



**Hosted by:**  
**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>7077-19</b>
RFP Title:	<b>“As is” Capital Need Assessment for BCHA Rural Development Properties</b>
Pre-Proposal Meeting:	N/A
RFP Questions Due:	November 14, 2019 - 2:00 p.m.
Submittal Due Date:	November 25, 2019 - 2:00 p.m.
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 Evaluation Criteria Signature Page Sample Contract



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## **PROPOSAL INSTRUCTIONS**

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

The Boulder County Housing Authority (BCHA) is requesting proposals for a qualified firm to conduct an “as is” Capital Need Assessment (CNA) on three Rural Development (RD) properties owned by BCHA to be submitted to the United States Department of Agriculture (USDA).

### **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. **November 14, 2019**. A response from the county to all inquiries will be posted and sent via email no later than **November 18, 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 November 25, 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 50MB 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 # 7077-19** 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 # 7077-19**, 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 Boulder County Housing Authority Board 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 Boulder County Housing Authority and the County of Boulder reserve 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 Authority and 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.**

**The Boulder County Attorney’s Office retains sole authority for determining whether the Colorado Open Records Act requires or permits Boulder County to disclose proposal or bid documents, or any information contained therein, pursuant to an open records request.**

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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### **Introduction:**

Boulder County Housing Authority (BCHA) issues this Request for Proposals (RFP) to seek bids for a qualified firm to conduct Capital Needs Assessments (CNA) on three Rural Development properties owned by BCHA.

A Capital Needs Assessment (CNA) is a systematic assessment to determine a Property's physical capital needs over the next 20 years based upon the observed current physical conditions of a Property. The CNA report provides a year-by-year estimate of capital replacement costs over this 20-year period for use by the CNA Recipient and the U.S. Department of Agriculture (USDA) Rural Development (RD) personnel in planning the reserve account for replacements and other funding to cover these costs.

An "as-is" CNA report will include all major repairs and likely some minor repairs that are typically associated with the major work: each major component, system, equipment item, etc. inside and outside; building(s); property; access and amenities in their present condition. A schedule of those items showing the anticipated repair or replacement timeframe and the associated hard costs for the ensuing 20-year term of the CNA serves as the basis or starting point in evaluating the underwriting that will be necessary to determine the feasibility and future viability of the property to continue serving the needs of eligible tenants.

### **The CNA Provider must:**

1. Possess valid and current licenses and certifications necessary to comply with the Statement of Work and as regulated by all applicable State, county and/or local laws and/or ordinances.
2. Have no identity of interest as defined in [7 C.F.R. part 3560](#), with CNA Recipient or owner's Property, or management agent. An architectural firm performing a CNA which is also involved in the rehabilitation of the Property would be considered an Identity of Interest. For example: The Architect that performs the CNA assessment could overstate the conditions of the Property in order to inflate the rehabilitation scope, resulting in an increase to the Architect's compensation which is typically a percentage of the construction costs.

3. Be properly trained and experienced in evaluating site and building systems, health and safety conditions, physical and structural conditions, environmental and accessibility conditions, and estimating costs for repairing, replacing, and improving site and building components. (This applies to the CNA Provider or any Provider personnel who will have actual responsibility for the property inspection and preparation of the CNA.)
4. Be professionally experienced in preparing and providing CNAs for Multi-Family Housing properties that are similar in scope and operation to those typically financed in USDA RD's Section 515 program. (This applies to the CNA Provider or any Provider personnel who will have actual responsibility for the Property inspection and preparation of the CNA.)
5. Be knowledgeable about applicable site and building standards and codes including Federal, State and local requirements on environmental and accessibility issues. (This applies to the CNA Provider or any Provider personnel who will have actual responsibility for the Property inspection and preparation of the CNA.)
6. Not be debarred or suspended from participating in Federally assisted programs and will comply with the requirements of 2 C.F.R. parts 417 and 180 or any successor regulation, pertaining to debarment or suspension of a person from participating in a Federal program or activity.

Refer to Attachments A through C in the Attached CNA Guidance on the Capital needs Assessment Process for complete guidance on CNA provider requirements. The selected CNA provider will need to provide valid documentation of qualifications.

All CNA's must comply with the regulations and requirements outlined by the USDA. Please refer to the attached CNA guidance. The selected firm is required to use the most current template and USDA requirements to complete the CNA. See attached CNA template version 1.5i.

**Property Details:**

The three properties are located throughout Boulder County. Please refer to the attached site plans for additional detail.

**1) Prime Haven:**

Location: 170 East 2<sup>nd</sup> Street, Nederland CO 80466

This single-story complex was built in 1984 and consists of 6 units

Total square feet of building: 4636^ft

Total square feet for entire property: 16,000^ft

**2) Walter Self:**

Location: 355 Railroad Ave, Lyons CO 80540

This single-story complex was built in 2003 and consists of 12 units in two buildings and a third community building.

Total square feet of two apartment buildings: 8,400<sup>ft</sup>

Total square feet of community building: 2893<sup>ft</sup>

Total square feet for all buildings on site: 11,593<sup>ft</sup>

Total square feet for entire property: 34,270<sup>ft</sup>

**3) Casa de la Esperanza:**

Location: 1520 South Emery Longmont CO 80501

This multistory property consists of 32 apartments in six buildings and a separate community building:

Total square feet of apartment buildings: 32,620<sup>ft</sup>

Total square feet for community building: 1,944<sup>ft</sup>

Total square feet for all buildings on site: 34,564<sup>ft</sup>

Total square feet for entire property: 219,368<sup>ft</sup>





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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
	Organization/Company Background and Qualifications
	Name and Address of the Partners and Subcontractors (if applicable)
	Information on the relevant experience of key personnel
	A detailed project schedule with an all-inclusive total cost
	State your compliance with the Terms and Conditions in the Sample Contract contained in this RFP. Specifically list any deviations and provide justification for each deviation.
	Submit three references for similar projects your company has completed within the last three years and contact information
	Insurance Certificate
	W-9
	Signature Page
	Addendum Acknowledgement(s) (If Applicable)



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## **EVALUATION CRITERIA**

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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:

- Qualifications and experience of the vendor as demonstrated in proposal
- Reference checks
- Proposed timeline and ability to provide quality, timely services
- Proposed pricing and methodology

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

<b>Description</b>	<b>Points</b>
Qualifications and experience of the vendor as demonstrated in proposal	25
Reference checks	25
Proposed timeline and ability to provide quality, timely services	25
Proposed pricing and methodology	25
<b>Total Possible</b>	<b>100</b>



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**SIGNATURE PAGE**

Contact Information	Response
Company Name including DBA	
List Type of Organization (Corporation, Partnership, etc.)	
State where the Organization was Established (Colorado, Delaware, etc.)	
Name, Title, and Email Address of Person Authorized to Contract with Boulder County	Name: Title: Email:
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.

# CONTRACT

DETAILS SUMMARY	
Oracle Contract Number	
<b>Boulder County Housing Authority Contact Information</b>	
Department	Boulder County Housing Authority (BCHA)
Mailing Address	P.O. Box 471, Boulder, CO 80306
Contract Contact	[Project Manager Name and Title] [Project Manager Email] <a href="mailto:HHContracts@bouldercounty.org">HHContracts@bouldercounty.org</a>
Invoice Contact	[Project Manager Email]
<b>Contractor Contact Information</b>	
Contractor Name	[Contractor Name]
Address	[Contractor Mailing Address]
Contact	[Contractor Signatory Name and Title]
Contact Email	[Contractor Signatory Email]
Secondary Contact	[Secondary Contractor Contact, if applicable]
<b>Contract Term</b>	
Start Date	[Start Date]
Expiration Date	[End Date]
Final End Date	[End Date plus 4 years]
<b>Contract Amount</b>	
Contract Amount	[Contract Amount]
<b>Brief Description of Work</b>	
[Brief Description of Work - write out abbreviations]	
<p>[Remove the note below if this is NOT a continuing services contract.]Note: For Continuing Services Contracts, work shall be assigned on a project-by-project basis according to the terms of this Contract. The Contract Amount is a not-to-exceed amount for the Contract Term. The cost of services shall be established on a project-by-project basis consistent with the terms of this Contract.</p>	
<b>Contract Documents</b>	
a. Formal Procurement (RFP/Bid/SOQ) No. [XXXX-XX] (the "Bid Documents") [remove if not applicable] b. Contractor's proposal in response to the Bid Documents (the "Proposal") [remove if not applicable] c. Project Details, including project-specific terms and a Scope of Work, attached as Exhibit A (the "Scope of Work") [remove if not applicable] d. Fee Schedule, attached as Exhibit B (the "Fee Schedule") [remove if not applicable] e. [add any additional documents]	
<b>COUNTY INTERNAL USE ONLY</b>	
<b>Purchasing Details</b>	
Bid Number	[XXXX-XX]
BOCC Bid Award Date	[Date formal bid was approved by BOCC]
Bid Process Used	
Purchasing Notes	[Document quotes obtained. Provide justification if lowest-priced vendor was not selected.]
<b>Contract Notes</b> <i>(Additional information not included above)</i>	

THIS CONTRACT ("Contract") is entered into by and between the Housing Authority of the County of Boulder, Colorado, a public body, corporate and politic ("Boulder County Housing Authority" or "Authority") and [Contractor Name] ("Contractor"). Authority and Contractor are each a "Party," and collectively the "Parties."

In consideration of the mutual covenants contained in this Contract, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Incorporation into Contract: The **Details Summary** is incorporated into this Contract. The **Contract Documents** are incorporated into this Contract by reference, except to the extent that the Proposal, if any is incorporated, contains any obligations placed upon Authority and not otherwise contained in this Contract.

2. Work to be Performed: Contractor will provide all labor and equipment and do all tasks necessary and incidental to performing the work as described in the **Details Summary** and **Contract Documents** (the "Work"). Contractor will perform the Work (a) in a good and workmanlike manner, (b) at its own cost and expense, (c) in accordance with recognized industry standards of care, skill and diligence for the type of work being performed, and (d) in strict accordance with the Contract.

*[For Continuing Services Contracts, use paragraph below instead. Otherwise, delete.]* Authority will assign work on a project-by-project basis. Authority may enter into continuing services contracts with other contractors who will compete with Contractor to receive individual projects. Contractor will only be paid for projects awarded to Contractor through a bid process. The scope of work, cost, start date, and any other relevant project/Work details must be mutually agreed upon in writing prior to any Work commencing; such project-specific documents shall be incorporated into this Contract upon their acceptance by both Parties. Contractor acknowledges that a continuing service contract does not constitute a guarantee that Contractor will be awarded any projects or work of any kind. Upon receipt of an assignment, Contractor will provide all labor and equipment and do all tasks necessary and incidental to performing the work as described in the **Details Summary**, **Contract Documents**, and the project-specific documents mutually agreed upon in writing (the "Work"). Contractor will perform the Work (a) in a good and workmanlike manner, (b) at its own cost and expense, (c) in accordance with recognized industry standards of care, skill and diligence for the type of work being performed, and (d) in strict accordance with the Contract.

3. Term of Contract: The **Contract Term** begins on the **Start Date** and expires on the **Expiration Date**, unless terminated sooner. All the Work must be performed during the **Contract Term**.

4. Payment for Work Performed: In consideration of the Work performed by Contractor, and subject to conditions contained in this Contract, Authority will pay an amount not to exceed the **Contract Amount** to Contractor in accordance with the **Contract Documents**.

5. Invoicing: Contractor will promptly provide a copy of its Form W-9 and invoice template to Authority upon request. Contractor must submit an invoice to the Authority by the twentieth (20th) day of the month following completion of the Work. All invoices submitted require the following components: Contractor's name and address (submitted W-9 address must match remit address), detailed description of services, location of services, dates of services, itemization of labor and materials costs, "Bill to: Boulder County Housing Authority" language, payment remittance address, payer, name and address, date of invoice, unique invoice number, and total amount due.

Contractor must send all completed invoices to the **Invoice Contact** in the **Details Summary**. Email delivery is preferred by the Authority. Failure to submit invoices in a timely manner and in accordance with the terms of this Contract may cause a delay in payment. Authority may recoup any damages incurred because of Contractor's failure to submit invoices pursuant to the terms of this paragraph. Authority's acceptance or payment of an invoice will not constitute acceptance of any Work performed under this Contract.

6. Extra Time to Complete the Work: If Contractor cannot complete the Work by the **Expiration Date**, Contractor may request extra time to complete the Work. Authority, in its sole discretion, may grant Contractor additional time to complete the Work and, if so, will provide Contractor with written notice of the amount of extra time granted. Authority granting extra time to complete the Work will not entitle Contractor to additional compensation from the Authority. This Contract will remain in full force and effect during any time period that Contractor is permitted to finish completing the Work.

7. Extension of Contract Term (Additional Work): Upon mutual agreement of the Parties, this Contract may be extended until the **Final End Date**. During any extended **Contract Term**, the terms of this Contract will remain in full force and effect, unless otherwise amended in writing by the Parties. Where the Contractor will provide additional services for additional compensation beyond the initial **Contract Amount**, the Parties must execute a written amendment before the then-current **Expiration Date**. If necessary, the written amendment will incorporate an updated Scope of Work and updated Fee Schedule as exhibits. Contractor must provide a current Certificate of Insurance to the Authority that complies with the **Insurance Requirements** of this Contract, if any, prior to any extended **Contract Term**.

8. Schedule of Work: Authority may designate the hours (on a daily or weekly basis) during which Contractor can perform the Work, strictly for the purposes of minimizing inconvenience to the Authority and interference with Authority operations. Contractor will otherwise set its own work schedule.

9. Indemnity: Contractor will be liable for any damages to persons or property caused by or arising out of the actions, obligations, or omissions of Contractor, its employees, agents, representatives or other persons acting under Contractor's direction or control in performing or failing to perform the Work under this Contract. Contractor will indemnify and hold harmless Boulder County and the Boulder County Housing Authority, their elected officials and appointed department heads, and their employees, agents and representatives (the "indemnified parties"), from any and all liability, claims, demands, actions, damages, losses, judgments, costs or expenses, including 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 Contractor, its employees, agents or representatives, or other persons acting under Contractor's direction or control. This indemnification obligation will extend to claims based on Contractor's unauthorized use or disclosure of confidential information and intellectual property infringement. Boulder County and the Boulder County Housing Authority will not be obligated to indemnify or defend Contractor under any circumstances. Contractor's obligations under this provision shall survive expiration or termination of this Contract. Nothing contained in this Contract or the Contract Documents is intended to limit or restrict the indemnification rights or obligations of any Party under this provision, or damages available for breaches of the obligations herein.

10. Nondiscrimination: Contractor will 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 concerning discrimination and unfair employment practices. Authority 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. Contractor must require that its subcontractors, if any, similarly comply with all applicable laws concerning discrimination and unfair employment practices.

11. Information and Reports: Contractor will provide to authorized Authority, Boulder County, State, and Federal government representatives all information and reports that may be required for any purpose authorized by law. Contractor will permit access to such representatives to Contractor's facilities, books, records, accounts, and any other relevant sources of information. Where information required by a representative is in the exclusive possession of a person or entity other than Contractor, Contractor must so certify to the Authority and explain what efforts it has made to obtain the information.

12. Independent Contractor: Contractor is an independent contractor for all purposes in performing the Work. Contractor is not an employee of the Authority for any purpose, including the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the Colorado Workers' Compensation Act, the Colorado Unemployment Insurance Act, and the Public Employees Retirement Association. Accordingly, Authority will not withhold or pay any income tax, payroll tax, or retirement contribution of any kind on behalf of Contractor or Contractor's employees. As an independent contractor, Contractor is responsible for employing and directing such personnel and agents as it requires to perform the Work. Contractor will exercise complete authority over its personnel and agents and will be fully responsible for their actions.

13. Termination for Non-Appropriation: The other provisions of this Contract notwithstanding, the Authority is prohibited by law from making commitments beyond the current fiscal year. Payment to Contractor beyond the current fiscal year is contingent on the appropriation and continuing availability of funding in any subsequent year. Authority has reason to believe that sufficient funds will be available for the full **Contract Term**. Where, however, funds are not allocated for any fiscal period beyond the current fiscal year, Authority may terminate this Contract without penalty by providing seven (7) days' written notice to Contractor.

14. Termination for Breach: Either Party's failure to perform any of its material obligations under this Contract, in whole or in part or in a timely or satisfactory manner, will be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) days after the institution of such proceeding, will also constitute a breach. In the event of a breach, the non-breaching Party may provide written notice of the breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within thirty (30) days after delivery of notice, the non-breaching Party may exercise any of its remedies provided under this Contract or at law, including immediate termination of this Contract.

15. Termination for Convenience: Authority may terminate this Contract, in whole or in part, for any reason, upon seven (7) days' advance written notice to Contractor.

16. Remedies for Non-Performance: If Contractor fails to perform any of its obligations under this Contract, Authority may, at its sole discretion, exercise one or more of the following remedies, which shall survive expiration or termination of this Contract:



a. Suspend Performance: Authority may require that Contractor suspend performance of all or any portion of the Work pending necessary corrective action specified by the Authority and without entitling Contractor to an increase in compensation or extension of the performance schedule. Contractor must promptly stop performance and incurring costs upon delivery of a notice of suspension by the Authority.

b. Withhold Payment Pending Corrections: Authority may permit Contractor to correct any rejected Work at the Authority's discretion. Upon Authority's request, Contractor must correct rejected work at Contractor's sole expense within the time frame established by the Authority. Upon completion of the corrections satisfactory to the Authority, Authority will remit payment to Contractor.

c. Deny Payment: Authority may deny payment for any Work that does not comply with the requirements of the Contract or that Contractor otherwise fails to provide or complete, as determined by the Authority in its sole discretion. Upon Authority request, Contractor will promptly refund any amounts prepaid by the Authority with respect to such non-compliant Work.

d. Removal: Upon Authority's request, Contractor will remove any of its employees or agents from performance of the Work, if Authority, in its sole discretion, deems any such person to be incompetent, careless, unsuitable, or otherwise unacceptable.

17. Binding Arbitration Prohibited: Authority does not agree to binding arbitration by any extra-judicial body or person.

18. Conflicts of Interest: Contractor must not engage in any business or personal activities or practices or maintain any relationships that conflict in any way with the full performance of Contractor's obligations.

19. Notices: All notices provided under this Contract must be in writing and sent by Certified U.S. Mail (Return Receipt Requested), electronic mail, or hand-delivery to the other Party's **Contact** at the address specified in the **Details Summary**. For certified mailings, notice periods will begin to run on the day after the postmarked date of mailing. For electronic mail or hand-delivery, notice periods will begin to run on the date of delivery.

20. 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, including but not limited to: C.R.S. § 38-26-107, which requires withholding funds where the Authority receives a claim for payment from a supplier or subcontractor of Contractor upon notice of final settlement (required for public works contracts that exceed \$150,000); C.R.S. § 8-17-101 et seq.; C.R.S. § 18-8-301, et seq.; and C.R.S. § 18-8-401, et seq.

21. Public Contracts for Services (C.R.S. §§ 8-17.5-101, et seq.): Contractor hereby certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and further certifies that it will confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract by participating in the E-Verify Program established under Pub. L. 104-28 or the department verification program established under C.R.S. § 8-17.5-102(5)(c). Contractor (i) shall not knowingly employ or contract with an illegal alien to perform work under this Contract; (ii) 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 Contract; (iii) has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in the E-Verify program

or department program; (iv) is prohibited from using either the E-Verify program or department program procedures to undertake preemployment screening of job applicants while this Contract is being performed; and (v) shall comply with any reasonable request by the department made in the course of an investigation that the Colorado Department of Labor and Employment is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5). If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, Contractor shall (a) notify the subcontractor and Authority within three (3) days that Contractor has actual knowledge that subcontractor is employing or contracting with an illegal alien; and (b) terminate the subcontract if, within three (3) days of receiving notice hereunder, subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. Contractor's violation of this provision will constitute a material breach of this Contract, entitling the Authority to terminate the contract for breach. If this Contract is so terminated, Contractor shall be liable for actual and consequential damages to the Authority.

22. Entire Agreement/Binding Effect/Amendments: This Contract represents the complete agreement between the Parties and is fully binding upon them and their successors, heirs, and assigns, if any. This Contract terminates any prior agreements, whether written or oral in whole or in part, between the Parties relating to the Work. This Contract may be amended only by a written agreement signed by both Parties.

23. Assignment/Subcontractors: This Contract may not be assigned or subcontracted by Contractor without the prior written consent of the Authority. If Contractor subcontracts any of its obligations under this Contract, Contractor will remain liable to the Authority for those obligations and will also be responsible for subcontractor's performance under, and compliance with, this Contract.

24. Governing Law/Venue: The laws of the State of Colorado govern the construction, interpretation, performance, and enforcement of this Contract. Any claim relating to this Contract or breach thereof may only be brought exclusively in the Courts of the 20<sup>th</sup> Judicial District of the State of Colorado and the applicable Colorado Appellate Courts.

25. Breach: The failure of either Party to exercise any of its rights under this Contract will not be deemed to be a waiver of such rights or a waiver of any breach of the Contract. All remedies available to a Party in this Contract are cumulative and in addition to every other remedy provided by law.

26. Severability: If any provision of this Contract becomes inoperable for any reason but the fundamental terms and conditions continue to be legal and enforceable, then the remainder of the Contract will continue to be operative and binding on the Parties.

27. Third-Party Beneficiary: Enforcement of the terms and conditions and all rights and obligations of this Contract are reserved to the Parties. Any other person receiving services or benefits under this Contract is an incidental beneficiary only and has no rights under this Contract. Notwithstanding, where the beneficiary **Department** is led by an Elected Official, such Elected Official shall be considered a third-party beneficiary.

28. Colorado Open Records Act: Authority may disclose any records that are subject to public release under the Colorado Open Records Act, C.R.S. § 24-72-101, et seq.

29. Conflict of Provisions: If there is any conflict between the terms of the main body of this Contract and the terms of any of the **Contract Documents**, the terms of the main body of the Contract will control.
30. Governmental Immunity: Nothing in this Contract shall be construed in any way to be a waiver of the Authority's or Boulder County's immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended.
31. Representations and Warranties: Contractor represents and warrants the following:
- a. Execution of this Contract and performance thereof is within Contractor's duly authorized powers;
  - b. The individual executing this Contract is authorized to do so by Contractor;
  - c. 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 Contractor; and
  - d. Contractor and its subcontractors, if any, are financially solvent, able to pay all debts as they mature, and have sufficient working capital to complete the Work and perform all obligations under the Contract.
32. Legal Compliance: Contractor assumes full responsibility for obtaining and maintaining any permits and licenses required to perform the Work. Contractor's performance under this Contract and the Work itself will comply with all Federal, State, and local laws, regulations, ordinances and codes.
33. Litigation Reporting: Contractor is not currently involved in any action before a court or other administrative decision-making body that could affect Contractor's ability to perform the Work. Contractor will promptly notify the Authority if Contractor is served with a pleading or other document in connection with any such action.
34. Tax Exemption: Authority is exempt from payment of Federal, State, and local government taxes. Contractor shall collect no tax from the Authority, and the Authority shall not be liable to pay any taxes imposed on Contractor. Authority shall provide its tax exemption status information to Contractor upon request.
35. Delegation of Authority: The Parties acknowledge that the Board of County Commissioners has delegated authority to the Department Head or Elected Official that leads the beneficiary **Department** and their designees to act on behalf of the County under the terms of this Contract, including but not limited to the authority to terminate this Contract.
36. Ownership of Work Product: All work product, property, data, documentation, information or materials conceived, discovered, developed or created by Contractor pursuant to this Contract ("Work Product") will be owned exclusively by the Authority. To the extent possible, any Work Product will be deemed to be a work made for hire. Contractor unconditionally and irrevocably transfers and assigns to the Authority all right, title and interest in and to any Work Product.
37. Publicity Releases: Contractor will not refer to this Contract or the Authority in commercial advertising without prior written consent of the Authority. This provision shall survive expiration or termination of this Contract.

38. Execution by Counterparts; Electronic Signatures: This Contract may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute one agreement. The Parties approve the use of electronic signatures, governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24 71.3 101 to 121. The Parties will not deny the legal effect or enforceability of this Contract solely because it is in electronic form or because an electronic record was used in its creation. The Parties will not object to the admissibility of this Contract in the form of electronic record, or paper copy of an electronic document, or paper copy of a document bearing an electronic signature, because it is not in its original form or is not an original.

39. Limitation on Public Statements and Lobbying Activity. During the term of this Contract, Contractor may receive from the Authority its confidential data, work product, or other privileged or confidential information that is protected by law. To maintain the fact and appearance of absolute objectivity, Contractor shall not, without the prior written consent of the Authority, which shall not be unreasonably withheld, do any of the following: (a) disclose information obtained because of this contractual relationship to any third party; (b) lobby any State or Federal agency on any pending matter while this Contract is effective; or (c) make any public statements or appear at any time to give testimony at any public meeting on the subject matters regarding which Contractor is or was retained by the Authority. Authority may set reasonable conditions on any disclosure authorized by the Authority under this provision. Notwithstanding, Contractor may make disclosures as required by law, and to law enforcement officials in connection with any criminal justice investigation.

40. Sustainability: Authority encourages Contractor to consider the procurement and use of environmentally preferable products and services while performing services under this Contract. "Environmentally preferable purchasing" means making purchasing choices for products and services that have a lesser or reduced adverse effect on human health and the environment when compared with competing products and services that serve the same purpose. Environmentally preferable purchasing is consistent with the Authority's commitment to protecting our air, water, soil, and climate for current and future generations. Authority encourages Contractor to incorporate the following actions into Contractor's performance of the Work: environmentally preferable supplies and services; conservation of water; efficient energy use; waste prevention; reuse and recycle construction and de-construction materials in a manner that maximizes reuse of materials; sustainability transportation choices, including consideration to business communication software such as Skype alternative to air travel and public transit or carpooling for in-person meetings; pollution prevention; low toxicity for public health & safety; and reduced emissions to address climate change.

41. Limitation of Liability: COUNTY SHALL NOT BE LIABLE TO CONTRACTOR FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES ARISING FROM OR RELATING TO THIS CONTRACT, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. COUNTY'S AGGREGATE LIABILITY, IF ANY, ARISING FROM OR RELATED TO THIS CONTRACT, WHETHER IN CONTRACT, OR IN TORT, OR OTHERWISE, IS LIMITED TO, AND SHALL NOT EXCEED, THE AMOUNTS PAID OR PAYABLE HEREUNDER BY COUNTY TO CONTRACTOR. ANY CONTRACTUAL LANGUAGE LIMITING CONTRACTOR'S LIABILITY SHALL BE VOID.

42. Insurance Requirements: Prior to commencing the Work, Contractor will provide a Certificate of Insurance to the Authority demonstrating adequate insurance coverage as required by this paragraph. All policies evidencing coverage required by the Contract will be issued by

insurance companies satisfactory to the Authority. Contractor will forward Certificates of Insurance directly to the **Department** at [HHScontracts@bouldercounty.org](mailto:HHScontracts@bouldercounty.org).

a. For the entire duration of this Contract including any extended or renewed terms, and longer as may be required by this Contract, Contractor shall procure and maintain at its own expense, and without cost to the Authority, the following kinds and minimum amounts of insurance to insure the liability risks that Contractor has assumed under this Contract:

i. **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.

***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 Owners, Lessees or Contractors endorsements CG 2038 (or equivalent), Designated Construction Project(s) General Aggregate Endorsement CG2503 (or equivalent) and Additional Insured Completed Operations for Owners, Lessees or Contractors 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 the Products/Completed Operations coverage to be provided 3 years after completion of construction. An endorsement must be included with the certificate.

ii. **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.***

iii. **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.

iv. **Umbrella / Excess Insurance**

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

***This insurance is a broad, high-limit policy, which acts more than the underlying primary insurance policy. This coverage is designed to provide additional liability limits beyond the primary insurance limits and is triggered upon the underlying limits becoming exhausted. Umbrella / Excess insurance is most commonly required when an exposure to the County could potentially create liabilities in excess of the basic insurance limits. The most common limits for these policies range from \$2,000,000 to \$5,000,000.***

v. **Professional Liability (Errors and Omissions)**

[REMOVE THIS SECTION IF NOT APPLICABLE]

***All contractors required to be professionally certified by the State of Colorado (i.e., architects, engineers, doctors, nurses, etc.) and/or any consultants whose errors in judgment, planning, design, etc. could result in economic loss to the County must provide proof of professional liability coverage. This also applies to anyone managing or overseeing construction.***

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.

vi. **Pollution Liability**

***This coverage is required whenever work under the contract involves pollution risk to the environment or losses caused by pollution conditions (including asbestos) that may arise from the operations of the Contractor described in the Contractor's scope of services.***

Coverage pay for those sums the Contractor becomes legally obligated to pay as damages because of Bodily Injury, Property Damage or environmental Damage arising out of a pollution incident caused by the Contractor's work including Completed Operations. Coverage shall include emergency response expenses, pollution liability during transportation (if applicable) and at Non-Owned Waste Disposal Site (if applicable). The Minimum limits required are \$1,000,000 Per Occurrence/Loss and \$1,000,000 Policy 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. Authority and County shall be named as an additional insured for ongoing operations and completed operations.

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

[REMOVE THIS SECTION IF NOT APPLICABLE]

***Crime / Third Party Fidelity covers the contractor and the contractor's employees when engaged in work for a client on behalf of the County. This coverage is for employee dishonesty, theft, embezzlement, forgery and alteration. Coverage is required when the contractor will be handling money or collecting fees on behalf of the County or when the Contractor has access to client's personal property and/or documentation. Remove section if not applicable.***

The Crime limit shall be \$1,000,000 Per Loss and include an endorsement for "Employee Theft of Client Property". In order to provide coverage to Authority during the course of this contract, Commercial Crime policies must be endorsed to cover Third Party Fidelity. Third party fidelity covers the vendor's employees when engaged in work for a client. In addition, the Authority will be listed as loss payee on the commercial crime coverage. This third-party coverage can also be provided by obtaining a third-party fidelity bond.

b. Authority and Boulder County as Additional Insured: Boulder County Housing Authority, Boulder County, the State of Colorado, Aspinwall LLC, Josephine Commons LLC, MFPH Acquisitions LLC, and Kestrel I, LLC shall be named as an additional insured for General Liability, Umbrella/Excess Liability, and Pollution Liability, as designated in this Contract. Additional insured shall be endorsed to the policy.

**THE ADDITIONAL INSURED WORDING SHOULD BE AS FOLLOWS:** *Housing Authority of the County of Boulder, Colorado, a public body, corporate and politic; County of Boulder, State of Colorado, a body corporate and politic; the State of Colorado; Aspinwall, LLC, a Colorado limited liability company; Josephine Commons, LLC, a Colorado limited liability company; MFPH Acquisitions, LLC, a Colorado limited liability company; and Kestrel I, LLC, a Colorado limited liability company, are named as Additional Insured.*

*\*Include those properties that are relevant to the contract. If it is possible that the contractor will do work at all sites, include all.*

c. Notice of Cancellation: Each insurance policy required by 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 Authority 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, Contractor or its insurance broker shall notify the Authority any cancellation, suspension, or nonrenewal of any insurance policy within seven (7) days of receipt of insurers' notification to that effect.

d. Insurance Obligations of Authority: Authority is not required to maintain or procure any insurance coverage beyond the coverage maintained by the Authority in its standard course of business. Any insurance obligations placed on the Authority in any of the **Contract Documents** or mutually agreed upon project-specific documents shall be null and void.

e. Deductible: Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of Contractor.

f. Primacy of Coverage: Coverage required of Contractor and its subcontractors, if any, shall be primary over any insurance or self-insurance program carried by the Authority.

g. Subrogation Waiver: All insurance policies in any way related to this Contract secured or maintained by Contractor as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Authority, its organizations, officers, agents, employees, and volunteers.

43. No Suspension or Debarment: Contractor certifies that neither it nor its Principals (as defined at 49 C.F.R. §29.105) or any of its subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any Federal or State of Colorado department or agency. If Contractor, or any of its subcontractors, employees, or authorized agents, is excluded from participation, or becomes otherwise ineligible to participate in any such program during the term of the Contract, Contractor will provide written notice to the Authority within three (3) days after such event.

44. Incorporation of Funding Source Terms and Conditions: The terms and conditions of the award letter dated [Date] from [Granting Entity] to the Authority, including all express or implied

requirements pursuant to state or Federal regulations contained therein, are hereby incorporated into this Contract and are applicable to the Contractor as if to the Authority.

**[Signature Page to Follow]**



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

<b>SIGNED for and on behalf of Contractor</b>	
Signature:	Date:
Name:	Title:
<b>SIGNED for and on behalf of Boulder County Housing Authority</b>	
Signature:	Date:
Name:	Title:
Attester Signature:	Date:
Name:	Title:
Approved as to Content and Form:	Date:

**Exhibit A**  
**Scope of Work**

Enter scope of work here.

**Exhibit B  
Fee Schedule**

Enter fee schedule or budget here. Rename exhibit if necessary (remember to rename the exhibit on page 1).