FOLLOWS:** *County of Boulder, State of Colorado, a body corporate and politic, is named as Additional Insured.*

Contractor shall forward certificates of insurance directly to (\_\_\_\_) **Agency / Department Representative's Name & Address**).

**Notice of Cancellation:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the County, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. If any insurance company refuses to provide the required notice, the Contractor 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.

Please forward certificates to the county representative named above.

10. Nondiscrimination: The Contractor 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).

11. Nondiscrimination Provisions Binding on Subcontractors: In all solicitations by the Contractor for any Work related to this Contract to be performed under a subcontract, either by competitive bidding or negotiation, the Contractor shall notify each potential subcontractor of the Contractor's obligations under this Contract, and of all pertinent regulations relative to nondiscrimination and unfair employment practices.

12. Information and Reports: The Contractor 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 Contractor will permit such authorized governmental representatives access to the Contractor'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 Contractor, then such Contractor shall so certify to the County, and shall explain what efforts it has made to obtain the information.

13. Independent Contractor: The Parties recognize and agree that the Contractor is an independent contractor for all purposes, both legal and practical, in performing services under this Contract, and that the Contractor and its agents and employees are not agents or employees of Boulder County for any purpose. As an independent contractor, the Contractor 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.

**Contractor 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. Contractor shall be entitled to unemployment insurance or workers' compensation insurance only if unemployment compensation coverage or workers' compensation coverage is provided by Contractor, or some other entity that is not a party to this Contract. Contractor is obligated to pay federal and state income tax on any monies earned pursuant to this Contract.**

14. 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 Contractor pursuant to paragraph 15, and will be released from any and all obligations hereunder. If the County terminates the Contract for this reason, the County and the Contractor 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 Contractor prior to the effective date of termination under this provision; and, conversely, the Contractor shall be required to complete any Work for which the County has made payment prior to providing written notice to the Contractor of the termination.

- b. 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 Contractor pursuant to paragraph 15.
- c. In the event the County exercises either of the termination rights specified in paragraphs 14(a) or 14(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.

15. Notices: For purposes of the notices required to be provided under paragraphs 5, 9, and 14, all such notices shall be in writing, and shall be either sent by Certified U.S. Mail - Return Receipt Requested, Electronic Mail, or hand-delivered to the following representatives of the parties at the following addresses:

For the County: (enter DH/EO's name, Department, Mailing and Email Address)  
For the Contractor: (enter Contractor's name, Mailing and Email Address)

In the event a notice is mailed pursuant to the provisions of this paragraph, the time periods specified in paragraph 14 shall commence to run on the day after the postmarked date of mailing.

16. 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 Contractor has not paid amounts due to any person who has

supplied labor or materials for the project.

17. Prohibitions on Public Contract for Services:

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

A. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.

B. The Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor 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 Contractor 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 Contractor 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 Contractor obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall: notify the subcontractor and the County within three days that the Contractor 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 contractor 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. Contractor 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 Contractor 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 Contractor shall be liable for actual and consequential damages to the County.

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

19. Assignment: This Contract shall not be assigned or subcontracted by the

Contractor without the prior written consent of the County.

20. 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.

21. 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 Courts of the 20<sup>th</sup> Judicial District of the State of Colorado and the applicable Colorado Appellate Courts.

22. 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.

23. 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.

24. 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.

25. 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 Contractor, 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.

26. 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.

27. 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.

28. 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, C.R.S. §§ 24-71.3-101 to 121.

**[Signature Page to Follow]**



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 \_\_\_\_\_.  
(date)

**COUNTY OF BOULDER  
STATE OF COLORADO**

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

By: \_\_\_\_\_  
Administrative Assistant  
Clerk to the Board of Commissioners

(seal)

By: \_\_\_\_\_  
Cindy Domenico, Chair,  
Board of County Commissioners

Executed by Contractor on \_\_\_\_\_.  
(date)

**CONTRACTOR:**

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

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

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

**CONTRACTOR’S CERTIFICATION OF COMPLIANCE**

Pursuant to Colorado Revised Statutes, § 8-17.5-101, et seq., as amended, as a prerequisite to entering into a contract for services with Boulder County, Colorado, the undersigned Contractor hereby certifies that at the time of this certification, Contractor does not knowingly employ or contract with an illegal alien who will perform work under the attached contract for services and that the Contractor 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.

CONTRACTOR:

\_\_\_\_\_  
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/>.