



Boulder County Purchasing
1325 Pearl Street
Boulder, CO 80302
purchasing@bouldercounty.org

REQUEST FOR PROPOSAL (RFP) COVER PAGE

RFP Number:	7377-22
RFP Title:	Double Up Food Bucks (DUFb)
Due Date for RFP Questions:	October 7, 2022 – 2:00 p.m.
RFP Submittal Due Date:	November 10, 2022 – 2:00 p.m.
Email Address:	purchasing@bouldercounty.org
Documents Included in This Package:	RFP Bid Proposal Instructions RFP Terms and Conditions Specifications Insurance and W-9 Requirements Submittal Checklist RFP Evaluation Criteria RFP Sustainability Questionnaire Signature Page Sample Contract Sample Business Associate Agreement Sample Certificate of Insurance SAM.Gov Instructions



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RFP Bid Information Instructions

1. PURPOSE/BACKGROUND.

Please provide a brief summary of the goods/services you would provide to Boulder County if awarded.

2. WRITTEN INQUIRIES.

If you have any questions regarding this RFP, you must submit them via email to the Boulder County Purchasing Office (purchasing@bouldercounty.org) on or before 2:00 p.m., October 7, 2022. A response from Boulder County on all inquiries received will be subsequently posted on <https://bouldercounty.gov/government/bids-and-purchasing/bid-opportunities/> and on the Rocky Mountain E-Purchasing System and sent out via email no later than October 14, 2022.

Please do not contact any other Boulder County department or personnel with questions or to request information regarding this RFP solicitation. Inquiries received will NOT be forwarded to the Purchasing Office.

3. SUBMITTAL INSTRUCTIONS.

A. Submittal Requirements:

In order for RFP submittals to be accepted for consideration by Boulder County:

1. All bids must be submitted using one of the two methods outlined below in "Submission Instructions."
2. All bids must be received, and time/date recorded by authorized Boulder County staff before the established RFP due date and time.
3. **NO LATE SUBMITTALS WILL BE ACCEPTED.** If your RFP bid is received after the established RFP due date and time for any reason, your proposal will automatically be rejected and returned to you – there are NO EXCEPTIONS. Boulder County does not accept responsibility under any circumstance for delayed or failed RFP submittals.
4. You must include all required documents with your RFP bid, including but not limited to:
 - RFP Submittal Checklist (included in RFP package)
 - RFP Signature Page (included in RFP package)
 - Certificates of insurance, if applicable
 - SAM.Gov Registration
 - W-9
5. It is the sole responsibility of RFP bidders to ensure that your RFP submittals are received by Boulder County before the deadline, as detailed in "Submission Instructions" below.
6. The Board of County Commissioners ("Board") reserves the right to reject any and all RFP bids; 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 Boulder County, Colorado.

B. Submittal Instructions:

1. **Submittals are due at the email box only, listed below, for time and date recording on or before 2:00 p.m. Mountain Time on November 10, 2022.** Vendors must answer whether line-item pricing information submitted with a bid is confidential or closely held.
2. Please note that email responses to this solicitation are limited to a maximum of 50MB capacity.

NO ZIP FILES OR LINKS TO EXTERNAL SITES WILL BE ACCEPTED. THIS INCLUDES GOOGLE DOCS AND SIMILAR SITES. ALL SUBMITTALS MUST BE RECEIVED AS AN ATTACHMENT (E.G. PDF, WORD, EXCEL).

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.

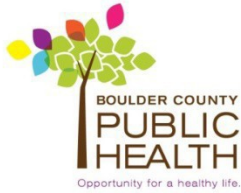
Email purchasing@bouldercounty.org; identified as RFP # 7377-22 in the subject line.

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.

Contractors and their employees, subcontractors, and agents must comply with all federal, state, and local laws, regulations, ordinances, orders, and codes, as well as Boulder County policies, guidelines, and protocols.

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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RFP Terms and Conditions

1. Request for Proposal (“RFP”) bidders are expected to examine drawings, specifications, schedule of delivery, and all instructions. Failure to do so will be at the bidder’s risk.
2. Each bidder must furnish all information required in the RFP.
3. The RFP contract/purchase order will be awarded to the responsible bidder whose submittal, conforming to the RFP, will be most advantageous to Boulder County, Colorado, and/or Boulder County Public Health (“BCPH”), price and other factors considered.
 - a. The sample contract included with this RFP packet is indicative of the contract that the winning bidder will be required to sign. The final contract may contain additional terms required under the award agreement between Boulder County Public Health (“BCPH”) and the awarded bidder; a copy of that agreement is available to the bidder upon request.
4. Boulder County and/or BCPH reserves the right to reject any or all RFP proposals, to waive informalities and minor irregularities in bids received, and to accept any portion of or all items proposed if deemed in the best interest of Boulder County to do so.
5. No submittal will be withdrawn for a period of thirty (30) days subsequent to the opening of bids without the consent of the Boulder County Purchasing Agent or delegated representative.
6. A signed purchase order or contract furnished to the successful bidder shall result 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 purchasing email address prior to the time indicated in the “Request for Proposals.”
8. The proposed price shall be exclusive of any federal or state taxes from which Boulder County and BCPH are exempt by law.
9. Any interpretation, correction, or change of RFP documents shall be made by Addendum. Interpretations, corrections, and changes of the RFP documents made in any other manner will not be binding, and bidders must not rely upon such interpretations, corrections, and changes. The County’s representative will not be responsible for oral clarification.
10. *Confidential/Proprietary Information:* Bids submitted in response to this “Invitation to Bid” and any resulting contract are subject to the provisions of the Colorado 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 bid or resulting contract should be clearly stated in the bid and contract itself. Confidential/proprietary information should be readily identified, marked and/or separated from the rest of the bid. Co-mingling of confidential/proprietary and other information is NOT acceptable. Vendors must answer whether line-item pricing information submitted with a bid is confidential or closely held. Bids that do not identify confidential/proprietary information may be released in their entirety. Pricing totals contained in a bid are not 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. Pursuant to Colorado law (e.g. [House Bill 13-1292](#)), in any bidding process for public works in which a bid is received from a non-resident bidder who is from a state that provides a percentage bidding preference, a comparable percentage disadvantage shall be applied to the bid of that bidder. Bidders may obtain additional information from the [State of Colorado website](#).
12. Bid Security: Boulder County Public Health may require, at its discretion, bid security for construction contracts when the price is expected to exceed \$50,000 and for any other contracts as determined by Boulder County Public Health to be in its best interest. Bid security provides assurance to Boulder County Public Health that the bidder will, upon award, fulfill its bonding and contracting obligations as required by the instructions to bidders. When bid security is required, as indicated in the instructions to bidders, the following terms apply:
 - Bid security must be for an amount equal to 5 percent of the amount bid, unless otherwise stipulated in the instructions to bidders.
 - Bid security must be in the form of a bond, issued by a surety company authorized to do business in Colorado, or a bank cashier's check made payable to Boulder County Public Health.
 - Bidders should scan and submit a copy of the bid security instrument with their bid submittal AND mail to Boulder County Public Health the actual bid security instrument, postmarked no later than the date of the bid deadline.
 - Bidder noncompliance with bid security requirements requires that the bid be rejected as nonresponsive.
 - The bid security is submitted as a guarantee that the bid will be maintained in full force and effect for a period of thirty (30) days after the opening of the bids. Accordingly, after bids are opened, they shall be irrevocable for a period of thirty (30) days.
 - If a bidder is permitted to withdraw his bid before award, at Boulder County Public Health's sole discretion, no action shall be had against the bidder or the bid security.
 - Following award, if a contractor fails to deliver the required performance and payment bonds or refuses to enter into a contract with Boulder County Public Health under the terms of its winning bid, the contractor's bid shall be rejected, and its bid security will be enforced by Boulder County Public Health to the extent of actual damages.



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RFP Specifications

Double Up Food Bucks Retail Program

Project Overview

Double Up Food Bucks is a national model that provides incentives for customers using Supplemental Nutrition Assistance Program benefits (SNAP EBT, formerly known as food stamps) to encourage them to purchase more fresh fruits and vegetables. When a customer shops at a participating location in the City of Boulder, the amount of SNAP benefits they spend on fruits and vegetables is matched with Double Up Food Bucks (DUFBS), which are valid for the purchase of additional fresh fruits and vegetables. SNAP beneficiaries can receive up to \$20 in Double Up Food Bucks each day they shop at a participating retailer. Boulder County Public Health is seeking at least one retail setting to continue implementing a Double Up Food Bucks program in 2023 with up to \$350,000 in incentives available each year.

Boulder County Public Health is also interested in exploring innovative program models, such as online and home delivery program. Any programs interested in submitting a proposal for that model are encouraged to do so under the innovation model.

Definitions

Retail Store:

A retail store refers to a brick-and-mortar retail store location within the City of Boulder. For example, these are traditional street-side businesses that sell produce customers face-to-face in a store that the business owns or rents. Examples include but are not limited to tiendas, fruterias, mercados, full-service grocery stores and corner stores.

Innovative Program:

An innovative program is one that provides produce incentives to SNAP participants through a unique service delivery model. These types of programs could utilize online platforms or home delivery models.

Scope of Work

1) Retail Store Requirements (Contractor Requirements for Retail Store):

The Store will:

- Meet with Boulder County Public Health (BCPH) at the outset of the project to discuss planning and development, implementation, logistics, outreach, and program deliverables.
- Brainstorm fund raising strategies to support the DUFBS program with BCPH staff.
- Actively work to create a welcoming environment for SNAP shoppers and explore capacity to include additional signage or train staff to ensure SNAP shopper are comfortable using the program
- Collaborate with BCPH on customer relations and staff training.
- Collaborate with BCPH for guidelines on promotion, advertising, and in-store signage.

- Meet monthly and quarterly reporting requirements.
- Oversee incentive distribution to customers using SNAP benefits at the Store.
 - A customer at the store will receive a value of incentives equal to the amount of SNAP dollars spent on produce, up to \$20 per day, when program is operating.
- Discuss potential point of sale system upgrades that would allow for card-based incentives.

Contractor Deliverables for Retail Store:

The Store will deliver the following to BCPH:

- **Monthly Reports including:**
 - Value of DUFEB incentives earned and redeemed
- **Quarterly Reports including:**
 - Value of SNAP purchases
 - Number of SNAP transactions processed at the store
 - Number of DUFEB transactions processed at the store
 - Number of unique SNAP shoppers
 - Percentage of SNAP benefits spent on produce
- **Training for Employees:**
 - All store employees will receive overview training about the DUFEB program. Front facing employees will receive in depth training at the outset of the project to ensure that they can effectively answer customers' questions about the DUFEB program. Cashiers will receive additional training to ring up DUFEB transactions correctly.
- **Evaluation:**
 - The Contractor will allow for evaluation methods at the Store as requested by BCPH.
 - Allow survey collectors to work in the store and talk with SNAP/DUFEB customers.
 - Allow BCPH to monitor the Store regularly for adherence to program requirements, particularly use of signage and availability of produce.

2) Innovative Program Requirements (Contractor Requirements for Innovative Program):

The Program will:

- Meet with Boulder County Public Health (BCPH) at the outset of the project to discuss planning and development, implementation, logistics, outreach and program deliverables.
- Brainstorm fund raising strategies to support the DUFEB program with BCPH staff.
- Actively work to create a welcoming environment for SNAP shoppers
- Collaborate with BCPH on customer relations and staff training.
- Collaborate with BCPH for guidelines on promotion, advertising, and communications.
- Meet monthly and quarterly reporting requirements.
- Oversee incentive distribution to customers using SNAP benefits on the platform.
- Describe incentive model in detail

Contractor Deliverables for Innovative Program:

The Innovative Program will deliver the following to BCPH:

- **Monthly Reports including:**
 - Value of incentives earned and redeemed
- **Quarterly Reports including:**
 - Value of SNAP purchases
 - Number of SNAP transactions processed
 - Number of DUFEB transactions processed
 - Number of unique SNAP shoppers
 - Percentage of SNAP benefits spent on produce
 - Number of incentives redeemed
- **Training for Employees:**
 - All employees will receive overview training about the DUFEB program.
- **Evaluation:**
 - The Contractor will allow for evaluation methods at the request of BCPH.
 - Allow BCPH to monitor the program regularly for adherence to program requirements.

Boulder County Public Health will commit the following resources to the Double Up Food Bucks program that will benefit each participating store/Innovative Program:

- Provide funds to reimburse Contractor for the cash value of Incentives redeemed when program is in operation in compliance with program guidelines and reporting requirements.
- Provide program materials, including signs, stickers, and other promotional items and in-store marketing materials.
- Arrange and lead training sessions for Contractor staff: front facing staff and cashiers.
- Lead a communications campaign to draw customers to Contractor stores. Contractor stores can also advertise the Double Up program in their own circulars and other ads.
- Offer assistance with sourcing Colorado produce if needed.
- BCPH will reimburse Contractors monthly for Double Up redeemed upon receipt of an accurate monthly report with supporting documentation. All Contractors must keep these records on file and must provide a copy to BCPH upon request.

Proposal Requirements

All proposals must include the following information:

1. Cover letter, including contact name, address, phone number, and email
2. Completion of program requirement checklist
3. Description of any relationships you have had with BCPH
4. Description of SNAP outreach your store has conducted
5. Overview of fund-raising opportunities your store can offer to support the DUFEB program

Cover Letter Template:

Business Name:	
Business Address:	
Contact Name:	
Contact Phone Number:	
Contact Email Address:	

Program Requirement Checklist:

(y/n)	1) Retail Program
	Meet with Boulder County Public Health (BCPH) at the outset of the project to discuss planning and development, implementation, logistics, outreach and program deliverables.
	Brainstorm fund raising strategies to support the DUFB program with BCPH staff.
	Actively work to create a welcoming environment for SNAP shoppers including increased outreach to SNAP customer and increased SNAP/DUFB signage in the store.
	Collaborate with BCPH on customer relations and staff training.
	Collaborate with BCPH for guidelines on promotion, advertising, and in-store signage.
	Meet monthly and quarterly reporting requirements.

	Oversee incentive distribution to customers using SNAP benefits at the Store. *A customer at the store will receive a value of incentives equal to the amount of SNAP dollars spent on produce, up to \$20 per day, when program is operating.
	Discuss potential point of sale system upgrades that would allow for card-based incentives.
	Commit to employee training as outlined above.
	Commit to monthly and quarterly reporting requirements as outlined above.
	Allow BCPH staff to survey DUFBI participants at participating retail locations.

(y/n)	2) Innovative Program
	Meet with Boulder County Public Health (BCPH) at the outset of the project to discuss planning and development, implementation, logistics, outreach and program deliverables.
	Brainstorm fund raising strategies to support the DUFBI program with BCPH staff.
	Actively work to create a welcoming environment for SNAP shoppers including increased outreach to SNAP customer and increased SNAP/DUFBI signage or advertising.
	Collaborate with BCPH on customer relations and staff training.
	Collaborate with BCPH for guidelines on promotion, advertising, and communications.
	Meet monthly and quarterly reporting requirements.
	Oversee incentive distribution to customers using SNAP benefits via platform(s).
	Commit to employee training.
	Allow BCPH staff to survey program participants at in person or online locations.
Describe incentive delivery/distribution model (short answer).	

Evaluation Checklist

Total Points Possible	Description of Program Requirement
/10	Meet with Boulder County Public Health (BCPH) at the outset of the project to discuss planning and development, implementation, logistics, outreach and program deliverables.
/5	Brainstorm fund raising strategies to support the DUFB program with BCPH staff.
/10	Actively work to create a welcoming environment for SNAP shoppers including increased outreach to SNAP customer and increased SNAP/DUFB signage in the store.
/5	Collaborate with BCPH on customer relations and staff training.
/5	Collaborate with BCPH for guidelines on promotion, advertising, and communications.
/15	Meet monthly and quarterly reporting requirements.
/15	Oversee incentive distribution to customers using SNAP benefits at the Store or innovative program model.
/5	Discuss potential point of sale system upgrades that would allow for card-based incentives or how the innovative program is already achieving this.
/15	Commit to employee training as outlined above.
/15	Allow BCPH staff to survey DUFB participants at participating
/100	TOTAL



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Insurance and W-9 Requirements

INSURANCE REQUIREMENTS – *Please note that the limits below are the minimum insurance limits.*

Commercial General Liability:	\$1,000,000 each occurrence \$2,000,000 general aggregate \$2,000,000 products completed operations aggregate
Automobile Liability:	\$1,000,000 Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of the Contract.
Worker's Compensation & 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.

BCPH and Boulder County as Additional Insureds: BCPH and Boulder County shall be named as additional insureds on the Certificate of Insurance for General Liability, Umbrella/Excess Liability, and Pollution Liability, as designated in the Contract. Additional insureds shall be endorsed to the policy.

THE ADDITIONAL INSURED WORDING ON THE CERTIFICATE OF INSURANCE SHOULD BE AS FOLLOWS:

"Boulder County Public Health, State of Colorado, a political subdivision of the State; and County of Boulder, State of Colorado, a body corporate and politic, are named as Additional Insureds."

*In regard to General Liability, Umbrella/Excess Liability, and Pollution Liability: If any or all of these coverages are required above, additional insured status will be required at the time a contract is executed.

The above insurance amounts are the minimum required for this project. Boulder County and/or Boulder County Public Health ("BCPH") reserves the right to amend insurance coverages in the awarded bidder's contract. [Proof of current insurance must be provided with your RFP submittal 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 or sole proprietorships), you may request one in your RFP submittal along with an explanation for your request.

New insurance certificates will be requested if the contract process is longer than 30 days from contract award or they expire during the term of the contract award.

W-9 REQUIREMENT

Provide a signed and dated copy of your company's W-9 Form with your proposal. The individual and/or business name and address on the W-9 Form must match the remit address.

SAM.gov REGISTRATION

Please provide a copy of your business' registration in sam.gov with your proposal.

DUNS NUMBER

Please provide your business' DUNS number with your proposal.



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RFP Submittal Checklist

Please pay special attention to the items listed below, as this information is REQUIRED IN FULL, as part of your RFP proposal. Failure to provide any of the information or documents listed below; 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 your proposal.

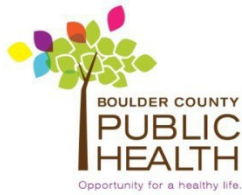
YOU MUST COMPLETE AND INCLUDE THIS CHECKLIST WITH YOUR PROPOSAL PACKAGE!

Please check each box to indicate your compliance in providing the following RFP requirements:

INCLUDED	ITEM
	Names and addresses of your partners and subcontractors for this RFP, if applicable.
	Detailed project schedule that includes the all-inclusive, total cost of your bid.
	Information regarding the relevant experience of all key personnel.
	A copy of any contract you would require to be executed as part of your RFP award, if selected; otherwise, Boulder County Public Health's contract format will be used.
	Three references for similar projects you have completed within the last three years, as well as relevant contact information for those projects.
	Applicable certificate(s) of insurance.
	Signed and dated W-9 form.
	Signed RFP submittal signature page.
	Optional Sustainability Questionnaire
	Addendum acknowledgement(s), if applicable.
	SAM.Gov Registration

THIS QUESTION MUST BE ANSWERED AS PART OF YOUR BID PACKAGE: Proposer will answer Yes or No indicating compliance

YES OR NO	ITEM
	Do you customarily keep line-item pricing information, such as the information being submitted with this proposal, confidential or closely-held?



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RFP Evaluation Criteria

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

- Meeting with BCPH at outset
- Brainstorm fund raising strategies to support the DUFB program with BCPH staff
- Actively work to create a welcoming environment
- Collaborate with BCPH for guidelines
- Meet monthly and quarterly reporting requirements
- Oversee incentive distribution to customers using SNAP benefits
- Discuss potential point of sale system upgrades
- Commit to employee training
- Allow BCPH staff to survey DUFB participants

Description	Points
Meet with Boulder County Public Health (BCPH) at the outset of the project to discuss planning and development, implementation, logistics, outreach and program deliverables.	10
Brainstorm fund raising strategies to support the DUFB program with BCPH staff.	5
Actively work to create a welcoming environment for SNAP shoppers including increased outreach to SNAP customer and increased SNAP/DUFB signage in the store.	10
Collaborate with BCPH on customer relations and staff training.	5
Collaborate with BCPH for guidelines on promotion, advertising, and communications.	5
Meet monthly and quarterly reporting requirements.	15
Oversee incentive distribution to customers using SNAP benefits at the Store or innovative program model.	15
Discuss potential point of sale system upgrades that would allow for card-based incentives or how the innovative program is already achieving this.	5
Commit to employee training as outlined above.	15
Allow BCPH staff to survey DUFB participants	15
Total Possible	100



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RFP SUSTAINABILITY QUESTIONNAIRE

Company Name: _____ Date: _____

This questionnaire is applicable to firms that provide services as well as those that provide goods. Please answer the questions to the best of your ability.

1. What sustainability certifications does your business have? Please check the items that apply:

- ☐ B-Corp
- ☐ Green Business Bureau
- ☐ Fair Trade USA
- ☐ Green C Certification
- ☐ None
- ☐ Other - describe any other certifications your company has related to sustainability.

2. Does your company have a sustainability vision/commitment/values statement or policy? Please check the items that apply:

- ☐ Our sustainability statement/policy describes our company's sustainability initiatives.
- ☐ We have formed an oversight committee to ensure the success of our sustainability policy.
- ☐ Our sustainability statement/policy describes how our company explores opportunities to work with communities, governments and non-governmental and professional organizations to help articulate, teach and advance the principles of sustainability.
- ☐ We are currently in the process of developing a sustainability statement/policy consistent with a commitment to promote environmental, economic, and social sustainability.
- ☐ None
- ☐ Other - Provide (or supply a link) your company's sustainability statement/policy.

3. What policies are in place to monitor and manage your supply chain regarding sustainability issues? Please select all that apply:

- ☐ We apply sustainability criteria when making purchasing decisions.
- ☐ We partner with suppliers who share in our sustainability commitment and/or work with them to

reduce the impact to the environment of our resource needs as well as improve worker conditions.

- ☐ We purchase “green” (i.e. recyclable, reusable, non-toxic, compostable, fair trade and made from 100% post-consumer recycled materials) supplies, products, and materials.
- ☐ We specify locally manufactured products in procuring goods.
- ☐ We specify products that use the Electronic Products Environmental Assessment Tool (EPEAT) standards in procuring goods.
- ☐ None.
- ☐ Other – describe other ways your company monitors and manages your supply chain concerning environmental issues.

4. Does your company promote sustainable transportation in its operations? Please select all that apply:

- ☐ We own, rent, or lease electric fleet vehicles.
- ☐ We own, rent, or lease hybrid or natural gas fueled fleet vehicles.
- ☐ We encourage carpooling, public transportation, and using other alternative modes of transportation.
- ☐ We subsidize public transportation for employees.
- ☐ We have an established Green Transportation Plan
- ☐ We are developing a Green Transportation Plan
- ☐ We offer flexible hours, telecommuting, or a compressed work week.
- ☐ We utilize teleconference, video conference, WebEx or GoTo Meetings (or other similar conferencing services).
- ☐ None
- ☐ Other – describe other ways your company promotes sustainable transportation. If applicable, use this space to describe your company’s Green Transportation Plan (whether existing or in development).

5. What does your company do to minimize the environmental impacts associated with shipping? Please check the items that apply:

- ☐ We have established company policies and procedures that minimize the need for shipping in the first place
- ☐ We combine deliveries with customer visits.
- ☐ We consolidate deliveries.
- ☐ We use bike couriers for local delivery.
- ☐ We utilize electronic communications and electronic transfer of documents, such as e-mail, fax and Portable Document Format (PDF).
- ☐ We specify products that can be purchased locally within a 500-mile radius of the delivery location in procuring goods.
- ☐ We are currently evaluating what the company can do to minimize the environmental impacts associated with shipping (must describe below; no additional points awarded for providing this

description).

- ☐ Our packaging/shipping materials are reusable.
- ☐ Our packaging/shipping materials are made from 100% post-consumer recycled materials.
- ☐ N/A
- ☐ Other – describe what your company does to minimize the environmental costs associated with shipping. If applicable, use this space to provide required description(s).

6. Has your company ever been cited for non-compliance of any law, regulation, ordinance, code, rule, standard, or policy regarding an environmental or safety issue? Please check the item that applies:

- ☐ No, my company HAS NOT been cited for non-compliance regarding an environmental or safety issue.
- ☐ Yes, my company HAS been cited for non-compliance of an environmental or safety issue.
- ☐ N/A State the reason, date and outcome of the citation:

7. What programs do you have, either in place or currently being planned, to promote resource efficiency? Examples include energy or waste audit programs. Please check the items that apply:

- ☐ We have an established zero waste program.
- ☐ We utilize a facilities energy management system.
- ☐ We have adopted a climate action plan.
- ☐ We have a water conservation program.
- ☐ We have formed a sustainability committee to identify sustainable solutions for our company.
- ☐ We are a member of various sustainability organizations.
- ☐ We are recognized by peers and environmental organizations for providing leadership in Sustainability.
- ☐ None
- ☐ Other - what other programs do you have in place or planned for promoting resource. Efficiency?

8. If your business's proposal involves the provision of a product, does the manufacturer of the product, whether your business or an outside entity, have a sustainability policy statement? Please check the item that applies:

- ☐ No, the manufacturer of the product that I am proposing DOES NOT have a sustainability policy statement.
- ☐ Yes, the manufacturer of the product that I am proposing HAS a sustainability policy statement.
- ☐ Not applicable.

Provide Sustainability Policy Statement:

9. If your business's proposal involves the provision of a product, has the manufacturer of the product, whether your business or an outside entity, ever been cited for non-compliance of any law, regulation, ordinance, code, rule, standard, or policy regarding an environmental or safety issue? Please check the item that applies:

- ☐ No, the manufacturer of the product that I am proposing HAS NOT been cited for noncompliance regarding an environmental or safety issue.
- ☐ Yes, the manufacturer of the product that I am proposing HAS been cited for noncompliance regarding an environmental or safety issue.
- ☐ Not applicable.

Provide reason, date and outcome of the citation:

10. If your business's bid/proposal involves the provision of a product, has an environmental life-cycle analysis of the product that you are proposing been conducted by a certified testing organization, such as Green Seal, Energy Star, and Cradle to Cradle? Please check the item that applies.

- ☐ No, an environmental life-cycle analysis of the product that I am bidding/proposing HAS NOT been conducted by a certified testing organization, such as Green Seal.
- ☐ Yes, an environmental life-cycle analysis of the product that I am bidding/proposing HAS been conducted by a certified testing organization, such as Green Seal.
- ☐ Not applicable.

Provide certification:



Boulder County Purchasing
1325 Pearl Street
Boulder, CO 80302
purchasing@bouldercounty.org

RFP Signature Page

CONTACT INFORMATION	RESPONSE
Company Name, including DBA ("Doing Business As")	
Type of Organization (e.g. corporation, partnership, etc.)	
Name/Title of Person Authorized to Contract with Boulder County Public Health ("Contact Person")	NAME:
	TITLE:
Contact Person Email Address	
Phone Numbers	CONTACT PERSON:
	COMPANY:
Company Address	
Company Website	

By signing below, I am certifying that:

- ✓ I am authorized to submit this bid on my company's behalf.
- ✓ I am not currently an employee of Boulder County or Boulder County Public Health ("BCPH").
- ✓ None of my employees or agents is currently employees of Boulder County or BCPH.
- ✓ I am not related to any BCPH or Boulder County employee or Boulder County elected official.
- ✓ *Sole Proprietorships Only:* I am not a Colorado Public Employees Retirement Association (PERA) retiree.

Signature of Person Authorized to Bid on Company's Behalf

Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER XYZ Agency 1111 Your Street Ourtown, CO 99999	CONTACT NAME: PHONE (AC No Ex): FAX (AC No): E-MAIL: ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: carrier INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED XYZ Vendor 1 Vendor Street Happy Town, CO 99999 *This name should match the name on the contract.	NAIC #

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	AUTO SUBR (INSR) WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>	GL123456	*These Dates Must Be Current		EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Per occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMPOD AGG COMBINED SINGLE LIMIT (Per person) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
<input checked="" type="checkbox"/>	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	<input checked="" type="checkbox"/>	AL123456			
<input type="checkbox"/>	UMBRELLA LIAB EXCESS LIAB DED RETENTIONS	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE AGGREGATE
<input type="checkbox"/>	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in NE) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N <input checked="" type="checkbox"/> N / A	WC123456			<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH- ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Boulder County Public Health, State of Colorado, a political subdivision of the State, and Boulder County, State of Colorado, a body corporate and politic, are named as additional insureds with respect to General Liability.

PLEASE REFER TO THE BOULDER COUNTY PUBLIC HEALTH CONTRACT INSURANCE REQUIREMENTS FOR CONTRACT SPECIFIC INSURANCE REQUIREMENTS.

CERTIFICATE HOLDER

CANCELLATION

Boulder County Public Health Attn: Contracts 3450 Broadway Boulder CO 80304 Email: HealthContracts@bouldercounty.org	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Licensed Agent Signature
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ACORD 25 (2016/03)

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NOTE: If you cannot certify the above statements, please provide a statement of explanation.

SAMPLE CONTRACT

IMPORTANT: The following SAMPLE CONTRACT is provided for your reference and is subject to change. Therefore, **DO NOT** complete or return this contract with your proposal.

DETAILS SUMMARY	
Document Type	
OFS Number-Version	
BCPH Contact Information	
Boulder County Legal Entity	Boulder County Public Health
Department	Public Health
Division/Program	
Agency Mailing Address	3450 Broadway, Boulder, CO 80504
Program Contact – Name, email	
Invoice Contact	HealthAP@bouldercounty.org
Notices and Insurance	ATTN: Health Contracts
Certificates Contact	healthcontracts@bouldercounty.org
Contractor Contact Information	
Contractor Name	
Contractor Mailing Address	
Contact 1- Name, title, email	
Contact 2- Name, title, email	
Contract Term	
Start Date	
Expiration Date	
Final End Date	
Contract Amount	
Contract Amount	
Fixed Price or Not-to-Exceed?	
Brief Description of Work	
Contract Documents	
a. Formal Procurement (RFP/Bid/SOQ) No. Bid Variable (the "Bid Documents")	
b. Contractor's proposal in response to the Bid Documents (the "Proposal")	
c. Project Details, including project-specific terms and a Scope of Work, attached as Exhibit A (the "Scope of Work").	
d. Fee Schedule, attached as Exhibit B (the "Fee Schedule")	
e. Business Associate Agreement, attached as Exhibit C (the "BAA")	
Purchasing Details – BCPH Internal Use Only	
Grant funded?	Yes or No
Bid Number	
Award Date	
If no Bid No., bid process used	
Purchasing Notes (optional)	
COVID-19	Yes or No
Project No.	
Contract Notes	
Additional information not included above	

THIS CONTRACT ("Contract") is entered into by and between Boulder County Public Health ("BCPH"), State of Colorado, a political subdivision of the State, acting by and through the Boulder County Board of Health and **[Supplier]** ("Contractor"). BCPH 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 BCPH 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.
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, BCPH 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 BCPH upon request. Contractor must submit an invoice to BCPH by the fifteenth (15th) day of the month for completion of any Work performed in the prior calendar month. All invoices submitted require the following components: Contractor's name and address (submitted W-9 address must match remit address), detailed description of services, dates of services, itemization of labor and materials costs, "Bill to: Boulder County Public Health" 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**. BCPH may require delivery of invoices by email. Failure to submit invoices in a timely manner and in accordance with the terms of this Contract may cause a delay in payment. BCPH may recoup any damages incurred because of Contractor's failure to submit invoices pursuant to the terms of this paragraph. BCPH'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 (Additional Time only): If Contractor cannot complete the Work by the **Expiration Date**, Contractor may request extra time to complete the Work. BCPH, in its sole discretion, may grant Contractor additional time to complete the Work by sending a written notice of extension to Contractor. An extension of time to complete the Work does not entitle Contractor to additional compensation from BCPH.
7. Extension of Contract Term (Additional Time and 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 BCPH that complies with the **Insurance Requirements** of this Contract, if any, prior to any extended **Contract Term**.
8. Schedule of Work: BCPH may designate the hours (on a daily or weekly basis) during which Contractor may perform the Work, strictly for the purposes of minimizing inconvenience to BCPH and interference with BCPH 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 BCPH and Boulder County, its elected officials and appointed department heads,

and its 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. BCPH and Boulder County 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 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. BCPH 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 BCPH, 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 BCPH 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. None of Contractor, its agents, personnel or subcontractors are employees of BCPH 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, BCPH 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

a. **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 breaching Party does not cure the breach, at its sole expense, as reasonably determined by the non-breaching Party in its sole discretion, 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.

b. **Non-Appropriation:** The other provisions of this Contract notwithstanding, BCPH 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. BCPH 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, BCPH may terminate this Contract without penalty by providing seven (7) days' written notice to Contractor.

c. **Convenience:** In addition to any other right to terminate under this Section 13, BCPH may terminate this Contract, in whole or in part, for any or no reason, upon seven (7) days' advance written notice to Contractor.

14. Contractor Obligations upon Termination or Expiration: By the **Expiration Date** or effective date of termination, if earlier, Contractor must (1) remove from BCPH property all of its personnel, equipment, supplies, trash and any hazards created by Contractor, (2) protect any serviceable materials belonging to BCPH, and (3) take any other action necessary to leave a safe and healthful worksite. Any items remaining on BCPH property after the Expiration Date or the effective date of termination, if earlier, will be deemed abandoned by Contractor.
15. Payable Costs in Event of Early Termination: If BCPH terminates this Contract before the **Expiration Date**, Contractor's payments (and any damages associated with any lawsuit brought by Contractor) are limited to only (1) payment for Work satisfactorily executed and fully and finally completed, as determined by BCPH in its sole discretion, prior to delivery of the notice to terminate, and (2) the reasonable and actual costs Contractor incurred in connection with performing the Work prior to delivery of the notice to terminate. Contractor explicitly waives all claims it may have against BCPH for any other compensation, such as anticipatory profits or any other consequential, special, incidental, punitive or indirect damages.
16. Remedies for Non-Performance: If Contractor fails to perform any of its obligations under this Contract, BCPH may, at its sole discretion, exercise one or more of the following remedies (in addition to any other remedies provided by law or in this Contract), which shall survive expiration or termination of this Contract:
- a. Suspend Performance: BCPH may require that Contractor suspend performance of all or any portion of the Work pending necessary corrective action specified by BCPH 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 BCPH.
 - b. Withhold Payment Pending Corrections: BCPH may permit Contractor to correct any rejected Work at BCPH's discretion. Upon BCPH's request, Contractor must correct rejected work at Contractor's sole expense within the time frame established by BCPH. Upon full and final completion of the corrections satisfactory to BCPH, BCPH will remit payment to Contractor.
 - c. Deny Payment: BCPH may deny payment for any Work that does not comply with the requirements of the Contract or that Contractor otherwise fails to provide or fully and finally complete, as determined by BCPH in its sole discretion. Upon BCPH request, Contractor will promptly refund any amounts prepaid by BCPH with respect to such non-compliant Work.
 - d. Removal: Upon BCPH's request, Contractor will remove any of its employees or agents from performance of the Work, if BCPH, in its sole discretion, deems any such person to be incompetent, careless, unsuitable, or otherwise unacceptable.
17. Binding Arbitration Prohibited: BCPH does not agree to binding arbitration by any extra-judicial body or person.
18. Conflicts of Interest: Contractor may 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 BCPH 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. No Suspension or Debarment: Contractor certifies, and warrants for the Contract Term, that neither it nor its principals nor any of its subcontractors are debarred, suspended, proposed for debarment, declared ineligible,

or voluntarily excluded from participation in this Contract by any Federal or State department or agency. Contractor shall comply, and shall require its subcontractors to comply, with subpart C of 2 C.F.R. § 180.

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 BCPH. If Contractor subcontracts any of its obligations under this Contract, Contractor will remain liable to BCPH 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 20th 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: BCPH may disclose any records that are subject to public release under the Colorado Open Records Act, C.R.S. § 24-72-200.1, 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 BCPH'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 is solely responsible for ensuring that its performance under this Contract and the Work itself will comply with all Federal, State, and local laws, regulations, ordinances and codes. BCPH's approval of the Work or any aspect of Contractor's performance, such as plans, designs, or other Contractor-drafted documents, shall not be interpreted to mean that Contractor has satisfied its obligations under this Section.

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

BCPH if Contractor is served with a pleading or other document in connection with any such action.

34. Tax Exemption: BCPH is exempt from payment of Federal, State, and local government taxes. Contractor shall collect no tax from BCPH, and BCPH shall not be liable to pay any taxes imposed on Contractor. BCPH shall provide its tax exemption status information to Contractor upon request.

35. Delegation of Authority: The Parties acknowledge that the Boulder County Board of Health has delegated authority to the Department Head (e.g. Public Health Director) that leads the beneficiary **Department** and their designees to act on behalf of BCPH 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 BCPH. 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 BCPH all right, title and interest in and to any Work Product.

37. Publicity Releases: Contractor will not refer to this Contract or BCPH in commercial advertising without prior written consent of BCPH. 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 BCPH 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 BCPH, 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 BCPH. BCPH may set reasonable conditions on any disclosure authorized by BCPH 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: BCPH 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 BCPH's commitment to protecting our air, water, soil, and climate for current and future generations. BCPH 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; sustainable 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: BCPH AND BOULDER 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. BCPH'S AND BOULDER 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 BCPH AND/OR BOULDER

COUNTY TO CONTRACTOR. ANY CONTRACTUAL LANGUAGE LIMITING CONTRACTOR'S LIABILITY SHALL BE VOID.

42. Legal Interpretation. Each Party recognizes that this Contract is legally binding and acknowledges that it has had the opportunity to consult with legal counsel of its choice about this Contract. The rule of construction providing that any ambiguities are resolved against the drafting Party will not apply in interpreting the terms of this Contract.

43. Insurance: Prior to commencing the Work, Contractor will provide a Certificate of Insurance to BCPH demonstrating adequate insurance coverage as required by this Section. All policies evidencing coverage required by the Contract will be issued by insurance companies satisfactory to BCPH. Contractor will forward Certificates of Insurance directly to BCPH'S "**Notices and Insurance Certificates**" **Contact** listed in the **Details Summary**.

a. BCPH and Boulder County as Additional Insureds: BCPH and Boulder County shall be named as additional insureds for General Liability, Umbrella/Excess Liability, and Pollution Liability, as designated in this Contract. Additional insureds shall be endorsed to the policy.

THE ADDITIONAL INSURED WORDING MUST BE AS FOLLOWS: *Boulder County Public Health, State of Colorado, a political subdivision of the State; and County of Boulder, State of Colorado, a body corporate and politic, are named as Additional Insureds.*

b. 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 BCPH 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 BCPH of any cancellation, suspension, or nonrenewal of any insurance policy within seven (7) days of receipt of insurers' notification to that effect.

c. Insurance Obligations of BCPH: BCPH is not required to maintain or procure any insurance coverage beyond the coverage maintained by BCPH in its standard course of business. Any insurance obligations placed on BCPH in any of the **Contract Documents** shall be null and void.

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

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

f. 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 BCPH, its organizations, officers, agents, employees, and volunteers.

g. Requirements: 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 BCPH, the following kinds and minimum amounts of insurance to insure the liability risks that Contractor has assumed under this Contract:

Commercial General Liability:

\$1,000,000 each occurrence
\$2,000,000 general aggregate
\$2,000,000 products completed operations aggregate

Automobile Liability:

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

Worker's Compensation & 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.

[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.

SIGNED for and on behalf of Boulder County Public Health		SIGNED for and on behalf of Contractor
Signature:		Signature:
Name:		Name:
Title:		Title:
Date:		Date:
↓↓ <i>For Board-signed documents only</i> ↓↓		
Attest:	Initials	
Attestor Name:		
Attestor Title:		

SAMPLE BUSINESS ASSOCIATE AGREEMENT (“BAA”)

IMPORTANT: The following SAMPLE BUSINESS ASSOCIATE AGREEMENT (“BAA”) is provided for your reference and is subject to change. Therefore, DO NOT complete or return this contract with your proposal.

This Business Associate Agreement (the “Agreement”), effective as of DATE (the “Effective Date”), is made by and between the Parties named in Section 1 for the good, valuable, and mutual consideration described herein, the sufficiency and receipt of which both Parties acknowledge.

1. THE PARTIES

The Parties to this Agreement are:

- 1.A Boulder County Public Health (“BCPH”), a local public health agency organized under a local board of health in accordance with Colorado Revised Statutes (“C.R.S.”) §25-1-501 *et seq.*
Boulder County Public Health
ATTN: Contracts
3450 Broadway
Boulder CO 80304
Email: healthcontracts@bouldercounty.org

BCPH is a “Covered Entity,” as defined by “The HIPAA Rules,” and is referred to in this Agreement as “Covered Entity.”
AND

- 1.B (“Contractor” or “Business Associate”)

Contractor is a “Business Associate,” as defined by The HIPAA Rules, and is referred to in this Agreement as “Business Associate.”

Covered Entity and Business Associate are sometime referred to in this Business Associate Agreement individually as a “Party” and collectively as the “Parties.”

2. HIPAA AND THE HIPAA RULES

- 2.A HIPAA

The Parties must comply with United States statutory law known as the Health Insurance Portability and Accountability Act of 1996, as amended, and any amendments and modifications to the law that become effective during the term of this Agreement.¹ The statutory law is referred to in this Agreement as “HIPAA.”

- 2.B THE HIPAA RULES

The Parties must comply with federal administrative law consisting of regulations authorized by HIPAA called the Privacy Rule, Security Rule, Breach Notification Rule, and Enforcement Rule and any amendments, additions, and modifications to the regulations that become effective during the term of this Agreement.² The regulations are referred to in this Agreement as “The HIPAA Rules.”

3. THIS AGREEMENT

This Agreement is a Business Associate Agreement (“BAA” or “Agreement”) between the Parties in compliance with The HIPAA Rules to accomplish the following purposes:

- 3.A To enable Covered Entity to obtain satisfactory assurances from Business Associate that Business Associate will appropriately safeguard all protected health information (“PHI”), including electronic protected health information (“EPHI”), that Covered Entity discloses to Business Associate and that the Business Associate creates, receives, maintains, transmits, or destroys on behalf of Covered Entity.
- 3.B To document the satisfactory assurances described Subsection 3.A in writing.
- 3.C To establish the permitted and required uses and disclosures of PHI, including EPHI, by Business Associate.
- 3.D To confirm and document the exchange and receipt of mutual promises made by the Parties that during the term of this Agreement, each Party will perform its obligations in compliance with HIPAA and The HIPAA Rules and establish and document the performance required of each Party by this Agreement.

¹ United States statutes that, as of the Effective Date, consist of Sections 1171-1180 of the Social Security Act (Administrative Simplification), Sections 262 and 264 of Public Law 104-191 (Health Insurance Portability and Accountability Act of 1996), Section 105 of Public Law 110-233 (Genetic Information Nondiscrimination Act of 2008), Sections 13400-13424 of Public Law 111-5 (Health Information Technology for Economic and Clinical Health Act or “HITECH Act”) and Section 1104 of Public Law 111-148 (Patient Protection and Affordable Care Act).

² 45 CFR Parts 160 and Subparts A, C, D and E of Part 164.

4. DEFINED TERMS USED IN THIS AGREEMENT

The following terms are defined in The HIPAA Rules. Any change to HIPAA or The HIPAA Rules modifying a defined term or the citation of a defined term in this Agreement shall be deemed incorporated into this Agreement on the effective date of such change.

- 4.A "Access of Individuals to Protected Health Information" shall mean the procedures described in 45 CFR §164.524 of The HIPAA Rules and is referred to in this Agreement as "access of an individual to PHI."
- 4.B "Accounting of Disclosures of Protected Health Information" shall mean the procedures described in 45 CFR §164.528 of The HIPAA Rules and is referred to in this Agreement as "accounting of disclosures of PHI."
- 4.C "Amendment of Protected Health Information" shall mean the procedure described in 45 CFR §164.526 of The HIPAA Rules and is referred to in this Agreement as "amendment of PHI."
- 4.D "Availability" shall have the same meaning as the term "availability," as defined in 45 CFR §164.304 of The HIPAA Rules.
- 4.E "Breach" shall mean the acquisition, access, use, or disclosure of protected health information in a manner not permitted under the Privacy Rule that compromises the security or privacy of protected health information, as defined in 45 CFR §164.402 of The HIPAA Rules.
- 4.F "Breach Notification Rule" shall mean the regulations set forth in The HIPAA Rules at 45 CFR §164.400-414.
- 4.G "Business Associate" shall have the same meaning as the term "business associate," as defined in 45 CFR §160.103 of The HIPAA Rules. Business Associate identified in this Agreement as a Party shall be a "business associate," as defined by the HIPAA Rules.
- 4.H "Business Associate Agreement" shall mean a written contract as required by The HIPAA Rules and described at 45 CFR §164.308(b), 164.314(a), 164.502(e), and 164.504(e). This Agreement is a "Business Associate Contract (or Agreement)," as defined by The HIPAA Rules.
- 4.I "Confidentiality" shall have the same meaning as the term "confidentiality," as defined in 45 CFR §164.304 of The HIPAA Rules.
- 4.J "Covered Entity" shall have the same meaning as the term "covered entity," as defined in 45 CFR §160.103 of The HIPAA Rules. Covered Entity identified in this Agreement as a Party is a "covered entity," as defined by The HIPAA Rules.
- 4.K "Data Aggregation" shall have the same meaning as the term "data aggregation," as defined in 45 CFR §164.501 of The HIPAA Rules.
- 4.L "Date of Discovery" shall mean the first day on which a breach is known or, by exercising reasonable diligence, would have been known to any person, other than the person committing the breach, who is a workforce member or agent of the Covered Entity or Business Associate, as defined by 45 CFR §164.404(a)(2) and 45 CFR §164.410(a)(2) of The HIPAA Rules.
- 4.M "Designated Record Set" shall have the same meaning as the term "designated record set," as defined in 45 CFR §164.501 of The HIPAA Rules.
- 4.N "Disclosure" shall have the same meaning as the term "disclosure," as defined in 45 CFR §160.103 of The HIPAA Rules, and the term "disclose" shall mean to make a disclosure.
- 4.O "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information," as defined in 45 CFR §160.103 of The HIPAA Rules. Electronic protected health information is referred to in this Agreement as "EPHI." All EPHI is also "protected health information" (PHI); see definition below in Subsection 4.W.
- 4.P "Enforcement Rule" shall mean the regulations set forth in The HIPAA Rules at 45 CFR Part 160, Subparts C, D, and E.
- 4.Q "Individual" shall have the same meaning as the term "individual," as defined in 45 CFR §160.103 of The HIPAA Rules.
- 4.R "Integrity" shall have the same meaning as the term "integrity," as defined in 45 CFR §164.304 of The HIPAA Rules.
- 4.S "Marketing" shall have the same meaning as the term "marketing," as defined in 45 CFR §164.501 of The HIPAA Rules.
- 4.T "Minimum Necessary" shall have the same meaning as "minimum necessary," as defined in 45 CFR §164.502(b) and 45 CFR §164.514(d) of The HIPAA Rules.
- 4.U "Organized Health Care Arrangement" shall have the same meaning as "organized health care arrangement," as defined in 45 CFR §160.103.501 of The HIPAA Rules.
- 4.V "Privacy Rules" shall mean the regulations set forth in The HIPAA Rules at 45 CFR Part 160 and Subparts A and E of Part 164.
- 4.W "Protected Health Information" shall have the same meaning as the term "protected health information," as defined in 45 CFR §160.103 of The HIPAA Rules. Protected health information is referred to in this Agreement as "PHI."
- 4.X "Reasonable Diligence" shall have the same meaning as the term "reasonable diligence," as defined in 45 CFR §160.401 of The HIPAA Rules.
- 4.Y "Remuneration" shall have the same meaning as "financial remuneration," as defined in Section (3) of the definition of "marketing" in 45 CFR §164.501 of The HIPAA Rules, including direct or indirect remuneration for the sale of protected health information in accordance with 45 CFR §164.502(a)(5)(ii)(B)(1) of The HIPAA Rules.
- 4.Z "Required by Law" shall have the same meaning as the term "required by law," as defined in 45 CFR §164.103 of The HIPAA Rules.

- 4.AA "Restriction" shall mean a restriction of uses and disclosures of protected health information in accordance with 45 CFR §164.522(a), a restriction to accommodate an Individual's request for confidential communications in accordance with 45 CFR §164.522(b) or a restriction of unencrypted electronic transmission of an Individual's PHI to the Individual in accordance with The HIPAA Rules explained at 78 FR 5634, Jan. 25, 2013, and 79 FR 7302, Feb. 6, 2014.
- 4.BB "Sale of Protected Health Information" shall have the same meaning as the term "sale of protected health information," as defined in 45 CFR §164.502(a)(5)(ii)(b) of The HIPAA Rules. Sale of protected health information is sometimes referred to in this Agreement as "sale of PHI."
- 4.CC "Secretary" shall mean the Secretary of U.S. Department of Health and Human Services (HHS) or any other officer or employee of HHS to whom the authority involved has been delegated, as defined in 45 CFR §160.103 of The HIPAA Rules.
- 4.DD "Security Incident" shall have the same meaning as the term "security incident," as defined in 45 CFR §164.304 of The HIPAA Rules.
- 4.EE "Security Rule" shall mean the regulations set forth in The HIPAA Rules at 45 CFR Part 160 and Subparts A and C of Part 164.
- 4.FF "State Law" shall have the same meaning as the term "state law," as defined in 45 CFR §164.202 of The HIPAA Rules.
- 4.GG "Subcontractor" shall mean a Business Associate that creates, receives, maintains, transmits, or destroys PHI on behalf of a Business Associate, as defined in 45 CFR §160.103 of The HIPAA Rules and is referred to in this Agreement as "subcontractor Business Associate."
- 4.HH "Unsecured Protected Health Information" shall have the same meaning as the term "unsecured protected health information," as defined in 45 CFR §164.402 of The HIPAA Rules and means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary in guidance issued under HIPAA (Section 13402(h)(2) of Public Law 111-5). Unsecured protected health information is referred to in this Agreement as "unsecured PHI."
- 4.II "Use" shall have the same meaning as the term "use," as defined in 45 CFR §160.103 of The HIPAA Rules.

5. THE SPECIFIC PROTECTED HEALTH INFORMATION (PHI) AND ELECTRONIC PROTECTED HEALTH INFORMATION (EPHI) THAT ARE THE SUBJECT OF THIS AGREEMENT

In this Agreement, the defined terms protected health information (PHI) and electronic protected health information (EPHI) refer exclusively and only to:

- 5.A PHI and EPHI that Business Associate creates, receives, maintains, transmits, or destroys on behalf of Covered Entity to perform a function or activity regulated by The HIPAA Rules.
- 5.B PHI and EPHI disclosed to Business Associate by or on behalf of Covered Entity so that Business Associate may provide legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for Covered Entity.
- 5.C PHI and EPHI that a subcontractor Business Associate creates, receives, maintains, transmits, or destroys on behalf of Business Associate related to a function or activity described in Subsection 5.A or provision of a service described in Subsection 5.B.

6. UNDERLYING BUSINESS AGREEMENT

Covered Entity and Business Associate may enter into or already have a business relationship established by one or more written or oral contracts or agreements made before, on, or after the Effective Date involving use, disclosure, creation, receipt, maintenance, transmission, or destruction of PHI and/or EPHI described in Section 5 that are referred to in this Agreement collectively as the "underlying Business Agreement."

6.A THE UNDERLYING BUSINESS AGREEMENT – HIPAA AND THE HIPAA RULES

The underlying Business Agreement requires the Business Associate to perform a function or activity or provide a service involving PHI and/or EPHI described in Section 5 that is subject to compliance with HIPAA and The HIPAA Rules. Accordingly, in order to perform their respective obligations established by the underlying Business Agreement, Covered Entity and Business Associate must enter into a Business Associate Agreement (BAA).

6.B EFFECT OF THIS AGREEMENT – CONSIDERATION

This Agreement is a BAA. The Parties agree that the terms, conditions, promises, and performance described in this Agreement are required by HIPAA and The HIPAA Rules to perform their respective obligations established by the underlying Business Agreement. Accordingly, the mutual promises and obligations of the Parties set forth in this Agreement are good, valuable, sufficient, and mutual consideration given, received, and accepted by each Party for this Agreement and elements of the good, valuable, sufficient, and mutual consideration given, received, and accepted by each Party for the underlying Business Agreement that permit the Parties to continue their established business relationship or establish a new business relationship.

6.C THIS AGREEMENT INCORPORATED IN UNDERLYING BUSINESS AGREEMENT

The Parties agree that this Agreement is incorporated by reference in the underlying Business Agreement, and by execution of this Agreement, do hereby amend the underlying Business Agreement to include this Agreement. This

Agreement supersedes and renders null and void any provision in the underlying Business Agreement, whether made before or after the effective date, that conflicts with HIPAA or The HIPAA Rules. Any provisions in the underlying Business Agreement, whether made before or after the Effective Date, regarding Business Associate's limitation or exclusion of liability or damages shall not apply to Business Associate's liability for breach of this Agreement or limit remedies available to Covered Entity under this Agreement.

7. OBLIGATIONS OF BUSINESS ASSOCIATE UNDER THIS AGREEMENT

- 7.A Business Associate shall not use or further disclose PHI other than as permitted or required by this Agreement, the underlying Business Agreement, or as required bylaw.
- 7.B Business Associate shall appropriately safeguard all PHI, including EPHI, that Covered Entity discloses to Business Associate and that Business Associate creates, receives, maintains, transmits, or destroys on behalf of Covered Entity.
- 7.C Business Associate warrants that, as of the Effective Date, it is compliant with the applicable requirements of the HIPAA Security Rule and will remain compliant with the Security Rule at all times during the term of the Agreement, and, if necessary, comply with the Security Rule and The HIPAA Rules that are applicable to fulfill any obligations that survive the Agreement's termination in accordance with Section 12 and Subsection 10.C of this Agreement.
- 7.D Business Associate shall enter into a written Business Associate Agreement with any subcontractor Business Associate to which it discloses PHI, including EPHI, or that creates, receives, maintains, transmits, or destroys EPHI on its behalf, by which Business Associate shall obtain satisfactory assurances that the subcontractor Business Associate agrees to comply with the same restrictions and conditions that apply to Business Associate with respect to all PHI including EPHI; comply with applicable requirements of the Security Rule; and appropriately safeguard all such PHI, including EPHI.
- 7.E Business Associate shall not engage the services of a subcontractor Business Associate; enter into a Business Associate Agreement with a subcontractor Business Associate described in Subsection 7.D; disclose PHI, including EPHI; or permit a subcontractor Business Associate to create, receive, maintain, or transmit PHI and EPHI on its behalf unless the subcontractor Business Associate is, at all relevant times, subject to the laws of the United States, including the Secretary's Enforcement of HIPAA and The HIPAA Rules and civil enforcement by Business Associate of the Business Associate Agreement with a subcontractor Business Associate.
- 7.F If Business Associate knows of a pattern of activity of practice of a subcontractor Business Associate that constitutes a material breach or violation of the subcontractor Business Associate's obligations under the Business Associate Agreement described in Subsection 7.D, Business Associate shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Business Associate Agreement with the subcontractor Business Associate.
- 7.G Business Associate shall not disclose PHI for marketing for which it receives remuneration unless the individual has executed a valid authorization stating remuneration is involved in accordance with 45 C.F.R. §164.508(a)(3) of the HIPAA Rules and shall not disclose PHI which is a sale of PHI unless the individual has executed a valid authorization stating remuneration is involved in accordance with 45 C.F.R. §164.508(a)(4) of The HIPAA Rules.
- 7.H Business Associate, when using, disclosing, or requesting PHI, shall make reasonable efforts to limit the PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.
- 7.I Business Associate shall comply with applicable requirements of the Breach Notification Rule and shall notify Covered Entity of any breach of unsecured PHI it discovers not later than five (5) calendar days after Business Associate's date of discovery of the breach of unsecured PHI.
- 7.J Business Associate shall report to Covered Entity any use or disclosure of information not provided for by this Agreement or the underlying Business Agreement of which it becomes aware not later than five (5) calendar days after it becomes aware of such use or disclosure.
- 7.K Business Associate shall report any security incident of which it becomes aware to Covered Entity not later than thirty (30) calendar days after it becomes aware of such security incident.
The Parties agree that this Subsection 7.K constitutes ongoing notice by Business Associate to Covered Entity of "unsuccessful" security incidents that do not represent substantial risks to PHI, such as pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denial of service, and any combination of the above and no additional notice to Covered Entity shall be required provided that no such unsuccessful security incident results in unauthorized acquisition, access, use, disclosure, modification, or destruction of EPHI or interference with Business Associate's information system operations related to EPHI.
- 7.L If Business Associate maintains PHI of an individual in a designated record set, Business Associate shall make the PHI available to Covered Entity within five (5) calendar days after receiving a request for the PHI from Covered Entity, as provided for in Subsection 9.B, in order for Covered Entity to satisfy Covered Entity's obligations regarding access of an individual to PHI in accordance with 45 CFR §164.524 of The HIPAA Rules.
- 7.M If Business Associate maintains PHI of an individual in a designated record set, Business Associate shall make the PHI available to Covered Entity within five (5) calendar days after receiving notice from Covered Entity, as provided in Subsection 9.C that the PHI is subject to an individual's request for amendment in accordance with 45 CFR §164.526 of

The HIPAA Rules. Covered Entity shall be solely responsible for determining the appropriate response to a request for amendment and Business Associate shall incorporate any such amendments in the individual's designated record set maintained by Business Associate.

- 7.N Business Associate will maintain and make available to Covered Entity the information required to provide an accounting of disclosures of PHI in accordance with 45 CFR §164.528 of The HIPAA Rules within five (5) calendar days of receipt of notice requesting such information from Covered Entity, as provided for in Subsection 9.D.
- 7.O Business Associate, to the extent it is required to carry out an obligation of Covered Entity under the Privacy Rule, shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of the obligation.
- 7.P Business Associate, if required by the underlying Business Agreement to make uses or disclosures of PHI subject to restrictions, shall comply with each such restriction immediately upon receipt of notification of the restriction from Covered Entity in accordance with Subsection 9.E and shall comply with the restriction during the term of this Agreement or until Covered Entity notifies Business Associate that the restriction has been terminated.
- 7.Q Business Associate will disclose PHI to the Secretary in accordance with 45 CFR §164.502(a)(4)(i) of The HIPAA Rules when required by the Secretary under the Enforcement Rule to investigate or determine Business Associate's compliance with The HIPAA Rules.
- 7.R Business Associate will make its internal practices, books, and records relating to the use and disclosure of PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary in accordance with 45 CFR §164.504(e)(2)(ii)(I) of The HIPAA Rules for purposes of determining Covered Entity's compliance with The Privacy Rule.

8. PERMITTED USES AND DISCLOSURES OF PHI BY BUSINESS ASSOCIATE

- 8.A Business Associate may use or disclose PHI for its proper management and administration or carry out its legal responsibilities if the disclosure is required by law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person and that person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- 8.B Business Associate may provide data aggregation services if performance of such services is provided for in the underlying Business Agreement.

9. OBLIGATIONS OF COVERED ENTITY

- 9.A Covered Entity shall make reasonable efforts to limit any use, disclosure, or request of PHI made to Business Associate to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.
- 9.B Covered Entity shall notify Business Associate in a timely manner in accordance with 45 CFR §164.524 and 45 CFR §164.502(a)(4)(ii) of The HIPAA Rules, so that Business Associate may make the PHI available to Covered Entity as necessary to satisfy Covered Entity's obligations regarding a request for access of individuals to PHI, as provided in Subsection 7.L.
- 9.C Covered Entity shall notify Business Associate in a timely manner in accordance with 45 CFR §164.526 of The HIPAA Rules, as necessary, so Business Associate may make available PHI for amendment of PHI and incorporate any amendment of PHI in a designated record set, as provided in Subsection 7.M.
- 9.D Covered Entity shall notify Business Associate in a timely manner in accordance with 45 CFR §164.528 of The HIPAA Rules, as necessary, to enable Business Associate to fulfill any obligation regarding an accounting of disclosures of PHI, as provided in Subsection 7.N
- 9.E Covered Entity shall notify Business Associate of any restriction of the use or disclosure of an individual's PHI that is applicable to Business Associate's performance of its obligations required by the underlying Business Agreement when and if such restriction becomes effective during the term of this Agreement and shall notify Business Associate when and if such restriction is terminated.

10. TERM AND TERMINATION

10.A TERM

The Term of this Agreement shall commence on the Effective Date and shall continue in full force and effect for a period of five (5) years or until either Party terminates this Agreement pursuant to a provision of this Section 10 or until the Parties otherwise mutually agree in writing to terminate this Agreement. Any termination is subject to the provisions of Subsection 10.C and Section 12 concerning survival of certain obligations and provisions of this Agreement.

10.B TERMINATION

The Parties may terminate this Agreement by mutual consent in writing executed by the Parties and on terms that are agreeable to the Parties provided the Agreement is no longer required under HIPAA or The HIPAA Rules.

- 10.B.1 If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Agreement, Covered Entity shall take

reasonable steps to cure the breach or end the violation, as applicable. If such steps are unsuccessful, Covered Entity may terminate this Agreement and the underlying Business Agreement (if any) with Business Associate by providing notice in accordance with Section 13.

10.B.2 Either Party, upon learning or having reasonable cause to believe that the other Party has committed a material breach or violation of this Agreement, shall give written notice to the other Party describing the material breach or violation and granting the other Party a period of thirty (30) days to cure the material breach or violation or submit proof that it has not committed such material breach or violation. If such material breach or violation was committed and is not cured within thirty (30) days, this Agreement and the underlying Business Agreement (if any) shall be terminated by written notice to the Party that committed the material breach or violation, provided, however, that if substantial cure is in progress, the Parties may extend the period to cure the material breach or violation by mutual agreement in writing by providing notice in accordance with Section 13.

10.B.3 Covered Entity may terminate this Agreement and the underlying Business Agreement (if any) immediately if Business Associate is determined to have violated HIPAA or The HIPAA Rules in any administrative, judicial, or other legal proceeding, regardless of whether the violation involves this Agreement or the underlying Business Agreement by giving written notice to Business Associate.

10.B.4 If either Party believes in good faith that any provision of this Agreement fails to comply with modifications or administrative or judicial interpretations of HIPAA or The HIPAA Rules, such Party shall give written notice to the other Party stating its specific concerns. For a period of thirty (30) days following provision of notice, the Parties shall address in good faith such concerns and amend this Agreement, if necessary. If, after such thirty-day period, a Party believes in good faith that the Agreement fails to comply with HIPAA or The HIPAA Rules, that Party has the right to terminate this Agreement and the underlying Business Agreement (if any) by written notice to the other Party.

10.C EFFECT OF TERMINATION

When this Agreement is terminated or expires, if feasible, Business Associate shall return to Covered Entity or destroy all PHI (including EPHI) received from, or created, or received by Business Associate on behalf of, Covered Entity that Business Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, extend the protections of this Agreement to PHI and EPHI and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible. When it becomes feasible, Business Associate shall return to Covered Entity or, if agreed to by Covered Entity, destroy PHI and EPHI retained by Business Associate. Business Associate's obligations under this Agreement regarding PHI and EPHI that is not returned or destroyed at termination or expiration of this Agreement shall remain in full force and effect and survive termination of this Agreement in accordance with Section 12 and Subsection 7.C.

11. SEVERABILITY CLAUSE

If an Arbitrator or Court of competent jurisdiction shall declare any provision of this Agreement to be invalid, illegal, or unenforceable, that provision shall be severed from this Agreement, and all the remaining provisions of this Agreement shall continue in full force and effect. The invalidity, illegality, or unenforceability of any term of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms of this Agreement. However, if permitted by applicable law, any invalid, illegal, or unenforceable provision may be considered in determining the intent of the Parties with respect to other provisions of this Agreement.

12. SURVIVAL OF COVENANTS

Any provision in this Agreement that is specifically stated to survive the termination of this Agreement and any provision which, by its terms, cannot be performed prior to the termination or expiration of this Agreement or which, by its terms, continues beyond the term of this Agreement shall be deemed to survive the termination of this Agreement and shall be enforceable by the Parties, including but not limited to Business Associate's obligation to extend all protections described in this Agreement to PHI and EPHI that is not returned or destroyed upon termination in accordance with Subsection 10.C.

13. NOTICE

All notices or other communication required or permitted under this Agreement shall be provided under this Contract must be in writing and sent by certified U.S. Mail (return receipt requested), electronic mail, hand delivery, or national overnight delivery service (e.g. Federal Express, UPS, etc.) to the other Party's Contact at the address specified in Section 1. 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.

14. ASSIGNABILITY

No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party, and such consent shall not be withheld unreasonably.

15. ENTIRE BUSINESS ASSOCIATE AGREEMENT – AMENDMENT MUST BE IN WRITING

This is the entire Business Associate Agreement between the Parties. This Agreement shall not be altered, amended, or modified except in writing executed by the Parties.

- 15.A Amendments to the underlying Business Agreement or the making of an underlying Business Agreement between the Parties after the effective date shall not be construed as an amendment of this Agreement.
- 15.B The Parties agree to take such action as is necessary to amend this Agreement to the extent necessary to allow either Party to comply with HIPAA and The HIPAA Rules during the term of this Agreement.
- 15.C Regardless of whether this Agreement is amended in writing to conform to an amendment of HIPAA or The HIPAA Rules, it shall be construed to comply with HIPAA, The HIPAA Rules, and applicable state law in accordance with Subsections 20.A and 20.B.

16. WAIVER

Failure of either Party at any time to require strict performance of any provision of this Agreement shall not be considered to be an implied waiver of any breach, or of any succeeding breach, of such provision or an implied waiver of any right of the Party to take any action or obtain any relief permitted under this Agreement. A waiver of any right, duty, or obligation established by this Agreement must be an express written waiver executed by the Party making the waiver.

17. FORCE MAJEURE – SECURITY RULE EXCEPTION

17.A FORCE MAJEURE

If either Party is delayed or prevented from fulfilling its obligations under this Agreement by Force Majeure, the Party shall not be liable under this Agreement for the delay or failure. Force Majeure means any cause beyond the reasonable control of a Party, including but not limited to acts of God, civil or military disruption, terrorism, fire, strike, flood, riot, war, or inability, due to the aforementioned causes, to obtain necessary labor, materials, or facilities.

17.B HIPAA SECURITY RULE EXCEPTION TO FORCE MAJEURE

The provisions of Subsection 17.A concerning Force Majeure shall not relieve Business Associate of its responsibility under the Security Rule to implement security measures sufficient to reduce risks and vulnerabilities to a reasonable and appropriate level to ensure the confidentiality, integrity, and availability of all EPHI Business Associate creates, receives, maintains, transmits, or destroys; protect against any reasonably anticipated threats or hazards to the security or Integrity of such information and protect against any reasonably anticipated uses or disclosures of such information that are not permitted or required under Privacy Rule.

18. RELATIONSHIP BETWEEN THE PARTIES

The Parties to this Agreement are independent contractors.

- 18.A This Agreement does not create a joint venture, partnership, merger, and employer-employee relationship or organized health care arrangement between the Parties, nor does it make either Party an agent of the other.
- 18.B No provision of this Agreement is intended to create, nor may be deemed to create, any relationship between the Parties other than that of independent parties contracting with each other for the purpose of complying with HIPAA and The HIPAA Rules.
- 18.C Nothing in this Agreement is intended to confer on Covered Entity the authority or right to control the other Party's conduct in the course of performing its obligations under this Agreement.

19. EXECUTION AND COUNTERPARTS, COUNTERPARTS, AND FACSIMILE DELIVERY

The Parties may execute this Agreement in any number of counterparts, and each counterpart shall, for all purposes, be deemed an original instrument. All such counterparts together shall constitute but one and the same Agreement. The Parties may sign and deliver this Agreement by facsimile or electronic transmission and may execute this Agreement in compliance with applicable e-signature law. At the request of either Party, the Parties shall also provide signed counterparts to each other.

20. MISCELLANEOUS

20.A COMPLIANCE WITH HIPAA AND THE HIPAA RULES

Any ambiguity in this Agreement shall be construed and resolved to permit the Parties to comply with HIPAA and The HIPAA Rules, as may be amended or modified during the term of this Agreement.

20.B STATE LAW

In accordance with 45 CFR §160.203 of The HIPAA Rules, the Parties shall comply with applicable State Law, as may be amended or modified during the term of this Agreement, that is not preempted by The HIPAA Rules.

20.C GOVERNING LAW

This Agreement and the rights and obligations of the Parties shall be governed and construed by HIPAA, The HIPAA Rules, and the law of the State of Colorado without regard to applicable conflict of laws principles.

20.D VENUE

Any dispute relating to this Agreement shall be resolved by alternative dispute resolution or in a state or federal court located in the State of Colorado and Business Associate consents to such venue.

20.E SUCCESSORS AND ASSIGNS

This Agreement is binding upon all successors and assigns of the Parties.

20.F NO THIRD-PARTY BENEFICIARY

Nothing in this Agreement, whether expressed or implied, shall be considered or construed to confer any rights, remedies, obligations, or liabilities or to impose any obligation whatsoever on any person other than the Parties and the respective successors or assigns of the Parties.

20.G CAPTIONS

Each Section and Subsection in this Agreement identified by a caption is for convenience only. No caption is substantive or may be used to construe the meaning of any Section, Subsection, or provision of this Agreement.

20.H EQUITABLE RELIEF

The Parties recognize that a breach of this Agreement by one Party may result in irreparable or immediate harm to the other Party. Accordingly, either Party shall have the right to seek equitable relief to enjoin, restrain, redress, mitigate, or prevent irreparable harm in a court of competent jurisdiction to enforce the terms of this Agreement while reserving its rights to pursue all other available remedies from the other Party under this Agreement or the underlying Business Agreement. In the event a Party seeks equitable relief from a court of competent jurisdiction under this Section, the prevailing Party shall be entitled to receive its costs from the other Party including actual attorneys' fees that are reasonably incurred.

IN WITNESS WHEREOF:

The Parties hereby execute this Business Associate Agreement and confirm it is in full force and effect as of the effective date written above.

BOULDER COUNTY PUBLIC HEALTH:

Signature: _____

Name: _____

Title: _____

Date: _____

CONTRACTOR:

Signature: _____

Name: _____

Title: _____

Date: _____

IMPORTANT: The following SAMPLE ADDENDUM is provided for your reference and is subject to change. Therefore, DO NOT complete or return this contract with your proposal.

ARPA COVER PAGE FOR FEDERAL AWARD ADDENDA

ARPA-funded contract?

☐ Yes (if “Yes,” complete the below table)

☐ No

If this Contract is ARPA-funded, as identified above, this Cover Page is incorporated into the Contract.

The ADDENDUM following this Cover Page is incorporated into the Contract by reference whether or not the Contract is ARPA-funded.

Name/Type of Federal Award	On March 11, 2021, the American Rescue Plan Act was signed into law, and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Funds, which together make up the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) program.
Recipient name	Boulder County, Colorado
Boulder County DUNS number	075755199
Federal Award Identification Number (FAIN)	20-1982-0-1-806
Federal Award Date (Federal award date means the date when the Federal award is signed by the authorized official of the Federal awarding agency)	March 11, 2021
Federal Award Identification Number (FAIN)	20-1982-0-1-806
Federal Award Date (Federal award date means the date when the Federal award is signed by the authorized official of the Federal awarding agency)	March 11, 2021
Subrecipient/Contractor name	
Subrecipient/Contractor DUNS number	
Does Subrecipient/Contractor have an active registration with the System for Award Management (SAM) (https://www.sam.gov)?	
Contract Period of Performance Start Date	
Contract Period of Performance End Date	
Amount of Federal Funds Obligated by this action	
Total Amount of Federal Funds Obligated to the subrecipient	
Total Amount of SLFRF funds awarded to Boulder County	\$63,359,749.00

<p>Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)</p>	<p>Sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021 (the “Act”), Pub. L. No. 117-2 (Mar. 11, 2021) authorizes the Coronavirus State Fiscal Recovery Fund (CSFRF) and Coronavirus Local Fiscal Recovery Fund (CLFRF) respectively (referred to as the “Coronavirus State and Local Fiscal Recovery Funds” or “SLFRF”), which provides \$350 billion in total funding to Treasury to make payments generally to States (defined to include the District of Columbia), U.S. Territories (defined to include, Puerto Rico, U.S. Virgin Islands, Guam, Northern Mariana Islands, and American Samoa), Tribes, Metropolitan cities, Counties, and Nonentitlement units of local government to respond to the COVID-19 public health emergency or its negative economic impacts, including to provide assistance to households, small business, nonprofits, and impacted industries, such as tourism, travel, and hospitality; respond to workers performing essential work during the COVID-19 pandemic by providing premium pay to eligible workers of the State, territory, tribal government, metropolitan city, county, or nonentitlement units of local government performing essential work or by providing grants to eligible employers that have eligible workers; provide government services, to the extent of the reduction of revenue due to COVID-19 relative to revenue collected in the most recent full fiscal year of the State, territory, tribal government, metropolitan city, county, or nonentitlement units of local</p>
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	<p>government; or make necessary investments in water, sewer, or broadband infrastructure. Section 602(b) of the Act prescribes that \$219.8 billion must be allocated as follows: (1) \$4.5 billion reserved for making payments to the U.S. Territories; (2) \$20 billion reserved for making payments to Tribal governments; and (3) \$195.3 billion reserved for making payments to the 50 States and the District of Columbia. Section 603(b) of the Act prescribes that \$130.2 billion must be allocated as follows: (1) \$45.57 billion reserved for making payments to Metropolitan cities; (2) \$19.53 billion reserved for making payments to States for distribution to Nonentitlement units of local government; and (3) \$65.1 billion reserved for making payments to Counties.</p>
Name of Federal awarding agency, pass-through entity, and contact information for awarding official	<ul style="list-style-type: none"> • Federal Awarding Agency – U.S. Department of Treasury • Pass-Through Entity – Boulder County • Contact information for Boulder County’s ARPA Administrator – Leslie Irwin, lirwin@bouldercounty.org
Assistance Listing(s) (formerly known as the CFDA) number and Title	In SAM.gov under assistance listing number 21.027
No indirect cost rate has been negotiated for the Federal award, so the de minimis rate of 10% of modified total direct costs will be used	De minimis rate of 10% modified total direct costs

ADDENDUM TO CONTRACT
OFFICE OF MANAGEMENT AND BUDGET
POST FEDERAL AWARD REQUIREMENTS FOR PROCUREMENT CONTRACTS

This is an addendum to the **[Contract Title]**, RFP **[number]**, Contract (the “Contract”) between **[contractor]** (“Contractor”), and Boulder County Public Health, (the “BCPH”).

A Federal award, as defined in 2 C.F.R. § 200.1, is being used to fund the Contract. Accordingly, the parties acknowledge that the above-referenced contract is subject to applicable provisions of 2 C.F.R. § 200 et seq., Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and all other federal requirements identified in the award terms, assistance listing, and any other related federal guidance as any of these requirements may be amended. To the extent federal requirements are not included below or in the event of a conflict between federal guidance and the below, the terms of the federal requirements shall control.

This Addendum is hereby expressly incorporated into the contract between Boulder County and the Contractor. Regardless of any conflict of provisions language contained in the Contract, to the extent that the terms of the Contract and this Addendum conflict, the terms of this Addendum shall control.

The applicability of the following contract provisions are described in brackets, below. As applicable, the following provisions are hereby added and incorporated into the above-referenced Contract:

2 C.F.R. § 200.113 Mandatory disclosures.

[All contracts]

Contractor must disclose, in a timely manner, in writing to the County all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

2 C.F.R. § 200.209 Certifications and representations.

[All contracts]

Unless prohibited by the U.S. constitution, Federal statutes or regulations, the County is authorized to require Contractor to submit certifications and representations required by Federal statutes, or regulations on an annual basis. Submission may be required more frequently if Contractor fails to meet a requirement of a Federal award.

2 C.F.R. § 200.303 Internal controls.

[All contracts]

(a) Contractor agrees to utilize the funds received under the Contract in compliance with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal award.

(b) Contractor shall comply with the U.S. Constitution, Federal statutes, regulations, and terms and conditions of the Federal award.

(c) Contractor shall evaluate and monitor, on an ongoing basis, its compliance with statutes, regulations, and the terms and conditions of Federal awards.

(d) Contractor shall take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings.

(e) Contractor shall take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or County designates as sensitive or the County considers sensitive consistent with applicable Federal, state, local and tribal laws regarding privacy and obligations of confidentiality.

2 C.F.R. § 200.331 Contractor determination.

This contract is for the purpose of obtaining goods and services for the County's own use, as it demonstrates that Contractor:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program;
and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

2 C.F.R. Part 200 Appendix II: Contract Provisions for non-Federal Entity Contracts Under Federal Awards

(A) *[For contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908]*

Breach. Any breach of the Contract by Contractor shall be governed by the termination and remedies provisions of the Contract. Additionally, in the event that the County incurs damages as a result of Contractor's breach, the County may pursue recovery of such damages from Contractor. The County further retains the right to seek specific performance of the Contract at any time as authorized by law. The County further retains the right to otherwise pursue any

remedies available to the County as a result of the Contractor's breach, including but not limited to administrative, contractual, or legal remedies, as well as any applicable sanctions and penalties. Termination for cause and convenience are governed by the provisions of the Contract.

(B) *[All contracts in excess of \$10,000]*

Termination. Termination for cause and convenience are governed by the termination and remedies provisions of the Contract.

(C) *[Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3]*

Equal Employment Opportunity. Contractor agrees to comply with the Equal Opportunity Clause provided under 41 CFR 60-1.4(a) (Government Contracts) and 41 CFR 60-1.4(b) (Federal Assisted Construction Contracts), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." Contractor further agrees to include this provision, including the Equal Opportunity Clause or a reference thereto, in any subcontracts it enters into pursuant to the Contract.

(D) *[When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities]*

Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). Contractor must fully comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance therewith, Contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

Copeland "Anti-Kickback" Act (40 U.S.C. 3145). Contractor must fully comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). Pursuant to the Act, Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The County shall report all suspected or reported violations of the Copeland "Anti-Kickback" Act to the Federal awarding agency.

(E) *[Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers]*

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Contractor must fully comply with the Contract Work Hours and Safety Standard Act (40 U.S.C. 3701-3708), including 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contract is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) *[If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a)]*

Rights to Inventions Made Under a Contract or Contract. For contracts entered into by the Contractor or the County with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the parties must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts,” and any implementing regulations issued by the awarding agency.

(G) *[Contracts and subgrants of amounts in excess of \$150,000]*

Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. All parties agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). All parties shall report violations to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) *[For contract awards (see 2 CFR 180.220)]*

Debarment and Suspension (Executive Orders 12549 and 12689). Contractor attests that it is not listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and

Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) [*For contracts exceeding \$100,000*]

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractor attests that it has filed the required certification under the Byrd Anti-Lobbying Amendment. Contractor attests that it has certified that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor further attests that it has disclosed, and will continue to disclose, any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

(J) [*All contracts*]

Procurement of recovered materials (2 CFR §200.322). All parties agree to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(K) [*All contracts*]

Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR §200.216). Contractor is prohibited from using equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications

Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(L) *[All contracts]*

2 C.F.R. Part 25 Universal Identifier and System for Award Management.

Subrecipient must obtain and provide to County a unique entity identifier pursuant to 2 CFR Part 25.

(M) *[All contracts]*

2 C.F.R. § 200.322 Domestic preferences for procurements. As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable, prefer the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(N) *[All contracts]*

Civil Rights Requirements

Subrecipient shall comply with all statutes and regulations prohibiting discrimination applicable to this award, which include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity

receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

Assurances of Compliance with Civil Rights Requirements

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.

2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.

3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.

5. Subrecipient shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

(O) *[All contracts]*

Requirements for Drug-Free Workplace, 31 C.F.R. Part 20

As a Subrecipient, you agree to comply with the requirements of the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq., as amended) that applies to grants. Specifically, Subrecipient agrees to:

(a) First, make a good faith effort, on a continuing basis, to maintain a drug-free workplace. You must agree to do so as a condition for receiving any award covered by this part. The specific measures that you must take in this regard are described in more detail in subsequent sections of this subpart. Briefly, those measures are to -

(1) Publish a drug-free workplace statement and establish a drug-free awareness program for your employees (see §§ 20.205 through 20.220); and

(2) Take actions concerning employees who are convicted of violating drug statutes in the workplace (see § 20.225).

(b) Second, identify all known workplaces under your Federal awards (see § 20.230).

(P) *[All contracts]*

New Restrictions on Lobbying, 31 C.F.R. Part 21

Subrecipient certifies, to the best of its knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(Q) *[All contracts]*

Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR

19217 (Apr. 18, 1997), the County encourages its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

(R) *[All contracts]*

Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225

(Oct. 6, 2009), the County encourages its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving.

(S) *[All contracts]*

Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms (2 C.F.R. § 200.321).

If subcontracts are to be let, Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. As set forth in 2 C.F.R. § 200.321(b)(1)-(5), such affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

(T) [*Construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold as defined in 2 C.F.R. § 200.88*]

Bonding requirements (2 C.F.R. § 200.326).

Except where the Federal awarding agency or pass-through entity has made a determination that alternative bonding policy and requirements adequately protect the Federal interest, Contractor agrees to comply with the following minimum bonding requirements:

- (a) Contractor must provide a bid guarantee equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the Contractor will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (b) Contractor must provide a performance bond on the part of the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the Contractor's obligations under such contract.
- (c) Contractor must provide a payment bond on the part of the Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

How to Register a New Entity in SAM.gov

Helpful Information

What is an Entity?

An entity is any person who or organization that is registered to do business with the federal government. You must have an active entity registration in SAM.gov to receive a federal contract or federal assistance.

SAM.gov is the official free, government-operated website for management of government awards. There is NO charge to register or maintain your entity registration record in SAM.gov.

What do I need to get started?

Unique Entity Identifier (UEI):

You need a Unique Entity Identifier, (UEI) to register your entity in SAM.gov. UEIs are unique for each physical location you register. If you do not have one, request a UEI for **free** by visiting [Dun & Bradstreet \(D&B\)](#). The authoritative UEI at this time is the Data Universal Numbering System (DUNS) Number. It takes no more than 1-2 business days to obtain a DUNS.

Taxpayer Identification Number (TIN):

You need your entity's Taxpayer ID Number (TIN) and Taxpayer Name (as it appears on your most recent tax return). Foreign entities that do not pay employees within the U.S. do not need to provide a TIN. Your TIN is usually your Employer Identification Number (EIN) assigned by the Internal Revenue Service (IRS). Sole proprietors may use their Social Security Number (SSN) assigned by the Social Security Administration (SSA) as their TIN; however, we strongly encourage you to obtain a [free EIN from the IRS](#). Allow approximately two weeks before your new EIN is ready for use when registering in SAM.gov.

Login to SAM.gov

1. Navigate to SAM.gov.
2. Select the “Sign In” button in the upper right corner. Select “Accept” to accept the US Government System terms.
3. After selecting “Accept,” the system will redirect you to login.gov.
4. Enter your login.gov credentials and select “Sign In.” The system may prompt you to enter a one-time security code. (You will receive this code via the authentication method you selected during account creation.)

Note: If you do not already have a Login.gov account, please create an account.

5. After signing in, the system will redirect you to your SAM.gov workspace.

Start a New Entity Registration in SAM.gov

1. From the Workspace select the “Register Entity” button.
2. Select the “Start Registration” button at the bottom of the registration overview page.
3. Review the Before You Start information and gather all required information needed to complete your registration.
4. Select the “Continue” button to proceed.
5. Complete and submit the online registration. If you have all the necessary information ready, this should take approximately 45 minutes to complete. The time to complete could vary depending on the size and complexity of your registration. Steps to complete the registration follow in the next section.

Completing an Entity Registration in SAM.gov

1. Select your type of entity.
2. If you are registering in SAM.gov to conduct business with the government through contracts, select “I want to be able to bid on federal contracts or other procurement opportunities. I also want to be able to apply for grants, loans, and other financial assistance programs.”
3. Complete the Core Data section:
 - Validate your UEI information on the page.
 - Enter Business Information (TIN, etc.) This page is also where you create your Marketing Partner Identification Number (MPIN). Remember your MPIN as it will serve as your electronic signature for the IRS Consent to Disclosure of Tax Information on the following page.

- Enter your CAGE Code if you have one. CAGE codes are tied to your UEI and cannot be reused. If you do not have a CAGE Code for the UEI you are registering, do not worry; we will assign one after your registration is submitted. Foreign registrants must enter their NCAGE Code before proceeding.
 - Enter General Information (business types, organization structure, etc.) about your entity.
 - Provide your entity's Financial Information, i.e., U.S. bank Electronic Funds Transfer (EFT) Information for federal government payment purposes. Foreign entities do not need to provide EFT information.
 - Answer the Executive Compensation questions.
 - Answer the Proceedings Details questions.
 - Provide your public search authorization. If you choose to limit the users who can search, a federal user will need to be logged in to view your registration.
4. Complete the "Assertions" section:
 - Enter your entity's goods and services using North American Industry Classification System (NAICS) Codes and Professional Services Council (PSC) codes.
 - Enter your entity's size metrics.
 - Enter optional Electronic Data Interchange (EDI) information.
 - Enter optional Disaster Response Information.
 5. Complete the Representations & Certifications section, which comprises the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) provisions/clauses, Architect-Engineer Responses (SF330 Part II), and the Financial Assistance response page.
 6. Complete the Points of Contact (POCs) section:
 - Your Electronic Business POC is essential to the procurement process. Other government systems, such as the CAGE program, will use your government POC to contact you. List someone with direct knowledge of this registration for both of those POCs.
 7. Make sure to select "Submit" after your final review.
- You will receive a Registration Submitted – Confirmation message on the screen. If you do not see this message, you have not submitted your registration.

How long will it take?

Allow up to 12-15 business days after you submit before your registration is active in SAM.gov.

How do I check the status of an Entity Registration

1. Login to SAM.gov (Registration Status is not available without login)
2. From your workspace, select Home from the menu, then select “Check Registration Status” on the homepage. The same “Check Registration Status” is also located on the Entity Registration landing page
3. From the check entity registration status you can enter a public entity's Unique Entity Identifier, CAGE code, or EFT Identifier
4. The status provides a quick summary for an entity, displaying the progress of that entity's most recent record. It will also display what steps remain until it is completed. The steps required are determined based on the purpose of registration.
5. Select the topic under the ‘More About’ for additional help on any of the status symbols or steps
6. To get the full entity details with reps and certs or any exclusions or to see non-public entities, you will need to use the main search.

For FREE help registering in SAM.gov, contact support at the [Federal Service Desk \(FSD\)](#).