

- 1 - Agenda, BOCC regular meeting Aug 01 2023
- 2 - Alcohol Bev Lic 03-19226 - Powder Monarch LLC dba Monarch Ski and Snowboard Area
- 3 - BOCC Calendar Schedule, Aug 1, 2023
- 4 - consent 1 - Forest Service Modification of Grant 20-LE-11020400-022, GMUG patrol activities
- 4 - consent 2 - CDHS Contract 24 IBEH 182014, Behavioral health
- 4 - consent 3 - NextFifty Initiative Grant, HHS, Senior Resource Officer funding
- 4 - consent 4 - Commercial Lease Agreement, Quartz Creek Improvement Assoc
- 4 - consent 5 - PULLED Reg 10 Agency on Aging Contract for Options counseling, assessments
- 4 - consent 6 - Samsara In Quote Contract #020221-SAM, Public Works vehicle gateway info service
- 4 - consent 7 - 3 Letters of support for UGRWCD and TU
- 5 - Resolution and Declration, Continuing the Lowline Fire Local Disaster Emergency
- 6 - Boundary Line Adjustment LUC-22-00059, Margenau and Landry. pdf
- 7 - Abatement Hearing R013123, Van Delay Industries Ltd
- 7 - Item A1 - recd at meeting, Van Delay Industries, LTD - Invoice for Stock Pond Work
- 7 - Item A2 - recd at meeting, Van Delay Industries, LTD - Stock Pond photo

**GUNNISON COUNTY BOARD OF COMMISSIONERS**  
**REGULAR MEETING AGENDA**

**DATE:** Tuesday, August 1, 2023

**Page 1 of 2**

**PLACE:** Board of County Commissioners' Meeting Room at the Gunnison County Courthouse  
(REMOTE OPTION BELOW)

**GUNNISON COUNTY LOCAL LIQUOR LICENSING AUTHORITY:**

- 8:30 am
- Call to Order
  - Consent Agenda: These items will not be discussed unless requested by a Commissioner or citizen. Items removed from consent agenda for discussion may be rescheduled later in this meeting, or at a future meeting.
    1. Approval for Alcohol Beverage License #03-19226; Powder Monarch LLC dba Monarch Ski and Snowboard Area; 7/12/2023 - 7/12/2024
  - Adjourn

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS REGULAR MEETING:**

- 8:31 am
- Call to Order; Agenda Review
  - Scheduling
  - Consent Agenda: These items will not be discussed unless requested by a Commissioner or citizen. Items removed from consent agenda for discussion may be rescheduled later in this meeting, or at a future meeting.
    1. Approval for USDA Forest Service Modification of Grant/Agreement 20-LE-11020400-022; Grand Mesa-Uncompahgre and Gunnison (GMUG) National Forests and Gunnison County Sheriff's Office; for updated USFS Administrative Contacts and 2023 Operating and Financial Plan (Exhibit A), patrol activities; Effective last date of signing - 12/31/2024; \$5,500
    2. Approval for Colorado Department of Human Services Contract 24 IBEH 182014; for establishing / expanding services to address local behavioral health needs; 7/01/2023 - 6/30/2024; \$232,486
    3. Approval for NextFifty Initiative Grant Agreement; Gunnison County Health and Human Services; Funding for Senior Resource Specialist; \$22,000
    4. Approval for Commercial Lease Agreement; Quartz Creek Improvement Association, Ohio City, Colorado; Effective date of signing, and automatically renewable annually on the anniversary of the term starting in 2023; \$10 per year
    5. Approval for Region 10 Area Agency on Aging's Performance-based contract; Gunnison County Senior Resource Office; for Options counseling and assessments by a Senior Resource Specialist; 7/01/2023 - 6/30/2024; \$33,464
    6. Approval for Sourcewell Samsara Inc Quote #Q-433475, Contract #020221-SAM; Gunnison County Public Works; Subscription for vehicle gateway information service; annually renewable; \$3,621 First Year payment, \$3,510 beginning Year Two
    7. Approval for Three (3) Letters of Support; Upper Gunnison River Water Conservancy District and Trout Unlimited; for joint, multi-project grant applications to the Colorado River District's Community Funding Program
  - County Manager's Report
- 8:35
- Resolution; A Resolution and Declaration Continuing the Lowline Fire Local Disaster Emergency in Gunnison County
  - Boundary Line Adjustment; LUC-22-00059; Owners Ryan Margenau and Michael Landry; Lots 31 and 32 of Ohio Meadows Subdivision Filing No. 3

*NOTE: This agenda is subject to change, including the addition of items up to 24 hours in advance or the deletion of items at any time. All times are approximate. The County Manager and Deputy County Manager's reports may include administrative items not listed. Regular Meetings, Public Hearings, and Special Meetings are recorded and **ACTION MAY BE TAKEN ON ANY ITEM.** Work Sessions are not recorded and formal action cannot be taken. For further information, contact the County Administration office at 641-0248. If special accommodations are necessary per ADA, contact 641-0248 or TTY 641-3061 prior to the meeting.*

**GUNNISON COUNTY BOARD OF COMMISSIONERS**  
**REGULAR MEETING AGENDA**

**DATE:** Tuesday, August 1, 2023

**Page 2 of 2**

**PLACE:** Board of County Commissioners' Meeting Room at the Gunnison County Courthouse  
(REMOTE OPTION BELOW)

- 8:50
- Hearing; Petition for Abatement or Refund of Taxes; Property Tax Years 2021 and 2022; R013123, 12.84 Acres in the Southeast 1/4 of Section 12, Township 14 South, Range 86 West, 6th Principal Meridian; Parcel No. 3255-120-00-082; Van Delay Industries Ltd
  - **BREAK**
- 9:20 am
- **Unscheduled Public Comment:** Limit to 5 minutes per item. No formal action can be taken at this meeting.
  - **Commissioner Items:** Commissioners will discuss among themselves activities that they have recently participated in that they believe other Commissioners and/or members of the public may be interested in hearing about.
  - **Executive Session,** pursuant to C.R.S. sec. 24-6-402(4)(b) conference with the County Attorney, Deputy County Attorney or Assistant County Attorney for Gunnison County for the purpose of receiving legal advice related to CBM Ranch, LLC. V. Moncrief Jr. Trust, et al, Gunnison County District Court No. 2023CV030029
  - **Adjourn**

*Please Note:* Packet materials for the above discussions will be available on the Gunnison County website at <http://www.gunnisoncounty.org/meetings> prior to the meeting.

**ZOOM MEETING DETAILS:**

Join Zoom Meeting: <https://us02web.zoom.us/j/82753657556?pwd=MjNDdTZHTFNRVdDemZjdC91aVBIZz09>

Meeting ID: 827 5365 7556

Passcode: 471302

One tap mobile

+17193594580,,82753657556#,,,,\*471302# US

+16694449171,,82753657556#,,,,\*471302# US

**AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM**

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**Agenda Item:** Approval for Alcohol Beverage License #03-19226; P

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**Action Requested:** Board of County Commissioners' Signature

**Parties to the Agreement:** Kathy Simillion, County Clerk

**Term Begins:**

**Term Ends:**

**Grant Contract #:**

**Summary:**

Liquor License for Powder Monarch LLC dba Monarch Ski And Snowboard Area.

**Fiscal Impact:**

**Submitted by:** Kathy Simillion, County Clerk

**Submitter's Email Address:** ksimillion@gunnisoncounty.org

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**Finance Review:**

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

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**County Attorney Review:**

Required

Not Required

Comments:

Legally sufficient SO 7/27/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 7/27/2023

Certificate of Insurance Required

Yes  No

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**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/27/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 2

Agenda Date: 8/2/2023

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**GUNNISON COUNTY**

**THIS LICENSE MUST BE POSTED IN PUBLIC VIEW**

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**GUNNISON COUNTY  
GUNNISON COUNTY CLERK  
221 N. WISCONSIN STREET  
GUNNISON, COLORADO 81230**

**LICENSE TYPE**

**ALCOHOL BEVERAGE LICENSE #03-19226**  
to sell/serve malt, vinous, spirituous liquor for (on the)-premises  
consumption in the County of Gunnison, Colorado.

**POWDER MONARCH LLC DBA MONARCH SKI AND  
SNOWBOARD AREA  
24500 HIGHWAY 50  
GUNNISON, COLORADO 81230**

Fee \$100.00

Effective Dates: 07.12.2023 - 07.12.2024

This license is issued subject to the laws of the State of Colorado and especially under the provisions of Title 44, Articles 4, 3, CRS 1973, as amended; and the Ordinances of the County of Gunnison as applicable.

*Kathy Semillon* 7-21-2023  
Gunnison County Clerk                      Date              Board of County Commissioners      Date

# Gunnison County Board of County Commissioners Calendar

(Two or more commissioners may be in attendance.)

August 1 – September 5, 2023  
(as of 7/28/2023)

## Board of County Commissioners

### 1. [BOCC Regular Meeting](#)

August 1, 2023, All Day @ BOCC Boardroom

[More Details](#)

### 2. [Mayors & Managers Meeting - Hosted by Library District](#)

August 3, 2023, 12:00 PM - 1:30 PM

[More Details](#)

### 3. [BOCC Work Session](#)

August 8, 2023, All Day @ BOCC Boardroom

[More Details](#)

### 4. [Commissioner Houck Out of Office](#)

August 8, 2023, All Day

[More Details](#)

### 5. [BOCC Regular Meeting](#)

August 15, 2023, All Day @ BOCC Boardroom

[More Details](#)

### 6. [BOCC Work Session](#)

August 22, 2023, All Day @ BOCC Boardroom

[More Details](#)

### 7. [BOCC Work Session w/ Marble Board of Trustees and Marble Community Members](#)

August 29, 2023, 6:00 PM @ Marble Community Church, Fellowship Hall (see agenda)

[More Details](#)

### 8. [BOCC Work Session w/ Somerset Domestic Waterworks District](#)

August 30, 2023, 11:00 AM @ 3674 Hwy 133, Somerset, CO

[More Details](#)

### 9. [BOCC Work Session Somerset Community Meeting](#)

August 30, 2023, 12:00 PM @ Zorie Zakely Park, Somerset, CO

Domestic Waterworks District Bldg (alternate location in the event of bad weather)

[More Details](#)

### 10. [BOCC Regular Meeting](#)

September 5, 2023, All Day @ BOCC Boardroom

[More Details](#)

## Gunnison County Organization

### 1. [Holiday - Labor Day - Offices Closed](#)

September 4, 2023, All Day

[More Details](#)

## Gunnison-Hinsdale Board of Human Services

### 1. [Gunnison-Hinsdale Board of Human Services Meeting](#)

August 15, 2023, All Day @ BOCC Board Room

[More Details](#)

**AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM**

**Agenda Item:** Approval for USDA Forest Service Modification of G

**Action Requested:** Board of County Commissioners' Signature

**Parties to the Agreement:** US Forest Service & Gunnison County Sheriff's Office

**Term Begins:** \_\_\_\_\_ **Term Ends:** \_\_\_\_\_ **Grant Contract #:** \_\_\_\_\_

**Summary:**  
Camp ground run agreement for patrol services in the Forest owned properties.

**Fiscal Impact:** \$5,500.00

**Submitted by:** Adam Murdie **Submitter's Email Address:** amurdie@gunnisoncounty.org

**Finance Review:**  Required  Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 7/14/2023

**County Attorney Review:**  Required  Not Required

Comments:  
Generally legally sufficient. Though not necessary, would be helpful to at least reflect that County is protected under governmental immunity statute. MRH

Reviewed by: GUNCOUNTY1\mhoyt

Discharge Date: 7/14/2023

Certificate of Insurance Required

Yes  No

**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/14/2023

Consent Agenda  Regular Agenda  Worksession

Time Allotted: \_\_\_\_\_

Agenda Date: 8/1/2023



MODIFICATION OF GRANT OR AGREEMENT	PAGE	OF PAGES
	1	7

1. U.S. FOREST SERVICE GRANT/AGREEMENT NUMBER: <b>20-LE-11020400-022</b>	2. RECIPIENT/COOPERATOR GRANT or AGREEMENT NUMBER, IF ANY:	3. MODIFICATION NUMBER: <b>004</b>
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4. NAME/ADDRESS OF U.S. FOREST SERVICE UNIT ADMINISTERING GRANT/AGREEMENT (unit name, street, city, state, and zip + 4): <b>Grand Mesa, Uncompahgre and Gunnison NFs 2250 S Main ST Delta, Colorado 81416</b>	5. NAME/ADDRESS OF U.S. FOREST SERVICE UNIT ADMINISTERING PROJECT/ACTIVITY (unit name, street, city, state, and zip + 4): <b>Grand Mesa, Uncompahgre and Gunnison NFs 2250 S Main ST Delta, Colorado 81416</b>
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6. NAME/ADDRESS OF RECIPIENT/COOPERATOR (street, city, state, and zip + 4, county): <b>Gunnison County Colorado Government 200 E Virginia AVE Gunnison, Colorado 81230-2248</b>	7. RECIPIENT/COOPERATOR'S HHS SUB ACCOUNT NUMBER (For HHS payment use only):
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8. PURPOSE OF MODIFICATION

CHECK ALL THAT APPLY:	This modification is issued pursuant to the modification provision in the grant/agreement referenced in item no. 1, above.
<input type="checkbox"/>	CHANGE IN PERFORMANCE PERIOD:
<input type="checkbox"/>	CHANGE IN FUNDING:
<input checked="" type="checkbox"/>	ADMINISTRATIVE CHANGES: Updated U.S. Forest Service Administrative Contacts.
<input checked="" type="checkbox"/>	OTHER (Specify type of modification): Updated Operating Plan.

**Except as provided herein, all terms and conditions of the Grant/Agreement referenced in 1, above, remain unchanged and in full force and effect.**

9. ADDITIONAL SPACE FOR DESCRIPTION OF MODIFICATION (add additional pages as needed):  
See attached.

10. ATTACHED DOCUMENTATION (Check all that apply):

<input type="checkbox"/>	Revised Scope of Work
<input type="checkbox"/>	Revised Financial Plan
<input checked="" type="checkbox"/>	Other: 2023 Operating Plan; Exhibit A, Law Enforcement Activity Report; Exhibit B.

11. SIGNATURES

AUTHORIZED REPRESENTATIVE: BY SIGNATURE BELOW, THE SIGNING PARTIES CERTIFY THAT THEY ARE THE OFFICIAL REPRESENTATIVES OF THEIR RESPECTIVE PARTIES AND AUTHORIZED TO ACT IN THEIR RESPECTIVE AREAS FOR MATTERS RELATED TO THE ABOVE-REFERENCED GRANT/AGREEMENT.

11.A. GUNNISON COUNTY SHERIFF SIGNATURE	11.B. DATE SIGNED	11.C. U.S. FOREST SERVICE SIGNATURE	11.D. DATE SIGNED
(Signature of Signatory Official)		(Signature of Signatory Official)	
11.E. NAME (type or print): <b>ADAM W. MURDIE</b>		11.F. NAME (type or print): <b>CHAD STEWART</b>	
11.G. TITLE (type or print): <b>Sheriff</b>		11.H. TITLE (type or print): <b>Forest Supervisor</b>	
11.I. GUNNISON COUNTY COMMISSIONER SIGNATURE	11.J. DATE SIGNED	11.K. U.S. FOREST SERVICE LE SIGNATURE	11.L. DATE SIGNED
(Signature of Signatory Official)		(Signature of Signatory Official)	
11.L. NAME (type or print): <b>JONATHAN HOUCK</b>		11.M. NAME (type or print): <b>KEN PEARSON</b>	
11.N. TITLE (type or print): <b>Chair, Board Of County Commissioners</b>		11.O. TITLE (type or print): <b>Special Agent in Charge, Region 2</b>	

12. G&A REVIEW



USDA Forest Service

OMB 0596-0217  
FS-1500-19

12.A. The authority and format of this modification have been reviewed and approved for signature by:

12.B. DATE  
SIGNED

\_\_\_\_\_  
**AMANDA MARR**

U.S. Forest Service Grants & Agreements Specialist

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.



**EXHIBIT A**

**COOPERATIVE LAW ENFORCEMENT OPERATING & FINANCIAL PLAN**  
**Between**  
**GUNNISON COUNTY COLORADO GOVERNMENT**  
**And the**  
**USDA, FOREST SERVICE**  
**GRAND MESA, UNCOMPAHGRE AND GUNNISON NATIONAL FORESTS**

**2023 OPERATING AND FINANCIAL PLAN**

This Financial and Operating Plan (Operating Plan), is hereby made and entered into by and between Gunnison County Colorado Government, hereinafter referred to as the “Cooperator,” and the United States Department of Agriculture (USDA), Forest Service, Grand Mesa, Uncompahgre and Gunnison National Forests, hereinafter referred to as the “U.S. Forest Service,” under the provisions of Cooperative Law Enforcement Agreement # 20-LE-11020400-022. This Operating and Financial Plan is made and agreed to as of the last signature date on the Cooperative Law Enforcement Agreement and is in effect through December 31, 2024, unless modified during the annual review.

Previous Year Carry-over: \$5,500.00  
Current 2023 Year Obligation: \$0.00  
**CY 2023 Total Operating Plan: \$5,500.00**

**I. GENERAL:**

- A. The following individuals shall be the designated and alternate representative(s) of each party, so designated to make or receive requests for special enforcement activities.

**Principal Cooperator Contacts:**

<b>Cooperator Program Contact</b>	<b>Cooperator Administrative Contact</b>
Adam W. Murdie, Sheriff 510 W Bidwell AVE Gunnison, Colorado 81230 Telephone: 970-641-1113 FAX: 970-641-7649 Email: <a href="mailto:amurdie@gunnisoncounty.org">amurdie@gunnisoncounty.org</a>	Josh Ashe, Undersheriff 510 W Bidwell AVE Gunnison, Colorado 81230 Telephone: 970-641-1113 FAX: 970-641-7649 Email: <a href="mailto:jashe@gunnisoncounty.org">jashe@gunnisoncounty.org</a>



**Principal U.S. Forest Service Contacts:**

<b>U.S. Forest Service Program Manager Contact</b>	<b>U.S. Forest Service Administrative Contact</b>
Brandon Cervantes, Patrol Captain 2250 S Main ST Delta, Colorado 81416 Telephone: 970-874-6624 FAX: 970-874-6698 Email: <a href="mailto:brandon.cervantes@usda.gov">brandon.cervantes@usda.gov</a>	Keri Rummel, Grants Management Specialist 1617 Cole BLVD Building 17 Lakewood, Colorado 80401 Telephone: 605-515-8812 Email: <a href="mailto:keri.rummel@usda.gov">keri.rummel@usda.gov</a>
<b>Field Contact</b>	<b>Payment Approver in NRM</b>
Mike Fuller, LEO 216 N Colorado ST Gunnison, Colorado 81230 Telephone: 970-263-5821 FAX: 970-642-4469 Email: <a href="mailto:michael.fuller@usda.gov">michael.fuller@usda.gov</a>	Brandon Cervantes Telephone: 970-874-6624 Email: <a href="mailto:brandon.cervantes@usda.gov">brandon.cervantes@usda.gov</a> <b>Alternate Payment Approver</b> Misty Mitchell Telephone: 970-874-6638 Email: <a href="mailto:misty.mitchell@usda.gov">misty.mitchell@usda.gov</a>

B. Reimbursement for all types of enforcement activities shall be at the following rates unless specifically stated otherwise:

Wages at the prevailing rate of \$45.00/hour

**II. PATROL ACTIVITIES:**

A. Time schedules for patrols will be flexible to allow for emergencies, other priorities, and day-to-day needs of both the Cooperator and the U.S. Forest Service. Ample time will be spent in each area to make residents and visitors aware that law enforcement officers are in the vicinity.

1. Patrol on following U.S. Forest Service roads:

- Taylor Canyon/Taylor Park area, FDR #742, Rocky Brook/Spring Creek road, FDR #744/748
- Pitkin area, FDR #765 from Pitkin to Quartz Creek Campground
- Crested Butte area, FDR #317, from Gothic Town Site to Schofield Pass.

2. Patrol in the following campgrounds, developed sites, or dispersed areas:

- Taylor Canyon/Taylor Park Campgrounds – all campgrounds including Spring Creek and Almont Campgrounds
- Crested Butte Area – Gothic, Cement Creek and Lake Irwin Campgrounds



- Paonia Patrol Area – Erickson Springs, McClure Pass, Lost Lake Campgrounds
- Pitkin/Ohio City Area – Quartz Creek, Pitkin, Gold Creek and Middle Court Campgrounds

Total reimbursement for this category shall not exceed the amount of: **\$5,500.00.**

### III. SPECIAL ENFORCEMENT SITUATIONS:

- A. Special Enforcement Situations include but are not limited to: Fire Emergencies, Drug Enforcement, and certain Group Gatherings.
- B. Funds available for special enforcement situations vary greatly from year to year and must be specifically requested and approved prior to any reimbursement being authorized. Requests for funds should be made to the U.S. Forest Service designated representative listed in Item I-A of this Operating Plan. The designated representative will then notify the Cooperator whether funds will be authorized for reimbursement. If funds are authorized, the parties will then jointly prepare a revised Operating Plan.
1. Drug Enforcement: This will be handled on a case-by-case basis. The request will normally come from the patrol Captain; however, it may come from the Special Agent in Charge or their designated representative. Reimbursement shall be made at the rates specified in Section I-B. Deputies assigned to the incident will coordinate all of their activities with the designated officer in charge of the incident.
  2. Fire Emergency: During emergency fire suppression situations and upon request by the U.S. Forest Service pursuant to an incident resource order, the Cooperator agrees to provide special services beyond those provided under Section II-A, within the Cooperator's resource capabilities, for the enforcement of State and local laws related to the protection of persons and their property. The Cooperator will be compensated at the rate specified in Section I-B; the U.S. Forest Service will specify times and schedules. Upon concurrence of the local patrol Captain or their designated representative, an official from the Incident Management Team managing the incident, Cooperator personnel assigned to an incident where meals are provided will be entitled to such meals.
  3. Group Gatherings: This includes but is not limited to situations which are normally unanticipated, or which typically include very short notices, large group gatherings such as rock concerts, demonstrations, and organization rendezvous. Upon authorization by a U.S. Forest Service representative listed in Section I-A for requested services of this nature, reimbursement shall be made at the rates specified in Section I-B. Deputies assigned to this type of incident will normally coordinate their activities with the designated officer in charge of the incident.



This includes but is not limited to situations which are normally unanticipated, or which typically include very short notice, large group gatherings such as rock concerts, demonstrations, and organizational rendezvous.

**IV. BILLING FREQUENCY:**

*See Cooperative Law Enforcement Agreement Provisions II-H and III-B for additional information.*

- A. Reimburse the Cooperator for actual expenses incurred, not to exceed the amount shown in the Operating Plan (OP). The U.S. Forest Service will make payment for project costs upon receipt of a monthly invoice. Each correct invoice shall display the FS issued agreement number, Cooperator’s actual expenditures to date of the invoice, displayed by separate cost elements as documented in the AOP, less any previous U.S. Forest Service payments. *See related Provisions II-H and IV-I.* The invoice should be forwarded as follows:

<p><b><u>Submit Original Invoice(s) for</u></b> <b><u>Payment to:</u></b>          USDA, Forest Service          Albuquerque Service Center          Payments – Grants &amp; Agreements          101B Sun AVE NE          Albuquerque, New Mexico 87109          FAX: 877-687-4894          Email: <a href="mailto:sm.fs.asc_ga@usda.gov">sm.fs.asc_ga@usda.gov</a></p>	<p><b><u>Send Copy to:</u></b>          Brandon Cervantes          U.S. Forest Service          SW Zone Patrol Captain          2250 S Main ST          Delta, Colorado 81416          Telephone: 970-874-6624          Email: <a href="mailto:brandon.cervantes@usda.gov">brandon.cervantes@usda.gov</a></p>
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- B. The following is a breakdown of the total estimated costs associated with this Operating Plan.

Category	Estimated Costs	Not to Exceed by %
Patrol Activities	\$5,500.00	100%
Special Enforcement Situations	\$0.00	N/A
<b>Total</b>	<b>\$5,500.00</b>	<b>100%</b>

- C. Any remaining funding in this Operating Plan may be carried forward to the next calendar year and will be available to spend through the term of the Cooperative Law Enforcement Agreement, or deobligated at the request of the U.S. Forest Service. *See Cooperative Law Enforcement Agreement Provision IV-C.*



**USDA**  
**Forest Service**

**LAW ENFORCEMENT ACTIVITY**  
**REPORT**  
*(Ref. FSM 5300)*

**Agreement Number**

**Initial**  **Follow Up**

1. Cooperator (Department Name):			2. National Forest:			
3. Record (1)	4. Action Code (2) (FS Use Only) U-Update	5. Unit Identification (3-11)			6. Date (12-5)	
		Region	Forest	State	County	Month
7. Patrol Units (16-18)		8. Search and Rescue Missions Hours (19-22)		No. (23-24)	9. Property Stolen (25-30) Dollars	
10. Property Recovered (31-36) Dollars			11. Controlled Substances Seized (37-45) Dollars (Street Value)			
12. Record (1)		13. Number of Crimes Occurring on National Forest System Lands				

13a. Item # (16-17)	13b. Type of Crime	13c. Coop Agreement Reimbursed Activity (18-20)	13d. Non-Coop Agreement Activities (21-23)
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**PART I - FBI UNIFORM CRIME REPORTING**

01	Criminal Homicide		
02	Forcible Rape		
03	Robbery		
04	Aggravated Assault		
05	Burglary - Breaking or Entering		
06	Larceny - Theft (Except Motor Vehicle)		
07	Motor Vehicle - Theft		
08	Arson		

**PART II - FBI UNIFORM CRIME REPORTING**

09	Other Assaults (simple)		
10	Stolen Property by Buying, Receiving, Possessing		
11	Vandalism		
12	Weapons - Carry, Possessing		
13	Narcotic Drug Law		
14	Driving Under the Influence		
15	Liquor Laws		
16	Drunkenness		
17	Disorderly Conduct		
18	All Other Offenses		

**PART III - COOPERATOR ASSISTS**

19	Assists to Forest Service Officers		
20	Assists to Public		

Remarks:

**NOTE:** This document is for OFFICIAL USE ONLY. It and its contents are not to be distributed outside your agency, nor duplicated, without prior approval of the USDA, Forest Service, Law Enforcement and Investigations.

**AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM**

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**Agenda Item:** Approval for Colorado Department of Human Services

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**Action Requested:** Other Review and Approval

**Parties to the Agreement:** CDHS and Gunnison HHS

**Term Begins:** 7/1/2023

**Term Ends:**

**Grant Contract #:**

**Summary:**

To establish/expand services to address local behavioral health needs along continuum of care, including services for children, youth, and families with severe needs.

**Fiscal Impact:** 232486

**Submitted by:** Brad Wheaton

**Submitter's Email Address:** bradford.wheaton@state.co.us

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**Finance Review:**

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 7/7/2023

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**County Attorney Review:**

Required

Not Required

Comments:

Appears legally sufficient. MRH

Reviewed by: GUNCOUNTY1\mhoyt

Discharge Date: 7/19/2023

Certificate of Insurance Required

Yes  No

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**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/21/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/1/2023

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## STATE OF COLORADO DEPARTMENT OF HUMAN SERVICES CONTRACT

### SIGNATURE AND COVER PAGES

<b>CMS #:</b> 24 IBEH 182014	<b>eClearance#:</b> 2307044
<b>State Agency</b> Colorado Department of Human Services Behavioral Health Administration	<b>Contractor</b> Gunnison County  Contractor's State of Incorporation: Colorado
<b>Contract Maximum Amount</b> Initial Term State Fiscal Year 2024                      \$232,486.00 Extension Terms None  Maximum Amount for All Fiscal Years    \$232,486.00	<b>Contract Performance Beginning Date</b> The later of the Effective Date or July 1, 2023  <b>Initial Contract Expiration Date</b> June 30, 2024  Except as stated in <b>§2.D</b> , the total duration of this Contract, including the exercise of any options to extend, shall not exceed 4 Years from its Performance Beginning Date.
<b>Pricing/Funding</b>  Price Structure: Cost Reimbursement Contractor shall invoice: Monthly Fund Source: American Rescue Plan Act - C.F.D.A. 21.027	<b>Options</b>  The State shall have the following options if indicated with "Yes," as further described in §2.C and §5.B.v: Option to Extend Term per §2.C: Yes Option to Increase or Decrease Maximum Amount per §5.B.v: Yes

<p><b>Insurance</b> Contractor shall maintain the following insurance if indicated with “Yes,” as further described in §10:</p> <p>Worker’s Compensation: Yes General Liability: Yes Automobile Liability: <b>Yes</b> Protected Information: <b>Yes</b> Professional Liability Insurance: <b>Yes</b> Cyber/Net. Security-Privacy Liability Insurance: <b>No</b> Crime Insurance: <b>No</b></p>	<p><b>Miscellaneous</b> Authority to enter into this Contract exists in: C.R.S. §27-60-502. Law-Specified Vendor Statute (if any): N/A Procurement Method: Request for Proposals (RFP) Solicitation Number (if any): RFP 20230000171</p>
<p><b>State Representative</b></p> <p>Summer Gathercole, Deputy Commissioner of Operations, Behavioral Health Administration 710 Ash Street C140, Denver, CO 80246 303-866-2354   summer.gathercole@state.co.us</p>	<p><b>Contractor Representative</b></p> <p>Margaret Wacker, Community Health Manager Gunnison County 200 E. Virginia Avenue, Gunnison, CO 81230 970-641-7913   mwacker@gunnisoncounty.org</p>

<p><b>Exhibits</b> The following Exhibits are attached and incorporated into this Contract:</p> <p>Exhibit A - Statement of Work Exhibit B - Budget Exhibit C - Miscellaneous Provisions Exhibit D - HIPAA Business Associates Addendum / QSOA Exhibit E - Supplemental Provisions for Federal Awards Exhibit F - SLFRF Subrecipient Provisions</p>
<p><b>Contract Purpose</b> To establish/expand services to address local behavioral health needs along continuum of care, including services for children, youth, and families with severe needs.</p>

**Signature Page Begins On Next Page**

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**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

Each person signing this Contract represents and warrants that he or she is duly authorized to execute this Contract and to bind the Party authorizing his or her signature.

<p><b>CONTRACTOR</b> Gunnison County</p> <hr/> <p>By: Jonathan Houck, Chair of the BOCC</p> <p>Date: _____</p>	<p><b>STATE OF COLORADO</b> Jared S. Polis, Governor Department of Human Services Michelle Barnes, Executive Director</p> <hr/> <p>By: _____</p> <p>Behavioral Health Administration</p> <p>Date: _____</p>
<p>2nd State or Contractor Signature if Needed</p> <hr/> <p>By: Name &amp; Title of Person Signing for Signatory</p> <p>Date: _____</p>	<p><b>LEGAL REVIEW</b> Philip J. Weiser, Attorney General</p> <hr/> <p>By: _____</p> <p>Assistant Attorney General</p> <p>Date: _____</p>
<p>In accordance with §24-30-202 C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p><b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b></p> <p>By: _____ Andrea Eurich/Toni Williamson</p> <p>Effective Date: _____</p>	

-- Signature and Cover Pages End --

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### 1. PARTIES

This Contract is entered into by and between Contractor named on the Signature and Cover Pages for this Contract (the “Contractor”), and the STATE OF COLORADO acting by and through the Department of Human Services (the “State” or “CDHS”). Contractor and the State agree to the terms and conditions in this Contract.

### 2. TERM AND EFFECTIVE DATE

#### A. Effective Date

This Contract shall not be valid or enforceable until the Effective Date. The State shall not be bound by any provision of this Contract before the Effective Date, and shall have no obligation to pay Contractor for any Work performed or expense incurred before the Effective Date or after the expiration or sooner termination of this Contract.

#### B. Initial Term

The Parties' respective performances under this Contract shall commence on the Contract Performance Beginning Date shown on the Signature and Cover Pages for this Contract and shall terminate on the Initial Contract Expiration Date shown on the Signature and Cover Pages for this Contract (the "Initial Term") unless sooner terminated or further extended in accordance with the terms of this Contract.

C. Extension Terms - State's Option

If the Signature and Cover Pages for this Contract shows that the State has the Option to Extend Term, then the State, at its discretion, shall have the option to extend the performance under this Contract beyond the Initial Term for a period, or for successive periods, at the same rates and under the same terms specified in the Contract (each such period an "Extension Term"). In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to §21 "Sample Option Letter." The State may include and incorporate a revised budget with the option letter, as long as the revised budget does not unilaterally change rates or terms specified in the Contract. Except as stated in §2.D, the total duration of this Contract, including the exercise of any options to extend, shall not exceed 5 years from its Performance Beginning Date, or the number of years specified on the Signature and Cover Pages if such number is less than 5 years, absent prior approval from the Chief Procurement Officer in accordance with the Colorado Procurement Code.

D. End of Term Extension

If this Contract approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Contractor as provided in §15, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an "End of Term Extension" or "Holdover"), regardless of whether additional Extension Terms are available or not. Any such extension shall be under the same terms and conditions of the operative Contract including, but not limited to, prices, rates, and service delivery requirements. The provisions of this Contract in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement contract or modification extending the total term of the Contract.

E. Early Termination in the Public Interest

The State is entering into this Contract to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Contract ceases to further the public interest of the State, the State, in its discretion, may terminate this Contract in whole or in part. A determination that this Contract should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Contract by the State for Breach of Contract by Contractor, which shall be governed by §12.A.i.

i. Method and Content

The State shall notify Contractor of such termination in accordance with §15. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Contractor shall be subject to the rights and obligations set forth in §12.A.i.a.

iii. Payments

If the State terminates this Contract in the public interest, the State shall pay Contractor an amount equal to the percentage of the total reimbursement payable under this Contract that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Contract is less than 60% completed, as determined by the State, the State may reimburse Contractor for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Contract, incurred by Contractor which are directly attributable to the uncompleted portion of Contractor's obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Contractor hereunder.

### 3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

A. "Breach of Contract" means the failure of a Party to perform any of its obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner. 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 30 days after the institution of such proceeding, shall also constitute a breach. If Contractor is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Contract, then such debarment or suspension shall constitute a breach.

B. "Business Day" means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays as listed in §24-11-101(1) C.R.S.

C. “Chief Procurement Officer” means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202, C.R.S. to procure or supervise the procurement of all supplies and services needed by the state.

D. “CJI” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under 24-72-302 C.R.S.

E. “Contract” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto. For purposes of clarification and the removal of any doubt, subject to any future modifications thereto, the Signature and Cover Pages and Sections 1 through 21, as identified in the Table of Contents herein above, shall constitute the “main body” of this Contract exclusively.

F. “Contract Funds” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Contract.

G. “CORA” means the Colorado Open Records Act, §§24-72-200.1 et. seq., C.R.S.

H. “Deliverable” means the outcome to be achieved or output to be provided, in the form of a tangible object or software that is produced as a result of Contractor’s Work that is intended to be delivered to the State by the Contractor.

I. “Effective Date” means the date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Contract. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then Effective Date of this Contract shall be the later of the date on which this Contract is approved and signed by the State’s Chief Information Officer or authorized delegate or the date on which this Contract is approved and signed by the State Controller or authorized delegate, as shown on the Signature and Cover Page for this Contract.

J. “End of Term Extension” means the time period defined in §2.D.

K. “Exhibits” means the exhibits and attachments included with this Contract as shown on the Signature and Cover Pages for this Contract..

L. “Extension Term” means the time period defined in §2.C.

M. “Goods” means any movable material acquired, produced, or delivered by Contractor as set forth in this Contract and shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.

N. “Incident” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, et. seq., C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.

O. “Initial Term” means the time period defined in §2.B.

P. “Party” means the State or Contractor, and “Parties” means both the State and Contractor.

Q. “PCI” means payment card information including any data related to credit card holders’ names, credit card numbers, or other credit card information as may be protected by state or federal law.

R. “PHI” means any individually identifiable health information, transmitted or maintained in electronic or any form or medium, including but not limited to demographic information,, (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.

S.. “PII” means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 and 24-73-101, C.R.S. “PII” shall also mean “personal identifying information” as set forth in § 24-72-102, et. Seq., C.R.S.

T. “Services” means the services to be performed by Contractor as set forth in this Contract, and shall include any services to be rendered by Contractor in connection with the Goods.

U. “State Confidential Information” means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJI, Educational Records, Substance Use Disorder Information, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

V. “State Fiscal Rules” means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.

W. “State Fiscal Year” means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.

X. “State Records” means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.

Y. “Subcontractor” means any third-parties engaged by Contractor to aid in performance of the Work.

Z. “Tax Information” means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to all information defined as federal tax information in Internal Revenue Service Publication 1075.

AA. “Work” means the Goods delivered and Services performed pursuant to this Contract.

BB. “Work Product” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Contract that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

#### **4. STATEMENT OF WORK**

Contractor shall complete the Work as described in this Contract and in accordance with the provisions of the Exhibits. The State shall have no liability to compensate Contractor for the delivery of any goods or the performance of any services that are not specifically set forth in this Contract.

#### **5. PAYMENTS TO CONTRACTOR**

##### **A. Maximum Amount**

Payments to Contractor are limited to the unpaid, obligated balance of the Contract Funds. The State shall not pay Contractor any amount under this Contract that exceeds the Contract Maximum for that term shown on the Signature and Cover Pages for this Contract.

##### **B. Payment Procedures**

###### **i. Invoices and Payment**

a. The State shall pay Contractor in the amounts and in accordance with the Exhibits.

b. Contractor shall initiate payment requests by invoice to the State, in a form and manner approved by the State. Invoicing is a material component of Contract performance and corresponding Deliverables. Invoices shall be due to the State within 45 days of work performed by the Contractor, unless otherwise stated in the Exhibits hereto. Invoicing shall be done accurately and per any specifications set forth in the Exhibits hereto. Time is of the essence in this regard. If Contractor fails to timely and/or properly invoice the State, the State may not be obligated to pay the bill resulting from said invoice. Failure to timely and/or properly invoice the State is a material breach of this Contract which would be cause for the State to refuse payment and/or terminate the contract on these grounds in whole or in part, at the State's discretion.

c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Contractor and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Contractor shall make all changes necessary to correct that invoice.

d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Contract.

ii. Interest

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Contractor shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Payment Disputes

If Contractor disputes any calculation, determination or amount of any payment, Contractor shall notify the State in writing of its dispute within 30 days following the earlier to occur of Contractor's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Contractor and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Contractor beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Contract Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Contract Funds the State's obligation to pay Contractor shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Contract shall be made only from Contract Funds, and the State's liability for such payments shall be limited to the amount remaining of such Contract Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Contract, the State may, upon written notice, terminate this Contract, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Contract were terminated in the public interest as described in §2.E.

v. Option to Increase Maximum Amount

If the Signature and Cover Pages for this Contract show that the State has the Option to Increase or Decrease Maximum Amount, then the State, at its discretion, shall have the option to increase or decrease the statewide quantity of Goods and Services based upon the rates established in this Contract, and increase or decrease the maximum amount payable accordingly. In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to §21 “Sample Option Letter.” Delivery of Goods and performance of Services shall continue at the same rates and terms as described in this Contract. The State may include and incorporate a revised budget with the option letter, as long as the revised budget does not unilaterally change rates or terms specified in the Contract.

## **6. REPORTING - NOTIFICATION**

### **A. Quarterly Reports.**

In addition to any reports required pursuant to §17 or pursuant to any other Exhibit, for any contract having a term longer than three months, Contractor shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Contract. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State at the time or times specified by the State in this Contract, or, if no time is specified in this Contract, not later than five Business Days following the end of each calendar quarter.

### **B. Litigation Reporting**

If Contractor is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Contract or may affect Contractor’s ability to perform its obligations under this Contract, Contractor shall, within 5 days after being served, notify the State of such action and deliver copies of such pleading or document to the State’s principal representative identified on the Signature and Cover Pages for this Contract.

### **C. Performance Outside the State of Colorado or the United States, §24-102-206 C.R.S.**

To the extent not previously disclosed in accordance with §24-102-206, C.R.S., Contractor shall provide written notice to the State, in accordance with §15 and in a form designated by the State, within 20 days following the earlier to occur of Contractor’s decision to perform Services outside of the State of Colorado or the United States, or its execution of an agreement with a Subcontractor to perform, Services outside the State of Colorado or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado or the United States and the reason why it is necessary or advantageous to perform

such Services at such location or locations, and such notice shall be a public record. Knowing failure by Contractor to provide notice to the State under this section shall constitute a Breach of Contract. This section shall not apply if the Contract Funds include any federal funds.

## **7. CONTRACTOR RECORDS**

### **A. Maintenance**

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the “Contractor Records”). Contractor Records shall include all documents, records, communications, notes and other materials maintained by Contractor that relate to any Work performed by Subcontractors, and Contractor shall maintain all records related to the Work performed by Subcontractors required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until the last to occur of: (i) the date three years after the date this Contract expires or is terminated, (ii) final payment under this Contract is made, (iii) the resolution of any pending Contract matters, or (iv) if an audit is occurring, or Contractor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the “Record Retention Period”).

### **B. Inspection**

Contractor shall permit the State, the federal government, and any duly authorized agent of a governmental entity, to audit, inspect, examine, excerpt, copy and transcribe Contractor Records during the Record Retention Period. Contractor shall make Contractor Records available during normal business hours at Contractor’s office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days’ notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

### **C. Monitoring**

The State, the federal government, and any other duly authorized agent of a governmental agency, in its discretion, may monitor Contractor’s performance of its obligations under this Contract using procedures as determined by the State. The State shall monitor Contractor’s performance in a manner that does not unduly interfere with Contractor’s performance of the Work.

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

Contractor shall promptly submit to the State a copy of any final audit report of an audit performed on Contractor’s records that relates to or affects this Contract or the Work, whether the audit is conducted by Contractor or a third party.

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

#### A. Confidentiality

Contractor shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Contractor shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Contract, permitted by law or approved in writing by the State. Contractor shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Contractor or any of its Subcontractors will or may receive the following types of data, Contractor or its Subcontractors shall provide for the security of such data according to the following: (i) the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Contract as an Exhibit, if applicable, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and (iv) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Contract, if applicable. Contractor shall immediately forward any request or demand for State Records to the State's Principal Representative.

#### B. Other Entity Access and Nondisclosure Agreements

Contractor may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Contract. Contractor shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Contractor shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

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

Contractor shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. Contractor shall provide the State with access, subject to Contractor's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Contract, Contractor shall return State Records provided to Contractor or

destroy such State Records and certify to the State that it has done so, as directed by the State. If Contractor is prevented by law or regulation from returning or destroying State Confidential Information, Contractor warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

**D. Incident Notice and Remediation**

If Contractor becomes aware of any Incident, Contractor shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Contractor can establish that Contractor and its Subcontractors are not the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State, at no additional cost to the State. The State may adjust or direct modifications to this plan in its sole discretion, and Contractor shall make all modifications as directed by the State. If Contractor cannot produce its analysis and plan within the allotted time, the State, in its discretion, may perform such analysis and produce a remediation plan, and Contractor shall reimburse the State for the actual costs thereof. The State may, in its sole discretion and at Contractor's sole expense, require Contractor to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Contractor shall provide the State with the results of such audit and evidence of Contractor's planned remediation in response to any negative findings.

**E. Data Protection and Handling**

Contractor shall ensure that all State Records and Work Product in the possession of Contractor or any Subcontractors are protected and handled in accordance with the requirements of this Contract, including the requirements of any Exhibits hereto, at all times.

**F. Safeguarding PII**

IF CONTRACTOR OR ANY OF ITS SUBCONTRACTORS WILL OR MAY RECEIVE PII UNDER THIS CONTRACT, CONTRACTOR SHALL PROVIDE FOR THE SECURITY OF SUCH PII, IN A MANNER AND FORM ACCEPTABLE TO THE STATE, INCLUDING, WITHOUT LIMITATION, STATE NON-DISCLOSURE REQUIREMENTS, USE OF APPROPRIATE TECHNOLOGY, SECURITY PRACTICES, COMPUTER ACCESS SECURITY, DATA ACCESS SECURITY, DATA STORAGE ENCRYPTION, DATA TRANSMISSION ENCRYPTION, SECURITY INSPECTIONS, AND AUDITS. CONTRACTOR SHALL BE A "THIRD-PARTY SERVICE PROVIDER" AS DEFINED IN §24-73-103(1)(I), C.R.S. AND SHALL MAINTAIN SECURITY PROCEDURES AND PRACTICES CONSISTENT WITH §§24-73-101 ET SEQ., C.R.S. IN ADDITION, AS SET FORTH IN § 24-74-102, ET. SEQ., C.R.S., CONTRACTOR, INCLUDING, BUT NOT

LIMITED TO, CONTRACTOR'S EMPLOYEES, AGENTS AND SUBCONTRACTORS, AGREES NOT TO SHARE ANY PII WITH ANY THIRD PARTIES FOR THE PURPOSE OF INVESTIGATING FOR, PARTICIPATING IN, COOPERATING WITH, OR ASSISTING WITH FEDERAL IMMIGRATION ENFORCEMENT. IF CONTRACTOR IS GIVEN DIRECT ACCESS TO ANY STATE DATABASES CONTAINING PII, CONTRACTOR SHALL EXECUTE, ON BEHALF OF ITSELF AND ITS EMPLOYEES, THE CERTIFICATION DESCRIBED IN SECTION 21 BELOW ON AN ANNUAL BASIS CONTRACTOR'S DUTY AND OBLIGATION TO CERTIFY AS SET FORTH IN SECTION 21 BELOW SHALL CONTINUE AS LONG AS CONTRACTOR HAS DIRECT ACCESS TO ANY STATE DATABASES CONTAINING PII. IF CONTRACTOR USES ANY SUBCONTRACTORS TO PERFORM SERVICES REQUIRING DIRECT ACCESS TO STATE DATABASES CONTAINING PII, THE CONTRACTOR SHALL REQUIRE SUCH SUBCONTRACTORS TO EXECUTE AND DELIVER THE CERTIFICATION TO THE STATE ON AN ANNUAL BASIS, SO LONG AS THE SUBCONTRACTOR HAS ACCESS TO STATE DATABASES CONTAINING PII.

## **9. CONFLICTS OF INTEREST**

### **A. Actual Conflicts of Interest**

Contractor shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Contractor under this Contract. Such a conflict of interest would arise when a Contractor or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of Contract.

### **B. Apparent Conflicts of Interest**

Contractor acknowledges that, with respect to this Contract, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Contractor shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Contractor's obligations under this Contract.

### **C. Disclosure to the State**

If a conflict or the appearance of a conflict arises, or if Contractor is uncertain whether a conflict or the appearance of a conflict has arisen, Contractor shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Contract.

D. Contractor acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Contractor further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Contract.

## 10. INSURANCE

Contractor shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Contract to the extent that such insurance policies are required as shown on the Signature and Cover Page for this Contract. All insurance policies required by this Contract shall be issued by insurance companies as approved by the State. These insurance requirements shall not be construed as caps or limitations on liability.

### A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Contractor or Subcontractor employees acting within the course and scope of their employment.

### B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any one fire.

### C. Automobile Liability

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

### D. Protected Information

Liability insurance covering all civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and all loss income or extra expense as a result of actual or alleged breach, violation or infringement of a right to privacy, consumer data protection law,

confidentiality or other legal protection for personal information as well as State Confidential Information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.
- iii. Notwithstanding sections D(i) and (ii) above, if Contractor has State Confidential Information for 10 or fewer individuals or revenues of \$250,000 or less, Contractor shall maintain limits of not less than \$50,000.
- iv. Notwithstanding sections D(i) and (ii) above, if Contractor has State Confidential Information for 25 or fewer individuals or revenues of \$500,000 or less, Contractor shall maintain limits of not less than \$100,000.

**E. Professional Liability Insurance**

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

**F. Crime Insurance**

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

**G. Cyber/Network Security and Privacy Liability**

Liability insurance covering civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and any loss of income or extra expense as a result of actual or alleged breach, violation or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.

#### H. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Contractor and Subcontractors.

#### I. Primacy of Coverage

Coverage required of Contractor and each Subcontractor shall be primary and noncontributory over any insurance or self-insurance program carried by Contractor or the State.

#### J. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Contractor and Contractor shall forward such notice to the State in accordance with §15 within seven days of Contractor's receipt of such notice.

#### K. Subrogation Waiver

All insurance policies secured or maintained by Contractor or its Subcontractors in relation to this Contract shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Contractor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

#### L. Public Entities

If Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §§24-10-101, et seq., C.R.S. (the "GIA"), Contractor shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Contractor shall ensure that the Subcontractor maintains at all times during the terms of this Contract, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

#### M. Certificates

Contractor shall provide to the State certificates evidencing Contractor's insurance coverage required in this Contract within seven Business Days following the Effective Date. Contractor shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Contract within seven Business Days following the Effective Date, except that, if Contractor's subcontract is not in effect as of the Effective Date, Contractor shall provide to the State certificates showing Subcontractor insurance coverage required under this Contract within seven Business Days following Contractor's execution of the subcontract. No later than

15 days before the expiration date of Contractor's or any Subcontractor's coverage, Contractor shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by the State, Contractor shall, within seven Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

## **11. BREACH OF CONTRACT**

In the event of a Breach of Contract, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Contract, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Contract to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Contract in whole or in part or institute any other remedy in the Contract in order to protect the public interest of the State; or if Contractor is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Contract in whole or in part or institute any other remedy in this Contract as of the date that the debarment or suspension takes effect.

## **12. REMEDIES**

### **A. State's Remedies**

If Contractor is in breach under any provision of this Contract and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Contract or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

#### **i. Termination for Breach of Contract**

In the event of Contractor's uncured breach, the State may terminate this entire Contract or any part of this Contract. Contractor shall continue performance of this Contract to the extent not terminated, if any.

#### **a. Obligations and Rights**

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Contract's terms. At the request of the State, Contractor shall assign to the State all of Contractor's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable

and necessary action to protect and preserve property in the possession of Contractor but in which the State has an interest. At the State's request, Contractor shall return materials owned by the State in Contractor's possession at the time of any termination. Contractor shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Contractor for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Contractor was not in breach or that Contractor's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Contract had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Contractor shall remain liable to the State for any damages sustained by the State in connection with any breach by Contractor, and the State may withhold payment to Contractor for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Contractor is determined. The State may withhold any amount that may be due Contractor as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

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

b. Withhold Payment

Withhold payment to Contractor until Contractor corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Contractor's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Contractor shall, as approved by the State, (i) secure that right to use such Work for the State and Contractor; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Contractor's Remedies

If the State is in breach of any provision of this Contract and does not cure such breach, Contractor, following the notice and cure period in §11 and the dispute resolution process in §14, shall have all remedies available at law and equity.

**13. STATE'S RIGHT OF REMOVAL**

The State retains the right to demand, at any time, regardless of whether Contractor is in breach, the immediate removal of any of Contractor's employees, agents, or subcontractors from the work whom the State, in its sole discretion, deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Contract is deemed by the State to be contrary to the public interest or the State's best interest.

**14. DISPUTE RESOLUTION**

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Contract which cannot be resolved by the designated Contract representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Contractor for resolution.

B. Resolution of Controversies

If the initial resolution described in §14.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDHS as described in §24-102-202(3), C.R.S. for resolution in accordance with the provisions of §24-106-109, C.R.S., and §§24-109-101.1 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by

the Procurement Official, Contractor's challenge shall be an appeal to the Executive Director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

## **15. NOTICES AND REPRESENTATIVES**

Each individual identified on the Signature and Cover Pages shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth on the Signature and Cover Pages for this Contract or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Signature and Cover Pages for this Contract. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this section without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

## **16. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION**

### **A. Work Product**

#### **i. Copyrights**

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Contractor hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Contractor cannot make any of the assignments required by this section, Contractor hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

## ii. Patents

In addition, Contractor grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Contractor that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

## iii. Assignments and Assistance

Whether or not Contractor is under contract with the State at the time, Contractor shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. To the extent that Work Product would fall under the definition of “works made for hire” under 17 U.S.C.S. §101, the Parties intend the Work Product to be a work made for hire. Contractor assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

### B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Contract, all State Records, documents, text, software, (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and information provided by or on behalf of the State to Contractor are the exclusive property of the State (collectively, “State Materials”). Contractor shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Contractor’s obligations in this Contract without the prior written consent of the State. Upon termination of this Contract for any reason, Contractor shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

### C. Exclusive Property of Contractor

Contractor retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Contractor including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Contractor under the Contract, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, “Contractor Property”). Contractor Property shall be licensed to the State as set forth in this Contract or a State approved license agreement: (i) entered into as exhibits to this Contract; (ii) obtained by the State from the

applicable third-party vendor; or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

## **17. STATEWIDE CONTRACT MANAGEMENT SYSTEM**

If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply. Contractor agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Contractor's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Contract, Colorado statutes governing CMS, and State Fiscal Rules and State Controller Policies.

## **18. GENERAL PROVISIONS**

### **A. Assignment**

Contractor's rights and obligations under this Contract are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Contractor's rights and obligations approved by the State shall be subject to the provisions of this Contract

### **B. Subcontracts**

Unless other restrictions are required elsewhere in this Contract, Contractor shall not enter into any subcontract in connection with its obligations under this Contract without providing notice to the State. The State may reject any such subcontract, and Contractor shall terminate any subcontract that is rejected by the State and shall not allow any Subcontractor to perform any Work after that Subcontractor's subcontract has been rejected by the State. Contractor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Contractor in connection with this Contract shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Contract.

### **C. Binding Effect**

Except as otherwise provided in §18.A., all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

### **D. Authority**

Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party's obligations have been duly authorized.

#### E. Captions and References

The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

#### F. Counterparts

This Contract may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

#### G. Entire Understanding

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

#### H. Digital Signatures

If any signatory signs this Contract using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

#### I. Modification

Except as otherwise provided in this Contract, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

#### J. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Contract to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Contract.

#### K. Order of Precedence

In the event of a conflict or inconsistency between this Contract and any Exhibits or attachments such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. HIPAA Business Associate Agreement (if any).
- ii. Federal Provisions (if any).
- iii. Colorado Special Provisions in §19 of the main body of this Contract.
- iv. Information Technology Provisions Exhibit (if any).
- v. The provisions of the other sections of the main body of this Contract.
- vi. PII Certification (if any)
- viii. Any other Exhibit(s) shall take precedence in alphabetical order.

#### L. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Contractor's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Contract.

#### M. Severability

The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of the Contract.

#### N. Survival of Certain Contract Terms

Any provision of this Contract that imposes an obligation on a Party after termination or expiration of the Contract shall survive the termination or expiration of the Contract and shall be enforceable by the other Party.

#### O. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq. C.R.S.

(Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Contractor. Contractor shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Contractor may wish to have in place in connection with this Contract.

**P. Third Party Beneficiaries**

Except for the Parties' respective successors and assigns described in §18.A., this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to the Contract, and do not create any rights for such third parties.

**Q. Waiver**

A Party's failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

**R. CORA Disclosure**

To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

**S. Standard and Manner of Performance**

Contractor shall perform its obligations under this Contract in accordance with the highest standards of care, skill and diligence in Contractor's industry, trade, or profession.

**T. Licenses, Permits, and Other Authorizations.**

Contractor shall secure, prior to the Effective Date, and maintain at all times during the term of this Contract, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Contract, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all licenses, certifications, permits and other authorizations required to perform their obligations in relation to this Contract.

U. Indemnification

i. Applicability

This entire §18.U does not apply to Contractor if Contractor is a “public entity” within the meaning of the GIA.

ii. General Indemnification

Contractor shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees in connection with this Contract.

iii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Contractor in violation of §8 may be cause for legal action by third parties against Contractor, the State, or their respective agents. Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys’ fees and costs) incurred by the State in relation to any act or omission by Contractor, or its employees, agents, assigns, or Subcontractors in violation of §8.

iv. Intellectual Property Indemnification

Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys’ fees and costs) incurred by the Indemnified Parties in relation to any claim that any Deliverable, Good or Service, software, or Work Product provided by Contractor under this Contract (collectively, “IP Deliverables”), or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. Contractor’s obligations hereunder shall not extend to the combination of any IP Deliverables provided by Contractor with any other product, system, or method, unless the other product, system, or method is **(a)** provided by Contractor or Contractor’s subsidiaries or affiliates; **(b)** specified by Contractor to work with the IP Deliverables; **(c)** reasonably required in order to use the IP Deliverables in its intended manner and the infringement could not have been avoided by substituting another reasonably available product, system, or method capable of performing the same function; or **(d)** is reasonably expected to be used in combination with the IP Deliverables.

V. Accessibility

- i. Contractor shall comply with and the Work Product provided under this Contract shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*,

C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established by the Governor’s Office Of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Contractor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

- ii. Contractor shall indemnify, save, and hold harmless the state, its employees, agents and assignees (collectively, the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to Contractor’s failure to comply with §§24-85-101, *et seq.*, C.R.S., or the *Accessibility Standards for Individuals with a Disability* as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.
- iii. The State may require Contractor’s compliance to the State’s Accessibility Standards to be determined by a third party selected by the State to attest to Contractor’s Work Product and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established by the Office of Information Technology pursuant to Section §24-85-103 (2.5), C.R.S.

W. Other

- i. Compliance with State and Federal Law, Regulations, & Executive Orders

Contractor shall comply with all State and, if Federal funding is involved, Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Contract.

**19. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)**

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), C.R.S., then this Contract shall not be valid until it has been approved by the State’s Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

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

### C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

### D. INDEPENDENT CONTRACTOR.

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

### E. COMPLIANCE WITH LAW.

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

### F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

#### G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109, C.R.S.

#### H. SOFTWARE PIRACY PROHIBITION.

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

#### I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

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

#### J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, et seq., C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements

between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

## **20. DEPARTMENT OF HUMAN SERVICES PROVISIONS**

### **A. Exclusion, Debarment and/or Suspension**

Contractor represents and warrants that Contractor, its employees, agents, assigns, or Subcontractors, are not presently excluded from participation, debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or otherwise ineligible to participate in a “federal health care program” as defined in 42 U.S.C. § 1320a-7b(f) or in any other government payment program by any federal or State of Colorado department or agency. If Contractor, its employees, agents, assigns, or Subcontractors, are excluded from participation, or becomes otherwise ineligible to participate in any such program during the term of this Contract, Contractor shall notify the State in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to Contractor, the State may immediately terminate this Contract.

### **B. Emergency Planning**

If Contractor provides Work that is an extension of State work performed as part of the State of Colorado Emergency Operations Plan or for a publicly funded safety net program, as defined by C.R.S. § 24-33.5-701 et seq., Contractor shall perform the Work in accordance with the State’s Emergency Operations Plan or continuity of operations plan in the event of an emergency. If requested, Contractor shall provide a plan and reporting information to ensure compliance with the State’s Emergency Operations Plan and C.R.S. § 24-33.5-701 et seq.

### **C. Restrictions on Public Benefits**

If applicable, Contractor shall comply with C.R.S. §§ 24-76.5-101 – 103 exactly as the State is required to comply with C.R.S. §§ 24-76.5-101 – 103.

### **D. Discrimination**

Contractor shall not:

- i. discriminate against any person on the basis of gender, race, ethnicity, religion, national origin, age, sexual orientation, gender identity, citizenship status, education, disability, socio-economic status, or any other identity.
- ii. exclude from participation in, or deny benefits to any qualified individual with a disability, by reason of such disability.

Any person who thinks he/she has been discriminated against as related to the performance of this Contract has the right to assert a claim, Colorado Civil Rights Division, C.R.S. §24-34-301, et seq.

**E. Criminal Background Check**

Pursuant to C.R.S. §27-90-111 and CDHS Policy VI-2.4, any independent contractor, and its agent(s), who is designated by the Executive Director or the Executive Director's designee to be a contracting employee under C.R.S. §27-90-111, who has direct contact with vulnerable persons in a state-operated facility, or who provides state-funded services that involve direct contact with vulnerable persons in the vulnerable person's home or residence, shall:

- i. submit to and successfully pass a criminal background check, and
- ii. report any arrests, charges, or summonses for any disqualifying offense as specified by C.R.S. §27-90-111 to the State.

Any Contractor or its agent(s), who does not comply with C.R.S. §27-90-111 and CDHS Policy VI-2.4, may, at the sole discretion of the State, be suspended or terminated.

**F. Fraud Policy**

Contractor shall comply with the current CDHS Fraud Policy.

**G. C-Stat - Performance Based Program Analysis and Management Strategy (C-Stat Strategy)**

Without any additional cost to the State, Contractor shall collect and maintain Contract performance data, as determined solely by the State. Upon request, Contractor shall provide the Contract performance data to the State. This provision does not allow the State to impose unilateral changes to performance requirements.

**H. COVID-19 Pandemic**

CDHS operates many facilities across the State and with regard to the COVID-19 Pandemic, Contractor may be subject to local or state public health orders, Department policy, individual facility policy, or any other requirement that could impose additional requirements on the Contractor. If so, Contractor shall promptly comply upon notice.

**21. THIRD PARTY CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK**

Pursuant to § 24-74-105, C.R.S, if Contractor is to be granted access to Personal Identifying Information through a database or automated network that is not publicly available information, Contractor certifies, and will certify annually, under penalty of perjury that Contractor has not and

will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

If Contractor’s agents, employees, assigns or Subcontractors require certification pursuant to § 24-74-105, C.R.S., Contractor shall require annually that its agents, employees, assigns or Subcontractors sign and date the following certifications as applicable, which shall be made available to the State upon request:

**For an individual:** *Pursuant to § 24-74-105, C.R.S., I hereby certify under the penalty of perjury that I have not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.*

**For and entity/organization:** *Pursuant to § 24-74-105, C.R.S., I, \_\_\_\_\_, on behalf of \_\_\_\_\_ (legal name of entity / organization) (the “Organization”), hereby certify under the penalty of perjury that the Organization has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.*

*I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Organization.*

REST OF PAGE INTENTIONALLY LEFT BLANK



**SAMPLE OPTION LETTER (IF APPLICABLE)**

<b>State Agency</b> Insert Department's or IHE's Full Legal Name	<b>Option Letter Number</b> Insert the Option Number (e.g. "1" for the first option)
<b>Contractor</b> Insert Contractor's Full Legal Name, including "Inc.", "LLC", etc...	<b>Original Contract Number</b> Insert CMS number or Other Contract Number of the Original Contract
<b>Current Contract Maximum Amount</b>	<b>Option Contract Number</b> Insert CMS number or Other Contract Number of this Option
Initial Term State Fiscal Year 20xx \$0.00	<b>Contract Performance Beginning Date</b> Month Day, Year
Extension Terms State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00	
Total for All State Fiscal Years \$0.00	<b>Current Contract Expiration Date</b> Month Day, Year

**1. OPTIONS:**

- A. Option to extend for an Extension Term
- B. Option to change the quantity of Goods under the Contract
- C. Option to change the quantity of Services under the Contract
- D. Option to modify Contract rates
- E. Option to initiate next phase of the Contract

**2. REQUIRED PROVISIONS:**

**A. For use with Option 1(A):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current contract expiration date shown above, at the rates stated in the Original Contract, as amended.

**B. For use with Options 1(B and C):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to Increase/Decrease the quantity of the Goods/Services or both at the rates stated in the Original Contract, as amended.

**C. For use with Option 1(D):** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to modify the Contract rates specified in Exhibit/Section Number/Letter. The Contract rates attached to this Option Letter replace the rates in the Original Contract as of the Option Effective Date of this Option Letter.

**D. For use with Option 1E:** In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc, which shall begin on Insert start date and end on Insert ending date at the cost/price specified in Section Number.

**E. For use with all Options that modify the Contract Maximum Amount:** The Contract Maximum Amount table on the Contract's Signature and Cover Page is hereby deleted and replaced with the Current Contract Maximum Amount table shown above.

**3. Option Effective Date:**

The effective date of this Option Letter is upon approval of the State Controller or \_\_\_\_\_, whichever is later.

<p><b>STATE OF COLORADO</b>                  INSERT-Name of Agency or IHE                  INSERT-Name &amp; Title of Head of Agency or IHE</p> <p><u>SAMPLE ONLY – DO NOT SIGN</u>                  By: Name &amp; Title of Person Signing for Agency or IHE</p> <p>Date: <u>SAMPLE ONLY – DO NOT SIGN</u></p>	<p>In accordance with §24-30-202 C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p><b>STATE CONTROLLER</b></p> <p><u>SAMPLE ONLY – DO NOT SIGN</u>                  Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval</p> <p>Option Effective Date: <u>SAMPLE ONLY – DO NOT SIGN</u></p>
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**Exhibit A - Statement of Work  
Children, Youth, and Family Behavioral Health Services  
Grants**

**Article 1  
Purpose and Target Population**

**1.1 Purpose**

In accordance with 27-60-502, C.R.S., the Behavioral Health Administration (BHA) awards grants to local governments, community-based organizations, federally-recognized Indian tribes, local collaborative management programs, local juvenile services planning committees, and nonprofit organizations for programs and services along the behavioral health care continuum in areas of highest need and to address gaps in services, including children-oriented, youth-oriented, and family-oriented behavioral health care services. The purpose of the grant program is to expand or implement services that have been identified as gaps in Child, Youth, and Family (CYF)-oriented behavioral health care and to improve outcomes for individuals served.

**1.2 Target Population**

The target population includes persons eighteen (18) years of age or younger and their families and persons twenty-one (21) years of age or younger who are receiving special education services and their families pursuant to Part 1 of Article 20 of Title 22 s who have behavioral health problems, including parent-child dyads, with acute, complex, and/or severe conditions and needs.

**Article 2  
Definitions and Acronyms**

**Administrative Services Organizations (ASO)** are organizations contracted by the Behavioral Health Administration to administer and manage regional behavioral health crisis services.

**Behavioral Health Administration (BHA)** means the Behavioral Health Administration established in section 27-60-203.

**Behavioral Health Administrative Services Region** means a Behavioral Health Administrative Services Region designated by the BHA Commissioner after consultation with the Department of Health Care Policy and Financing and consideration of the regional structure that serves the Medicaid population.

**Behavioral Health-Care Services Assessment Tool** means the assessment tool described in section 27-60-502 (1)(c) developed by the BHA to identify regional gaps in behavioral health-care services.

**Care Access Point** means a location at which a person seeking behavioral health care can receive care coordination.

**Community-Based Organization** means a nonprofit or for-profit organization that provides behavioral health-care services.

**Grant Program** means the community behavioral health-care continuum gap grant program established in C.R.S 27-60-502.

**Local Education Provider** means a school district, a charter school authorized pursuant to part 1 of article 30.5 of Title 22, and Institute charter school authorized pursuant to part 5 of Article 30.5 of title 22, or a Board of Cooperative Services as defined in C.R.S. 22-5-103.

**Local Government** means a county, municipality, city and county, or local education provider.

**Managed Services Organizations (MSO)** are organizations designated and contracted by the Behavioral Health Administration to administer and manage a full continuum of SUD prevention, intervention, treatment, recovery, and harm reduction services on a regional basis.

**Nonprofit Organization** means an organization that is exempt from taxation under Section 501 (c)(3) of the federal "Internal Revenue Code of 1986, as amended.

**Regional Accountability Entity (RAE)** are organizations in Health First Colorado, Colorado's Medicaid program. They are responsible for coordinating members' care, ensuring they are connected with primary and behavioral health care, and developing regional strategies to serve Colorado Medicaid members.

Statement of Work (**SOW**)

State Court Administrator's Office (**SCAO**)

### **Article 3 Objectives of Grant**

3.1 The Contractor shall provide one or more of the following services related to the following grant objectives outlined below.

- a. To expand Child, Youth, and Family (CYF) oriented behavioral health care services.
- b. To address identified local behavioral health needs; to establish care access points in each behavioral health administrative services region.
- c. To provide care navigation and coordination services.
- d. To expand evidence-based or evidence-informed behavioral health treatment, including substance use disorder treatment;

- e. To provide intensive outpatient services, including high-fidelity wraparound, youth mobile response, and expanded caregiver interventions.
- f. And to fund capital expenditures related to providing the above treatment services.

#### **Article 4 Roles & Responsibilities**

4.1 The Grant Application submitted in the RFA shall also serve as a work plan to be used with this SOW and followed upon execution of the contract to monitor the grant project performance. The activities and services identified in the Grant Application/ work plan are incorporated into this Contract by reference.

4.2 Contractor will be expected to have the capacity to operationalize the State's contract at signing and implement delivery of services within sixty (60) days of contract execution and to spend or obligate any grant money by December 31, 2024.

4.3 Contractor shall maintain clear communication with regards to progress on the submitted Grant Application Template Work Plan.

4.4 Contractor shall work with providers to identify ongoing payer sources for these services, to include Medicaid, Medicare, Third-party insurance, etc.

4.5 Contractor shall ensure that any program funded by the grant must comply with the federal "Americans with Disabilities Act of 1990" and serve individuals with a disability, regardless of primary diagnosis, co-occurring conditions, if the individual requires assistance with activities of daily living.

4.6 Contractor shall use the [CLAS Standards](https://thinkculturalhealth.hhs.gov/) (<https://thinkculturalhealth.hhs.gov/>) to help the organization and programs take into account cultural health beliefs, preferred languages, health literacy levels, and communication needs.

4.7 Services shall be provided in English and Spanish.

#### **4.8 Period of Performance**

- a. Overall, Grant deadline to expend all funds December 30, 2024. However, renewal of contract is subject to approval by the Program Manager for each state fiscal year as funding allows and compliance to contract performance.
- b. State fiscal years end June 30. New fiscal years begin July 1 in which a new contract will be issued (as funding and contract compliance allow) under guidance and direction of the Program Manager.

4.9 Grant recipients may use no more than 10% of grant funding for administrative costs, per HB 22-1281 (27-60-502, C.R.S.).

**Article 5**  
**Reporting, Deliverables, & Due Dates**

5.1 Contractor shall measure the metrics identified in the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) Subrecipient Quarterly Report Workbook, as may be amended, per the terms of Exhibit F, SLFRF Subrecipient Provisions Exhibit.

5.2 Contractor shall provide any other narrative or reporting required by Exhibit F, SLFRF Subrecipient Provisions Exhibit, as may be amended.

**5.3 Criteria for Acceptance of Deliverables**

- a. The BHA will review the Contractor's deliverables in accordance with all specifications stated in this SOW and the Grant Application work plan. Deliverables and overall performance will be monitored, tracked, inspected and accepted or rejected by the Program Manager and designated State personnel.
- b. The acceptance of deliverables and satisfactory work performance required herein shall be based on the timeliness, accuracy, and standards as specified in the requirements of this statement of work and the Grant Application work plan.
- c. Invoice payment is contingent upon timely receipt and approval of required program and fiscal deliverables. Missed or incomplete deliverables will result in an immediate withhold of payment until deliverables are submitted and accepted by the program.

5.4 When submitting reports please briefly describe the metrics you are using for the Reports and Deliverables to demonstrate the impact of your grant on the populations you serve. This may include the specific data points, tools, process, and frequency with which data will be collected and reported.

## 5.5 Deliverables Table

<i>Deadline</i>	<i>Activity</i>
30 days after the end of the grant term	<p><b>Submit Final Grant Report to include the following:</b></p> <ul style="list-style-type: none"> <li>(a) Information about the use of the grant award, including the services provided with a grant award and where those services were provided.</li> <li>(b) The amount of contributing funds or in-kind contributing resources that supported the services.</li> <li>(c) Aggregated demographic information of the individuals who receive services funded with a grant award.</li> <li>(d) Whether the recipient is continuing to provide the services, and any other information requested by the State Department.</li> </ul>
60 days prior to contract renewal or end date	<p><b>Submit Annual Report to include the following:</b></p> <ul style="list-style-type: none"> <li>(a) Description of Activities performed under grant to include current practices, development and implementation of work plan scope, accountability to work plan, certifications, or commitments regarding follow-up support.</li> <li>(b) Existing capacity to serve.</li> <li>(c) Recommendations to increase access to, and coordination of services.</li> <li>(d) Services denied or refused and justification.</li> <li>(e) Timely access to services.</li> </ul>
60 days after the end of each quarter	<p><b>Submit Accountability Plan to include the following:</b></p> <ul style="list-style-type: none"> <li>(a) Description of grant goals presented in Grant Application to cover all major services provided, deliverables, procedures for monitoring accountability.</li> <li>(b) Description of how funds are being used and providing value to community through State and Federal grant requirements.</li> <li>(c) Description of methods used for identifying and preventing issues with the quality of services provided through this grant.</li> <li>(d) Corrective actions taken, or to be implemented when goals are not being met.</li> <li>(e) Describe records to be kept to document accountability plan and actions taken.</li> </ul>

<p>60 days after the end of each quarter</p>	<p><b>Submit ARPA Output and Outcomes Report to include the following:</b></p> <ul style="list-style-type: none"> <li>(a) Capacity increase supported by this funding will be measured by the number of new CYF-oriented BH programs created and/or the expansion of current CYF-oriented BH programs. Contractors shall report the number of beds created or expanded, and existing providers shall report baseline numbers of existing beds.</li> <li>(b) Improved access to care supported by this funding will be measured by the number of unduplicated clients served and the number of services delivered. Contractors shall report quarterly the number of unduplicated clients served and the number of services provided. Existing providers shall report baseline numbers of unduplicated clients served and services provided.</li> <li>(c) For capital expenditures greater than \$1 million ONLY - Provide justification and provide progress of capital expenditure.</li> </ul>
<p>60 days after the end of each quarter</p>	<p><b>Submit Program Report to include the following:</b></p> <ul style="list-style-type: none"> <li>(a) Information about the use of a grant award and where those services were provided.</li> <li>(b) The amount of contributing funds or in-kind contributing resources that support the services.</li> <li>(c) Aggregated demographic information of the individuals who received services funded with a grant award.</li> <li>(d) Whether the recipient is continuing to provide the services.</li> </ul>
<p style="text-align: center;"><b>Method of Report Delivery (emailed to <a href="mailto:cdhs_BHAdeliverables@state.co.us">cdhs_BHAdeliverables@state.co.us</a>)</b></p>	

*\*Deadlines occurring after June 30, 2023, are contingent upon contract renewal.*

**Article 6  
Capital Project Requirements**

6.1 If making capital purchases, the Contractor shall track and be able to identify grant-purchased capital assets separate from their own non-grant related capital assets. The Contractor is required to contact and confirm with the BHA in any circumstance where they intend to dispose of the asset(s).

- a. Contractor may obtain, or renovate a facility to house the programming, or purchase capital assets under this grant if included in the approved budget.
- b. For capital projects or investments exceeding \$50,000, Contractor shall draft a capital investment work plan and detailed budget for the expansion or renovation project

identifying timelines, necessary zoning, licensing, fire safety, and budgetary execution milestones due 30 calendar days after contract / amendment execution initiating this work by email to [cdhs\\_BHAdeliverables@state.co.us](mailto:cdhs_BHAdeliverables@state.co.us).

- c. Contractor shall coordinate monthly progress calls with the BHA Program Manager regarding the project management timeline and any barriers to completing the project on-time.
- d. Contractor shall notify BHA Program Manager when the capital project is delayed from the agreed upon project work plan. Contractor must receive approval for initiating next steps with a delayed project work plan. Contract must also revise and receive approval for the work plan to accommodate the change in schedule.
- e. Contractor agrees to allow BHA to conduct site visits as necessary.
- f. At the end of each state fiscal year, and at final closeout, the contractor shall provide a property inventory report, in a format provided by BHA, within 30 days by email to [cdhs\\_BHAdeliverables@state.co.us](mailto:cdhs_BHAdeliverables@state.co.us).
- g. Contractor shall provide proof of acceptance and/or operability of the capital investment prior to receipt of final payment for capital item.
- h. During the period of performance, a subrecipient may use property, supplies, or equipment purchased with SLFRF for a purpose other than the purpose for which it was purchased or improved if such other purpose is also consistent with the eligible use requirements.
- i. If a recipient changes the use of an asset to an ineligible use or sells the asset prior to the end of the period of performance, then the recipient must follow the disposition procedures in the Uniform Guidance. See 2 CFR 200.311, 200.313, 200.314, and 200.315.
- j. After the period of performance, the property, supplies, or equipment must be used consistent with the purpose for which it was purchased or for any other eligible purpose in the same category.
- k. If an asset's use shifts within the parameters of the eligible purpose, according to the U.S. Department of Treasury, after the period of performance, no repayment would be required.
- l. If an asset's use shifts outside the parameters of the eligible purpose, according to the U.S. Department of Treasury after the period of performance, then the subrecipient must follow the disposition procedures in the Uniform Guidance. See 2 CFR 200.311, 200.313, 200.314, and 200.315. Contact BHA Fiscal officials for disposition instructions for items with a per unit fair market value of \$5,000 or more at time of disposition.
- m. Recipients are responsible for being able to substantiate their determinations on whether the use of an asset is authorized and maintain a record of that determination in accordance with the requirements set forth in the financial assistance agreement accepted in connection with their award. Subrecipients are not required to seek or obtain the approval of Treasury prior to changing the use within the parameters of the authorized purpose.
- n. The Contractor shall maintain property records for the duration of the award and at minimum three (3) years after final report which at a minimum include:
  - i. a description of the property
  - ii. a serial number or other identification number
  - iii. the source of funding for the property (including the FAIN)

- iv. who holds title
- v. the acquisition date(s)
- vi. cost of the property
- vii. percentage of Federal participation in the project costs for the Federal award under which the property was acquired.
- viii. the location, use and condition of the property.
- ix. Any ultimate disposition data including the date of disposal and sale price of the property.



**COLORADO**  
Behavioral Health  
Administration

**EXHIBIT B, FY24 ANNUAL BUDGET**

Capacity Budget Template						
<b>BHA Program</b>	Children, Youth, Family Services Grants, HB22-1281					
Contact Information						
<b>Agency Name</b>	Gunnison County			<b>Program Contact Name, Title</b>	Margaret Wacker, Community Health Manager	
			<b>Phone</b>	970-641-7913		
			<b>Email</b>	mwacker@gunnisoncounty.org		
<b>Budget Period</b>	07/01/2023 - 06/30/2024			<b>Fiscal Contract Name, Title</b>	Jody Wise, Accountant	
			<b>Phone</b>	970-641-7679		
			<b>Email</b>	jwise@gunnisoncounty.org		
<b>Project Name</b>	Gunnison County Child, Youth, and Family Behavioral Health Project			<b>Date Completed</b>	6/9/2023	

All budget numbers are estimates. Contract billing will be on a cost reimbursement basis for actual expenses incurred.

EXPENDITURE CATEGORIES					
Personnel Services: Salary/Benefits					Annual Budget
Position Title	Description of Work	Gross or Annual Salary	Fringe	Percent of Time on Project	Total Amount Requested from BHA
					\$ -
Personnel Services-Hourly Employees					Annual Budget
Position Title	Description of Work	Hourly Wage	Hourly Fringe	Hours on Project	Total Amount Requested from BHA
Community Health Manager	Provides staff supervision, initiates contracts, and overall grant management.	\$ 48.00	\$15.00	208.00	\$ 13,104.00
Health Navigator - Bilingual	Provides navigation services for whole person health.	\$ 27.00	\$4.00	1040.00	\$ 32,236.15
Family Navigator	Provides navigation services for whole person health.	\$ 27.81	\$4.92	520.00	\$ 17,019.60
Navigator Network Coordinator	Coordinates network of local health navigators to increase access of services.	\$ 26.47	\$8.00	520.00	\$ 17,924.92
Parents As Teachers Coordinator	Coordinates and provides PAT services.	\$ 26.47	\$13.00	520.00	\$ 20,524.92
Parents As Teachers Bilingual Facilitator	Provides bilingual PAT services.	\$ 26.00	\$3.65	520.00	\$ 15,418.00
					\$ -
<b>Total Personnel Services (including fringe benefits)</b>					<b>\$ 116,227.59</b>
Client Costs					Annual Budget
Item	Description of Item	Rate	Quantity	Requested from BHA	
				\$ -	
<b>Total Client Costs</b>					<b>\$ -</b>

Contract/Consultants Services (Subawards & Subcontracts)				Annual Budget
Name	Description of Work	Rate	Quantity	Requested from BHA
TBD	Psycho-education sessions for adolescents and families.	\$ 80.00	80	\$ 6,400.00
Crested Butte State of Mind	Navigation and Counseling Services	\$ 170.00	100	\$ 17,000.00
Gunnison RE1J School District	Newcomer Navigation Services	\$ 4,800.00	12	\$ 57,600.00
				\$ -
<b>Total Contract Services</b>				<b>\$ 81,000.00</b>
Occupancy				Annual Budget
Item	Description of Item	Rate	Quantity	Requested from BHA
				\$ -
<b>Total Occupancy</b>				<b>\$ -</b>
Operating				Annual Budget
Item	Description of Item	Rate	Quantity	Requested from
Computer and Phone Costs	Computer/IT costs for 1.5FTE is \$375/month, phone costs are \$150/month.	\$ 525.00	12	\$ 6,300.00
Meeting Costs	\$150/meeting for Network Meetings and Training Meetings	\$ 150.00	15	\$ 2,250.00
				\$ -
<b>Total Operating</b>				<b>\$ 8,550.00</b>
Depreciation/Amortization				Annual Budget
Item	Description of Item			Total Amount Requested from BHA
<b>Total Depreciation/Amortization</b>				<b>\$ -</b>
Professional Fees				Annual Budget
Item	Description of Item	Rate	Quantity	Total Amount Requested from BHA
				\$ -
<b>Total Professional Fees</b>				<b>\$ -</b>
Capital Costs				Annual Budget
Item	Description of Item	Rate	Quantity	Total Amount Requested from BHA
Renovations	Renovations at Gunnison County Family Serving buildings to increase	\$ 2,500.00	10	\$ 25,000.00
				\$ -
<b>Total Capital Costs</b>				<b>\$ 25,000.00</b>
<b>TOTAL DIRECT COSTS (TDC)</b>				<b>\$ 230,777.59</b>
Exclusions from Indirect Cost Base expenses per OMB 2CFR § 200				Annual Budget
			Subaward in excess of \$25,000	\$ 32,000.00
			Rent	\$ -
			Equipment (over \$5000)	\$ -
			Other Unallowable Expenses (not allowed a direct cost) such as land, real estate purchase, etc.	\$ 25,000.00
<b>Total Expenses per OMB 2CFR § 200</b>				<b>\$ 57,000.00</b>
<b>MODIFIED TOTAL DIRECT COSTS (MTDC)</b>				<b>\$ 173,777.59</b>
Indirect Costs				Annual Budget
Item	Description of Item			Requested from BHA
Indirect Costs	10% Indirect Rate for Gunnison County	10%		\$ 17,377.76
<b>Total Indirect</b>				<b>\$ 17,377.76</b>

<b>Grand Total Expenses</b>	<b>\$ 248,155.00</b>
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<b>Match Requirement Chart: Size of Organization &amp; Award amount</b>		
Match Requirement	Organization Annual Budget Size	Requirement on grant award
large org.	\$20,000,000 or more	5%
small	less than \$20,000,000	2.5%
Award of \$50,000 or less	any size	0%

SELECT YOUR MATCH AMOUNT
5.0%

**MATCH AMOUNT REQUIRED \$ 12,407.75**

**Match Amount Required must be listed below in Revenue Offset and/ or Matching Funds**

Revenue Offset	Annual Budget
<b>Client Services</b>	
Medicaid Fee for Service Cash	\$ -
Medicaid Capitation Encounters	\$ -
<i>valued at the Cost Per Unit of Service per unit Cost Report of Negotiated Rates received from Regional Accountable</i>	\$ -
BHA Indigent Encounters**	\$ -
3rd Party Insurance Cash Receipts	\$ -
Medicare Cash	\$ -
Self-Pay/Client Fees	\$ -
Cash from other Sources: (Specify below)	\$ -
	\$ -
	\$ -
<b>Total Client Services</b>	<b>\$ -</b>

*\*The rate that your entity is receiving must be used to offset costs in this area*

*\*\*Encounters valued using the current year's fee for services schedule issued by BHA and not to exceed contract amount*

<b>Matching Funds</b>	
<b>Contracts and Grants</b>	
Non-Governmental Contracts	\$ -
Other State Revenue/Accrual	\$ -
Federal Grant Funds/Accrual	
Local Funds/Accrual	\$ -
Private Grant Funds/Accrual	
Public Support	\$ -
Private Support	\$ -
In-Kind Donations	\$ 15,669.00
	\$ -
Other Funds (Specify below)	\$ -
	\$ -
	\$ -
<b>Total Contracts and Grants</b>	<b>\$ 15,669.00</b>
<b>Grand Total Revenue Offset</b>	<b>\$ 15,669.00</b>

**Net Cost \$ 232,486.00**

The Parties may mutually agree, in writing, to modify the Budget administratively using an BHA Budget Reallocation form

## **Exhibit C**

### **Miscellaneous Provisions**

#### **I. General Provisions and Requirements**

##### **A. Finance and Data Protocols**

The Contractor shall comply with the Behavioral Health Administration's (BHA) most current Finance and Data Protocols and the Behavioral Health Accounting and Auditing Guidelines, made a part of this Contract by reference.

##### **B. Marketing and Communications**

The Contractor shall comply with the following marketing and communications requirements:

1. Reports or Evaluations. All reports or evaluations funded by BHA must be reviewed by BHA staff, including program, data, and communications, over a period of no fewer than 15 business days. The Contractor may be asked to place a report or evaluation on a BHA template and the report or evaluation is required to display the BHA logo. The Contractor shall submit the finished document to BHA in its final format and as an editable Word or Google document.
2. Press Releases. All press releases about work funded by BHA must note that the work is funded by the Colorado Department of Human Services, Behavioral Health Administration. Press releases about work funded by BHA must be reviewed by BHA program and communications staff over a period of no fewer than five business days.
3. Marketing Materials. Contractor shall include the current Colorado Department of Human Services, Behavioral Health Administration logo on any marketing materials, such as brochures or fact sheets, that advertise programs funded by this Contract. Marketing materials must be approved by the Contract's assigned BHA program contract over a period of no fewer than 5 business days.
4. All Other Documents. All other documents published by the Contractor about its BHA-funded work, including presentations or website content, should mention the Colorado Department of Human Services, Behavioral Health Administration as a funder.
5. Opinion of BHA. BHA may require the Contractor to add language to documents that mention BHA reading: "The views, opinions and content expressed do not necessarily reflect the views, opinions or policies of the Colorado Department of Human Services, Behavioral Health Administration."

##### **C. Start-up Costs**

If the State reimburses the Contractor for any start-up costs and the Contractor closes the program or facility within three years of receipt of the start-up costs, the Contractor shall reimburse the State for said start-up costs within sixty (60) days of the closure. The Contractor is not required to reimburse the State for start-up costs if the facility or program closure is due to BHA eliminating funding to that specific program and/or budget line item.

D. Immediate Notification of Closures / Reductions in Force

If the Contractor intends to close a facility or program, it shall notify the BHA Contracts Unit at least five business days prior to the closure. Similarly, if the Contractor, or any sub-contractor provider, intends to conduct a reduction in force which affects a program funded through this contract, the Contractor shall notify the BHA Contracts Unit at least five business days prior to the layoffs.

E. Licensing and Designation Database Electronic Record System (LADDERS)

The Contractor shall use LADDERS (<http://www.colorado.gov/ladders>) as needed and/or as required by rule to submit applications for BHA licensing and designation, keep current all provider directory details, and submit policies and procedures.

F. Contract Contact Procedure

The Contractor shall submit all requests for BHA interpretation of this Contract or for amendments to this Contract to the BHA Contract Manager.

G. The Contractor shall comply with all the provisions and requirements of RFP 2023\*171.

H. Continuity of Operations Plan

1. In the event of an emergency resulting in a disruption of normal activities, BHA may request that Contractor provide a plan describing how Contractor will ensure the execution of essential functions of the Contract, to the extent possible under the circumstances of the inciting emergency (“Continuity of Operations Plan” or “Plan”).
2. The Continuity of Operations Plan must be specific and responsive to the circumstances of the identified emergency.
3. BHA will provide formal notification of receipt of the Continuity of Operations Plan to the Contractor.
4. The Continuity of Operations Plan will not impact or change the budget or any other provisions of the contract, and Contractor's performance will be held to the same standards and requirements as the original Contract terms, unless otherwise specified in the Continuity of Operations Plan.
5. Any submitted Continuity of Operations Plan will be ratified as an amendment to the contract as soon as possible.
6. Contractor shall communicate, in a format mutually agreed upon by BHA and Contractor staff, on a frequency that supports the monitoring of services under the Continuity of Operations Plan. If adjustments are needed to the Plan, such adjustments will be made in writing and accompanied by written notice of receipt from BHA.
  - a. As part of the BHA/Contractor communication during the emergency, Contractor and BHA will evaluate whether the emergency has resolved such

that normal operations may be resumed.

- b. Contractor and BHA will agree in writing when the emergency is sufficiently resolved and agree to a closeout period that is four weeks or less.
- c. BHA will submit notice accepting the termination of the Continuity of Operations Plan to the Contractor as the final action for any qualifying emergency response.

#### I. Cultural Responsiveness in Service Delivery

1. The Behavioral Health Administration expects funding dollars to support equity in access, services provided, and behavioral health outcomes among individuals of all cultures, gender identities, sexual orientations, races, and ethnicities. Accordingly, Contractors should collect and use data to: (1) identify priority populations vulnerable to health disparities encompassing the contractor's entire geographic service area (e.g., racial, ethnic, limited English speaking, indigenous, sexual orientation, gender identity groups, etc.) and (2) implement strategies to decrease the disparities in access, service use, and outcomes—both within those subpopulations and in comparison to the general population.
2. One strategy for addressing health disparities is the use of the recently revised National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care (CLAS). The U.S. Department of Health and Human Services (HHS) Think Cultural Health website (<https://thinkculturalhealth.hhs.gov>) also features information, continuing education opportunities, resources, and more for health and health care professionals to learn about culturally and linguistically appropriate services, or CLAS.
3. Contractors providing direct behavioral health prevention, treatment, or recovery services shall submit one of the following two documents to [cdhs\\_BHAdeliverables@state.co.us](mailto:cdhs_BHAdeliverables@state.co.us) by August 31 annually:
  - a. If a provider has completed an equity plan that identifies how they will address health equity, they can submit the plan or;
  - b. Submit a completed CLAS checklist that follows this HHS format: <https://thinkculturalhealth.hhs.gov/assets/pdfs/AnImplementationChecklistfortheNationalCLASStandards.pdf>

- J. Prohibition on Marijuana. Funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.

**K. Monitoring Requirements**

Contractor shall comply with monitoring requirements indicated by the Contractor's risk level determined by the subrecipient risk assessment form completed by Contractor, which may include but are not limited to:

- Monthly/quarterly monitoring calls
- Invoice supporting documentation - e.g., timesheets, logs of travel, or wraparound service costs.
- Routine programmatic reports
- Technical assistance and training
- Site visits

**II. Use of Subcontracts.**

- A. Services described in this Contract may be performed by Contractor or by a subcontractor, except where this Contract states explicitly that a service must not be subcontracted.
- B. Contractor shall ensure that its subcontractors perform to the terms of this Contract as set forth in the Contract provisions.
- C. Any subcontract for services must include, at a minimum, the following:
1. A description of each partner's participation
  2. Responsibilities to the program (policy and/or operational)
  3. Resources the subcontractor will contribute, reimbursement rates, services to be included and processes in collecting and sharing data and the most recent CDHS version of the HIPAA Business Associates Addendum, if this Contract contains the HIPAA Business Associates Addendum/Qualified Service Organization Addendum as an exhibit.
  4. A copy of this Contract and all its terms and conditions.
- D. The Contractor shall provide to BHA a copy of any proposed subcontract between the Contractor and any potential provider of services to fulfill any requirements of this Contract, to [cdhs\\_BHAdeliverables@state.co.us](mailto:cdhs_BHAdeliverables@state.co.us) within 30 days of subcontract execution.
- E. BHA reserves the right to require Contractor to renegotiate subcontracts where necessary to adhere to the terms of this Contract.
- F. Subcontractor/Partnership Termination. In the event where partnerships with a subcontractor such as a treatment provider is terminated, the Contractor shall transition to a new partnership no later than 30 days from termination to ensure continuity of care for all participants of the program.

### III. Financial Requirements

#### A. Funding Sources

1. The Contractor shall identify all funds delivered to subcontractors as state general fund, state cash funds, or federal grant dollars in **Exhibit B, "Budget."**
2. If a Single Audit is performed in accordance with Section IV.B. above, the Contractor shall report the amount of the federal grant identified in the budget under the CFDA number identified on the first page of this Contract.
3. The Contractor shall communicate the CFDA number to all sub-contractors in their sub-contracts.

#### B. Program Income

Program income generated through grant funded programs are additive funding that must be utilized for a consistent purpose as outlined in 2 CFR 200.307(e)(2). If Contractor charges and receives fees for services, or otherwise receives income associated with the sponsored program, this is considered program income and is required to be tracked and managed in accordance with the conditions of the award.

#### C. Budget Reallocations

1. The Contractor may reallocate funds between the budget categories of this contract, up to 10% of the total contract amount, upon written approval by BHA, without a contract amendment. Any allowable reallocation is still subject to the limitations of the Not to Exceed and the Maximum Amount Available per Fiscal Year.

#### D. Payment Terms

1. The Contractor shall invoice monthly for services, no later than the 20th of the month following when services are provided.
2. The Contractor shall utilize the invoice template(s) provided by BHA. Contractor shall comply with the invoicing instructions contained within the invoice template.
3. All payment requests shall be submitted electronically to [CDHS\\_BHApayment@state.co.us](mailto:CDHS_BHApayment@state.co.us)
4. Any requests for payment received after September 10th for the prior state fiscal year cannot be processed by BHA.
5. The State will make payment on invoices within 45 days of receipt of a correct and complete invoice to [CDHS\\_BHApayment@state.co.us](mailto:CDHS_BHApayment@state.co.us). Consequently, the Contractor must have adequate solvency to pay its expenses up to 45 days after invoice submission to the State.



## EXHIBIT D

### HIPAA BUSINESS ASSOCIATE / 42 PART 2

### QUALIFIED SERVICE ORGANIZATION AGREEMENT

This HIPAA Business Associate/42 Part 2 Qualified Service Organization Agreement (“Agreement”) between the State and Contractor is agreed to in connection with, and as an exhibit to, the Contract. For purposes of this Agreement, the State is referred to as “Covered Entity” and the Contractor is referred to as “Business Associate”. Unless the context clearly requires a distinction between the Contract and this Agreement, all references to “Contract” shall include this Agreement.

#### 1. PURPOSE

Covered Entity wishes to disclose information to Business Associate, which may include Protected Health Information ("PHI"). The Parties intend to protect the privacy and security of the disclosed PHI in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Pub. L. No. 104-191 (1996) as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) enacted under the American Recovery and Reinvestment Act of 2009 (“ARRA”) Pub. L. No. 111-5 (2009), implementing regulations promulgated by the U.S. Department of Health and Human Services at 45 C.F.R. Parts 160, 162 and 164 (the “HIPAA Rules”) and other applicable laws, as amended. Prior to the disclosure of PHI, Covered Entity is required to enter into an agreement with Business Associate containing specific requirements as set forth in, but not limited to, Title 45, Sections 160.103, 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and all other applicable laws and regulations, all as may be amended.

#### 2. DEFINITIONS

The following terms used in this Agreement shall have the same meanings as in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

The following terms used in this Agreement shall have the meanings set forth below:

- a. Business Associate. “Business Associate” shall have the same meaning as the term “business associate” at 45 C.F.R. 160.103 and, and shall refer to Contractor.
- b. Covered Entity. “Covered Entity” shall have the same meaning as the term “covered entity” at 45 C.F.R. 160.103, and shall refer to the State.
- c. Information Technology and Information Security. “Information Technology” and “Information Security” shall have the same meanings as the terms “information technology” and “information security”, respectively, in §24-37.5-102, C.R.S.

Capitalized terms used herein and not otherwise defined herein or in the HIPAA Rules shall have the meanings ascribed to them in the Contract.

### 3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

#### a. Permitted Uses and Disclosures.

- i. Business Associate shall use and disclose PHI only to accomplish Business Associate's obligations under the Contract.
- i. To the extent Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with any and all requirements of Subpart E that apply to Covered Entity in the performance of such obligation.
- ii. Business Associate may disclose PHI to carry out the legal responsibilities of Business Associate, provided, that the disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that:
  - A. the information will remain confidential and will be used or disclosed only as Required by Law or for the purpose for which Business Associate originally disclosed the information to that person, and;
  - B. the person notifies Business Associate of any Breach involving PHI of which it is aware.
- iii. Business Associate may provide Data Aggregation services relating to the Health Care Operations of Covered Entity. Business Associate may de-identify any or all PHI created or received by Business Associate under this Agreement, provided the de-identification conforms to the requirements of the HIPAA Rules.

d. Minimum Necessary. Business Associate, its Subcontractors and agents, shall access, use, and disclose only the minimum amount of PHI necessary to accomplish the objectives of the Contract, in accordance with the Minimum Necessary Requirements of the HIPAA Rules including, but not limited to, 45 C.F.R. 164.502(b) and 164.514(d).

#### e. Impermissible Uses and Disclosures.

- i. Business Associate shall not disclose the PHI of Covered Entity to another covered entity without the written authorization of Covered Entity.
- ii. Business Associate shall not share, use, disclose or make available any Covered Entity PHI in any form via any medium with or to any person or entity beyond the boundaries or jurisdiction of the United States without express written authorization from Covered Entity.

#### f. Business Associate's Subcontractors.

- i. Business Associate shall, in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any Subcontractors who create, receive, maintain, or transmit PHI on behalf of Business Associate agree in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to safeguarding PHI.

- ii. Business Associate shall provide to Covered Entity, on Covered Entity's request, a list of Subcontractors who have entered into any such agreement with Business Associate.
  - iii. Business Associate shall provide to Covered Entity, on Covered Entity's request, copies of any such agreements Business Associate has entered into with Subcontractors.
- g. Access to System. If Business Associate needs access to a Covered Entity Information Technology system to comply with its obligations under the Contract or this Agreement, Business Associate shall request, review, and comply with any and all policies applicable to Covered Entity regarding such system including, but not limited to, any policies promulgated by the Office of Information Technology and available at <https://oit.colorado.gov/standards-policies-guides/technical-standards-policies>.
- h. Access to PHI. Business Associate shall, within ten days of receiving a written request from Covered Entity, make available PHI in a Designated Record Set to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.524.
- i. Amendment of PHI.
  - i. Business Associate shall within ten days of receiving a written request from Covered Entity make any amendment to PHI in a Designated Record Set as directed by or agreed to by Covered Entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.526.
  - ii. Business Associate shall promptly forward to Covered Entity any request for amendment of PHI that Business Associate receives directly from an Individual.
- j. Accounting Rights. Business Associate shall, within ten days of receiving a written request from Covered Entity, maintain and make available to Covered Entity the information necessary for Covered Entity to satisfy its obligations to provide an accounting of Disclosure under 45 C.F.R. 164.528.
- k. Restrictions and Confidential Communications.
  - i. Business Associate shall restrict the Use or Disclosure of an Individual's PHI within ten days of notice from Covered Entity of:
    - A. a restriction on Use or Disclosure of PHI pursuant to 45 C.F.R. 164.522; or
    - B. a request for confidential communication of PHI pursuant to 45 C.F.R. 164.522.
  - ii. Business Associate shall not respond directly to an Individual's requests to restrict the Use or Disclosure of PHI or to send all communication of PHI to an alternate address.
  - iii. Business Associate shall refer such requests to Covered Entity so that Covered Entity can coordinate and prepare a timely response to the requesting Individual and provide direction to Business Associate.
- l. Governmental Access to Records. Business Associate shall make its facilities, internal practices, books, records, and other sources of information, including PHI, available to the Secretary for purposes of determining compliance with the HIPAA Rules in accordance with 45 C.F.R. 160.310.

m. Audit, Inspection and Enforcement.

- i. Business Associate shall obtain and update at least annually a written assessment performed by an independent third party reasonably acceptable to Covered Entity, which evaluates the Information Security of the applications, infrastructure, and processes that interact with the Covered Entity data Business Associate receives, manipulates, stores and distributes. Upon request by Covered Entity, Business Associate shall provide to Covered Entity the executive summary of the assessment.
- ii. Business Associate, upon the request of Covered Entity, shall fully cooperate with Covered Entity's efforts to audit Business Associate's compliance with applicable HIPAA Rules. If, through audit or inspection, Covered Entity determines that Business Associate's conduct would result in violation of the HIPAA Rules or is in violation of the Contract or this Agreement, Business Associate shall promptly remedy any such violation and shall certify completion of its remedy in writing to Covered Entity.

n. Appropriate Safeguards.

- i. Business Associate shall use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of PHI other than as provided in this Agreement.
- ii. Business Associate shall safeguard the PHI from tampering and unauthorized disclosures.
- iii. Business Associate shall maintain the confidentiality of passwords and other data required for accessing this information.
- iv. Business Associate shall extend protection beyond the initial information obtained from Covered Entity to any databases or collections of PHI containing information derived from the PHI. The provisions of this section shall be in force unless PHI is de-identified in conformance to the requirements of the HIPAA Rules.

o. Safeguard During Transmission.

- i. Business Associate shall use reasonable and appropriate safeguards including, without limitation, Information Security measures to ensure that all transmissions of PHI are authorized and to prevent use or disclosure of PHI other than as provided for by this Agreement.
- ii. Business Associate shall not transmit PHI over the internet or any other insecure or open communication channel unless the PHI is encrypted or otherwise safeguarded with a FIPS-compliant encryption algorithm.

p. Reporting of Improper Use or Disclosure and Notification of Breach.

- i. Business Associate shall, as soon as reasonably possible, but immediately after discovery of a Breach, notify Covered Entity of any use or disclosure of PHI not provided for by this Agreement, including a Breach of Unsecured Protected Health Information as such notice is

required by 45 C.F.R. 164.410 or a breach for which notice is required under §24-73-103, C.R.S.

- ii. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach.
  - iii. Business Associate shall, as soon as reasonably possible, but immediately after discovery of any Security Incident that does not constitute a Breach, notify Covered Entity of such incident.
  - iv. Business Associate shall have the burden of demonstrating that all notifications were made as required, including evidence demonstrating the necessity of any delay.
- q. Business Associate's Insurance and Notification Costs.
- i. Business Associate shall bear all costs of a Breach response including, without limitation, notifications, and shall maintain insurance to cover:
    - A. loss of PHI data;
    - B. Breach notification requirements specified in HIPAA Rules and in §24-73-103, C.R.S.; and
    - C. claims based upon alleged violations of privacy rights through improper use or disclosure of PHI.
  - ii. All such policies shall meet or exceed the minimum insurance requirements of the Contract or otherwise as may be approved by Covered Entity (e.g., occurrence basis, combined single dollar limits, annual aggregate dollar limits, additional insured status, and notice of cancellation).
  - iii. Business Associate shall provide Covered Entity a point of contact who possesses relevant Information Security knowledge and is accessible 24 hours per day, 7 days per week to assist with incident handling.
  - iv. Business Associate, to the extent practicable, shall mitigate any harmful effect known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of this Agreement.
- r. Subcontractors and Breaches.
- i. Business Associate shall enter into a written agreement with each of its Subcontractors and agents, who create, receive, maintain, or transmit PHI on behalf of Business Associate. The agreements shall require such Subcontractors and agents to report to Business Associate any use or disclosure of PHI not provided for by this Agreement, including Security Incidents and Breaches of Unsecured Protected Health Information, on the first day such Subcontractor or agent knows or should have known of the Breach as required by 45 C.F.R. 164.410.

- ii. Business Associate shall notify Covered Entity of any such report and shall provide copies of any such agreements to Covered Entity on request.
- s. Data Ownership.
  - i. Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.
  - ii. Upon request by Covered Entity, Business Associate immediately shall provide Covered Entity with any keys to decrypt information that the Business Association has encrypted and maintains in encrypted form, or shall provide such information in unencrypted usable form.
- t. Retention of PHI. Except upon termination of this Agreement as provided in Section 5, below, Business Associate and its Subcontractors or agents shall retain all PHI throughout the term of this Agreement, and shall continue to maintain the accounting of disclosures required under Section 3.h, above, for a period of six years.

#### 4. OBLIGATIONS OF COVERED ENTITY

- a. Safeguards During Transmission. Covered Entity shall be responsible for using appropriate safeguards including encryption of PHI, to maintain and ensure the confidentiality, integrity, and security of PHI transmitted pursuant to this Agreement, in accordance with the standards and requirements of the HIPAA Rules.
- b. Notice of Changes.
  - i. Covered Entity maintains a copy of its Notice of Privacy Practices on its website. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission to use or disclose PHI, to the extent that it may affect Business Associate's permitted or required uses or disclosures.
  - ii. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. 164.522, to the extent that it may affect Business Associate's permitted use or disclosure of PHI.

#### 5. TERMINATION

- a. Breach.
  - i. In addition to any Contract provision regarding remedies for breach, Covered Entity shall have the right, in the event of a breach by Business Associate of any provision of this Agreement, to terminate immediately the Contract, or this Agreement, or both.
  - ii. Subject to any directions from Covered Entity, upon termination of the Contract, this Agreement, or both, Business Associate shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Business Associate in which Covered Entity has an interest.

b. Effect of Termination.

- i. Upon termination of this Agreement for any reason, Business Associate, at the option of Covered Entity, shall return or destroy all PHI that Business Associate, its agents, or its Subcontractors maintain in any form, and shall not retain any copies of such PHI.
- ii. If Covered Entity directs Business Associate to destroy the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.
- iii. If Business Associate believes that returning or destroying the PHI is not feasible, Business Associate shall promptly provide Covered Entity with notice of the conditions making return or destruction infeasible. Business Associate shall continue to extend the protections of Section 3 of this Agreement to such PHI, and shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

## 6. INJUNCTIVE RELIEF

Covered Entity and Business Associate agree that irreparable damage would occur in the event Business Associate or any of its Subcontractors or agents use or disclosure of PHI in violation of this Agreement, the HIPAA Rules or any applicable law. Covered Entity and Business Associate further agree that money damages would not provide an adequate remedy for such Breach. Accordingly, Covered Entity and Business Associate agree that Covered Entity shall be entitled to injunctive relief, specific performance, and other equitable relief to prevent or restrain any Breach or threatened Breach of and to enforce specifically the terms and provisions of this Agreement.

## 7. LIMITATION OF LIABILITY

Any provision in the Contract limiting Contractor's liability shall not apply to Business Associate's liability under this Agreement, which shall not be limited.

## 8. DISCLAIMER

Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement or the HIPAA Rules will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made and actions taken by Business Associate regarding the safeguarding of PHI.

## 9. CERTIFICATION

Covered Entity has a legal obligation under HIPAA Rules to certify as to Business Associate's Information Security practices. Covered Entity or its authorized agent or contractor shall have the right to examine Business Associate's facilities, systems, procedures, and records, at Covered Entity's expense, if Covered Entity determines that examination is necessary to certify that Business Associate's Information Security safeguards comply with the HIPAA Rules or this Agreement.

## 10. AMENDMENT

- a. Amendment to Comply with Law. The Parties acknowledge that state and federal laws and regulations relating to data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide procedures to ensure compliance with such developments.
- i. In the event of any change to state or federal laws and regulations relating to data security and privacy affecting this Agreement, the Parties shall take such action as is necessary to implement the changes to the standards and requirements of HIPAA, the HIPAA Rules and other applicable rules relating to the confidentiality, integrity, availability and security of PHI with respect to this Agreement.
  - ii. Business Associate shall provide to Covered Entity written assurance satisfactory to Covered Entity that Business Associate shall adequately safeguard all PHI, and obtain written assurance satisfactory to Covered Entity from Business Associate's Subcontractors and agents that they shall adequately safeguard all PHI.
  - iii. Upon the request of either Party, the other Party promptly shall negotiate in good faith the terms of an amendment to the Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Rules, or other applicable rules.
  - iv. Covered Entity may terminate this Agreement upon 30 days' prior written notice in the event that:
    - A. Business Associate does not promptly enter into negotiations to amend the Contract and this Agreement when requested by Covered Entity pursuant to this Section; or
    - B. Business Associate does not enter into an amendment to the Contract and this Agreement, which provides assurances regarding the safeguarding of PHI sufficient, in Covered Entity's sole discretion, to satisfy the standards and requirements of the HIPAA, the HIPAA Rules and applicable law.
- b. Amendment of Appendix. The Appendix to this Agreement may be modified or amended by the mutual written agreement of the Parties, without amendment of this Agreement. Any modified or amended Appendix agreed to in writing by the Parties shall supersede and replace any prior version of the Appendix.

## 11. ASSISTANCE IN LITIGATION OR ADMINISTRATIVE PROCEEDINGS

Covered Entity shall provide written notice to Business Associate if litigation or administrative proceeding is commenced against Covered Entity, its directors, officers, or employees, based on a claimed violation by Business Associate of HIPAA, the HIPAA Rules or other laws relating to security and privacy or PHI. Upon receipt of such notice and to the extent requested by Covered Entity, Business Associate shall, and shall cause its employees, Subcontractors, or agents assisting Business Associate in the performance of its obligations under the Contract to, assist Covered Entity in the defense of such litigation or proceedings. Business Associate shall, and shall cause its employees, Subcontractor's and agents to, provide assistance, to Covered Entity, which may

include testifying as a witness at such proceedings. Business Associate or any of its employees, Subcontractors or agents shall not be required to provide such assistance if Business Associate is a named adverse party.

## 12. INTERPRETATION AND ORDER OF PRECEDENCE

Any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. In the event of an inconsistency between the Contract and this Agreement, this Agreement shall control. This Agreement supersedes and replaces any previous, separately executed HIPAA business associate agreement between the Parties.

## 13. SURVIVAL

Provisions of this Agreement requiring continued performance, compliance, or effect after termination shall survive termination of this contract or this agreement and shall be enforceable by Covered Entity.

## APPENDIX TO HIPAA BUSINESS ASSOCIATE AGREEMENT

This Appendix (“Appendix”) to the HIPAA Business Associate Agreement (“Agreement”) is s an appendix to the Contract and the Agreement. For the purposes of this Appendix, defined terms shall have the meanings ascribed to them in the Agreement and the Contract.

Unless the context clearly requires a distinction between the Contract, the Agreement, and this Appendix, all references to “Contract” or “Agreement” shall include this Appendix.

### 1. PURPOSE

This Appendix sets forth additional terms to the Agreement. Any sub-section of this Appendix marked as “Reserved” shall be construed as setting forth no additional terms.

### 2. ADDITIONAL TERMS

- a. Additional Permitted Uses. In addition to those purposes set forth in the Agreement, Business Associate may use PHI for the following additional purposes:
  - i. Reserved.
- b. Additional Permitted Disclosures. In addition to those purposes set forth in the Agreement, Business Associate may disclose PHI for the following additional purposes:
  - i. Reserved.
- c. Approved Subcontractors. Covered Entity agrees that the following Subcontractors or agents of Business Associate may receive PHI under the Agreement:
  - i. Reserved.
- d. Definition of Receipt of PHI. Business Associate’s receipt of PHI under this Contract shall be deemed to occur, and Business Associate’s obligations under the Agreement shall commence, as follows:
  - i. Reserved.
- e. Additional Restrictions on Business Associate. Business Associate agrees to comply with the following additional restrictions on Business Associate’s use and disclosure of PHI under the Contract:
  - i. Reserved.
  - ii. The Associate:
    - A. Acknowledges this agreement qualifies as a Qualified Service Organization Addendum as the agreement is between a Substance Abuse Program (“Program”) and a Qualified Service Organization as defined by 42 C.F.R. Part 2.

- B. Acknowledges that in receiving, transmitting, transporting, storing, processing or otherwise dealing with any information received from the Program identifying or otherwise relating to the patient in the Program (“protected information”), it is fully bound by the provisions of the federal regulations governing the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2. Protected information encompasses protected health information (“PHI”) and references to PHI shall be understood to include protected information.
  - C. Agrees to resist any efforts in judicial proceeding to obtain access to the protected information except as expressly provided for in the regulations governing the Confidentiality of Alcohol and Drug Abuse patient Records, 42 C.F.R. Part 2.
  - D. Agrees that if the Associate enters into a contract with any agent or subcontractor, the agent or subcontractor will agree to comply with 42 C.F.R. Part 2.
  - E. Agrees to ensure that any agent or subcontractor to whom the Associate provides protected information received from the Program, or creates or receives on behalf of the Program, agrees to the same restrictions and conditions that apply through this agreement to the Associate with respect to such information.
  - F. Agrees that redisclosure of protected information is prohibited unless permitted by 42 C.F.R. Part 2.
- f. Additional Terms. Business Associate agrees to comply with the following additional terms under the Agreement.
- i. Reserved.



EXHIBIT E - Supplemental Provisions for Federal Awards

For the purposes of this Exhibit only, Contractor is also identified as “Subrecipient.” This Contract has been funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions for Federal Awards, the Special Provisions, the Contract or any attachments or exhibits incorporated into and made a part of the Contract, the Supplemental Provisions for Federal Awards shall control. In the event of a conflict between the Supplemental Provisions for Federal Awards and the FFATA Supplemental Provisions (if any), and/or exhibit regarding SLFRF Federal Provisions, the terms re FFATA and/or SLFRF shall control. If the source of the funding of the Contract is a grant, these Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

1) Federal Award Identification

- i. Subrecipient: **Gunnison County**
- ii. Subrecipient Unique Entity ID number: **NSN9FAGKEDJ9**.
- iii. The Federal Award Identification Number (FAIN) is **SLFRP0126**.
- iv. The Federal award date is **May 18, 2021**.
- v. The subaward period of performance start date is **July 1, 2023**, and end date is **June 30, 2024**.
- vi. Federal Funds:

Contract or Fiscal Year	Amount of Federal funds obligated by this Contract	Total amount of Federal funds obligated to the Subrecipient	Total amount of the Federal Award committed to Subrecipient by CDHS
<b>FY24 ARPA</b>	<b>\$232,486.00</b>	<b>\$232,486.00</b>	<b>\$232,486.00</b>

- vii. Federal award project description: **To establish/expand services to address local behavioral Health needs along continuum of care, including services for Children, Youth, and Families with severe needs.**
- viii. The name of the Federal awarding agency is **U.S. Department of Treasury**; the name of the pass-through entity is the State of Colorado, Department of Human Services (CDHS).
- ix. The Catalog of Federal Domestic Assistance (CFDA) number is **21.027**, name is **Coronavirus State and Local Fiscal Recovery Funds**, and dollar amount is **\$3,828,761,790**.
- x. This award **not** for research & development.

- xi. The indirect cost rate for the Federal award (including if the de minimis rate is charged per 2 CFR §200.414 Indirect (F&A) costs) is pre-determined based upon the State of Colorado and CDHS cost allocation plan.
- 2) All requirements imposed by CDHS on Subrecipient so that the Federal award is used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award, are stated in **Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E and Exhibit F.**
- 3) Any additional requirements that CDHS imposes on Subrecipient in order for CDHS to meet its own responsibility to the Federal awarding agency, including identification of any required financial and performance reports, are stated in **Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E and Exhibit F.**
- 4) Subrecipient’s approved indirect cost rate is **10 %.**
- 5) Subrecipient must permit CDHS and auditors to have access to Subrecipient’s records and financial statements as necessary for CDHS to meet the requirements of 2 CFR §200.331 Requirements for pass-through entities, §§ 200.300 Statutory and National Policy Requirements through §200.309 Period of performance, and Subpart F—Audit Requirements of this Part.
- 6) The appropriate terms and conditions concerning closeout of the subaward are listed in Section 16 of this Exhibit and **N/A.**
- 7) **Performance and Final Status.** Subrecipient shall submit all financial, performance, and other reports to CDHS no later than **90** calendar days after the period of performance end date or sooner termination of this Contract containing an evaluation and review of Subrecipient’s performance and the final status of Subrecipient’s obligations hereunder.
- 8) **Matching Funds**

If a box below is checked, the accompanying provision applies.

- i.  Subrecipient is not required to provide matching funds.
- ii.  Subrecipient shall provide matching funds as stated in **Exhibit B.** Subrecipient shall have raised the full amount of matching funds prior to the Effective Date and shall report to CDHS regarding the status of such funds upon request. Subrecipient’s obligation to pay all or any part of any matching funds, whether direct or contingent, only extends to funds duly and lawfully appropriated for the purposes of this Contract by the authorized representatives of the Subrecipient and paid into the Subrecipient’s treasury or bank account. Subrecipient represents to CDHS that the amount designated as matching funds has been legally appropriated for the purposes of this Contract by its authorized representatives and paid into its treasury or bank account. Subrecipient does not by this Contract irrevocably pledge present cash reserves for payments in future fiscal years, and this Contract is not intended to create a multiple-fiscal year debt of the Subrecipient. Subrecipient shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Subrecipient’s laws or policies.

**1. DEFINITIONS.**

- 1.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
  - 1.1.1. “Award” means an award of Federal financial assistance, and the Contract setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
    - 1.1.1.1. Awards may be in the form of:
    - 1.1.1.1.2. Grants;
    - 1.1.1.1.3. Contracts;

- 1.1.1.1.4. Cooperative Contracts, which do not include cooperative research and development Contracts (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.1.1.5. Loans;
- 1.1.1.1.6. Loan Guarantees;
- 1.1.1.1.7. Subsidies;
- 1.1.1.1.8. Insurance;
- 1.1.1.1.9. Food commodities;
- 1.1.1.1.10. Direct appropriations;
- 1.1.1.1.11. Assessed and voluntary contributions; and
- 1.1.1.1.12. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.
- 1.1.1.1.13. Any other items specified by OMB in policy memoranda available at the OMB website or other source posted by the OMB.
  - 1.1.1.2. Award *does not* include:
    - 1.1.1.2.1. Technical assistance, which provides services in lieu of money;
    - 1.1.1.2.2. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
    - 1.1.1.2.3. Any award classified for security purposes; or
    - 1.1.1.2.4. Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).
- 1.1.2. “Contract” means the Contract to which these Federal Provisions are attached and includes all Award types in § of this Exhibit.
- 1.1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.
- 1.1.4. “Unique Entity ID number” or “UEI” is the Unique Entity ID number established by the federal government in the Unique Entity ID System to uniquely identify a business entity. For more, see: [www.sam.gov](http://www.sam.gov).
- 1.1.5. “Entity” means:
  - 1.1.5.1. If the source of funding is a Grant:
    - 1.1.5.1.1. a Non-Federal Entity;
    - 1.1.5.1.2. a foreign public entity;
    - 1.1.5.1.3. a foreign organization;
    - 1.1.5.1.4. a non-profit organization;
    - 1.1.5.1.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
    - 1.1.5.1.6. a foreign non-profit organization (only for 2 CFR part 170) only);
    - 1.1.5.1.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
    - 1.1.5.1.8. a foreign for-profit organization (for 2 CFR part 170 only).

- 1.1.5.2. If the source of funding is not a Grant:
- 1.1.5.2.1. all of the following as defined at 2 CFR part 25, subpart C;
  - 1.1.5.2.2. A governmental organization, which is a State, local government, or Indian Tribe;
  - 1.1.5.3. a foreign public entity;
  - 1.1.5.4. a domestic or foreign non-profit organization;
  - 1.1.5.5. a domestic or foreign for-profit organization; and
  - 1.1.5.6. a Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.1.6. “Executive” means an officer, managing partner or any other employee in a management position.
- 1.1.7. If the source of funding is a Grant, “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1. If the source of funding is not a Grant, “Federal Award Identification Number (FAIN)” means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.1.8. “FFATA” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 1.1.9. “Federal Provisions” means these Federal Provisions subject to the Transparency Act and Uniform Guidance, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.
- 1.1.10. If the source of funding is a Grant, “Grant” as used herein is the Contract to which these Federal Provisions are attached.
- 1.1.11. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached if the source of funding is a Grant.
- 1.1.12. “Non-Federal Entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 1.1.13. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
- 1.1.13.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
  - 1.1.13.2. Is not organized primarily for profit; and
  - 1.1.13.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 1.1.14. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 1.1.15. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 1.1.16. “Prime Recipient” means a Colorado State agency or institution of higher education that receives an Award, or, if the source of funding is a Grant it is that agency or institution identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 1.1.17. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101 or 2 CFR 200.38, as applicable. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

- 1.1.18. “Subrecipient” or, if the source of funding is a Grant, “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee. The term does not include an individual who is a beneficiary of a federal program.
- 1.1.19. “Subrecipient Parent UEI Number” means the subrecipient parent organization’s 12-digit Unique Entity ID System (UEI) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.1.20. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.1.21. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a), as applicable) and includes the following:
- 1.1.21.1. Salary and bonus;
  - 1.1.21.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
  - 1.1.21.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
  - 1.1.21.4. Change in present value of defined benefit and actuarial pension plans;
  - 1.1.21.5. Above-market earnings on deferred compensation which is not tax-qualified;
  - 1.1.21.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 1.1.22. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act may also be referred to as FFATA.
- 1.1.23. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which, unless the source of funding is a Grant, supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 1.1.24. “Vendor” means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

## 2. COMPLIANCE.

- 2.1. Contractor/Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, including, but not limited to, all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Contractor/Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

**3. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID SYSTEM (UEI) REQUIREMENTS.**

- 3.1. SAM. Contractor/Grantee shall maintain the currency of its information in SAM until the Contractor/Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Contractor/Grantee shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 3.2. UEI. Contractor/Grantee shall provide its UEI number to its Prime Recipient, and shall update Contractor's/Grantee's information in [www.sam.gov](http://www.sam.gov) at least annually after the initial registration, and more frequently if required by changes in Contractor's/Grantee's information.

**4. TOTAL COMPENSATION.**

- 4.1. Contractor/Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
- 4.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more if the source of funding is a Grant, or otherwise \$25,000 or more if the source of funding is not a Grant; and
- 4.1.2. In the preceding fiscal year, Contractor/Grantee received:
- 4.1.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 4.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act if the source of funding is a Grant or otherwise \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act if the source of funding is not a Grant; and
- 4.1.2.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

**5. REPORTING.**

- 5.1. If Contractor/Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Contract/Grant price. The reporting requirements in this Exhibit are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract/Grant and shall become part of Contractor's/Grantee's obligations under this Contract/Grant.

**6. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR REPORTING.**

- 6.1. If the source of funding is a Grant, Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements.

- 6.2. If the source of funding is not a Grant, Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
- 6.3. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

## 7. SUBRECIPIENT REPORTING REQUIREMENTS.

- 7.1. If Contractor/Grantee is a Subrecipient, Contractor/Grantee shall report as set forth below.
- 7.1.1. To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number (FAIN) assigned by a Federal agency to a Prime Recipient no later than the end of the month following the month in which the Subaward was made:
- 7.1.1.1. Subrecipient UEI Number;
  - 7.1.1.2. Subrecipient UEI Number if more than one electronic funds transfer (EFT) account;
  - 7.1.1.3. Subrecipient parent's organization UEI Number;
  - 7.1.1.4. Subrecipient's address, including: Street Address, City, State, Country, Zip (+ 4 if source of funding is a Grant or as otherwise directed per SAM directives for proper reporting), and Congressional District;
  - 7.1.1.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
  - 7.1.1.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 7.1.2. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract/Grant, the following data elements:
- 7.1.2.1. Subrecipient's UEI Number as registered in SAM.
  - 7.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

## 8. PROCUREMENT STANDARDS.

- 8.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 8.2. If the source of funding is a Grant: Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for 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.

- 8.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its contractors must 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.

## **9. ACCESS TO RECORDS.**

- 9.1. A Subrecipient shall permit Recipient/Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.311-200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

## **10. SINGLE AUDIT REQUIREMENTS.**

- 10.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.
- 10.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 10.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 10.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

## **11. CONTRACT/GRANT PROVISIONS FOR SUBRECIPIENT CONTRACTS.**

- 11.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Contractors/Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Contract/Grant.

- 11.1.1. [Applicable to federally assisted construction contracts.] Equal Employment Opportunity. 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 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), 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.
- 11.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).
- 11.1.3. Rights to Inventions Made Under a contract/grant or agreement. If the Federal Award meets the definition of “funding agreement”/ “funding Contract” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into a contract 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,”/”funding Contract”, the Prime Recipient or Subrecipient 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 Agreements,” and any implementing regulations issued by the Federal Awarding Agency.
- 11.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardee(s) to 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). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 11.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties 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.
- 11.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above 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. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 11.1.7. Never contract with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never contract with the enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.
- 11.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

## 12. CERTIFICATIONS.

- 12.1. Unless prohibited by Federal statutes or regulations, Recipient/Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

### **13. EXEMPTIONS.**

- 13.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 13.2. A Contractor/Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

### **14. EVENT OF DEFAULT AND TERMINATION.**

- 14.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Contract/Grant and the State of Colorado may terminate the Contract/Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract/Grant, at law or in equity.
- 14.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
- 14.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
- 14.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
- 14.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 14.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
- 14.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT END



## **EXHIBIT F - SLFRF SUBRECIPIENT PROVISIONS (CDHS)**

This Exhibit and the Appendices hereto apply regarding the use of State and Local Fiscal Recovery Funds (SLFRF) to comply with requirements established by the U.S. Department of Treasury and the Colorado Department of Personnel & Administration, Office of the State Controller re the Colorado Department of Human Services (CDHS).

This SLFRF Provisions Exhibit may supplement other Exhibit(s) to the instant Agreement. In the event that terms on prior Exhibit(s) to the instant Agreement conflict with this SLFRF Provisions Exhibit, this Exhibit shall control and take precedence.

The Contractor/Vendor/Other Agency entity with which the Colorado Department of Human Services (CDHS) is contracting per this Agreement may be referred to as “Subrecipient” herein, the designation per controlling law and mandates. This “Subrecipient” designation shall apply in this context notwithstanding prior definition(s) of any entity to this agreement as “Contractor” or any other title.

Subrecipient must agree to and comply with the terms of these SLFRF Provisions in order to receive and use these funds. Subrecipient shall execute not only the instant Agreement, but also specifically the Certification Agreement appendix to the instant Exhibit. A failure to also separately execute the Certification Agreement appendix hereto shall not relieve Subrecipient of the rules/obligations set forth herein; such a clerical error must be promptly remedied upon discovery by notifying the CDHS office/program contact, who can then assist with the logistics of mandatory signing, which shall retroactively apply.

In the event that Subrecipient is/was in receipt of SLFRF funding from CDHS prior to execution of the instant Exhibit, Subrecipient understands that its obligations set forth herein with regards to that funding shall retroactively apply.

The regulations and requirements surrounding receipt and use of SLFRF funding is an evolving subject matter as established by the U.S. Department of Treasury and put into established policy by the Colorado Department of Personnel & Administration, Office of the State Controller for use with CDHS Agreements. As such, Subrecipient agrees to execute any additional Agreements/Amendments as required by CDHS to establish and/or update these procedures. Subrecipient agrees to accept written notice from CDHS of updates to these requirements and to comply with same forthwith, even if prior to or without a formal Amendment to the Agreement to update this Exhibit or the rules/requirements established herein. Regardless, if CDHS requests that

Subrecipient execute an Amendment to formalize implementation of and/or acknowledgment of updates to this Exhibit, Subrecipient shall promptly comply.

Subrecipient agrees to stay abreast of and comply with the most current iterations of the requirements re SLFRF funding set forth on <https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates Tab).

**APPENDIX 1 TO SLFRF EXHIBIT- BUDGET SUPPLEMENT**

**1. BUDGET BY US TREASURY EXPENDITURE CATEGORY**

1.1 Expenditure Categories identified in this Appendix will determine what is reported on as outlined in all following Appendices to this Exhibit.

<b>Project Number</b>	<b>Project Title</b>	<b>US Treasury Expenditure Category Number and Name</b>	<b>Budget</b>
PHI340	Children, Youth, and Family Behavioral Health Services Grants	1.14 Other Public Services	\$232,486.00
<b>Total</b>			\$232,486.00

**2. BUDGET BY FUNCTION**

**3. EXPENDITURE CATEGORY MODIFICATIONS**

1.1 Increases or decreases in any Expenditure Category must be requested and approved by the State Agency by using the SLFRF Expenditure Modification Form. This form can be found at: <https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates Tab). *In no event may this be used to modify the overall total of this Agreement or otherwise any non SLFRF expenditures.*

**APPENDIX 2 TO SLFRF EXHIBIT- FEDERAL PROVISIONS SUPPLEMENT**

**1. APPLICABILITY OF PROVISIONS.**

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

- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury’s Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2<sup>nd</sup> tier subrecipient), must hold the 2<sup>nd</sup> tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

## 2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
  - 2.1.1. “Award” means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
  - 2.1.2. “Entity” means:
    - 2.1.2.1. a Non-Federal Entity;
    - 2.1.2.2. a foreign public entity;
    - 2.1.2.3. a foreign organization;
    - 2.1.2.4. a non-profit organization;
    - 2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
    - 2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);
    - 2.1.2.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
    - 2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).
  - 2.1.3. “Executive” means an officer, managing partner or any other employee in a management position.
  - 2.1.4. “Expenditure Category (EC)” means the category of eligible uses as defined by the US Department of Treasury in “Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds” report available at [www.treasury.gov](http://www.treasury.gov).
  - 2.1.5. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
  - 2.1.6. “Grant” means the Grant to which these Federal Provisions are attached.
  - 2.1.7. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.

- 2.1.8. “Non-Federal Entity” means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.9. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
- 2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- 2.1.9.2. Is not organized primarily for profit; and
- 2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.10. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.11. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.12. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.13. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.15. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.15.1. Salary and bonus;
- 2.1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial

Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;

- 2.1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
- 2.1.15.4. Change in present value of defined benefit and actuarial pension plans;
- 2.1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
- 2.1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.16. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.17. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 2.1.18. “Unique Entity ID” means the Unique Entity ID established by the federal government for a Grantee at <https://sam.gov/content/home>.

### **3. COMPLIANCE.**

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, grantee programs or services must not include terms or conditions that undermine efforts to stop COVID-19 or discourage compliance with recommendations and CDC guidelines.

#### **4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID SYSTEM (UEI) REQUIREMENTS.**

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. UEI. Grantee shall provide its Unique Entity ID to its Prime Recipient, and shall update Grantee's information in SAM.gov at least annually after the initial registration, and more frequently if required by changes in Grantee's information.

#### **5. TOTAL COMPENSATION.**

- 5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
  - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
  - 5.1.2. In the preceding fiscal year, Grantee received:
    - 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
    - 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
    - 5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

#### **6. REPORTING.**

- 6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

## **7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.**

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

## **8. SUBRECIPIENT REPORTING REQUIREMENTS.**

- 8.1. Grantee shall report as set forth below.
- 8.1.1. Grantee shall use the SLFRF Subrecipient Quarterly Report Workbook as referenced in Appendix 4 to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at [www.treasury.gov](http://www.treasury.gov).

## **EC 1 – Public Health**

### **All Public Health Projects**

- a) Description of structure and objectives
- b) Description of relation to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Capital Expenditures
  - i. Presence of capital expenditure in project
  - ii. Total projected capital expenditure
  - iii. Type of capital expenditure
  - iv. Written justification
  - v. Labor reporting

### **COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)**

- a) Amount of total project used for evidence-based programs
- b) Evaluation plan description

### **COVID-19 Small Business Economic Assistance (1.8)**

- a) Number of small businesses served

### **COVID-19 Assistance to Non-Profits (1.9)**

- a) Number of non-profits served

### **COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)**

- a) Sector of employer
- b) Purpose of funds

**EC 2 – Negative Economic Impacts****All Negative Economic Impacts Projects**

- a) Description of project structure and objectives
- b) Description of project’s response to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Amount of total project used for evidence-based programs and description of evaluation plan (*not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36*)
- e) Number of workers enrolled in sectoral job training programs
- f) Number of workers completing sectoral job training programs
- g) Number of people participating in summer youth employment programs
- h) Capital Expenditures
  - i. Presence of capital expenditure in project
  - ii. Total projected capital expenditure
  - iii. Type of capital expenditure
  - iv. Written justification
  - v. Labor reporting

**Household Assistance (2.1-2.8)**

- a) Number of households served
- b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)
- c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)

**Healthy Childhood Environments (2.11-2.13)**

- a) Number of children served by childcare and early learning (*Federal guidance may change this requirement in July 2022*)
- b) Number of families served by home visiting (*Federal guidance may change this requirement in July 2022*)

**Education Assistance (2.14, 2.24-2.27)**

- a) National Center for Education Statistics (“NCES”) School ID or NCES District ID
- b) Number of students participating in evidence-based programs (*Federal guidance may change this requirement in July 2022*)

**Housing Support (2.15, 2.16, 2.18)**

- a) Number of people or households receiving eviction prevention services (*Federal guidance may change this requirement in July 2022*)
- b) Number of affordable housing units preserved or developed (*Federal guidance may change this requirement in July 2022*)

**Small Business Economic Assistance (2.29-2.33)**

- a) Number of small businesses served

**Assistance to Non-Profits (2.34)**

- a) Number of non-profits served

**Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)**

- a) Sector of employer
- b) Purpose of funds
- c) If other than travel, tourism and hospitality (2.36) – description of hardship

**EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity****Payroll for Public Health and Safety Employees (EC 3.1)**

- a) Number of government FTEs responding to COVID-19

**Rehiring Public Sector Staff (EC 3.2)**

- a) Number of FTEs rehired by governments

**EC 4 – Premium Pay****All Premium Pay Projects**

- a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
- b) Numbers of workers served
- c) Employer sector for all subawards to third-party employers
- d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county's average annual wage
- e) Number of workers to be served with premium pay in K-12 schools

**EC 5 – Infrastructure Projects****All Infrastructure Projects**

- a) Projected/actual construction start date (month/year)
- b) Projected/actual initiation of operations date (month/year)
- c) Location (for broadband, geospatial data of locations to be served)
- d) Projects over \$10 million
  - i. Prevailing wage certification or detailed project employment and local impact report
  - ii. Project labor agreement certification or project workforce continuity plan
  - iii. Prioritization of local hires
  - iv. Community benefit agreement description, if applicable

**Water and sewer projects (EC 5.1-5.18)**

- a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
- c) Median Household Income of service area
- d) Lowest Quintile Income of the service area

**Broadband projects (EC 5.19-5.21)**

- a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
  - i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
  - ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

- b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to (*Federal guidance may change this requirement in July 2022*):
- i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
  - ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.
  - iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

#### **All Expenditure Categories**

- a) Program income earned and expended to cover eligible project costs

- 8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.
- 8.1.2.1. Subrecipient Unique Entity ID;
  - 8.1.2.2. Subrecipient Unique Entity ID if more than one electronic funds transfer (EFT) account;
  - 8.1.2.3. Subrecipient parent's organization Unique Entity ID;
  - 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
  - 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
  - 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, the following data elements:
- 8.1.3.1. Subrecipient's Unique Entity ID as registered in SAM.
  - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
  - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at [www.treasury.gov](http://www.treasury.gov). This requirement is applicable to all projects in Expenditure Categories 1 and 2.
  - 8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at [www.treasury.gov](http://www.treasury.gov). See section 8.1.1 for relevant Expenditure Categories.
  - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.
  - 8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, other than those where the eligible worker

receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.

8.1.3.7. For infrastructure projects (EC 5) or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and location (for broadband, geospatial location data).

8.1.3.7.1. For projects over \$10 million:

8.1.3.7.1.1. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.

8.1.3.7.1.2. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready

access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.

8.1.3.7.1.3. Whether the project prioritizes local hires.

8.1.3.7.1.4. Whether the project has a Community Benefit Agreement, with a description of any such agreement.

8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Appendix 5– SLFRF Reporting Modification Form.

## **9. PROCUREMENT STANDARDS.**

9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.

9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for 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 Agreements and purchase orders for work or products under this award.

- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must 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.

#### **10. ACCESS TO RECORDS.**

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

#### **11. SINGLE AUDIT REQUIREMENTS.**

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.
  - 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
  - 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.

11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

## 12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.

12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of “federally assisted construction Agreement” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), 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 Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.

12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement 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 Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.

- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to 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). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in 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.
- 12.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above 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 Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. Never Agreement with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing "Never Agreement with the enemy" in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.
- 12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee 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 Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (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 part of this Agreement or agreement.

### **13. CERTIFICATIONS.**

- 13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in separate Appendix hereto and submit to State Agency with signed grant agreement.
- 13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

### **14. EXEMPTIONS.**

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

### **15. EVENT OF DEFAULT AND TERMINATION.**

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.
- 15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
  - 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;

- 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
- 15.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

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## **APPENDIX 3 TO SLFRF EXHIBIT- SUBRECIPIENT CERTIFICATION AGREEMENT**

### **AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS**

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The State of Colorado has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and the State and your organization is signing and certifying the same terms and conditions included in the State's separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from the State, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified in bills passed by the General Assembly and signed by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization's obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

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

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

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS  
TERMS AND CONDITIONS

1. Use of Funds.
  - a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
  - b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this subaward is shown on page one of this Agreement. Subrecipient may use funds to cover eligible costs incurred, as set forth in Treasury's implementing regulations, during this period of performance.

Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to comply with any reporting requirements established by the Governor's Office and Office of the State Controller. The State will provide notice of such additional reporting requirements via separate Appendix hereto – Reporting Modification Form.

4. Maintenance of and Access to Records
  - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
  - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
  - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs. Subrecipient shall follow guidance on administrative costs issued by the Governor's Office and Office of the State Controller.

Cost Sharing. Cost sharing or matching funds are not required to be provided by

7. Subrecipient.
8. Conflicts of Interest. The State of Colorado understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipient and Contractors must disclose in writing to the Office of the State Controller or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Office of the State Controller shall disclose such conflict to Treasury.
9. Compliance with Applicable Law and Regulations.
  - a. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
  - b. Federal regulations applicable to this award include, without limitation, the following:
    - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
    - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
    - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
    - iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
    - v. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

- vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
  - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
  - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
  - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award 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.

**Remedial Actions.** In the event of Subrecipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any

10. additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of Colorado by the U.S. Department of the Treasury.”
14. Debts Owed the Federal Government.
  - a. Any funds paid to the Subrecipient (1) in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.
  - b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
15. Disclaimer.
  - a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.
  - b. The acceptance of this award by Subrecipient does not in any way establish

an agency relationship between the United States and Subrecipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
  - i. A member of Congress or a representative of a committee of Congress;
  - ii. An Inspector General;
  - iii. The Government Accountability Office;
  - iv. A Treasury employee responsible for Agreement or grant oversight or management;
  - v. An authorized official of the Department of Justice or other law enforcement agency;
  - vi. A court or grand jury; or
  - vii. A management official or other employee of Subrecipient, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage 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.

1. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Subrecipients, and Contractors to adopt and enforce policies that ban text messaging while driving, and

Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

## **ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS**

### **ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

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 acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

*The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients 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 Agreement (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 Agreement or agreement.*

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include

investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.

8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.
9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of discrimination, please so state.
10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub-Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

## **APPENDIX 4 TO SLFRF EXHIBIT- SLFRF SUBRECIPIENT QUARTERLY REPORT REQUIREMENTS**

1. **SLFRF SUBRECIPIENT QUARTERLY REPORT WORKBOOK**
  - 1.1 The SLFRF Subrecipient Quarterly Report Workbook must be submitted to the State Agency within ten (10) days following each quarter ended September, December, March and June. The SLFRF Subrecipient Quarterly Report Workbook can be found at: <https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates Tab).
  - 1.2 The requirements set forth in this Appendix 4 do not apply if the instant Agreement is between two Colorado State Agencies.



**AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM**

**Agenda Item:** Approval for NextFifty Initiative Grant Agreement;

**Action Requested:** County Manager Signature

**Parties to the Agreement:** Next50

**Term Begins:**

**Term Ends:**

**Grant Contract #:**

**Summary:**

Funding for Senior Resource Specialist

**Fiscal Impact:** 22000

**Submitted by:** Elizabeth Holena

**Submitter's Email Address:** elizabeth.holena@state.co.us

**Finance Review:**

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 7/14/2023

**County Attorney Review:**

Required

Not Required

Comments:

This agreement contains problematic indemnity and choice of forum provisions, but these are not per se illegal. Grantor has expressed unwillingness to remove or modify these provisions. MRH

Reviewed by: GUNCOUNTY1\mhoyt

Discharge Date: 7/18/2023

Certificate of Insurance Required

Yes  No

**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/19/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/1/2023



INITIATIVE

June 26, 2023

Elizabeth Holena  
Gunnison County Department Of Health And Human Services  
220 North Pine Street  
Gunnison, Colorado 81230

Dear Elizabeth,

Congratulations! NextFifty Initiative has reviewed the application you submitted for "Aging Resource Specialist," and we are excited to work with you as your organization works to better serve older adults!

Based on our review of your application and the availability of funds, we will fund your request at \$22,000.00 (specific details of your award are outlined in the enclosed Grant Agreement). NextFifty Initiative staff member Susan Hill is your Program Officer and will work with you on this award. Please direct all questions about the grant to this individual.

All funds awarded are contingent on fulfillment of Conditions of the Grant Award. These conditions are listed in the enclosed agreement. Please read this agreement thoroughly. Also enclosed is a copy of your application and an ACH Payment form. Complete, sign, and date the documents and return them to NextFifty Initiative via DocuSign **no later than July 17, 2023**. **Failure to return the executed documents to NextFifty Initiative by July 17, 2023 may result in the forfeiture of your grant.** Funds will not be released until the documents are signed and returned. A copy of the fully executed agreement will be sent to you via DocuSign. Should you have any questions, please contact your Program Officer.

Should something occur to delay the implementation or progress of the grant or to alter the goals, or intended use of funds, or request the primary contact identified in the grant application, please contact your Program Officer as soon as possible.

We're honored to partner with you on this important work and are excited for others to learn about the impact of your program or project. If you'd like to share information about this award with your community, we offer resources on our website to support your communications efforts. Please do not release an announcement until you've received your copy of the fully executed Grant Agreement. We're happy to work with you or provide input prior to the release, publication, or posting of your announcement.

Additionally, we recognize that stories are an effective method of expressing the impact of the work you do. If you have a compelling story that relates to your work on this grant, please share it with us as we would be honored to hear about it. We may feature some of these stories on our website and in other communications.

We look forward to our partnership with you during this exciting time.

Sincerely,

Chandra Matthews  
Director of Programs

Enclosure

**GRANT AGREEMENT**  
**(Flexible Support  
Simple Form)**

This GRANT AGREEMENT (the “Agreement”) is made effective by NextFifty Initiative, a Colorado nonprofit corporation (“NFI”), and Gunnison County Department of Health and Human Services (“Grantee”).

NFI agrees to issue, and Grantee agrees to accept, a grant in the amount of \$ 22,000 (the “Grant”), subject to the terms of this Agreement.

1. NFI shall issue the Grant within ten (10) following its receipt of this Agreement, bearing the signature of Grantee’s authorized representative.
2. Grantee shall use the Grant exclusively for charitable, educational, and/or scientific purposes as described in Code section 170(c)(2)(B). Specifically, Grantee shall apply all Grant funds as provided in its Grant Application, which is attached to this Agreement and incorporated by this reference.
3. Grantee shall not use any portion of the Grant funds: (a) to carry on propaganda, or otherwise to attempt, to influence legislation; (b) to influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive; (c) to undertake any activity that is not in furtherance of charitable, scientific, and/or educational purposes; (d) to pay for or reimburse individual medical bills; or (e) to pay for rent assistance, mortgage assistance and/or household utility bills.
4. NFI may withhold or suspend payment of any Grant amount, or may terminate this Agreement in its entirety, if NFI determines, in its sole and absolute discretion, that Grantee: (a) without NFI’s written consent, has used any portion of the Grant funds in a manner other than described in Section 2 or otherwise breached the terms of this Agreement; (b) has been dissolved, whether voluntarily or involuntarily; (c) has become insolvent; or (d) ceases to be exempt from federal income taxation as an organization described in Code section 501(c)(3); or (e) acts or discriminates on the basis of age, race, religion, gender, sexual orientation or other protected legal status.
5. Grantee shall provide NFI such information regarding Grantee’s use of the Grant funds as NFI shall reasonably request from time to time. To that end, Grantee shall maintain records of all Grant-related receipts and expenditures for at least seven years following the completed use of Grant funds and shall make such records available to NFI at reasonable times for any purpose regarding Grantee’s use of the Grant.
6. To the extent permitted, but as expressly limited by applicable law, Grantee shall indemnify, defend, and hold NFI harmless from and against any and all liabilities, costs, and expenses, including without limitation attorneys’ fees, arising

from: (a) Grantee's use of the Grant funds; or (b) Grantee's performance or non-performance of any activities described in the Grant Application.

7. Grantee acknowledges that nothing in this Agreement obligates NFI or implies a commitment by NFI to provide additional funding to Grantee beyond payment of the Grant. However, Grantee's use of Grant funds and activities under the terms of this Agreement may be considered by NFI in connection with other grant applications or agreements involving Grantee.

8. No joint venture, partnership, agency, employer-employee, or similar relationship is created by this Agreement or Grantee's related conduct.

9. Any provisions of this Agreement which cannot be completed before the use of all Grant funds or termination of this Agreement, shall survive completion of the activities described in the Grant Application and/or termination of this Agreement.

10. This Agreement and the rights of the parties hereunder shall be construed and enforced in accordance with and governed by the substantive laws of the State of Colorado without regard to conflicts of law provisions thereof.

11. Grantee and NFI agree that any action arising in connection with this Agreement or the transactions contemplated under it shall be brought in state or federal court in Denver, Colorado.

12. Each person signing below on behalf of Grantee hereby represents and warrants that he/she is signing with full and complete authority to bind Grantee to each and every term of this Agreement.

13. This Agreement contains the entire agreement between the parties relating to the Grant and supersedes all prior negotiations, agreements, representations, and understandings, if any, whether oral or written, between the parties concerning the Grant. This Agreement may be modified only by written agreement of the Parties.

**[Signature page  
follows.]**

IN WITNESS WHEREOF, the parties have executed this Agreement by their signatures below.

**GRANTOR**

**NEXTFIFTY INITIATIVE**

By:

\_\_\_\_\_  
Name: Chandra Matthews

Title: Director of Programs

**GRANTEE**

**Gunnison County Department of Health and Human Services**

By:

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

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

\_\_\_\_\_

## INSTRUCTIONS FOR COMPLETING ACH PAYMENT FORM

In order to expedite your funding, we ask that you complete the attached ACH Payment Form, which also requires uploading a copy of a voided check. Click on the attachment link in the ACH form, next to the signature line, to attach the check (see image below). If you have any questions, this [link](#) provides further instruction.

DocuSign is a secure system, and your data is protected. To read more about DocuSign's security, click on this [link](#).

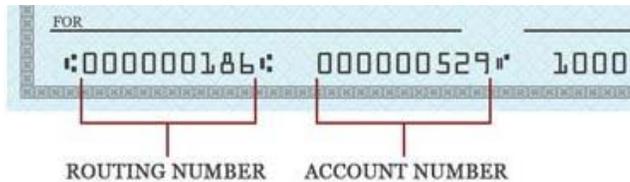


### ACH Authorization for ACH Credit

Company Name	_____		
Address	_____		
City	_____	State	_____ Zip _____
Phone	_____	Email	_____

I hereby authorize NextFifty Initiative to initiate credit entries to my Checking / Savings Account (select one) indicated below at the depository financial institution named below, hereinafter called "DEPOSITORY".

Depository Institution Name	_____		
City	_____	State	_____ Zip _____
Phone	_____	Account Type	<input type="checkbox"/> Checking / <input type="checkbox"/> Savings
Name on Account	_____		
Routing Number	_____		
Account Number	_____		



This authorization is to remain in full force and effect until NextFifty Initiative receives written notification from me of its termination in such time and in such manner as to afford NextFifty Initiative a reasonable opportunity to act on it.

Name (Printed) \_\_\_\_\_ [    ]

Signature \_\_\_\_\_

Date \_\_\_\_\_

**\*\* Please attach a copy of a voided check from depository financial institution \*\***

## 2023 Flexible Support NextFifty Initiative Expenditure Responsibility Grant Application

### Before You Begin

#### Things to remember when completing your Expenditure Responsibility Flexible Support 2023 application:

IRS regulations require that NextFifty Initiative collect additional information from organizations that are not 501(c)(3) public charities to demonstrate that grant funds would be used exclusively for charitable, not political, or member-oriented, purposes. This is called expenditure responsibility. These organizations will be required to submit a specific budget with their application to identify how Flexible Support funds will be used. If awarded funding, these organizations will be required to account for the use of grant funds separately.

- **Save your application often.** The system will time out after 30 minutes of inactivity, and unsaved data will be lost.
  - Save by clicking the "Save & Finish Later" button. Resume editing by selecting the Application from your Account page.
  - Consider also saving your application content offline.
- **Language Matters.** NextFifty Initiative is intentional in the words used when talking about aging and efforts to combat age discrimination. Grant applications should exhibit [Age Inclusive Communication](#). Increase participation in this movement by visiting [Changing the Narrative](#).
- Have someone unfamiliar with your organization/program read your application for clarity, thoroughness, -and cohesiveness before you submit, e.g. Does the application make sense to someone unfamiliar with your organization/program?
- Once your application is submitted, it is final, and you will not be able to make changes or additions.
- Please limit bullets and formatting in your application.
- When **uploading attachments**, browse to the file on your computer to select the desired document and click on the "Upload" button to attach your document. Only one file can be attached in each attachment field. (Verify that attachments are not password protected).
- **Late submissions will NOT be accepted** regardless of the reason (e.g., computer issues, power outage, Internet connectivity problems, etc.). Plan to fill out and **submit** before the deadline. In-process applications will be locked on **March 22, 2023, at 5:00 PM MDT** and incomplete applications will not be considered.

#### Attachment checklist:

- Upload all of the required and optional attachments before submitting your application. **Applications without all required documentation will be considered incomplete.**
  - IRS determination letter – required for all 501(c)(3), 501(c)(4), and 501(c)(6) organizations
  - Non-discrimination Policy
  - Current list of Board of Directors/Trustees – required for all 501(c)(3), 501(c)(4), and 501(c)(6) organizations

- Geographical Area Served Information (if applicable)
- Project Budget - Itemized budget showing how requested funds will be spent.
- Most recent Audited Financials, *not older than 12/31/2020* **required** for requests over \$30,000. Organizations that have not completed a recent external audit will be limited to funding requests of \$30,000 or less.
- External Financial Review or Compilation, Nonprofit organizations with an annual operating budget of \$500,000 or less are eligible to request more than \$30,000 with a **required** external Financial Review or Compilation in lieu of an audit.
- Current Statement of Financial Position (Balance Sheet) *Must be dated within 90 days of application*
- Current Statement of Activities, (Fiscal year to date Profit & Loss Statement) *Must be dated within 90 days of application*
- Previous Fiscal Year's Statement of Financial Position, full year (Balance Sheet)
- Previous Fiscal Year's Statement of Activities, full year (Profit & Loss Statement)
- Complete Form 990, including Schedule B – **required** for all 501(c)(3), 501(c)(4), and 501(c)(6) organizations.
- Additional Information – you may submit any additional documentation you would like NextFifty Initiative to know about your request or organization

### What happens after the application is submitted?

- **Late submissions will NOT be accepted** regardless of the reason (e.g., computer issues, power outage, Internet connectivity problems, etc.). Plan to fill out and **submit** before the deadline. In-process applications will be locked on **March 22, 2023, at 5:00 PM MDT** and incomplete applications will not be considered.
- Your application is final once it has been submitted, and you will not be able to make any changes or additions.
- After submitting your application, you will receive an email indicating the success of your submission. Save this email as it will contain the application number, a link to your account, and other important information.
- If necessary, someone from NextFifty Initiative may contact you to request additional information.

Grant award notifications will be made in mid-June

## Organization Infrastructure

### Organization Information

#### Organization Name

Gunnison County Department of Health and Human Services

#### Legal Name

if using a DBA, please enter Organization's legal name here.

Gunnison County

Mailing Address

220 North Pine Street

City

Gunnison

State

CO

Postal Code

81230

Primary Phone

9706413244

Website

<http://gunnisoncounty.org>

E-Mail Address

By providing your email address, you agree to receive occasional emails containing news and updates from NextFifty Initiative. You may unsubscribe at any time.

elizabeth.holena@state.co.us

County

Gunnison

Tax ID

84-6000770

Tax Status

Government Entity

Year Founded

1972

Mission Statement / Purpose of Organization

The mission of Gunnison County Department of Health and Human Services (DHHS) is to provide culturally competent advocacy, prevention, protection, and support services to

families of Gunnison and Hinsdale Counties so they can prosper and thrive in a healthy and supportive community.

#### IRS Determination Letter

**Required** for 501(c)(3), 501(c)(4), and 501(c)(6) organizations. ID in letter must match applying organization's Tax ID number.

#### Non-discrimination Policy

Non-discrimination Policy.pdf

#### Organization's Commitment to Diversity, Equity, and Inclusion (DEI)

Describe how your organization demonstrates your commitment to DEI

Gunnison County Department of Health and Human Services (DHHS) understands that increasingly inequitable access and opportunity for physical, mental and social services, if not properly addressed, will result in increased displacement, comorbidity, family instability as well as decreased individual safety, productivity and meaningful aging. DHHS understands that complacency in not addressing inequities can be complicit to injustice, and has committed its agency, staff and resources to build and increase a sense of belonging, connection and community to our diverse older adults in our valley without regards to race, age or income. DHHS is building upon and expanding efforts internally to train its workforce to recognize structural and systemic disparities. The county has recently developed an internal health equity team focused on building an infrastructure to train staff, as they lead in their teams and community roles, ways to combat inequities and increase inclusion. DHHS has also recently adopted measures to support Diversity Equity and Inclusion in its 2023 strategic plan and staff will be pursuing membership in American Society of Aging DEI Upstanders committee. DHHS has also committed its organizational structure to integrating services to increase access to community members regardless of age, race, color, religion, national origin, gender, genetic information, sex, disability or sexual orientation. With integrated public health and human services programs, capacity to help underserved populations and create inclusive programs is enhanced.

If awarded funding, you will be required to sign NextFifty Initiative's [grant agreement](#) which can be found on our website. Modifications or adjustments to the grant agreement will not be accepted.

I have read the grant agreement on the website and my organization is comfortable signing the agreement.

Yes

## Demographics

**NextFifty Initiative seeks to better understand the populations served with our funding. In order to do so, we'd like to gather basic socio-demographic information about the older adults and caregivers that regularly access your services. We also understand that collecting this information is easier for some organizations than it is for others and so if you do not collect this data currently and/or cannot estimate percentages, please enter 0's where appropriate and utilize the narrative space to explain your connection to these communities, regardless of what the data may show.**

**Applications are strengthened by focusing on marginalized populations as outlined below.**

### Race/Ethnicity

**Please enter the percentage of older adults that access your program(s)/service(s) in each category below. If you do not know, or do not serve a particular demographic enter 0**

Percent of non-Hispanic Black or African American older adults served

Enter the percentage number. Enter "0" if you do not serve or do not know.

1

Percent of Asian older adults served

Enter the percentage number. Enter "0" if you do not serve or do not know.

1

Percent of American Indian or Alaskan Native older adults served

Enter the percentage number. Enter "0" if you do not serve or do not know.

0

Percent of Native Hawaiian or other Pacific Islander older adults served

Enter the percentage number. Enter "0" if you do not serve or do not know.

0

Percent of Latinos or Hispanic older adults served

Enter the percentage number. Enter "0" if you do not serve or do not know.

20

**Percent of non-Hispanic White or Caucasian older adults served**

Enter the percentage number. Enter "0" if you do not serve or do not know.

78

**Low-income**

**Percent of low-income older adults served**

Enter the percentage number. Enter "0" if you do not serve or do not know.

100

**Immigrant/Refugee**

**Percent of Immigrant or Refugee older adults served**

Enter the percentage number. Enter "0" if you do not serve or do not know.

0

**Sexual Orientation**

**Percent of Lesbian, Gay, Bisexual, Transgender and/or Queer identifying older adults served**

Enter the percentage number. Enter "0" if you do not serve or do not know.

5

**Disability Status**

**Percent of older adults served experiencing a physical disability**

Enter the percentage number. Enter "0" if you do not serve or do not know.

80

**Percent of older adults served experiencing a cognitive disability**

Enter the percentage number. Enter "0" if you do not serve or do not know.

40

**Percent of older adults served experiencing a behavioral disability**

Enter the percentage number. Enter "0" if you do not serve or do not know.

20

**Population Served Narrative**

**Population Served**

1. Please describe the population that accesses your programs/services or who you aim to reach.
2. Describe how your organization builds trust and connection, or aims to build trust and connection, with the stated population(s).

The population that our programs serve, and who we aim to reach, are predominantly older adults living in rural areas, older adults experiencing a cognitive, physical or behavioral disability, low income older adults and Hispanic or Latino older adults. Our

organization strives to build trust and connection both through collaborative outreach activities and one on one relationship building.

The Aging Resource Office will focus on outreach for low income older adults with entities also serving similar populations, including The Food Pantry, The Senior Center, The Economic Security Team. Through referrals from the Economic Security Team, the Aging Resource Office will connect with older adults applying for AND, OAP, MAGI Adult and Long Term Care Medicaid. The Aging Resource Office will also target older adult populations working with the Multi Cultural Resource Center, an imbedded program within DHHS. The Multi Cultural Center employs 4 community navigators who are trusted by Hispanic and Latino community members. The Aging Resource Office recognizes that building trust and connection with individuals and populations takes time and effort, allowing individuals to be experts in their own lives and needs. Our specialists take time to gather information on individuals and populations and acknowledge our own gaps in knowledge. Our specialist are active listeners, person centered and communicate effectively and consistently, honoring commitments and being transparent.

## Request Narrative

### General Information

#### Request Title

Aging Resource Specialist

#### Amount Requested

Maximum amount is \$150,000. Click on information icon above to learn more about requirements for requests over \$30,000

97777

#### NextFifty Initiative Staff Member Name

Please enter the first and last name of the staff person with whom you spoke about this request. Enter N/A if not applicable.

N/A

### Request Details

#### Experience with Older Adults

Summarize the organization's experience working with older adults or the organization's interest in beginning to work with older adults.

The Aging Resource Office and its personnel have experience working with older adults and adults with disabilities in multiple capacities for a combined 20 years. The office has been serving the community since 2002 and is a trusted source for aging related to information, assistance and help in navigating complex systems of public and private insurances, social security, housing, and other resources. Key staff includes Geri Howard, Options Counselor and Regional Accountable Entity Care Coordinator who has been working diligently with older adults for 15 years. Geri first joined the team as a

Single Entry Point case manager, and in addition to providing options counseling and care coordination is an Adult Protective Case Worker. Andrea Pennington, part time Aging Resource Specialist, also focuses on care coordination work along with previous work assisting individuals in enrolling in Health First Colorado. Andrea has been a part of the Aging Resource Office for over 4 years. Erin Ryan is our part time Adult Protection Caseworker. Criss Middlkauf, our newest team member, focuses on care coordination of Health First Colorado recipients with complex medical and behavioral health needs. This manager has been working with older adults for over 6 years and is SHIP certified enrollment in Medicare. This manager supervised Home and Community Based Program, The Community Service Block Program, The Aging and Disability Services of Colorado along with Adult Protective Services. The Aging Resource Office of the Gunnison Valley has a broad scope of participation in the community engaging with older adults and local organizations. The agency hosts and facilitates several committees designed to focus on the needs of the community's most underserved, including rural older adults, minority populations and families living in poverty. The collaborative groups of the Health Coalition includes nonprofits, governmental and faith based organizations, Gunnison County Food Pantry, Hispanic Affairs Project, Gunnison County Library District, Region 10, Immigrantes Unidos, local Law enforcement agencies and the Community Center Board. This group provides space and time to share experiences and problem solve insecurities around shelter, food and other basic needs, targeting low underserved populations. With this current network, our organization continues to improve access to services for our target population.

**GOALS:**

**NextFifty Initiative recently developed a [funding and investment](#) strategy that serves as the mission-driven plan to guide, execute, and evaluate our programs. Through our grantmaking opportunities, NextFifty seeks to support organizations whose goals align with ours in an effort to enable you and us to demonstrate progress toward achieving those goals.**

**Listed below are NextFifty’s organizational goals, please select the goal(s) that align with your organization’s and explain how the requested funding from NextFifty will help you make progress toward the selected goal(s) during the grant period.**

Select the NextFifty Initiative goal(s) from the options below that you aim to contribute to with this funding (select all applicable)

Improve the lives of older adults.

Strengthen the capacity of organizations operating in the aging space.

Reduce ageism.

**Goals Narrative**

Describe how your organization's/program's goals for this grant request align with the selected goal(s) above.

The Aging Resource Office has been the lead organization in both Gunnison and Hinsdale County striving to make our valleys more livable for older adults. Our organization continues to focus on meeting the most basic needs of underserved older adults experiencing hardship due to physical or cognitive decline, mistreatment, housing and food insecurities, mental health, financial insecurities, medical needs, brain injuries and lack of access and inclusion. The office has done this through creatively and collaboratively working with community members and providers to assist individuals in aging safely and independently in their own home, leveraging existing community resources to do so. Goals for this grant request include educating our underserved older adults that have historically been marginalized and those of greatest social and economic need on available core benefits and local resources as well as increasing access to these services with person centered approaches. The Aging Resource Office will also lead in coordinating the availability of services with other entities serving older adults to maximize the availability and access of services, reducing duplication and strengthening agency capacity. Lastly, the Aging Resource Office will begin leading the community in efforts to combat ageism and change current narratives around aging using existing infrastructure. This will begin internally within our team and will move upwards and outwards within our organization and the community.

#### Request Description and Use of Funds

Clearly describe how you will use the requested funds to achieve the stated goals.

The Aging Resource Office will utilize this funding to target, connect and enroll older adults in services, community resources and programs. Barriers to participation in core programs often include lack of awareness of programs, not knowing where to begin to apply, assuming the application process is tedious and believing other people need help more. The Aging Resource Office will focus on locations that older adult's access information, along with identified most trusted sources for information, including local TV news, local newspapers, internet, Medical provider offices and our local aging agencies. Other vehicles for outreach will include targeting adult children, Facebook and local religious affiliated congregations. Targeting underserved populations will also include working extensively with the Economic Security Team and the Multicultural Center, providing training to internal staff to identify and refer individuals who could benefit from services, including individuals on OAP, Long Term Care Medicaid, MAGI ADULT, AND, Home and Community Based Services as well as mono and bilingual older adults. Extensive Outreach will occur among other organizations and programs operating in the aging space, including Home Health, Gunnison Valley Hospital, The Food Pantry and particularly The Senior Meal Program. The Senior Meal Program utilizes an extensive network of volunteers delivering meals to low income and frequently home bound individuals. The Senior Meal Program, through the City of Gunnison, provides many referrals to the Aging Resource Office of underserved older adults. By subcontracting with the Senior Meal Program, volunteers can continue to be feet on the ground, educated and versed in identifying individuals who may benefit from resources. Aging Resource Specialist will provide information, assistance and referrals to available

programs. The Specialist will increase enrollment of older adults with the greatest need and least access in available benefit programs, including SNAP, LEAP, Energy Outreach Colorado, Medicare Savings Programs, Nutritional Programs, Consumer Direct, CHORE, Health First Colorado, Community Service Block Grant, Long Term Care Medicaid, Low Income Senior Dental Program, Behavioral Health Services and other available programs. The Aging Resource Specialist will individually assist older adults in addressing barriers and concerns impacting their ability to live safely and independently in their own homes and community, providing one on one contact with a person centered approach. The Aging Resource Specialist will help discover consumers' strengths and will assist in finding solutions to often complex system issues, understanding that individuals and caregivers are not only experts in their own lives, but are also resourceful, resilient and have unique characterizes that help them evolve along their journey. The Aging Resource Specialist will provide options for long term planning and available resources, evaluating the benefits and disadvantages of each while at the same time focusing on the consumer's potential and strengths within themselves and their environments. The Aging Resource Specialist will help consumers create and guide actions plans with specific, measurable and timely goals.

Combating ageism will become a framework for the Aging Resource Office, percolating our efforts first internally and then outwards to the community, agencies and organizations serving older adults.

#### Financial Need

Please explain your organization's financial need for this funding.

The Gunnison Valley continues to struggle to meet the demands and needs of the underserved older adult community. Our aging services have limited sources of funding to provide assistance, information and referrals for low income older adults. Many of our community's older adults and adults living with disabilities continue to be underserved and underrepresented with limited access to available core community programs and resources. Our rural isolated older adults are suffering. Due to a skeleton team we are not able to readily meet the incoming requests for information and assistance and needs are often going unmet due to a backlog of requests. We have limited outreach activities, particularly in areas such as Marble and Somerset, an approximate 3 hour drive. When our team is able to assist, there is limited follow up conversations and activities to ensure that individuals are connected with appropriate services and those applications are successfully completed and submitted. Enrollment appointments, when there is capacity, are limited to brief interactions in our office setting. Requested funding will provide part time staffing to meet directly, by phone or other creative ways with older adults to provide information, assistance and referrals.

Number of people you aim to serve age 50 and older

3000

### Geographical Area Served

Please indicate the county(ies) served by your organization.

Colorado-Gunnison (95%)  
Colorado-Hinsdale (5%)

### Additional Geographical Area Served Information

If your Organization serves more than six geographical areas, please upload a document indicating all the Counties and their corresponding percentages served by your Request.

## Financial

### Financial Information

#### Fiscal Year End Date

December 31, 2023

#### Organization's Annual Budget

8970640

#### Request Budget

Itemized budget showing how requested funds will be spent

NFI-Flexible spending 3.21.xlsx

#### Complete Form 990

Please submit the most recent Complete Form 990, including Schedule B. **Required** for all 501(c)(3), 501(c)(4), and 501(c)(6) organizations.

#### Current Statement of Financial Position (Balance Sheet)

**Must be dated within 90 days of application**

DHHS YTD 02-23.pdf

#### Current Statement of Activities, year to date (Profit & Loss Statement)

**Must be dated within 90 days of application**

DHHS YTD 02-23\_VER\_1.pdf

#### Previous Fiscal Year's Statement of Financial Position, full-year (Balance Sheet)

DHHS 2022.pdf

#### Previous Fiscal Year's Statement of Activities, full-year (Profit & Loss Statement)

DHHS 2022\_VER\_1.pdf

**Most Recent Audited Financials (not older than 12/31/2020)**

**Required** for requests over \$30,000 and an operating budget greater than \$500,000. Nonprofits that have not completed a recent external annual audit, are limited to funding requests of \$30,000 or less.

2021 Audit.pdf

**Most Recent External Financial Review or Compilation (not older than 12/31/2020)**

Nonprofit organizations with an annual operating budget of \$500,000 or less are eligible to request more than \$30,000 with a required external Financial Review or Compilation in lieu of an audit.

2021 Audit\_VER\_1.pdf

## **Contacts**

**Request Primary Contact (person responsible for grant communications and reporting)**

First Name

Elizabeth

Middle Initial

Last Name

Holena

Suffix

Preferred Pronouns

she/her

Job Title

Manager

Office Phone

9706424665

Extension

E-mail

By providing your email address, you agree to receive occasional emails containing news and updates from NextFifty Initiative. You may unsubscribe at any time.

elizabeth.holena@state.co.us

### Organization Primary Contact

First Name

Joni

Middle Initial

Last Name

Reynolds

Suffix

Preferred Pronouns

Job Title

Director

Office Phone

9706413244

Extension

E-mail

By providing your email address, you agree to receive occasional emails containing news and updates from NextFifty Initiative. You may unsubscribe at any time.

jreynolds@gunnisoncounty.org

Board of Directors/Trustees

Upload a Current List of Board Members and their affiliations

**Required** for all 501(c)(3), 501(c)(4) and 501(c)(6) organizations.

County Commissioners.pdf

## Additional Information

Additional Information

**If applicable, please submit any additional supporting documentation you would like NextFifty Initiative to know about your Request or organization below.**

Supporting Documentation

Supporting Documentation

Supporting Documentation

Supporting Documentation

**AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM**

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**Agenda Item:** Approval for Commercial Lease Agreement; Quartz Cr

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**Action Requested:** Board of County Commissioners' Signature

**Parties to the Agreement:** Quartz Creek Improvement Association

**Term Begins:**

**Term Ends:**

**Grant Contract #:**

**Summary:**

This is the current and legally sufficient lease for the Ohio City Town Hall owned by the County. The CAO and Facilities assisted Public Works in drafting this lease. Due to the unique nature of the facility there are specific allowances and restrictions included. The OCIA has been a long term

**Fiscal Impact:**

**Submitted by:** MARTIN SCHMIDT

**Submitter's Email Address:** mschmidt@gunnisoncounty.org

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**Finance Review:**

Required

Not Required

**Comments:**

Gunnison County CTSI coverage currently applies to contents in all buildings owned by the county with no option to delete contents coverage while maintaining structure coverage. Thus, the building in question currently has contents insurance and requiring the tenant in Section 7.01(b) to obtain separate coverage naming the county may have implications in the event of a claim.

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 5/31/2023

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**County Attorney Review:**

Required

Not Required

**Comments:**

Legally sufficient. SO 5/30/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 5/30/2023

Certificate of Insurance Required

Yes  No

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**County Manager Review:**

**Comments:**

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/19/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/1/2023

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## COMMERCIAL LEASE AGREEMENT

THIS LEASE AGREEMENT ( "Lease") is dated as of this \_\_\_\_ day of \_\_\_\_\_, 2023 ("Effective Date") by and between the **BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO**, a political subdivision of the State of Colorado ("County") and the Quartz Creek Improvement Association, a Colorado nonprofit corporation, whose address is 115 Miners Avenue, Ohio City, Colorado 81237 ("Tenant").

### RECITALS

- A. County owns the real property known as the Ohio City Town Hall ("Building") located at 8503 County Road 76, Ohio City, Colorado 81237, County of Gunnison, State of Colorado. Tenant desires to lease the entire building ("Property" or "Leased Premises").
- B. Tenant desires to lease the Leased Premises from County for community social events and fundraisers for valley projects, and in accordance with the terms and provisions of this Lease.

### AGREEMENT

For and in consideration of the mutual covenants and conditions set forth herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, County and Tenant agree as follows:

#### ARTICLE I. THE LEASED PREMISES

**Section I.01** Leased Premises. County leases to Tenant the Property and Tenant leases from County the Property, upon the terms and provisions of this Lease. Tenant desires to lease the entire building from County for community social events and fundraisers for valley projects.

**Section I.02** Use by Quartz Creek Improvement Association. At the sole discretion of County, Tenant may, on behalf of the Quartz Creek Improvement Association, use the Property for the limited purpose of community social events and fundraisers for valley projects.

**Section I.03** Fixtures, Furniture and Equipment. Except as provided in Section 1.04, and as part of the Leased Premises, the Property includes any fixtures, furniture and equipment in place as of the date of this Lease. The County acknowledges that the Tenant owns the table and chairs, sound equipment and other personal property currently located in the Building and does not make any claim with regard to such property. Subject to prior written approval by County, Tenant may purchase and install additional fixtures, furniture and equipment within the Leased Premises of which it has exclusive use. Any such purchase and installation shall be at Tenant's own expense. County and Tenant shall

jointly verify the existing fixtures, furniture and equipment in place as of the date of this Lease as well as catalog any Tenant-provided fixtures, furniture and equipment.

**Section I.04**    Storage. Tenant may store equipment and materials in the Building so long as County determines, in its sole discretion, that such storage is maintained in an orderly fashion and does not block or impede access into or out of the Building or the Leased Property.

**Section I.05**    Condition of Leased Premises. Tenant has had an opportunity to inspect and measure the Leased Premises and acknowledges that it is fit for Tenant's use and enjoyment. The taking of possession of the Leased Premises shall be deemed an acceptance of the same by Tenant in its "AS IS" condition without any obligation whatsoever on the part of County to repair, remodel, reconstruct or modify the Leased Premises for Tenant.

**Section I.06**    Permitted Use; Reporting. Tenant shall use the Leased Premises solely for the purpose(s) described above at B of the Recitals and in Sections 1.01 and 1.02, as approved by County and other related purposes. No other use shall be permitted without County's prior written consent. Tenant shall conduct its uses of the Property in an orderly, professional and workmanlike manner. Tenant shall provide to County at least quarterly, on the first day of each calendar quarter, a report of planned uses and events at the Leased Property for the coming quarter. The Tenant agrees to secure all necessary licenses, permits and other approval required by Gunnison County, the State of Colorado, or the United States of America that may be necessary or associated with Tenant's use of the Leased Property.

**Section I.07**    No Hazardous Use, Nuisance or Waste Permitted on Leased Premises. Tenant shall not use or permit the Leased Premises to be used for any business or purpose deemed by County to be hazardous, or in any manner as to constitute a violation of any federal, state, county, and local laws, rules, regulations, requirements or orders of any lawful governmental or public authority relating to the Leased Premises. Tenant covenants and agrees at its sole cost and expense to fully and promptly comply with all such laws, regulations, ordinances and every order or regulation enacted by such authorities, including but not limited to, the United States, County of Gunnison, and the State of Colorado. Tenant agrees that it shall not permit any noxious or offensive activity on the Leased Premises or allow any nuisance to exist on the Leased Premises which may cause disturbance to others on adjacent or nearby property. Further, Tenant agrees that nothing shall be done or kept on the Leased Premises which might impair the value of the Leased Premises or which would constitute waste.

**Section I.08**    No Smoking, Vaping and E-Cigarettes. Smoking, vaping and the use of e-cigarettes is not permitted on the Leased Premises or in any County building. Tenant may, at Tenant's discretion, permit its employees and invitees to smoke, vape or use e-cigarettes outside of the Leased Premises; provided, however, that such activities must occur at a distance of at least twenty-five (25) feet from any entrance. Smoking, vaping and e-cigarette use is not permitted in any location where prohibited by law. Tenant shall remove all smoking, vaping and e-cigarette debris (including wrappers, butts, matches

and cartridges) from the Leased Premises at least twice per week. If this task is not performed to the satisfaction of County, County may remove such debris and charge the cost of removal to Tenant.

**Section I.09** Automobiles; Parking. Tenant represents and warrants to County that it shall not use motor vehicles in relation to the Leased Premises, or in relation to its rights or obligations under this Lease.

**Section I.10** Alcohol. Tenant may **not** serve or provide alcohol to invitees to any events held in the Leased Premises.

## ARTICLE II. TERM

**Section 2.01** Term. The term of this Lease shall be a period of one (1) year (the “Term”), commencing on \_\_\_\_\_, 2023 (the “Commencement Date”) and shall be automatically renewable for periods of one year on the anniversary of the Term starting in 2023 unless terminated earlier in accordance with the terms of this Lease. In any event, either County or Tenant may terminate this Lease for any reason if the party terminating the Lease provides at least thirty (30) days advance written notice to the other party.

## ARTICLE III. CONSIDERATION

**Section 3.01** Consideration. In consideration of ten dollars paid by the Tenant each year, and Tenant’s use of the property in a clean and orderly fashion consistent with the terms of this Lease, the parties to this Lease acknowledge and agree that this is full and sufficient consideration for this Lease, and that this Lease is in the County’s and the public’s best interests.

## ARTICLE IV. MAINTENANCE; UTILITIES; INSPECTIONS

**Section 4.01** Tenant Maintenance Obligations. Throughout the duration of the Lease, all routine maintenance to the Leased Premises shall be the obligation of Tenant. Tenant agrees to: maintain the Leased Premises and all improvements, fixtures, furnishings and equipment in good working order and repair; Tenant shall not overload the floors or walls of the Leased Premises. Section 4.01, “routine maintenance” shall mean any routine housekeeping and cleanup after Tenant’s use of the property as well as repair or maintenance approved by County in writing prior to Tenant engaging in any such activity, with the exception of the routine maintenance activities expressly set forth in this Section 4.01. Tenant will not be responsible for maintaining the exterior of the Building.

**Section 4.02** Failure to Maintain. Should Tenant fail to maintain the Leased Premises in a satisfactory manner according to the terms of this Lease the lease may be terminated by County and County may exercise the remedies set forth in Section 11.02.

**Section 4.03** Inspection to Determine Compliance. County shall have the right to enter the Leased Premises as more specifically set forth in Section 4.05 below, to determine compliance with this Section 4 of the Lease.

**Section 4.04** Utilities. County shall provide, electricity for the Leased Premises at no cost to Tenant. Tenant is solely responsible for removing trash. Tenant may use the wood stove located on the Leased Premises for heating only and so long as Tenant uses the stove in an appropriate manner. County shall not be liable for any failure to make any repairs or to perform any maintenance to utilities unless such failure shall persist for an unreasonable time after written notice of the need of such repairs or maintenance is given to County by Tenant. To the extent allowed by law, Tenant waives the right to make repairs at County's expense under any law, statute or ordinance now or hereafter in effect.

**Section 4.05** Inspection of Leased Premises. Tenant will permit County, its representatives or agents to make inspection of the Leased Premises at any time to confirm compliance with the terms of this Lease. If there is a potential (based upon reasonable facts or circumstances) or an actual material breach or violation of this Lease, or if an emergency exists which necessitates County's access to the Leased Premises in County's sole discretion, County shall have the right to enter upon and inspect the Leased Premises and to do any reasonable act or thing in order to enforce its rights and obligations under this Lease.

**Section 4.06** Accident Reports. In the case of an accident or emergency, Tenant agrees to cooperate with County. All accidents, significant occurrences, incidents, situations requiring official reporting or action, including law enforcement response, shall be reported to County as soon as possible but no later than the next business day. Reports provided must include the name, address, telephone number for any injured persons and any witnesses, any statements collected, a description of the accident including when, where and how it occurred, a description of any bodily injury or property damage and the action taken by Tenant or other persons.

## **ARTICLE V. IMPROVEMENTS; ALTERATIONS; ADDITIONS**

**Section 5.01** Requirements for Improvements; Alterations; Additions. No improvements, alterations or additions ("Alterations") shall be made to the Leased Premises by Tenant, including but not limited to, Alterations of Building walls, roofs, support, finishes, any mechanical, electrical or plumbing system, carpet, paint, interior remodel of spaces and any exterior alterations.

## **ARTICLE VI. SIGNAGE**

**Section 6.01** Signage. Tenant shall not install any sign, lettering, advertisement or posting in, upon or around the Leased Premises or Building without the prior written consent of County. Tenant shall pay for all costs in connection with the posting of a sign approved by County, including, but not limited to, art work, application, permits, installation and maintenance. County shall have absolute discretion in approving any such sign. Tenant shall pay for costs of removal of signs from the Leased Premises upon termination of the Lease and Tenant shall pay the costs of repair if any damage is caused by such removal. County hereby agrees to the hanging of temporary banners on the

Building announcing the events to be held on the Premises and as authorized by the County and by Tenant pursuant to the terms of this Lease.

## **ARTICLE VII. INSURANCE; INDEMNIFICATION; DAMAGE**

**Section 7.01**     Insurance. During the Term and any Extended Term of this Lease, Tenant shall carry and maintain, in full force and effect and at its sole cost and expense, the following insurance policies, which limits can be met with a combination of primary and excess/umbrella policies. Within thirty (30) days of the execution of this Lease, Tenant will provide insurance certificates to County, listing County as an additional insured for all liability insurances, for the coverages required herein. Any such policies shall not be materially changed or cancelled without thirty (30) days advance written notice to County.

- (a) Comprehensive General Liability Insurance or the equivalent in an amount no less than Four Hundred Twenty-Four Thousand and No/100 U.S. Dollars (\$424,000.00) for injury to one person in any single occurrence; and no less than One Million One Hundred Ninety-Five Thousand and No/100 U.S. Dollars (\$1,195,000.00) for injury(ies) to two or more persons in any single occurrence (i.e., in the aggregate).
- (b) Fire or Extended Coverage Insurance in an amount sufficient to fully cover replacement costs for Tenant's improvements, fixtures, furnishings, equipment and any other personal property of Tenant's kept or maintained at the Leased Premises.
- (c) Worker's Compensation Insurance in accordance with Colorado and Federal law which adequately protects all labor employed by Tenant during the term of this Agreement.

**Section 7.02**     Additional Insurance. Tenant may insure the Premises in such additional amounts and for such other risks as Tenant deems appropriate or as may be required by County.

**Section 7.03**     Waiver of Subrogation. Tenant agrees to waive all rights of recovery against County if any damage, claim, loss or liability sustained by Tenant is covered and paid for by insurance to the extent of the insurance coverage. Tenant shall give notice to its insurance carrier(s) that a waiver of subrogation is contained in this Lease and all policies required shall contain a waiver of subrogation endorsement naming County.

**Section 7.04**     Indemnification. Unless caused by the negligence or willful misconduct of the County, Tenant shall indemnify, defend and hold County, its elected officials, officers, employees and agents harmless from and against any and all claims, losses, liabilities and expenses (including reasonable attorneys' fees) in connection with: (1) Tenant's failure to perform its obligations under this Lease, and (2) the acts and omissions of Tenant, its officers, employees, agents and invitees that occur on or about the Leased

Premises during the term of this Lease. The indemnities set forth in the paragraph shall survive the termination or expiration of this Lease.

**Section 7.05** Risk of Loss. Tenant assumes the risk of loss or damage to the contents of the Leased Premises, whether from fire, theft, accident, earthquake, snow, bursting, overflowing or leaking water, sewer or steam pipes, heating or plumbing fixtures, electrical wiring, gases or odors water damage or any other cause whatsoever. Tenant assumes all risk of loss to personal property located on the Leased Premises, and County shall not be liable for any damage to, or loss of, such property, or for damage or loss suffered by Tenant.

**Section 7.06** Casualty Damage.

- (a) In the case where the Leased Premises shall be rendered untenable by fire, explosion or other casualty, which is not the fault of Tenant, and the Leased Premises cannot be restored within 180 days after such occurrence, County or Tenant may, at their option, terminate this Lease.
- (b) If the Leased Premises are damaged, without fault of Tenant, and if such damage can be repaired within a reasonable period of time by County's estimation, then County shall repair such damage with all reasonable speed.
- (c) If the Leased Premises, without fault of Tenant, receives only minor damage but such damage does not render the Leased Premises unfit for occupancy, County, upon receipt of notice of the occurrence of such event, shall repair such damage with reasonable promptness.
- (d) If the Leased Premises are damaged or destroyed by Tenant, its employees, invitees or agents, Tenant shall be liable for all costs and expenses to repair the Leased Premises to substantially the same condition that existed prior to the casualty.

**Section 7.07** Environmental Matters. If Tenant stores, spills or releases any hazardous or toxic substance or material (including any substance that could constitute a hazardous waste or environmental condition) on, near, in or at the Leased Premises (each, an "Incident"), Tenant shall immediately notify County and any other governmental authority with jurisdiction (such as the Environmental Protection Agency) and shall promptly take all action necessary to remediate the Incident and restore the affected area in accordance with applicable law. Tenant agrees to release, hold harmless and indemnify County, its officials, employees, officers and agents from and against any and all fines, suits, claims, losses, demands, penalties, liabilities, costs or expenses (including reasonable attorney's fees), settlements, remedial action requirements, enforcement actions, administrative proceedings and any other action of any kind or nature, including personal injury, wrongful death or property damage arising out of, or in connection with, the discovery, remediation or disposal of any hazardous waste or environmental condition existing on, in, under or about the Leased Premises caused directly or indirectly by an act or omission of Tenant or its officers, employees, agents, contractors, invitees, successors, predecessors, sublessees, or assigns. As used in this Lease, the terms "hazardous waste" and "environmental condition" shall mean (a) any "hazardous waste" as defined in the

Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act of 1976, as amended) and the regulations promulgated thereunder; (b) any “Hazardous Substance” as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and the regulations promulgated thereunder; (c) any oil, petroleum products or by-products; (d) asbestos or asbestos-containing substances; and (e) any Hazardous Substance, toxic substance, toxic pollutant, or any substance whose release, disposal, generation, storage or emission is regulated by federal, state or local law.

## **ARTICLE VIII. DISCLAIMER OF LIABILITY**

**Section 8.01** COUNTY HEREBY DISCLAIMS, AND TENANT HEREBY RELEASES COUNTY AND ITS EMPLOYEES, AGENTS OR REPRESENTATIVES, FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), FOR ANY LOSS, DAMAGE, OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY TENANT, ITS EMPLOYEES, AGENTS, OR INVITEES DURING THE TERM OF THIS LEASE OR ANY EXTENSION THEREOF INCLUDING, WITHOUT LIMITATION, LOSS, DAMAGE OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF TENANT OR TENANT’S BUSINESS INVITEES THAT MIGHT BE LOCATED OR STORED ON THE LEASED PREMISES OR BUILDING, UNLESS SUCH LOSS, DAMAGE OR INJURY IS CAUSED BY COUNTY’S NEGLIGENCE OR WILLFUL MISCONDUCT, OR IS CAUSED BY COUNTY’S BREACH OF ITS OBLIGATIONS UNDER THIS LEASE. THE PARTIES HERETO EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR SPECIAL OR EXEMPLARY DAMAGES, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE, AND NUISANCE), SUCH AS, WITHOUT LIMITATION, PUNITIVE DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT BE CONSTRUED TO CONSTITUTE AN AGREEMENT BY TENANT TO INDEMNIFY COUNTY FOR COUNTY’S NEGLIGENT, WILLFUL OR INTENTIONAL ACTS.

## **ARTICLE IX. LIENS AND BANKRUPTCY**

**Section 9.01** Liens Prohibited. Tenant shall not permit any lien or encumbrance to be placed upon the Leased Premises. If a lien or encumbrance is placed upon the Leased Premises, County may satisfy such lien or encumbrance, and Tenant shall reimburse County in full within thirty (30) days of satisfaction of the lien. If Tenant fails to reimburse County, amounts remaining past due shall bear interest at the maximum rate permitted by law until paid, and County may pursue any other remedy available to it.

**Section 9.02** Bankruptcy. If Tenant is unable to pay its debts when due, files for bankruptcy, seeks relief from creditors or has a receiver appointed on its behalf, County may terminate this Lease, except to the extent such termination may be avoided by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect regarding creditors’ rights generally or principles governing the availability of equitable remedies. Nevertheless, County shall have a claim in such bankruptcy or receivership proceeding in an amount equal to the aggregate amount of Rent

due and payable from the date such proceeding commenced through the remainder of the Term (and any renewal or extension thereof). The amount of such damages may be satisfied by County out of monies or assets deposited by Tenant under this Lease as security for payment of its obligations.

## ARTICLE X. REPRESENTATIONS & WARRANTIES

**Section 10.1** Representations & Warranties. Tenant represents and warrants to County as follows:

- (a) Tenant is lawfully existing entity that is qualified to conduct business in Colorado.
- (b) Tenant has all requisite power and authority to enter into, and perform its obligations under, this Lease.
- (c) All requisite entity action authorizing Tenant to enter into, and perform its obligations under this Lease have been duly taken and approved.
- (d) The execution, delivery and performance of this Lease by Tenant does not and will not: (1) require the consent of any person or entity, (2) violate any legal requirement, (3) conflict with or constitute a breach or violation of (a) Tenant's articles of organization, or (b) the terms or provisions of any other agreement, instrument or understanding by which Tenant is bound or affected.
- (e) Tenant understands and shall comply with Colorado Revised Statutes §18-8-301, *et seq.* (Bribery and Corrupt Influences) and Colorado Revised Statutes §18-8-401, *et seq.* (Abuse of Public Office) and that no violation of such statutes has occurred or is occurring.
- (f) No officer or employee of County has any personal, financial or beneficial interest whatsoever in this Lease or in any operations to be conducted by Tenant upon the Leased Premises.

## ARTICLE XI. DEFAULT AND REMEDIES.

**Section 11.01** Events of Default. Any one or more of the following events shall be an "Event of Default":

- (a) Tenant vacates or abandons the Leased Premises;
- (b) Tenant fails to perform or comply with any of the covenants, agreements, terms or conditions contained in this Lease other than those referred to in the foregoing Sections 11.01(a), and Tenant fails to remedy the same within thirty (30) days after County has given Tenant written notice specifying such default or such additional period, if any, as may be reasonably required to cure the failure if the failure reasonably cannot be cured within a thirty (30) day period, provided Tenant commences to cure such default within thirty (30) days after receipt of notice and thereafter diligently pursues such cure to completion;

- (c) Tenant fails to vacate the Leased Premises upon the termination of a hold-over term in accordance with Section 11.03 of this Lease; or
- (d) The making by Tenant of any general arrangement or assignment for the benefit of creditors; (ii) the filing by Tenant of a voluntary petition in bankruptcy under Title 11 U.S.C. or the filing of an involuntary petition against Tenant which remains uncontested for a period of sixty (60) days; (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Leased Premises or of Tenant's interest in this Lease; or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Leased Premises or of Tenant's interest in this Lease, provided, however, in the event that any provisions of this Section 11.01(e) is contrary to any applicable law, such provision shall be of no force or effect.

**Section 11.02** Remedies. Upon the occurrence of an Event of Default, County shall have the option to (i) institute suit against Tenant to enforce any obligation under this Lease, (ii) terminate this Lease, (iii) terminate Tenant's right to possession without terminating this Lease, or (iv) cure the Event of Default on behalf of Tenant. If County cures an Event of Default on behalf of Tenant, Tenant shall, on demand and as Rent, reimburse County for County's expenses incurred thereby including the costs of removing and storing Tenant's or any other occupant's property. All past due payments required of Tenant hereunder shall bear interest from the date due until paid at the lesser of ten percent (10%) per annum or the maximum lawful rate of interest. If County terminates either this Lease or Tenant's right to possession of the Leased Premises, Tenant will immediately surrender the Leased Premises to County. If Tenant fails to surrender the Leased Premises, County may enter upon and take possession of the Leased Premises and expel or remove Tenant and any other person who may be occupying the Leased Premises or any part thereof. Any termination only of Tenant's right to possession of the Leased Premises will not relieve Tenant of Tenant's obligation to pay the Rent under this Lease. County shall use reasonable efforts to mitigate any damages incurred by County and to re-let the Leased Premises. In determining the amount of loss which County suffers by reason of termination of this Lease, allowance shall be made for the expense of repossession and any necessary repairs, but not for any remodeling undertaken by County following repossession. Except as provided otherwise in this Lease, County shall have the option to terminate all or a portion of this Lease upon default by Tenant, and in addition to, or in lieu thereof, County may seek any relief available to it at law or in equity. Nothing in this Lease shall be deemed a restriction or waiver of any right or remedy that either party may have at law or equity for any breach or default by either party.

**Section 11.03** Surrender and Holding Over. Upon the expiration or earlier termination of this Lease, Tenant shall quit and surrender the Leased Premises in generally good and serviceable condition, reasonable wear and tear excepted. Thereafter, County shall have the right to enter and take possession of the Leased Premises, with or without process of law and without liability for trespass. Holding over or failure to vacate the Leased Premises at the end of the initial Term or any Extended Term shall not be construed to be the granting or exercise of any additional term. Any holding over after the expiration of the initial Term or any Extended Term without the written consent of County shall be construed to be a

month-to-month tenancy at sufferance, but shall otherwise be subject to all of the terms and conditions of this Lease. Notwithstanding anything to the contrary contained in this Section 11, Tenant shall not be deemed to be holding over the Premises in the event that both parties are engaged in good faith negotiations to extend the term of the Lease. County and Tenant each agree to give the other party written notice at least thirty (30) days prior to the last day of a monthly term to terminate this holdover tenancy. In the event Tenant does not vacate the Premises thirty (30) days after County's notice terminating the holdover tenancy and County re-lets the Leased Premises to a new tenant with a lease term commencing after the date Tenant is required to vacate the Leased Premises; such failure shall be an Event of Default under Section 11.01 of this Lease.

**Section 11.04** Performance of Covenants. If Tenant is in default in the performance of any covenant or condition required to be performed by it, County may, without notice, perform such covenant or condition for the account and at the expense of Tenant. Such expense may include reasonable attorney's fees in prosecuting or defending any action or proceeding instituted by reason of default of Tenant, and Tenant shall promptly reimburse County for the amount of such expense.

**Section 11.05** Title to Leased Premises & Improvements. Any fixtures or improvements erected or constructed on the Leased Premises shall be permanently and inseparably attached to the Premises and shall not be removed without prior written consent of County. Title to the Leased Premises and improvements is and shall remain vested in County. All of Tenant's moveable personal property located in or on the Leased Premises shall remain the property of Tenant. Tenant shall have the right at any time during the term of this Lease and upon expiration or termination, to remove all such equipment and property; provided that Tenant is not in default of its obligations under the Lease. If Tenant has been provided with notice of default or breach under this Section 11, Tenant shall not be entitled to remove any of Tenant's personal property from the Leased Premises until such default has been cured. Any property affixed to the Leased Premises so that the same may not be removed without material damage to the Leased Premises shall not be removed by Tenant at any time, but shall become the property of County upon expiration or earlier termination of this Lease.

**Section 11.06** Consideration Received After Termination. No payment or other consideration received by County from Tenant after the termination of this Lease or after the giving of a notice of termination, shall reinstate, continue or extend the Term or any Renewal Term or affect any prior termination notice delivered to Tenant. The parties agree that after (1) delivery of a notice of termination, (2) commencement of an action for repossession or (3) final judgment that grants County possession of the Leased Premises, County may receive and collect any amounts past due and owing under the terms of this Lease, and the collection of such amounts shall not waive any notice previously given or waive such action or judgment.

## **ARTICLE XII. ASSIGNMENT AND SUBLETTING**

**Section 12.01** Transfers and Assignments by Tenant. Except as provided below, Tenant shall not, without the prior consent of County: (a) assign, transfer, or encumber this

Lease or any estate or interest herein, whether directly or by operation of law; (b) permit any other person or entity to become Tenant hereunder by merger, consolidation, or other reorganization; (c) if Tenant is an entity other than a corporation whose stock is publicly traded, permit the transfer of an ownership interest in Tenant that results in a change in current control of Tenant; (d) grant any license, concession, or other right of occupancy of any portion of the Leased Premises; or (e) use or permit the use of the Leased Premises by any parties other than Tenant (any of the prior described events in Section 12.01 (a to e) being a “Transfer”). For purposes of this Section 12.01, County shall be deemed to give consent if County does not tender a written objection to Tenant within fourteen (14) days after Tenant submits its report of its planned use of the Leased Premises as set forth in Section 1.06.

**Section 12.02**     Subleasing. Tenant shall not have the right to sublease property within the Leased Premises without the express written consent of County, the terms of which, including rent, may be decided by County in its sole discretion.

**Section 12.03**     Successors to County. The rights and obligations of County under this Lease may be assigned by County at its option and without the consent of Tenant.

### **ARTICLE XIII. ABANDONMENT**

**Section 13.01**     Abandonment/Vacation of the Premises. If Tenant abandons or vacates the Leased Premises before the end of the Term (or any renewal or extension thereof), County may enter the Leased Premises, remove fixtures and personal property of Tenant and re-let the Leased Premises as it sees fit without terminating this Lease. In addition, County may make any repairs, changes, alterations or additions to the Leased Premises as may be necessary or desirable for the purpose of re-letting. If Tenant neglects to retrieve its personal property from Leased Premises upon abandonment or upon termination or expiration of the Lease, County may remove and store such personal property (without liability to Tenant for risk of loss), and Tenant agrees to reimburse County on demand, for any and all expenses incurred in such removal and storage, including court costs, attorney’s fees and storage charges for the period of time such property remains in storage. County may, after 30 days’ notice to Tenant, sell such property, in whole or in part, at private sale and without legal process, and apply the proceeds of such sale towards any amounts due from Tenant to County and render the surplus, if any, to Tenant.

### **ARTICLE XIV. OBLIGATIONS OF COUNTY**

**Section 14.01**     Quiet Enjoyment. Tenant shall be entitled to quiet enjoyment of the Leased Premises and County will not interfere with that right, as long as Tenant performs all other obligations under this Lease. Tenant acknowledges that its right to enjoy the Leased Premises is subject to the use of the surrounding property for industrial, residential, commercial and other purposes, including but not limited to noise, lights or other disturbances resulting from County’s use of its nearby shop facility.

### **ARTICLE XV. COMPLIANCE WITH LAWS; ADDITIONAL RULES**

**Section 15.01**     Compliance with Laws. Both parties hereto shall observe and comply

with all applicable laws, including but not limited to federal, state and local laws, regulations, rules, ordinances, policies, and standards, including but not limited to, any County land development regulations and zoning regulations, all as may be amended from time to time.

**Section 15.02 Additional Rules.** Tenant, its officers, employees, agents and invitees shall comply with the following:

- (a) Tenant or its invitees shall not obstruct sidewalks, entries, passages and stairways in any manner. During times of use by Tenant, Tenant shall promptly remove snow from any walkways, porches, and sidewalks that serve the Leased Premises.
- (b) Outhouses shall not be used and must remain locked at all times. Tenant is responsible to provide portable toilets if needed for events and activities at the Tenant's sole cost.
- (c) The Leased Premises shall be maintained at all times in a clean, sanitary and attractive condition with all rubbish, garbage and other waste properly contained and disposed of to appropriate refuse facilities.
- (d) Items, which may constitute a hazard or danger to the any person or property, shall not be moved into the Leased Premises.
- (e) Antennas, satellite dishes and other equipment may not be erected or installed on the Leased Premises without the prior written consent of County.
- (f) All appliances, utilities and fixtures shall be properly operated and used, the outhouse is not to be used for any purpose, and any damage resulting to any appliance, utility or fixture from Tenant's misuse shall be paid by Tenant.
- (g) Animals, except qualified services animals, are prohibited in the Leased Premises.
- (h) Tenant shall not play loud music or cause other nuisances that disturb the occupants or adjoining property owners.
- (i) Tenant shall not install or change locks on doors of the Leased Premises. County shall provide keys. If locks are changed or installed as the result of the loss of any of these keys, it shall be accomplished by County at Tenant's sole expense.
- (j) Except for signage permitted under Section 6.01, Tenant must obtain the prior written consent of County for installation of, change to or temporary installation of any objects along the exterior of the Leased Premises, all such exterior changes are subject to any applicable pre-notice or approval regulations given the designation as a land-side property.
- (k) Tenant shall not deface the walls, ceilings, partitions or floors of the Leased Premises. Tenant shall pay for any defacement, damage or injury caused by Tenant, its agents, employees or invitees.

- (l) County may institute such other rules and regulations as in its reasonable judgment may be necessary or desirable for the safety, care and preservation of the Leased Premises or the Building.

## ARTICLE XVI. COMPLIANCE WITH LAWS

**Section 16.01** Taxes. Tenant is responsible for all taxes assessed against Tenant's personal property located upon the Leased Premises during the term of this Lease and any sales taxes that may be assessed in connection with Tenant's use of the Leased Premises.

**Section 16.02** Non-Discrimination. Tenant and its successor and assigns shall comply with pertinent statutes, executive orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, religion, sexual orientation, political affiliation or disability be excluded from participating in any activity conducted that is directly or indirectly related to this Lease. Tenant shall use the Leased Premises in compliance with all requirements imposed by or pursuant to Title 49, Part 21 of the Regulations of the Office of the Secretary of Transportation, the Colorado Anti-Discrimination Act of 1957 and any other laws and regulations respecting discrimination, all as may be amended from time to time. Tenant and County shall comply with any enforcement procedures as may be demanded by any authority for the purposes of complying with such laws and regulations.

**Section 16.03** Agreements with Other Governmental Authorities. This Lease shall be subject to the provisions and requirements of any existing or future agreement between County and the United States or the State of Colorado.

**Section 16.04** Energy Conservation Requirements. Tenant agrees to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq).

**Section 16.05** Fair Labor Standards Act Requirements. Tenant shall comply with the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act ("FLSA"), with the same force and effect as if given in full text herein. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Tenant has full responsibility to monitor compliance to the referenced statute or regulation. Tenant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

**Section 16.06** Occupational Safety and Health Act of 1970 Requirements. To the extent applicable, Tenant shall comply with the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Tenant must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Tenant retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Tenant must address any claims or disputes

that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

**Section 16.07** Clean Air and Water Pollution Control Requirements. Tenant agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Tenant agrees to report any violation to County immediately upon discovery. County assumes responsibility for notifying the Environmental Protection Agency (EPA). Tenant must include this requirement in all contracts and subcontracts relating to the Leased Premises that exceeds \$150,000.

## **ARTICLE XVII. MISCELLANEOUS**

**Section 17.01** County Representative. The Assistant County Manager or County Manager, as appointed by the Gunnison Board of County Commissioners, shall be a County Representative for purposes of this Lease.

**Section 17.02** Force Majeure. A party shall not be deemed in violation of this Lease (excluding payment obligations) if such party is prevented from performing any of its obligations by reason of, boycott, embargo, act of nature, act of God, pending litigation or legal proceedings or any other circumstance which is beyond its reasonable control and conditioned on the other party providing reasonable written notice to the other of the circumstance and taking commercially reasonable actions to mitigate any such impact. PROVIDED, HOWEVER, the any delay caused by the Covid-19 Pandemic (or Endemic), or any other communicable disease pandemic or endemic, shall NOT be considered a force majeure event.

**Section 17.03** Headings. The Section headings contained in this Lease are for convenience in reference and are not intended to define or limit the scope of any provision.

**Section 17.04** Time of Essence. Time is of the essence in this Lease.

**Section 17.05** Attorneys' Fees. In the event any action or proceeding is brought to take possession of the Leased Premises, breach of any provision of this Lease or to enforce compliance with this Lease for failure to observe any of a party's covenants, Tenant or County shall be awarded reasonable attorneys' fees, expenses and costs if it is a prevailing party.

**Section 17.06** Waiver. Waiver by a party of, or the failure of a party to insist upon, the strict performance of any provision of this Lease shall not constitute a waiver of such party's right or prevent such party from requiring the strict performance of any such provision in the future. Any waiver of an obligation, right, term or provision contained in this Lease must be in writing and signed by the party against whom enforcement is sought.

**Section 17.07** Limitation of Benefit. There are no third-party beneficiaries of this Lease. Without limiting the generality of the preceding sentence, this Lease does not create in or bestow upon any other person or entity not an express party to this Lease any right, privilege or benefit unless expressly provided in this Lease. This Lease does not in any way

represent, nor should it be deemed to imply, any standard of conduct to which the parties expect to conform their operations in relation to any person or entity not an express party to this Lease.

**Section 17.08** Severability. If any provision of this Lease is held invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Lease, and this Lease shall be construed as if such invalid, illegal or unenforceable provision had not been contained in this Lease.

**Section 17.09** Successors. The terms and provisions in this Lease shall extend to and bind the permitted successors and assigns of each party.

**Section 17.10** Non-Exclusive Right. Nothing contained in this Lease shall be construed to grant or authorize the granting of an exclusive right to Tenant for use of the Leased Premises or the Building.

**Section 17.11** Notices. All notices required under this Lease shall be in writing and delivered personally, by email or by first class certified mail, return receipt. If delivered personally, notice shall be deemed given when actually received. If delivered email, notice shall be deemed given upon full transmission of such notice and confirmation of receipt during regular business hours. If delivered by mail, notice shall be deemed given at the date and time indicated on the return receipt. Notice shall be delivered to:

If to Tenant:

Quartz Creek Improvement Association  
Attn: Debra Dykes, President  
115 Miners Avenue  
Ohio City, CO 81237

If to County:

County Manager's Office  
Attn: Matthew Birnie, County Manager  
200 E. Virginia Ave.  
Gunnison, CO 81230

With a copy to:

Gunnison County Attorney's Office  
200 E. Virginia Ave.  
Gunnison, CO 81230  
Email: mhoyt@gunnisoncounty.org

or to such other address or addresses as the parties may designate in writing.

**Section 17.12** Governing Law; Jurisdiction. This Lease shall be governed by, and construed in accordance with, the laws of the State of Colorado without regard to its conflicts of law provisions. The parties submit this Lease and any dispute arising under this lease to the sole and exclusive jurisdiction of the courts in and for Gunnison County, Colorado. Any action to enforce or interpret the provisions of this Lease shall be brought in a court in and for Gunnison County, Colorado.

**Section 17.13** Entire Agreement. This Lease embodies the entire agreement between the parties concerning the subject matter and supersedes all prior written or oral conversations, proposals, negotiations, understandings and agreements. This Lease may not be altered or modified in any manner whatsoever except by a writing signed by the parties.

**Section 17.14** Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the parties as creating a relationship of principal and agent, partners, joint venturers or any other relationship. It is understood and agreed that neither the method of computation of fees, nor any other provision contained herein, nor any act of a party creates a relationship other than the relationship of County and Tenant.

**Section 17.15** No Waiver of Immunity. Nothing in this Lease shall be deemed a waiver of any protections available to County under the Colorado Governmental Immunity Act, or any similar statutory provision.

**Section 17.16** Counterparts. This Lease may be executed in counterparts, each of which will be deemed an original. Delivery of an executed signature page of this Lease by facsimile or email transmission will constitute effective and binding execution and delivery of this Lease. County and Tenant agree to allow the use of electronic signatures for execution of this Lease. All documents must be properly notarized, if applicable. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24-71.3-101 to -121.

The parties have executed this Commercial Lease Agreement as of the Effective Date listed above.

**COUNTY:**

BOARD OF COUNTY COMMISSIONERS  
OF COUNTY OF GUNNISON,

By: \_\_\_\_\_  
Liz Smith, Acting Chairperson

**TENANT:**

QUARTZ CREEK IMPROVEMENTS  
ASSOCIATION

By:   
Debra Dykes, President

**AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM**

**Agenda Item:** Approval for Region 10 Area Agency on Aging's perf

**Action Requested:** Board of County Commissioners' Signature

**Parties to the Agreement:** Region 10

**Term Begins:**

**Term Ends:**

**Grant Contract #:**

**Summary:**

Senior Resource Specialist

**Fiscal Impact:** 31000

**Submitted by:** Elizabeth Holena

**Submitter's Email Address:** elizabeth.holena@state.co.us

**Finance Review:**

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 7/12/2023

**County Attorney Review:**

Required

Not Required

Comments:

Legally Sufficient SO 7/28/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 7/28/2023

Certificate of Insurance Required

Yes  No

**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/28/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/1/2023



This contract is entered into and by Region 10 Area Agency on Aging (R10 AAA) and the Gunnison County Senior Resource Office (contractor) in accordance with the purpose stated herein., it is hereby agreed as follows:

### **Scope of Services**

The contractor shall carry out, in a satisfactory manner, as determined by R10 AAA, all work elements described in the contractor's proposal submitted for funding. The OAA-SYS contract summary for **FY 2024** details this contract. The contractor will administer services funded under this contract in accordance with the Older Americans Act; all applicable provisions of the Colorado Revised Statutes; 12 CCR 2510-1, Older Americans Act (OAA) Programs (Rulemaking volume 10); Colorado Department of Human Services, Division of Aging and Adult Services, and the State Unit on Aging (SUA) Policy and Procedures Manual as from time to time may be amended.

### **Term**

1. Under this agreement, the contractor shall begin work July 1, 2023, and shall continue through June 30, 2024. Contract amendments may extend this agreement through June 30<sup>th</sup>, 2025, subject to appropriations.

2. Agreement:

The parties involved in this agreement are Region 10 AAA-Administrator and Gunnison County Senior Resource Office

#### **Reimbursement:**

This is a performance-based contract based on a rate of \$50.78 per qualifying assessment/reassessment entered in the state database. The target set for the Gunnison County Senior Resource Office is 280 assessments/reassessments for the fiscal year.

Options Counseling will be compensated at \$100 per client per year with a target of 57 units.

An administrative base of \$1,128.80 per month is budgeted provided that all reporting is completed by the required due dates.

#### **Requirements:**

The contractor agrees to have all staff who may at any time be completing assessments or conducting information & assistance or information & referral calls or visits attend a day of training hosted by Region 10. This training will occur at the HHS office and should be scheduled in early July 2023.

Region 10 agrees to provide comprehensive training on all aspects of I & A, I & R, assessments/reassessments, use of the state database, and reporting requirements.

Contractor will screen potential clients for OAA program eligibility before completing assessment.

Referrals must be appropriate to be accepted as targeted units.



All assessments will be reviewed monthly by Region 10.

Additional funding will be set aside to support additional work if the contractor is successful in meeting these targets designed to provide services to the older adults of Gunnison County.

The contractor agrees to post the Region 10 logo on their website and in a visible location at each office location, and in brochures in recognition of the funding support provided.

**Performance based contract:**

**Assessments/reassessments**

**Rate per unit \$ 50.78      Target Units 280      Potential Annual Revenue \$14,218.40**

**Options Counseling**

**Rate per unit \$100.00      Target Units 57      Potential Annual Revenue \$5,700**

**Administrative Base \$13,545.60**

**Potential Annual Total if targets are met \$33,464.00**

**Region 10 Representative**

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

**Contractor Representative**

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

**AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM**

**Agenda Item:** Approval for Sourcewell Samsara Inc Quote #Q-43347

**Action Requested:** County Manager Signature

**Parties to the Agreement:**

**Term Begins:**

**Term Ends:**

**Grant Contract #:**

**Summary:**

Samsara provides a subscription vehicle information service. The price was available through a Sourcewell competitive bidding contract and the Company was chosen after thorough demos were conducted. Is is an annual renewal.

**Fiscal Impact:** \$3,519

**Submitted by:** MARTIN SCHMIDT

**Submitter's Email Address:** mschmidt@gunnisoncounty.org

**Finance Review:**

Required

Not Required

Comments:

Reviewed by: GUNCOUNTY1\PSolheim

Discharge Date: 7/27/2023

**County Attorney Review:**

Required

Not Required

Comments:

Legally sufficient SO 7/27/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 7/27/2023

Certificate of Insurance Required

Yes  No

**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/28/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/1/2023



Samsara Inc  
 1 De Haro Street  
 San Francisco, CA 94107  
 www.samsara.com

**QUOTE #Q-433475**

**Issued 06-05-2023**

**Expires 07-28-2023**

**Sourcewell Contract #: 020221-SAM**

**Prepared For:**

Gunnison County  
 195 Basin Park Drive  
 Gunnison, Colorado  
 81230

**Prepared By:**

Christian Houston Floyd  
 christian.houston@samsara.com

**Quote Summary**

**Subtotal**

Hardware and Accessories

\$0.00

**Licenses**

License Term – 36  
 Months

Shipping and Handling \$102.00

Upfront Hardware Sales Tax \$0.00

Annual License Sales Tax \$0.00

**First Year Payment \$3,621.00**

**Payments Beginning Year Two \$3,519.00**

If shipping is "Pending" - Amount is pending due to size of order; Shipping and Handling subject to change.  
 If Sales tax is "Pending" – Final amount will be provided prior to payment  
 \*3% fee charged on non-ACH charges (Canada Exempt)  
 \*Sales tax subject to change



Samsara Inc  
 1 De Haro Street  
 San Francisco, CA 94107  
 www.samsara.com

<b>SHIP TO</b>			
<b>Hardware and Accessories</b>	<b>Quantity</b>	<b>Net Unit Price</b>	<b>Total Price</b>
Vehicle IoT Gateway, model VG54, for Heavy Duty Vehicles HW-VG54-NAH	15	\$0.00	\$0.00
Enhanced VG Series J1939 or J1708 (9-pin) CBL-VG-CJ1939	15	\$0.00	\$0.00
Panic Button (VG54) ACC-CPB	10	\$0.00	\$0.00
VG54 Aux Cable CBL-VG-CAUX	10	\$0.00	\$0.00
Hardware Due			\$0.00

<b>SHIP TO Curtis Lupton 195 Basin Park Dr Gunnison, Colorado, 81230-7241 United States</b>			
<b>Hardware and Accessories</b>	<b>Quantity</b>	<b>Net Unit Price</b>	<b>Total Price</b>
Vehicle IoT Gateway, model VG54, for Heavy Duty Vehicles HW-VG54-NAH	15	\$0.00	\$0.00
Enhanced VG Series J1939 or J1708 (9-pin) CBL-VG-CJ1939	15	\$0.00	\$0.00
Panic Button (VG54) ACC-CPB	10	\$0.00	\$0.00
VG54 Aux Cable CBL-VG-CAUX	10	\$0.00	\$0.00
Hardware Due			\$0.00

<b>Bundles</b>	<b>Quantity</b>	<b>Annual Unit Price</b>	<b>Total Annual Price</b>
License for Vehicle Gateways - Public Sector Only, No WiFi, No ELD LIC-VG-PS	15	\$234.60	\$3,519.00



Samsara Inc  
1 De Haro Street  
San Francisco, CA 94107  
www.samsara.com

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Annual License Due	\$3,519.00
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Samsara Inc  
1 De Haro Street  
San Francisco, CA 94107  
www.samsara.com

## **Thank you for considering Samsara for your fleet.**

Samsara provides real-time visibility, business-relevant tools, and powerful analytics that enable customers to increase the productivity of their fleets and reduce operating costs. A solution for your fleet is proposed below.

### **What is included?**

Samsara's fleet tracking solution includes hardware accessories and a per-gateway license. Gateway licenses provide all ongoing elements of the service, including:

- Real-time location and vehicle telematics
- Dashboard access with unlimited administrator accounts
- Driver App for iOS and Android devices with unlimited driver accounts
- Over-the-air software feature upgrades
- API access as it relates to features for integration with 3rd party systems
- Maintenance and phone support

Samsara does not include hidden costs in its licenses. If you want access to Samsara's full set of fleet features--including but not limited to WiFi hotspot and ELD capabilities--you will need to upgrade your license. Samsara reserves the right to audit usage of features unrelated to the solution as well as remove them from the Samsara Dashboard.



Samsara Inc  
1 De Haro Street  
San Francisco, CA 94107  
www.samsara.com

## Payment Terms

This order form includes a license fee for the Samsara Software associated with the Hardware to be paid annually and, if applicable, a one-time Hardware cost to be paid upfront (Net-30). The annual fees are payable by recurring wire transfer. All transfers are subject to a 3% processing fee unless the wire transfer is initiated by Samsara via ACH, in which case the 3% processing fee will be waived. Late payments are subject to a 1.5% per month late fee. If license payments are delinquent by 60 days, Samsara may suspend the Service until late payments are remitted.

## License Term

The license term for the Samsara Software licenses purchased under this Order Form begins on the day Samsara activates the applicable Samsara Software license by providing you a claim number and access to the Hosted Software ("License Start Date"). If Hardware associated with a then-unactivated Samsara Software license will be shipped to you under this Order Form, such Samsara Software license will be activated on the day the Samsara Hardware ships. Notwithstanding the foregoing, if you are renewing the license term for a previously-activated Samsara Software license under this Order Form, the License Start Date for the renewal license term shall be the day that Samsara extends your access to the Hosted Software for the renewal license term. Samsara Hardware requires a valid license to function.

Samsara may ship Hardware under this Order Form subject to a schedule as mutually agreed between the Parties or as determined by Samsara. To the extent such Hardware is associated with then-unactivated Samsara Software licenses, the Samsara Software license term for each such Hardware device will start on the day that device ships regardless of the shipment schedule for the other such Hardware devices. If all such Hardware is shipped in one shipment, the license term for all such Hardware will be the full license term under this Order Form. If such Hardware is shipped in multiple shipments, only the license term of such Hardware in the initial shipment will be such full license term. The license term of the remaining such Hardware shipped after the initial shipment will be set to match the then-remaining license term of the initial shipment, so that the license term for all such Hardware under this Order Form expires on the same date. The total cost of the licenses for such Hardware shipped after the initial shipment will be pro-rated based on their actual license term, rounded up to the nearest month, as compared to the full license term under this Order Form. Certain payment amounts under this Order Form assume that the entire order is fulfilled at the same time and are subject to potential reduction based on the actual schedule of order fulfillment.

## Support and Warranty

Samsara stands behind its Products. Hardware Products that require a valid license to function come with a warranty that lasts as long as you maintain a valid license for such Hardware. All other Hardware Products, such as accessories, come with a one-year warranty, unless otherwise specified on the relevant Samsara data sheet. During the warranty period, Hardware exhibiting material defects will be replaced pursuant to our Hardware Warranty & RMA policy at [www.samsara.com/support/hardware-warranty](http://www.samsara.com/support/hardware-warranty). Additional support information can be found at [www.samsara.com/support](http://www.samsara.com/support).

## Terms

Unless otherwise set forth herein, your use and access of the Hardware, Products, and Services specified herein are governed by Samsara's terms of service found at <https://www.samsara.com/terms-of-service>, unless the Parties have entered into a separate terms of service agreement and/or a separate terms of service agreement is attached to this Order Form, in which case such separate terms of service agreement shall govern (the "Terms of Service"). You agree to be bound by the Terms of Service, and any capitalized terms not defined



Samsara Inc  
1 De Haro Street  
San Francisco, CA 94107  
[www.samsara.com](http://www.samsara.com)

herein shall have the meaning set forth in the Terms of Service. You further agree that any other Order Forms you enter into for the purchase of Products shall also be governed by the Terms of Service unless otherwise set forth in the applicable Order Form. For clarity, unless otherwise agreed by the Parties or approved by Samsara, the pricing and payment terms under this Order Form shall not apply to any such other Order Forms.

The continuation of this Order Form one (1) year after the license start date and annually thereafter is contingent upon the appropriation of sufficient funds by Customer. If sufficient funds fail to be appropriated by Customer to provide for the continuation of the Order Form for Customer's then-subsequent fiscal year, Customer may terminate this Order Form with prior written notice effective as of the later of the date of the beginning of such subsequent fiscal year and the end of the then-current annual license period. If Customer so terminates this Order Form, Samsara shall be entitled to payment of and for: all amounts due as of the date of termination; deliverables in progress; liabilities, fees, or costs caused by such termination including for obligations that extend beyond the date of termination; and reasonable Order Form close-out costs.



Samsara Inc  
1 De Haro Street  
San Francisco, CA 94107  
www.samsara.com

### Notification of Confidentiality

Except as legally required under applicable public records request laws, provided that you use reasonable efforts to provide Samsara with advance notice of any such disclosure, you agree that the pricing and payment terms specified in this Order Form shall (i) be held in strict confidence; (ii) not be disclosed to any Samsara competitor or other entity, except as pre-approved in writing by Samsara; and (iii) not be used except to evaluate the suitability of the Samsara Products for your business. You will immediately notify Samsara in the event of any unauthorized use or disclosure under these terms. Violation of these obligations will cause irreparable harm to Samsara for which Samsara may obtain compensatory and timely injunctive relief from a court, as well as any other remedies that may be available, including recovery of all reasonable attorney's fees and costs incurred in seeking such remedies. Your obligations specified herein shall last until the pricing and payment terms herein are, through no fault or action by you, public. This Order Form is a legally binding agreement between you ("Customer") and Samsara Inc. ("Samsara"). IN WITNESS WHEREOF, Customer has caused this Order Form to be executed by its duly authorized representative.

I confirm acceptance of this Order Form on behalf of the Customer identified herein and represent and warrant that I have full and complete authority to bind the Customer to this Order Form, including all terms and conditions herein. Please confirm acceptance of this Order Form by signing below:

Signature \_\_\_\_\_

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

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

**AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM**

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**Agenda Item:** Approval for Three (3) Letters of Support; Upper G

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**Action Requested:**

**Parties to the Agreement:**

**Term Begins:**

**Term Ends:**

**Grant Contract #:**

**Summary:**

Follow-up for your review after 7/25's work session presentation: three letters of support needed for the Trout Unlimited and Upper Gunnison River Water Conservation District's multi-project grant applications to the Colorado River District's Community Funding Program.

**Fiscal Impact:**

**Submitted by:** Melanie Bollig

**Submitter's Email Address:** mbollig@gunnisoncounty.org

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**Finance Review:**

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

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**County Attorney Review:**

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

Certificate of Insurance Required

Yes  No

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**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/27/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted:

Agenda Date: 8/1/2023

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**Gunnison County Board of County Commissioners**

Phone: (970) 641-0248 | Fax: (970) 641-3061

Email: [bocc@gunnisoncounty.org](mailto:bocc@gunnisoncounty.org)

Website: [www.GunnisonCounty.org](http://www.GunnisonCounty.org)

August 1, 2023

Colorado River Water Conservation District  
201 Centennial Street, Suite 200  
Glenwood Springs, Colorado 81601

Re: 2023 Multi-Project Grant Application

Dear Mr. Mueller,

We are writing to express our enthusiastic support for the Upper Gunnison River Water Conservancy District project proposal entitled, *2023 Multi-Project Improvements Project*.

This project exemplifies the type of multi-beneficial water resource improvement projects that can happen under *community driven* Watershed Management Planning. This project will provide benefits associated with the protection of pre-compact water rights, improvement of irrigation water management, improvement of municipal irrigation water management and efficiency, stream and riparian area restoration, increasing productivity for agricultural water users, and the future risks associated with climate change and land use in the Upper Gunnison River Basin.

The Gunnison County Board of County Commissioners have received a public presentation on the project scope of work and benefits and feels that it meets the mission and strategic planning goals of the Colorado River District as well as the vision expressed to Colorado River District constituents when we overwhelmingly voted in support of Ballot Issue 7A. We are confident in the leadership and experience of the Upper Gunnison District and their technical team, and in their ability to successfully carry out these projects.

We urge you to give this project your full consideration and support.

*Sincerely,*

Gunnison County Board of Commissioners

---

Jonathan Houck, *Commissioner*

---

Liz Smith, *Commissioner*

---

Laura Puckett Daniels, *Commissioner*



**Gunnison County Board of County Commissioners**

Phone: (970) 641-0248 | Fax: (970) 641-3061

Email: [bocc@gunnisoncounty.org](mailto:bocc@gunnisoncounty.org)

Website: [www.GunnisonCounty.org](http://www.GunnisonCounty.org)

August 1, 2023

Colorado River Water Conservation District  
201 Centennial Street, Suite 200  
Glenwood Springs, Colorado 81601

Re: 2023 Wetlands Assessment Project

Dear Mr. Mueller,

We are writing to express our enthusiastic support for the Upper Gunnison River Water Conservancy District project proposal entitled, *2023 Wetlands Assessment Project*.

This project exemplifies the type of multi-beneficial water resource improvement projects that can happen under *community driven* Watershed Management Planning. This project will provide updated wetland mapping to assess existing wetlands, historic wetland loss and wetland risk. Benefits of this project include protection of existing wetlands by incorporation of data into various planning review processes at local, state or federal levels (e.g., BLM Resource Management Plans, USFS vegetation management planning, etc.), the degree of historical loss and potential causes (e.g., roads, recreation, etc.) and possibility for restoration (e.g., replacement of an undersized culvert, road re-alignment or road closures, etc.), and future risks associated with climate change or land use in the Upper Gunnison River Basin. Mitigation or prevention of wetland loss in the headwaters of the Upper Gunnison will address issues associated with habitat loss (e.g., Gunnison sage grouse or boreal toad), climate change and impacts of aridification, forest health and water quality and quantity, wildfire mitigation, and healthy range lands important to agricultural producers.

The Gunnison County Board of County Commissioners has received a public presentation on the project scope of work and benefits and feels that it meets the mission and strategic planning goals of the Colorado River District as well as the vision expressed to Colorado River District constituents when we overwhelmingly voted in support of Ballot Issue 7A. We are confident in the leadership and experience of the Upper Gunnison District and their technical team, and in their ability to successfully carry out this assessment.

We urge you to give this project your full consideration and support.

*Sincerely,*

Gunnison County Board of Commissioners

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Jonathan Houck, *Commissioner*

Liz Smith, *Commissioner*

Laura Puckett Daniels, *Commissioner*



**Gunnison County Board of County Commissioners**

Phone: (970) 641-0248 | Fax: (970) 641-3061

Email: [bocc@gunnisoncounty.org](mailto:bocc@gunnisoncounty.org)

Website: [www.GunnisonCounty.org](http://www.GunnisonCounty.org)

August 1, 2023

Colorado River Water Conservation District  
201 Centennial Street, Suite 200  
Glenwood Springs, Colorado 81601

Re: Upper Gunnison Infrastructure and Tech for Irrigation Water Management

Dear Mr. Mueller,

We are writing to express our enthusiastic support for Trout Unlimited's (TU) Infrastructure and Water Management Improvement Project.

TU has worked closely with agricultural producers in the Upper Gunnison Basin to identify challenges with aging water management infrastructure and develop multi-beneficial solutions. These solutions will result in responsible use of pre-compact water rights, improved irrigation water management, and aquatic and riparian area restoration.

The Gunnison County Board of County Commissioners have received a public presentation on the project scope of work and benefits and feels that it meets the mission and strategic planning goals of the Colorado River District as well as the vision expressed to Colorado River District constituents when we overwhelmingly voted in support of Ballot Issue 7A. We are confident in TU's ability to complete this project in coordination with the Upper Gunnison District and landowners in the Upper Gunnison Basin.

We urge you to give this project your full consideration and support.

*Sincerely,*

Gunnison County Board of Commissioners

---

Jonathan Houck, *Commissioner*

Liz Smith, *Commissioner*

Laura Puckett Daniels, *Commissioner*

**AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM**

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**Agenda Item:** Resolution; A Resolution and Declaration Continuin

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**Action Requested:** Board of County Commissioners' Signature

**Parties to the Agreement:**

**Term Begins:**

**Term Ends:**

**Grant Contract #:**

**Summary:**

A Resolution and Declaration continuing the Lowline Fire Local Disaster Emergency in Gunnison County.

**Fiscal Impact:**

**Submitted by:** Donita Bishop

**Submitter's Email Address:** dbishop@gunnisoncounty.org

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**Finance Review:**

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

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**County Attorney Review:**

Required

Not Required

Comments:

Legally sufficient SO 7/28/23

Reveiwed by: GUNCOUNTY1\sobaid

Discharge Date: 7/28/2023

Certificate of Insurance Required

Yes  No

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**County Manager Review:**

Comments:

Reveiwed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/28/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 5

Agenda Date: 8/1/2023

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**Gunnison County, Colorado**  
**2023 Local Disaster Emergency Declaration**  
**Lowline Fire**

**WHEREAS**, at approximately 8 a.m. local time on July 26, 2023, a wildland fire, designated as the Lowline Fire, was reported on the north aspect of a ridge between Squirrel and Mill Creeks in Gunnison County;

**WHEREAS**, the Lowline Fire is presently burning 14 miles north northwest of the City of Gunnison, Colorado, and 11 miles southwest of Town of Crested Butte, Colorado on United States Forest Service and private lands;

**WHEREAS**, as of 10 p.m. local time on July 26, 2023, the Lowline Fire was located on a ridge at 9,400 feet of elevation between Squirrel and Mill Creeks, 3.5 miles west of County Road 730 (Ohio Pass Road), and was at least 681 acres in size and zero percent contained;

**WHEREAS**, multiple structures are threatened in the Mill Creek and Squirrel drainages, and those areas are already under mandatory evacuation orders, with surrounding areas under pre-evacuation notices;

**WHEREAS**, the cost and magnitude of responding to and recovering from the impact of the ensuing event is far in excess of the County's available resources; and

**WHEREAS**, the public health, safety and welfare of Gunnison County citizens and the public at large in Gunnison County currently is in danger; and

**WHEREAS**, persons and property are or will be damaged unless immediate efforts are undertaken to reduce the threat to life and property; and

**WHEREAS**, Colorado law provides for declaring of a local disaster emergency to assist local governments in responding to and recovering from emergency events, including wildland fires; and

**WHEREAS**, pursuant to C.R.S. § 24-33.5-709(1) "A local disaster may be declared only by the principal executive officer of a political subdivision. It shall not be continued or renewed in excess of seven days except by or with the consent of the governing board of the political subdivision"; and

**WHEREAS**, "The effect of a declaration of local disaster emergency is to activate the response and recovery aspects of any and all applicable local and interjurisdictional disaster and emergency plans and to authorize the furnishing of aid and assistance under such plans." C.R.S. § 24-33.5-709(2); and

**WHEREAS**, there is an emergency present which necessitates activation of the emergency powers granted by both the foregoing authorities and Board of County Commissioners, Gunnison County, Colorado, Resolution No. 2022-23.

**NOW, THEREFORE, BE IT DECLARED** by the County Manager of Gunnison County, Colorado:

**THAT**, pursuant to C.R.S. § 24-33.5-709 and Resolution 2022-23, it is hereby determined and declared that the Lowline Fire in Gunnison County constitutes a local disaster emergency that warrants the mobilizing of emergency response and the furnishing of aid and assistance, as well as activation of all authorities and obligations set forth in Resolution 2022-23 with regard to this emergency.

**THAT**, this Declaration shall be promptly filed with the Gunnison County Clerk and Recorder and with the Colorado Office of Emergency Management.

**THAT**, this Declaration shall remain in effect for a period of seven (7) days unless continued or renewed by action of the Board of County Commissioners of Gunnison County, Colorado.

**THAT**, this Declaration is necessary for the public health, safety and welfare of the citizens of this County of Gunnison, State of Colorado.

**DECLARED** this 27th day of July, 2023 at GUNNISON COUNTY, COLORADO at 9:30 a.m. local time.

Gunnison County, Colorado

By and through its County Manager



Matthew Birnie, County Manager

Attest:

  
Deputy Clerk



**BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF GUNNISON, STATE OF COLORADO**

**RESOLUTION NO. 2023-\_\_\_**

**A RESOLUTION AND DECLARATION CONTINUING THE LOWLINE FIRE  
LOCAL DISASTER EMERGENCY IN GUNNISON COUNTY**

**WHEREAS**, at approximately 8 a.m. local time on July 26, 2023, a wildland fire, designated as the Lowline Fire, was reported on the north aspect of a ridge between Squirrel and Mill Creeks in Gunnison County;

**WHEREAS**, the Lowline Fire is presently burning north northwest of the City of Gunnison, Colorado, and southwest of Town of Crested Butte, Colorado on United States Forest Service and private lands;

**WHEREAS**, multiple structures are threatened, and areas of Gunnison County are or may soon be under mandatory evacuation orders or pre-evacuation notices;

**WHEREAS**, pursuant to C.R.S. § 24-33.5-709(1) “A local disaster may be declared only by the principal executive officer of a political subdivision. It shall not be continued or renewed in excess of seven days except by or with the consent of the governing board of the political subdivision”;

**WHEREAS**, “The effect of a declaration of local disaster emergency is to activate the response and recovery aspects of any and all applicable local and interjurisdictional disaster and emergency plans and to authorize the furnishing of aid and assistance under such plans.” C.R.S. § 24-33.5-709(2); and

**WHEREAS**, the Board of County Commissioners, Gunnison County, Colorado, pursuant to the foregoing authorities and other applicable law, has promulgated Resolution No. 2022-32, setting forth procedures and protocols for addressing local disaster emergencies and related County actions, funding and functions; and

**WHEREAS**, on July 27, 2023, pursuant to the authority provided by law and delegated by the Board of County Commissioners, the Gunnison County Manager declared a local disaster, and his declaration has been properly executed and recorded with the Gunnison County Clerk and Recorder; and

**WHEREAS**, the Board of County Commissioners has confirmed the continued existence of such an emergency; and

**WHEREAS**, the public health, safety and welfare of Gunnison County citizens and the public at large in Gunnison County remains in danger; and

**WHEREAS**, persons and property are or will be injured unless continued efforts are undertaken to reduce the threats to life and property; and

**WHEREAS**, the Board finds that there remains an emergency present which necessitates continuation of the use of emergency powers granted by C.R.S. § 24-33.5-709 and other applicable law, as well as those authorities and obligations set forth in Board of County Commissioners, Gunnison County, Colorado, Resolution No. 2022-32;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Gunnison County, Colorado **THAT**:

1. It is hereby declared that there continues to be a local disaster emergency in Gunnison County due to the Lowline fire and its related effects;

2. This local disaster emergency declaration shall continue until amended, extended, or rescinded by the Board duly enacted subsequent Resolution;

3. This Resolution and local disaster emergency declaration is necessary for the public health, safety and welfare of the citizens of the County of Gunnison, State of Colorado; and

4. This Resolution shall be promptly recorded with the Gunnison County Clerk and Recorder and filed with the Office of Emergency Management.

Introduced by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_ and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

GUNNISON COUNTY BOARD  
OF COUNTY COMMISSIONERS

By:

\_\_\_\_\_  
Jonathan Houck, Chairperson

By:

\_\_\_\_\_  
Elizabeth Smith, Commissioner

By:

\_\_\_\_\_  
Laura Puckett Daniels, Commissioner

ATTEST:

\_\_\_\_\_  
Deputy County Clerk

**AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM**

**Agenda Item:** Boundary Line Adjustment; LUC-22-00059; Owners Rya

**Action Requested:** Board of County Commissioners' Signature

**Parties to the Agreement:**

**Term Begins:**

**Term Ends:**

**Grant Contract #:**

**Summary:**

Boundary Line Adjustment for Lots 31 & 32 of Ohio Meadows Subdivision Filing No. 3.

**Fiscal Impact:**

**Submitted by:** Hillary Seminick

**Submitter's Email Address:** hseminick@gunnisoncounty.org

**Finance Review:**

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

**County Attorney Review:**

Required

Not Required

Comments:

Appears legally sufficient. ASFR 7.27.23

Reviewed by: GUNCOUNTY1\asanfilippo-rosser

Discharge Date: 7/27/2023

Certificate of Insurance Required

Yes  No

**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/27/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 5

Agenda Date: 8/1/2023

**To: Board of County Commissioners**

**RE: LUC-22-00059 | Boundary Line Adjustment | Landry-Margenau**

**Date: July 25, 2023**

The Applicants, Ryan Margenau and Michael Landry, owners of Lots 31 & 32 of Ohio Meadows Subdivision Filing No. 3, respectively, request approval of a Boundary Line Adjustment between the two subject lots as shown in Exhibit A. The primary purpose of the request is to allow for construction of a new garage on Lot 31 and to establish egress to Lot 32. Both lots will benefit from a shared driveway, the agreements for the application and the shared access easement are provided in Exhibits B and C. These agreements will be recorded and referenced on the plat; however, the county is not a party to either agreement.

The request will not create additional lots, meets the minimum lot size, and represents an insubstantial change, meeting the standards of [Land Use Resolution](#) Sec. 5-103.A.3.a, *Additional Standards Applicable to Boundary Line Adjustments*. The plat has been reviewed by planning staff and the County Attorney's Office for compliance with Sec. 5-104.L *Application for Boundary Line Adjustments* and was approved to form. The printed Mylar plat contains minor edits, such as revision to the title from "Lot Line Adjustment" to "Boundary Line Adjustment"; however, there are no substantive changes to note.

Thank you,



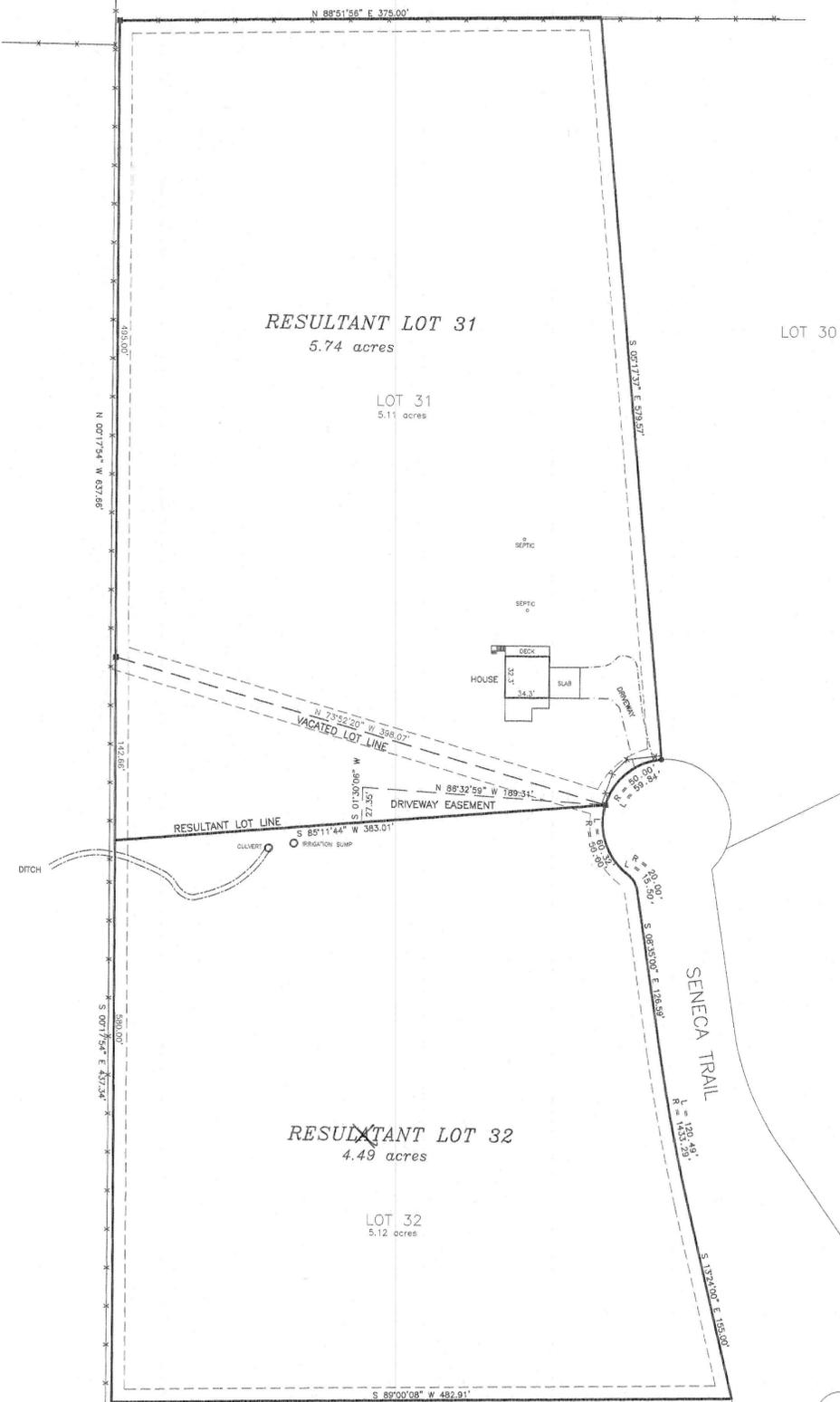
Hillary Iza Seminick, AICP

**Exhibits**

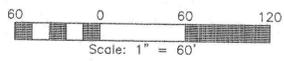
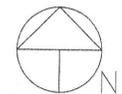
You may review the entire application at <https://permitdb.gunnisoncounty.org/citizenaccess>, click "Projects", search by application number LUC-22-00059. Click on "Attachments".

- A. Final Plat
- B. Boundary Agreement
- C. Easement Agreement

HORSE RIVER RANCH SUBDIVISION



- LEGEND**
- Found rebar with aluminum cap "LS 4950"
  - Found rebar with aluminum cap "LS 23502"
  - Fence
  - - - - - Easement boundary per record plat



**ATTORNEY'S OPINION**

I, Christopher D. Mochulsky, an attorney at law duly licensed to practice in the State of Colorado, hereby certify that I have examined title to all lands herein dedicated and subject to this plat. Title of said lands are vested in Ryan Margenau (Lot 31) and Micheal Landry (Lot 32), and is free and clear of all liens, defects, encumbrances, restrictions, and reservations, except as follows recorded in the office of the Gunnison County Clerk and Recorder:

1. Defects, liens, encumbrances, adverse claims, easements or claims of easement, or other matters, if any, created or first appearing in the public records or attaching subsequent to the date of this attorney's opinion.
2. Deed of Trust dated January 16, 2021 from Ryan Margenau to the Public Trustee of Gunnison County for the use of Mortgage Electronic Registration Systems, Inc., as nominee for Loandepot.com, LLC to secure the sum of \$436,892.00 recorded January 25, 2021, under Reception No. 672995.
3. Deed of Trust dated December 13, 2019 from Michael Landry to the Public Trustee of Gunnison County for the use of Gunnison Savings and Loan Association to secure the sum of \$38,100.00 recorded December 16, 2019 under Reception No. 664044.
4. Unpaid taxes and assessments, if any.
5. Reservations as contained in patent of the United States Recorded September 21, 1901 in book 101 at page 250 and recorded April 4, 1922 in book 184 at page 314.
6. An undivided 100% interest in all oil, gas, and other minerals as reserved by the federal land bank of Wichita in deed recorded June 17, 1940 in book 259 at page 545; and any and all assignments thereof or interests therein.
7. Easements, notes, reservations and recitals as set for on the plat of Ohio Meadows Subdivision, filing no. 3 recorded July 7, 1972 at Reception No. 289612.
8. Covenants, conditions, restrictions, which do not contain a forfeiture or reverter clause, and easements as set forth in the instrument recorded November 19, 1970 in book 424 at page 114, as amended by instrument recorded May 11, 1978 in book 514 at page 852, and as amended by and extended by instruments recorded November 16, 1990 in book 684 at pages 779 through 847; as amended by instrument recorded November 14, 2006 at reception no. 570867; and as amended by instrument recorded November 14, 2006 at reception no. 570828; and in amendment recorded April 27, 2020 under reception no. 666226.
9. Terms, Conditions and provisions of the acknowledgment of covenant amended recorded September 27, 2007 at reception no. 579125.
10. Notice of adoption of rules, regulations, policies and procedures for Ohio Meadows filings no. 1, 2, 3, and 4 recorded November 10, 2011 at reception no. 609361.
11. Terms, conditions, provisions, burdens and obligations as set forth in resolution and agreement for amendment dated October 11, 2019 recorded March 12, 2020 under reception no. 665612.
12. Terms, conditions, provisions, burdens, and obligations set forth in bargain and sale deed recorded April 27, 2020 under reception no. 666231; and in grant of easement recorded April 27, 2020 under reception no. 666227.
13. Terms, conditions, and provisions of certificate of administrative review recorded July 25, 2022, under reception no. 686101 and certificate of administrative review recorded August 15, 2022, under reception no. 686589 (Lot 32).
14. Terms, conditions, provisions, burdens, and obligations set forth in the Boundary Agreement recorded \_\_\_\_\_, 20\_\_\_\_ under Reception No. \_\_\_\_\_
15. Terms, conditions, provisions, burdens, and obligations as set forth in the Easement Agreement recorded on \_\_\_\_\_, 20\_\_\_\_ under Reception No. \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022,

Christopher D. Mochulsky, Attorney-At-Law  
 Supreme Court Registration No. 52629  
 Schumacher & O'Loughlin, LLC  
 232 W. Tomichi Ave, Suite 204  
 Gunnison, CO 81230  
 (970)641-4900  
 Chris@gunnisonlaw.net

**BOARD OF COUNTY COMMISSIONERS' APPROVAL**

The within plat of the LOT LINE ADJUSTMENT, LOTS 31 & 32, OHIO MEADOWS FILING NO. 3, is approved this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022. The roads and other public areas are hereby accepted provided, however, that such acceptance shall not in any way be considered as an acceptance for maintenance or snow removal purposes. Maintenance of, or snow removal from the subject roads shall be only upon a separate resolution of the Board of County Commissioners passed in accordance with such policies, resolution, or ordinances in effect at that time.

\_\_\_\_\_  
 Commissioner, Gunnison County Board of Commissioners

Attest:  
 \_\_\_\_\_  
 Gunnison County Clerk and Recorder

**SURVEYOR'S CERTIFICATE**

I, Timothy E. Pearson, a registered land surveyor in the State of Colorado, certify that this plat and the survey referred to herein were made under my direction and control and that both are true and correct to the best of my knowledge.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
 Timothy E. Pearson  
 Colorado L.S. No. 34679

**DEDICATION**

Ryan Margenau and Loandepot.com LLC, being the owner and mortgagee/lien holder of the land described as follows:  
 Lot 31, Ohio Meadows Filing No. 3, according to the plat thereof, recorded July 7, 1972, and filed under Reception No. 289612 in the records of Gunnison County, Colorado, and  
 Michael Landry and Gunnison Savings and Loan, being the owner and mortgagee/lien holder of the land described as follows:  
 Lot 32, Ohio Meadows Filing No. 3, according to the plat thereof, recorded July 7, 1972, and filed under Reception No. 289612 in the records of Gunnison County, Colorado,  
 under the name LOT LINE ADJUSTMENT LOTS 31 AND 32, OHIO MEADOWS FILING NO. 3, have laid out, platted and/or subdivided the same as shown on this plat and do hereby permanently dedicate and convey to the owners of lots, tracts or parcels within this subdivision and their guests, but not to the public at large, the common right to use streets, alleys, roads, and other areas as shown hereon, and hereby permanently dedicate those portions of land labeled as easements for the installation and maintenance of public utilities as shown hereon.

In witness whereof, Ryan Margenau has subscribed his name this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022.

**OWNER**

By: \_\_\_\_\_  
 Ryan Margenau  
 State of Colorado )  
 ) ss.  
 County of Gunnison )  
 \_\_\_\_\_  
 The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022, by Ryan Margenau

My commission expires: \_\_\_\_\_  
 My address is: \_\_\_\_\_  
 Witness my hand and official seal:  
 \_\_\_\_\_ (seal)  
 Notary Public

**MORTGAGEE**

By: \_\_\_\_\_  
 Loandepot.com LLC  
 Its: \_\_\_\_\_  
 State of \_\_\_\_\_ )  
 ) ss.  
 County of \_\_\_\_\_ )  
 \_\_\_\_\_  
 The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022, by \_\_\_\_\_, as \_\_\_\_\_ of Loandepot.com LLC.

My commission expires: \_\_\_\_\_  
 My address is: \_\_\_\_\_  
 Witness my hand and official seal:  
 \_\_\_\_\_ (seal)  
 Notary Public

In witness whereof, Michael Landry has subscribed his names this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022.

**OWNER**

By: \_\_\_\_\_  
 Michael Landry  
 State of \_\_\_\_\_ )  
 ) ss.  
 County of \_\_\_\_\_ )  
 \_\_\_\_\_  
 The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022, by Michael Landry

My commission expires: \_\_\_\_\_  
 My address is: \_\_\_\_\_  
 Witness my hand and official seal:  
 \_\_\_\_\_ (seal)  
 Notary Public

**MORTGAGEE**

By: \_\_\_\_\_  
 Gunnison Savings and Loan  
 Its: \_\_\_\_\_  
 State of Colorado )  
 ) ss.  
 County of Gunnison )  
 \_\_\_\_\_  
 The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022, by \_\_\_\_\_, as \_\_\_\_\_ of Gunnison Savings and Loan.

My commission expires: \_\_\_\_\_  
 My address is: \_\_\_\_\_  
 Witness my hand and official seal:  
 \_\_\_\_\_ (seal)  
 Notary Public

**GUNNISON COUNTY CLERK AND RECORDER'S ACCEPTANCE**

This plat was accepted for filing in the office of the Clerk and Recorder of Gunnison County, Colorado, on this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022, Reception Number \_\_\_\_\_ Time \_\_\_\_\_

\_\_\_\_\_  
 Gunnison County Clerk and Recorder

<b>LOT LINE ADJUSTMENT</b>	
LOTS 31 & 32, OHIO MEADOWS FILING NO. 3 GUNNISON COUNTY, COLORADO	
PEARSON SURVEYING P.O. BOX 652 GUNNISON, CO 81230 970-641-2910 PROJECT # 21-1-1	DATE : 3/29/21 LATEST REVISION DATE : 11/22/22  SHEET 1 OF 1

GENERAL NOTES: Property located by field measurements to found monuments shown hereon. Basis of bearings is N 73°52'20" W between found monuments on the south boundary of Lot 31.

## **BOUNDARY AGREEMENT**

THIS BOUNDARY AGREEMENT (the "Agreement") is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **Ryan Margenau** whose address is 87 Seneca Trail, Gunnison, Colorado 81230, and **Michael Landry** whose address is 79 Seneca Drive, Gunnison, Colorado 81230.

### **1. Recitals**

1.1 Ryan Margenau is the owner of the property located at 87 Seneca Trail, Gunnison, Colorado, 81230, and more particularly described as follows:

Lot 31, Ohio Meadows Filing No. 3, According to the plat thereof, recorded July 7, 1972, and filed under Reception No. 289612 in the records of Gunnison County, Colorado.

(hereinafter referred to as "Margenau Property").

1.2 Michael Landry is the owner of the property located at 79 Seneca Trail, Gunnison, Colorado 81230, and more particularly described as follows:

Lot 32, Ohio Meadows Filing No. 3, According to the plat thereof, recorded July 7, 1972, and filed under Reception No. 289612 in the records of Gunnison County, Colorado.

(hereinafter referred to as "Landry Property").

1.3 The south boundary of the Margenau Property adjoins the north boundary of the Landry Property. Ryan Margenau and Michael Landry agree, by this Agreement, to adjust this boundary line as shown on the Survey attached hereto as Exhibit A. Ryan Margenau and Michael Landry intend for the "resultant lot line" shown on Exhibit A to be the true and correct boundary line between the Margenau Property and the Landry Property.

### **2. Consideration**

The consideration for this Agreement is the mutual covenants and agreements exchanged between the parties hereto, the receipt and sufficiency of which are hereby confessed and acknowledged.

### **3. Establishment of Boundary Line**

3.1 For all purposes, Ryan Margenau and Michael Landry agree that the true, correct, and final boundary line (the "Boundary") between the Margenau Property and the Landry Property shall be the resultant lot line established by the survey prepared by

Pearson Surveying, a true copy of which is attached hereto as Exhibit A and made a part hereof (the "Survey").

3.2 Each of the parties hereto hereby conveys and quitclaims to the other party the adjoining real property which is in conflict with the Boundary as established by the Survey.

- A. The resultant lot size of the Margenau Property is 5.74 Acres.
- B. The resultant lot size of the Landry Property is 4.49 Acres.

#### **4. Easement Agreement**

There shall be a driveway easement located on the Boundary, as shown on Exhibit A, and the terms of which are as set forth in the Easement Agreement that shall be executed and recorded by the parties commensurate herewith.

#### **5. Miscellaneous**

5.1 This Agreement has been executed by the parties voluntarily in order to determine and permanently establish by written agreement the property line and boundary between the Margenau Property and the Landry Property.

5.2 Each of the parties hereby represents to the other that each is the owner of its, his, or her respective property as described herein, that each has the full power and authority to enter into and execute this Agreement, and that no other owner, lessee, lienor, or mortgagee has any right, title, or interest in its, his, or her respective property.

5.3 This Agreement shall be recorded in the real estate records in the office of the Clerk and Recorder of Gunnison, County, Colorado, as an instrument affecting real estate, shall run with the land as a covenant burdening and benefitting both the Margenau Property and the Landry Property, and shall inure to the benefit of and be binding upon the heirs, successors, assigns, and personal representatives of the parties hereto.

IN WITNESS WHEREOF, Ryan Margenau and Michael Landry have executed this Boundary Agreement as of the day and year first above set forth.

\_\_\_\_\_  
Ryan Margenau

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF GUNNISON        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Ryan Margenau.

Witness my hand and official seal.

My commission expires:\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Michael Landry

STATE OF COLORADO        )  
  ) ss.  
COUNTY OF GUNNISON     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Michael Landry.

My commission expires:\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

## EASEMENT AGREEMENT

**RYAN MARGENAU**, whose legal address is 87 Seneca Trail, Gunnison, Colorado 81230 (“Grantor”), for good and valuable consideration, the receipt and sufficiency of which are hereby confessed and acknowledged, does hereby grant and convey unto **MICHAEL LANDRY**, whose legal address is 79 Seneca Trail, Gunnison, Colorado 81230 (“Grantee”) and Grantee’s heirs, successors, assigns, and personal representatives a perpetual nonexclusive easement for ingress and egress over and across Grantor’s real property in Gunnison, Colorado, known as 87 Seneca Trail, Gunnison, Colorado 81230, as described and shown on the survey plat recorded on \_\_\_\_\_ at Reception No., \_\_\_\_\_, as the “Driveway Easement” (the “Easement”).

Grantee, at Grantee’s expense, shall have the right to operate, use, maintain, and repair a driveway within the Easement for ingress and egress off of Seneca Trail to and from Grantee’s adjoining real property described as follows:

Lot 32, Ohio Meadows Filing No. 3, According to the plat thereof, recorded July 7, 1972, and filed under Reception No. 289612 in the records of Gunnison County, Colorado,

County of Gunnison,  
State of Colorado.

also known as 79 Seneca Trail, Gunnison, Colorado 81230 (“Grantee’s Property”).

The Easement shall be an easement appurtenant to Grantor’s property and Grantee’s Property, and shall inure to the benefit of Grantees’ heirs, successors, assigns, and personal representatives, subject to the conditions set forth herein.

All costs associated with the Easement, including surveying, construction, repair, maintenance, and snow removal, shall be split equally by the Grantor and the Grantee. The Grantee shall and does hereby indemnify and save Grantor and Grantor’s family members, guests, invitees, representatives, heirs, successors, and assigns harmless from any and all claims for damages or liens arising from the operation, use, surveying, construction, repair, maintenance, and snow plowing on or over the Easement.

Grantee’s use of the Easement shall not be exclusive, and Grantor and Grantor’s heirs, successors, assigns, personal representatives, guests, and invitees shall have an equal right to the use of the Easement.

This Easement grant is without warranty of title and is subject to all prior liens, encumbrances, easements, restrictions, reservations, and rights of way affecting Grantor’s property.





**AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM**

**Agenda Item:** Hearing; Petition for Abatement or Refund of Taxes

**Action Requested:** Other Abatement Petition Denial

**Parties to the Agreement:**

**Term Begins:**

**Term Ends:**

**Grant Contract #:**

**Summary:**

Assessor's Office recommendation for Abatement Petition for Assessor's Office Record R013123 for tax years 2021 & 2022.

**Fiscal Impact:**

**Submitted by:** Chris Nutgrass

**Submitter's Email Address:** cnutgrass@gunnisoncounty.org

**Finance Review:**

Required

Not Required

Comments:

Reviewed by:

Discharge Date:

**County Attorney Review:**

Required

Not Required

Comments:

Legally sufficient SO 7/27/23

Reviewed by: GUNCOUNTY1\sobaid

Discharge Date: 7/27/2023

Certificate of Insurance Required

Yes  No

**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirmie

Discharge Date: 7/27/2023

Consent Agenda

Regular Agenda

Worksession

Time Allotted: 15

Agenda Date: 8/1/2023

# 2021 & 2022 Gunnison County: Abatement Hearing

The Gunnison County Assessor's Office has been asked to communicate the assignment results for a single property that was appraised as part of our mass appraisal assignment.

The Uniform Standards of Professional Appraisal Practice (USPAP) defines mass appraisal as: the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.

All of the sales used for Gunnison County's mass appraisal can be viewed on the Gunnison County web site ([www.gunnisoncounty.org](http://www.gunnisoncounty.org)).

For the purposes of the mass appraisal, market value is defined as:

"The most probable price, expressed in terms of money, that a property would bring if exposed for sale in the open market in an arm's-length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used." – Property Assessment Valuation, 1996, IAAO

For the 2020 property tax year, the effective **appraisal date is June 30, 2020**, as required by § 39-1-104(10.2)(a)(d), Colorado Revised Statutes.

The single property being characterized for this hearing is identified as:

<b>Property Owner:</b>	<b>VAN DELAY INDUSTRIES LTD</b>
<b>Account Number:</b>	<b>R013123</b>
<b>Parcel Number:</b>	<b>3255-120-00-082</b>
<b>Legal Description:</b>	<b>12.84 ACRES IN THE SOUTHEAST ¼ OF SECTION 12, TOWNSHIP 14 SOUTH, RANGE 86 WEST, 6<sup>TH</sup> PRINCIPAL MERIDIAN</b>
<b>2021 Classification:</b>	<b>Vacant</b>
<b>2021 Value:</b>	<b>\$308,640</b>
<b>2022 Classification:</b>	<b>Vacant</b>
<b>2022 Value:</b>	<b>\$308,640</b>

**PETITION FOR ABATEMENT OR REFUND OF TAXES**

County: GUNNISON

Date Received  
(Use Assessor's or Commissioners' Date Stamp)



**Section I: Petitioner, please complete Section I only.**

Date: 2 3 2023  
Month Day Year

Petitioner's Name: VAN DELAY INDUSTRIES, LTD  
 Petitioner's Mailing Address: P.O. Box 1113  
CRESTED BUTTE CO 81224  
 City or Town State Zip Code

<b>SCHEDULE OR PARCEL NUMBER(S)</b>	<b>PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY</b>
<u>325512000082</u>	<u>25140 STATE HIGHWAY 135</u>
	<u>UPPER EAST RIVER VALLEY</u>

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for property tax year(s) 2021 and 2022 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error or overvaluation. Attach additional sheets if necessary.)

Petitioner's estimate of value: \$ 180 (2021) and \$ 180 (2022)  
 Value Year Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompanying exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information and belief, is true, correct, and complete.

Mark Solari  
 Petitioner's Signature

Daytime Phone Number (970) 376 4158  
 Email MARK.SOLARI@GMAIL.COM

By \_\_\_\_\_  
 Agent's Signature\*

Daytime Phone Number (\_\_\_\_\_) \_\_\_\_\_

Printed Name: \_\_\_\_\_ Email \_\_\_\_\_

\*Letter of agency must be attached when petition is submitted by an agent.

If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

<b>Section II: Assessor's Recommendation</b> (For Assessor's Use Only)						
	Tax Year _____			Tax Year _____		
	<u>Actual</u>	<u>Assessed</u>	<u>Tax</u>	<u>Actual</u>	<u>Assessed</u>	<u>Tax</u>
Original	_____	_____	_____	_____	_____	_____
Corrected	_____	_____	_____	_____	_____	_____
Abate/Refund	_____	_____	_____	_____	_____	_____
<input type="checkbox"/> Assessor recommends approval as outlined above.						
If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(i)(D), C.R.S.						
Tax year: _____ Protest? <input type="checkbox"/> No <input type="checkbox"/> Yes (If a protest was filed, please attach a copy of the NOD.)						
Tax year: _____ Protest? <input type="checkbox"/> No <input type="checkbox"/> Yes (If a protest was filed, please attach a copy of the NOD.)						
<input checked="" type="checkbox"/> Assessor recommends denial for the following reason(s): <u>Property does not qualify for agricultural classification.</u>						
						<u>Justin [Signature]</u> Assessor's or Deputy Assessor's Signature

**FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY**

(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114, C.R.S. shall be acted upon pursuant to the provisions of this section by the Board of County Commissioners or the Assessor, as appropriate, within six months of the date of filing such petition, § 39-1-113(1.7), C.R.S.

**Section III: Written Mutual Agreement of Assessor and Petitioner**  
(Only for abatements up to \$10,000)

The Commissioners of \_\_\_\_\_ County authorize the Assessor by Resolution No. \_\_\_\_\_ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of \$10,000 or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with § 39-1-113(1.5), C.R.S.

The Assessor and Petitioner mutually agree to the values and tax abatement/refund of:

	Tax Year _____			Tax Year _____		
	<u>Actual</u>	<u>Assessed</u>	<u>Tax</u>	<u>Actual</u>	<u>Assessed</u>	<u>Tax</u>
Original	_____	_____	_____	_____	_____	_____
Corrected	_____	_____	_____	_____	_____	_____
Abate/Refund	_____	_____	_____	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the County Treasurer for full payment information.

\_\_\_\_\_  
Petitioner's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Assessor's or Deputy Assessor's Signature

\_\_\_\_\_  
Date

**Section IV: Decision of the County Commissioners**  
(Must be completed if Section III does not apply)

WHEREAS, the County Commissioners of \_\_\_\_\_ County, State of Colorado, at a duly and lawfully called regular meeting held on \_\_\_\_/\_\_\_\_/\_\_\_\_, at which meeting there were present the following members:

\_\_\_\_\_  
Month Day Year

\_\_\_\_\_  
with notice of such meeting and an opportunity to be present having been given to the Petitioner and the Assessor of said County and Assessor \_\_\_\_\_ (*being present-not present*) and  
Name  
Petitioner \_\_\_\_\_ (*being present-not present*), and WHEREAS, the said  
Name  
County Commissioners have carefully considered the within petition, and are fully advised in relation thereto, NOW BE IT RESOLVED, that the Board (*agrees-does not agree*) with the recommendation of the Assessor and the petition be (*approved-approved in part-denied*) with an abatement/refund as follows:

Year	Assessed Value	Taxes Abate/Refund	Year	Assessed Value	Taxes Abate/Refund
_____	_____	_____	_____	_____	_____

\_\_\_\_\_  
Chairperson of the Board of County Commissioners' Signature

I, \_\_\_\_\_ County Clerk and Ex-officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of said County  
this \_\_\_\_\_ day of \_\_\_\_\_,  
Month Year

\_\_\_\_\_  
County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than \$10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

**Section V: Action of the Property Tax Administrator**  
(For all abatements greater than \$10,000)

The action of the Board of County Commissioners, relative to this abatement petition, is hereby  
 Approved  Approved in part \$ \_\_\_\_\_  Denied for the following reason(s):  
\_\_\_\_\_

\_\_\_\_\_  
Secretary's Signature

\_\_\_\_\_  
Property Tax Administrator's Signature

\_\_\_\_\_  
Date

<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	<b>Docket No.:</b> 2021BAA2008
Petitioner:  <b>VAN DELAY INDUSTRIES LTD</b>  v.  Respondent:  <b>GUNNISON COUNTY BOARD OF EQUALIZATION.</b>	
<b>FINAL AGENCY ORDER</b>	

**THIS MATTER** was heard by the Board of Assessment Appeals (“Board”) on May 5, 2022, Samuel M. Forsyth and Amy J. Williams, presiding. Petitioner was represented by Mindy Sturm, President, Van Delay Industries, LLC. Respondent was represented by Alex San Filippo-Rosser, Gunnison County Attorney. Petitioners are protesting the 2020 classification of the subject property as vacant land, and ask the Board to reclassify it as agricultural.

**EXHIBITS**

The Board admitted into evidence Petitioner’s Exhibits 1 through 7 and Respondent’s Exhibits A through G.

**STIPULATED FACTS and PROCEDURAL MATTERS**

There were no stipulated facts or procedural matters to address.

**DESCRIPTION OF THE SUBJECT PROPERTY**

Address: 25140 State Highway 135, Crested Butte, CO  
County Schedule No.: R013123

The subject property is a vacant, 12.84-acre parcel located along State Highway 135 approximately two miles south of the Town of Crested Butte in unincorporated Gunnison County. The subject was changed to vacant land classification for tax year 2020, having previously been classified as agricultural land.

The appealed value assigned by the County Board of Equalization (“CBOE”) below and the parties’ assertions of the subject property’s value are as follows:

Appealed CBOE Value:	\$377,840
Petitioner’s Requested Value:	\$131,404
Respondent’s Requested Value:	\$377,840

### **BURDEN OF PROOF AND STANDARD OF REVIEW**

In a proceeding before this Board, the taxpayer has the burden of proof to establish, by a preponderance of the evidence, that the assessor’s or county board’s valuation or classification is incorrect. *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005). Proof by a preponderance of the evidence means that the evidence of a circumstance or occurrence preponderates over, or outweighs, the evidence to the contrary. *Mile High Cab, Inc. v. Colorado Public Utilities Comm’n*, 302 P.3d 241, 246 (Colo. 2013). Whether the taxpayer has satisfied this burden is a question of fact for the Board to resolve. *Sandra K. Morrison Tr. v. Bd. of Cnty. Comm’rs*, 465 P.3d 582 (Colo. 2020).

The Board reviews every case de novo. *See Bd. of Assessment Appeals v. Valley Country Club*, 792 P.2d 299, 301 (Colo. 1990). In general, the de novo proceeding before the Board “is commonly understood as a new trial of an entire controversy.” *Sampson*, 105 P.3d at 203. Thus, any evidence that was presented or could have been presented in the county proceeding below may be presented to this Board for a new and separate determination. *Id.* The evaluation of the credibility of the witnesses and the weight, probative value, and sufficiency of all of the evidence are matters solely within the fact-finding province of this Board, whose decisions in such matters may not be displaced on appeal by a reviewing court. *Gyurman v. Weld Cnty. Bd. of Equalization*, 851 P.2d 307, 310 (Colo. App. 1993). The determination of the degree of comparability of land sales and the weight to be given to the various physical characteristics of the property are also questions of fact for the Board to decide. *Golden Gate Dev. Co. v. Gilpin Cnty. Bd. of Equalization*, 856 P.2d 72, 73 (Colo. App. 1993).

### **APPLICABLE LAW**

Statewide, agricultural classification for property tax purposes is governed by section 39-1-102(1.6)(a)(I), C.R.S. *See also* 3 Div. of Prop. Taxation, Dep’t of Local Affairs, *Assessors’ Reference Library* Ch. 5 at 5.18 (rev. Jan. 2023). In order for a piece of land to be classified as agricultural for tax purposes section 39-1-102(1.6)(a)(I), C.R.S., requires that it be a “parcel of land ... used as a farm or ranch or be in the process of being restored through conservation practices” in both the prior two tax years and the tax year at issue. *Douglas Cnty. Bd. of Equalization v. Clarke*, 921 P.2d 717, 721 (Colo. 1996), *as modified on denial of reh’g* (Aug. 19, 1996); 3 Div. of Prop. Taxation, Dep’t of Local Affairs, *Assessors’ Reference Library* Ch. 5 at 5.18 (rev. Jan. 2023).

A farm is “a parcel of land which is used to produce agricultural products that originate from the land’s productivity for the primary purpose of obtaining a monetary profit.” § 39-1-

102(3.5), C.R.S.

A “ranch” is “a parcel of land which is used for grazing livestock for the primary purpose of obtaining a monetary profit.” § 39-1-102(13.5), C.R.S. “Livestock” is further defined as “domestic animals which are used for food for human consumption, breeding, draft, or profit.” *Id.*

County assessors are required to follow the guidance of the Property Tax Administrator laid out in the Assessors’ Reference Library (“ARL”). *Huddleston v. Grand Cty. Bd. Of Equalization*, 913 P.2d 15, 17-18 (Colo. 1996). The ARL frames the statutory definition of “ranch” as a dual factor analysis, which Assessors are directed to apply. First, the land must be grazed by livestock. 3 Div. of Prop. Taxation, Dep’t of Local Affairs, *Assessors’ Reference Library* Ch. 5 at 5.19 (rev. Jan. 2023). “[T]here must be actual grazing on the parcel, as defined in functional terms, during each relevant tax year to qualify for agricultural classification unless the land is subject to non-use for conservation purposes.” *Clarke*, 921 P.2d at 723. Second, the use of the grazing livestock must be for the primary purpose of obtaining a monetary profit. 3 Div. of Prop. Taxation, Dep’t of Local Affairs, *Assessors’ Reference Library* Ch. 5 at 5.19 (rev. Jan. 2023).

## **FINDINGS AND CONCLUSIONS**

Documentary evidence and testimony do not support that the subject parcel qualifies for agricultural classification under the definition of a “ranch” for tax year 2020.

### **I. Relevant years for classification analysis.**

To assess classification, the Board looks to whether the subject property was used as a farm or ranch on the assessment date, here January 1, 2020, and for two years prior. *See* 3 Div. of Prop. Taxation, Dep’t of Local Affairs Ch. 5 at 5.18 (rev. Jan. 2023). Therefore, relevant years for classification analysis would include 2018 and 2019.

### **II. Use as a ranch.**

The physical characteristics of the subject land could support its use for ranching because it has vegetative cover that could be grazed. Petitioner testified that the property is used by a large cattle producer as a part of a cattle migration corridor. During this process, Petitioner testified that the cattle cross the property, or are held on the property, when brought down from higher summer grazing pastures to lower winter pastures, and vice versa.

### **III. The subject property was not used as a “ranch” during the relevant years.**

The Board finds that the subject property does not qualify as a “ranch” for tax years 2020. First, evidence and testimony presented before the Board did not support that the land was grazed by livestock in 2018, 2019, or 2020, and the Board finds specifically, as follows:

- Evidence and testimony presented by Respondent showed fencing in a deteriorated or non-existent state. Petitioner contends that fencing was simply in need of repair from a single

winter's snow damage or recent highway maintenance. However, photo evidence showed severely deteriorated fencing with missing fence posts, barely standing posts, and little to no strung wire.

- Respondent's witness, Mr. Chris Nutgrass, Appraiser II, Gunnison County Assessor's Office, testified that surrounding properties located above and beside the subject had perimeter fencing and provided no gated access to the subject property. This fencing prohibited the flow of cattle onto the subject property through the migration corridor as described by Petitioner.
- Petitioner offered evidence and testimony surrounding several grazing leases between Mindy Sturm and Virgil and Lee Spann Ranches, Inc. These leases were given little to no weight by the Board as the majority were dated outside of the statutory data collection period and were unsigned. The only lease with a valid lessee signature was dated 2007. Additionally, each of the leases specifically stated that the lessor, Ms. Sturm, would keep the fencing in a properly maintained condition.
- Finally, Mr. Nutgrass testified that on inspection, the subject property had no evidence of recent or historic grazing on the property. Respondent's photo evidence of the undisturbed vegetation, without evidence of cow manure, supported the testimony of Mr. Nutgrass.

As to the second factor of the analysis that the use of the grazing livestock must be for the primary purpose of obtaining a monetary profit, because the subject does not qualify under the first factor of analysis, there is no need to consider the second factor.

The Board finds that the subject property does not qualify for agricultural classification under § 39-1-102(3.5), C.R.S. for tax year 2020. Based upon the evidence and testimony presented relevant to tax year 2020, the subject property was not used as "a parcel of land which is used for grazing livestock for the primary purpose of obtaining a monetary profit," and, therefore, does not meet the definition of a "ranch."

### **ORDER**

The petition is **DENIED**. The Gunnison County Assessor's Office is ordered to classify the subject property as vacant land with a corresponding value of \$377,840 as assigned by the Gunnison County Board of Equalization for tax year 2020.

### **APPEAL RIGHTS**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order). § 24-4-106(11), C.R.S.; § 39-8-108(2), C.R.S. (rights to appeal on a protest and adjustment appeal); § 39-10-114.5(2), C.R.S. (rights to appeal on an abatement or refund appeal).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order). § 24-4-106(11), C.R.S.; § 39-8-108(2), C.R.S. (rights to appeal on a protest and adjustment appeal); § 39-10-114.5(2), C.R.S. (rights to appeal on an abatement or refund appeal).

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision. § 39-8-108(2), C.R.S.; § 39-10-114.5(2), C.R.S.

If the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board. *Id.*

**DATED and MAILED** this March 22, 2023.

**BOARD OF ASSESSMENT APPEALS:**

Drafting Board Member:



Amy J. Williams

Concurring Board Member:



Samuel M. Forsyth

*Concurring without modification  
pursuant to § 39-2-127(2), C.R.S.*

<b>ABATEMENT</b>	<b>VACANT LAND SALES EXAMPLES</b>
<b>2021 &amp; 2022</b>	

**Owner:** VAN DELAY INDUSTRIES LTD  
 PO BOX 1113  
 CRESTED BUTTE, CO 81224-1113

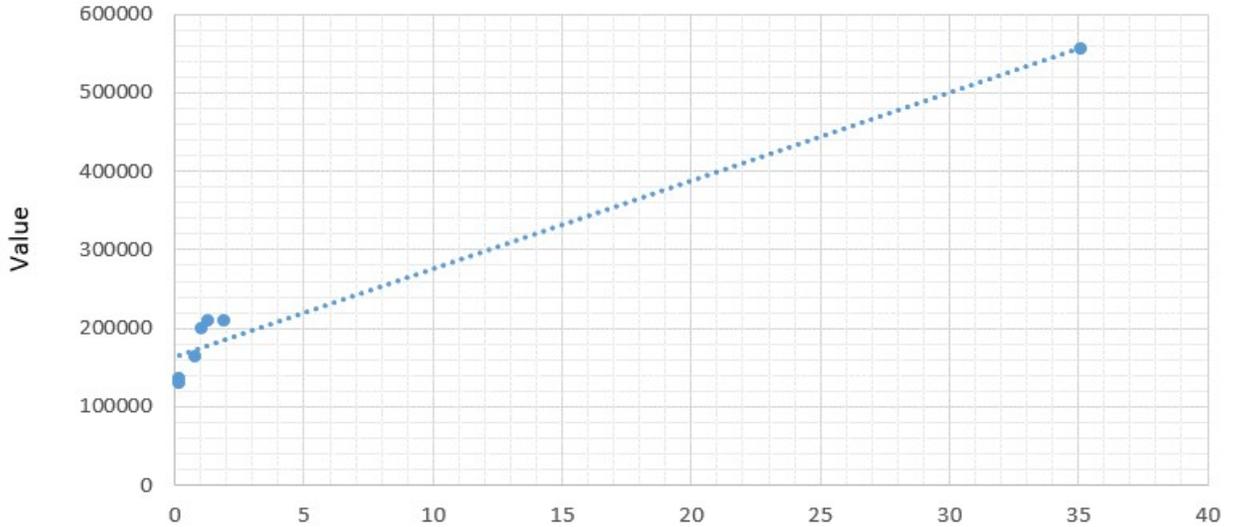
**Account #:** R013123  
**Parcel #:** 3255-120-00-082  
**Economic Area:** 6

**Property Location:** 25140 STATE HIGHWAY 135  
**Legal Description:** 12.84 ACRES IN SE4 SEC 12 14S86W

ACCOUNT NUMBER	LEGAL	TIME ADJUSTED SALE PRICE	ADJUSTED TASP	ACRES
R042665	LOT M3-37 BUCKHORN RANCH FILING 2B	\$130,000	\$130,000	0.16
R073136	LOT M3-30 BUCKHORN RANCH FILING 2B	\$136,125	\$136,125	0.17
R032135	LOT 1 SILVER SAGE SUB	\$163,770	\$163,770	0.79
R041441	LOT 37 BUCKHORN RANCH FILING 2A	\$200,000	\$200,000	1.02
R041439	LOT 11 BUCKHORN RANCH FILING 2A	\$209,550	\$209,550	1.27
R040943	LOT 9 WHETSTONE VISTA	\$210,000	\$210,000	1.902
R041433	RANCH 8 WHETSTONE MOUNTAIN RANCH PLAT	\$756,000	\$555,882*	35.1

\*adjustment to sage upper value

LEA 60000 - Sage Upper  
 $y = 11223x + 164540$



<b>Narrative</b>	The Subject Property consists of 12.84 Acres. $\$11,223 * 12.84 \text{ AC} + \$164,540$ rounded to \$308,640
------------------	--

- 1 - Gunnison County Administration Abatement Request for Van Delay Industries, LTD
- 2 - Agricultural Questionnaire
- 3 - 20230105 22CW3063 Ruling of Referee
- 4 - Van Delay UGRW Cert
- 5 - WELL PERMIT DWR\_3983548
- 6 - Vandelay PARKER lease 2022 2023 2024 2025 executed
- 7 - Doug Washburn Letter 2019\_2020
- 8 - Van Delay Lease 2009 to Jan 2012
- 10 - Invoices FENCE paid in 2015
- 11 - Water and Grassess
- 12 - PROPERTY TAX VALUATION HISTORY

Van Delay Industries, LTD  
PO Box 1113  
Crested Butte, CO 81224

Gunnison County Administration  
200 East Virginia Ave  
Gunnison, CO 81230

July 25, 2023

Dear Gunnison County Administration,

Attached, please find the following supporting documentation showing the agricultural status for Parcel Number: 3255-120-00-082

Account Number: R013123  
Property Owner: VAN DELAY INDUSTRIES LTD

1. Approved Water Rights from S. Gregg Stanway, Water Referee.
2. Leases with Spann Ranches for the "Right to Graze Cattle."
3. Lease with Parker Pastures Inc for the "Right to Graze Cattle and Other Livestock."
4. Photos of Livestock on the property.

When we asked why the neighboring property, Touchstone Ranches, LLC, was not classified as vacant land, we were told by Mr. Chris Nutgrass that the neighboring property's classification was returned immediately to Agricultural after the re-classification to Vacant in 2020 because they established water rights. Van Delay Industries, LTD. has established water rights for the property (R013123), has the same running water through the property and was operating under a similar lease agreement with Spann Ranches. We are asking for the same re-classification back to Agricultural and abatement and refund taxes. The property has been used explicitly for Agricultural purposes since 2005. Aside from a fence, there have been no improvements to the property.

Thank you for your time and consideration.

Mindy Sturm  
President  
Van Delay Industries, LTD  
Crested Butte, CO



Assessor's Office  
221 N. Wisconsin St., Suite A  
Gunnison, CO 81230  
(970) 641-1085

A Gunnison County Agriculture Use Questionnaire is required for all agricultural properties. In order to classify any property as agricultural, documentation that proves the property is being used in an agricultural endeavor must be supplied to the Assessor's office.

Legislation regarding residences on agricultural property (House Bill 11-1146) went into effect in 2012. This bill states that any residences on agricultural property must be integral to an agricultural operation for the purpose of determining whether two acres or less associated with the residence satisfies the definition of agricultural land for property tax purposes. In short, if the occupants of a house are not integrally involved in the agriculture operation, up to two acres of land surrounding the residence may be given a market value. The remainder of the land will still be valued agriculturally.

Return a completed questionnaire and documentation proving agricultural use to the Assessor's office at the address above. All personal financial and business information you provide to the Gunnison County Assessor's office is confidential and is not shared with other county departments or the public.

Call the Gunnison County Assessor's office with any questions you may have: 970-641-1085

## DOCUMENTS WHICH DEMONSTRATE AGRICULTURAL USE INCLUDE:

- **Grazing lease agreement**
- **1040 F or equivalent IRS form**
- **Sales invoices of agricultural products or livestock**
- **Financial statements**
- **Brand Inspection Certificates**

## DEFINITIONS:

**"Agricultural land"** means a parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, that was used the previous two years and presently is used as a farm or ranch, as defined in subsection (3.5) and (13.5) of this section or that is in the process of being restored through conservation practices. Such land must have been classified or eligible for classification as "agricultural land", consistent with this subsection (1.6), during the ten years preceding the year of assessment. Such land must continue to have actual agricultural use. "Agricultural land" under this subparagraph (I) shall not include two acres or less of land on which a residential improvement is located unless the improvement is integral to an agricultural operation conducted on such land. "Agricultural land" also includes the land underlying other improvements if such improvements are an integral part of the farm or ranch and if such other improvements and the land area dedicated to such other improvements are typically used as an ancillary part of the operation. The use of a portion of such land for hunting, fishing, or other wildlife purposes, for monetary profit or otherwise, shall not affect the classification of agricultural land. § 39-1-102(1.6)(a)(I)(A), C.R.S.

**"Integral to an agricultural operation"** means for purposes of subparagraph (A) of this subparagraph (I) if an individual occupying the residential improvement either regularly conducts, supervises, or administers material aspects of the agricultural operation or is the spouse, or a parent, grandparent, sibling, or child of the individual. § 39-1-102(1.6)(a)(I)(B), C.R.S.

**"Farm"** means a parcel of land which is used to produce agricultural products that originate from the land's productivity for the primary purpose of obtaining a monetary profit. § 39-1-102(3.5), C.R.S.

**"Ranch"** means a parcel of land which is used for grazing livestock for the primary purpose of obtaining a monetary profit. For the purpose of this subsection (13.5), "livestock" means domestic animals which are used for food for human or animal consumption, breeding, draft, or profit. § 39-1-102(13.5), C.R.S.

**"Actual value determined - when"** Once any property is classified for property tax purposes, it shall remain so classified until such time as its actual use changes or the assessor discovers that the classification is erroneous. The property owner shall endeavor to comply with the reasonable requests of the assessor to supply information which cannot be ascertained independently but which is necessary to determine actual use and properly classify the property when the assessor has evidence that there has been a change in the use of the property. Failure to supply such information shall not be the sole reason for reclassifying the property. Any such request for such information shall be accompanied by a notice that states that failure on the part of the property owner to supply such information will not be used as the sole reason for reclassifying the property in question. § 39-1-103(5)(c), C.R.S.

**GUNNISON COUNTY AGRICULTURAL USE QUESTIONNAIRE**

Owner: Van Delay Industry LTD

Account #: R013123	Parcel #: 3255-120-00-082
Legal Description: 12.84 Acres In Section 12, Township 14S, Range 86W	

The answers to the following questionnaire are completely confidential, and gives the agricultural community direct involvement with establishing fair and accurate local data with which to value your agricultural properties. Please take the time to fill out the questionnaire as completely as possible and return it to the Gunnison County Assessor's Office  
**Thank you -**

**For the year:** \_\_\_\_\_

1. Was the property listed above used in an agricultural endeavor in 2017?

Yes  No \_\_\_\_\_ Uncertain \_\_\_\_\_

*If your answer is no, there is no need to fill out the rest of the survey.*

2. What percent of the property was used for:

Livestock 100% Hay Production \_\_\_\_\_

Other \_\_\_\_\_ (Please explain) \_\_\_\_\_

3. Do you lease your property to a ranching operator?

I. **Yes** – property is leased

Name of Lessee PARKER PASTURES, INC., Entity Identifier is #20171770502, a Colorado corporation

Address headquarters address is 379 CR-14, Gunnison, Colorado 81230,

Phone Number Cloe Parker - 970-901-2139

**Submit copy of current lease with this questionnaire.** - attached

II. **No** – agricultural operation is owner operated \_\_\_\_\_

**Submit copy of IRS Form 1040 F or other proof of current ag use with this questionnaire.**

4. If your property was being used as a ranch:

a. What type of livestock is grazed on your property: Cattle

b. How many head: \_\_\_\_\_

c. Use of livestock: \_\_\_\_\_

d. How many acres of this property is used for grazing livestock: 12.84 acres

e. Which months of the year do you use your property for grazing? \_\_\_\_\_

5. What crops were cultivated?

Alfalfa: Acres planted \_\_\_\_\_ Acres harvested \_\_\_\_\_ Ton per acre \_\_\_\_\_

Grass Hay: Acres planted \_\_\_\_\_ Acres harvested \_\_\_\_\_ Ton per acre \_\_\_\_\_

Meadow Hay: Acres planted \_\_\_\_\_ Acres harvested \_\_\_\_\_ Ton per acre \_\_\_\_\_

Pasture Grass: Acres planted \_\_\_\_\_ Acres harvested \_\_\_\_\_

6. Does this property have irrigation water rights? ~~Yes~~ or No

a. Decreed water right? ~~Yes~~ or No # of feet 0.05 cubic feet per second (cfs) plus 0.027 acre feet

b. Decreed shares? ~~Yes~~ or No # of shares UGWR 4 Base Units of Water Augmentation

c. Source of irrigation water Van Delay Pipeline

d. Source of stock water Van Delay Stock Pond

e. What is the approximate cost per acre for water/irrigation maintenance? 2022 was \$566.09/ acre

7. Is the property fenced? *Fully or Partially or None*

a. What type of fencing? barbwire

b. Approximate annual cost to maintain: \$2,000/ check paid is attached

8. Do you sell your hay? *Yes or ~~No~~*

a. What price per ton do you sell your alfalfa hay \_\_\_\_\_?

b. What price per ton do you sell your grass hay \_\_\_\_\_?

c. Do you use your hay and crops for your own operations? *Yes or No*

d. If you do not sell your hay, what value per ton would you put on it \_\_\_\_\_?

This portion of the questionnaire relates to House Bill 11-1146.

How many residences are on the property? None - Zero

Please fill out the following questions for each residence on the property:

1. Who occupies the residence?

a. Owner	<input type="checkbox"/>	Full-time	<input type="checkbox"/>	or part-time	<input type="checkbox"/>	?
b. Owner's family	<input type="checkbox"/>	Full-time	<input type="checkbox"/>	or part-time	<input type="checkbox"/>	?
c. Tenant	<input type="checkbox"/>	Full-time	<input type="checkbox"/>	or part-time	<input type="checkbox"/>	?
d. Employees	<input type="checkbox"/>	Full-time	<input type="checkbox"/>	or part-time	<input type="checkbox"/>	?
e. Guests	<input type="checkbox"/>	Full-time	<input type="checkbox"/>	or part-time	<input type="checkbox"/>	?
f. Not occupied	<input type="checkbox"/>					
g. Uninhabitable	<input type="checkbox"/>					

2. Does the occupant of the residence regularly participate in the agricultural endeavor? *Yes or No*

If yes, describe activities: \_\_\_\_\_  
\_\_\_\_\_

Additional comments: Attached you will find the Water Division Water Right Decree if Water Rights, Well Permit, UGRW Water Augmentation Certificate, and the Agriculture Lease.  
\_\_\_\_\_

Name of person completing questionnaire: Mindy Sturm

Signature: *Mindy Sturm*

Phone Number: Mindy's Cell: 970-209-0911

DISTRICT COURT, WATER DIVISION 4, COLORADO 1200 North Grand Avenue, Bin A Montrose, Colorado 81401	DATE FILED: January 5, 2023 10:33 AM CASE NUMBER: 2022CW3063  <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
CONCERNING THE APPLICATION FOR WATER RIGHTS OF VAN DELAY INDUSTRIES, LTD, ON THE SLATE RIVER, IN GUNNISON COUNTY	Case Number: 22CW3063  Division:  Courtroom:
<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE,          AND DECREE</b>	

This matter comes before the Referee upon the Application for Conditional Surface Water Right and Conditional Water Storage Right (the “Application”), filed by Van Delay Industries, LTD (the “Applicant”). The Referee, having made such investigations as are necessary to determine whether the statements in the Application are true, and having become fully advised with respect to the subject matter of the Application, hereby makes the following findings of fact, conclusions of law, and ruling:

1. Name, address, and telephone number of Applicant: Van Delay Industries, LTD, PO Box 1113, Crested Butte, CO 81224, 970-376-4158. Please direct all correspondence to the above-captioned counsel for Applicant.
2. The Application was filed on September 27, 2022 and referred to the Water Referee on December 2, 2022.
3. The Application was published in Gunnison County in the CB News on October 7, 2022, and in the Resume of all applications filed in the District Court in and for Water Division No. 4 during the month of September, 2022. Proof of publication was filed with this Court on November 7, 2022.
4. The deadline for filing statements of opposition has passed. No statements of opposition were filed. No parties intervened in the case.
5. The Division Engineer filed its consultation report (the “Consultation Report”) with this Court on December 29, 2022. The findings of the Consultation Report have been given due consideration.

6. The Applicant requests conditional water rights for the two structures described in paragraphs 7 and 8, below.
7. Name of Structure: Van Delay Pipeline.
  - a. Point of Diversion: In the NESE of Section 12, Township 14 South, Range 86 West, 6<sup>th</sup> PM, UTM Zone 13S 331052E 4301930N. See Exhibit A.
  - b. Amount claimed: 0.05 cubic feet per second (cfs) (conditional).
  - c. Source: Tributary to the Slate River, tributary to the East River, tributary to the Gunnison River.
  - d. Beneficial Use: Stockwatering, directly and by storage and subsequent use from the Van Delay Stock Pond.
  - e. Appropriation Date: September 15, 2022.
8. Name of Structure: Van Delay Stock Pond.
  - a. Location: In the NESE of Section 12, Township 14 South, Range 86 West, 6<sup>th</sup> PM, UTM Zone 13S 331041E 4301947N. See Exhibit A.
  - b. Filling Structure: Van Delay Pipeline.
    - i. Capacity: 0.05 cfs.
    - ii. Source and point of diversion: As described above.
  - c. Rate of fill claimed: 0.05 cfs (conditional).
  - d. Volume claimed: 0.027 acre-feet for an initial fill, plus refills.
  - e. Capacity: 0.027 acre-feet.
  - f. Beneficial Use: Stockwatering.
  - g. Appropriation Date: September 15, 2022.

#### CONCLUSIONS OF LAW

9. The foregoing findings of fact are hereby incorporated into and made a part of these conclusions of law, as if fully set forth herein at this point.
10. Timely and adequate notice of this Application was given in the manner required by law. This Court has jurisdiction over the subject matter of this proceeding and over all who

have standing to appear as parties, whether they have appeared or not.

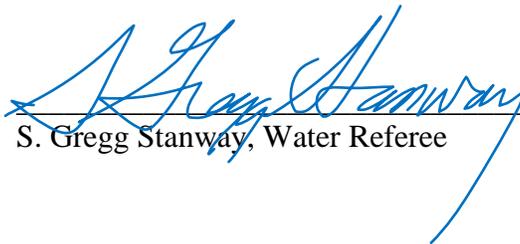
11. Based on the allegations in the Application and the content of the Consultation Report, Applicant has satisfied the prerequisites to obtain the conditional water rights described above. To wit, Applicant has demonstrated that it has taken a first step toward appropriation of the amounts of water claimed herein, that its intent to appropriate is not based upon the speculative sale or transfer of the appropriative right, and that there is a substantial probability that it can and will complete the appropriation with diligence. *Centennial Water & Sanitation, Dist. v. City & County of Broomfield*, 256 P.3d 677, 685 (Colo. 2011); § 37-92-305(9).

### RULING

#### IT IS HEREBY RULED AND ORDERED:

12. The foregoing findings of fact and conclusions of law are hereby incorporated into and made a part of this Ruling, as if fully set forth herein at this point.
13. Applicant's request for a conditional water right for the Van Delay Pipeline, as further described above, is hereby APPROVED.
14. Applicant's request for a conditional water right for the Van Delay Stock Pond, as further described above, is hereby APPROVED.
15. Pursuant to C.R.S. § 37-92-502(5)(a), Applicant shall install and maintain at its expense any meters, gauges, or other measuring devices necessary for the administration of the water right.
16. Applicant shall notify this Court of any change in mailing address. Upon the sale or other transfer of the conditional rights, the transferee shall file with this Court a notice of transfer which shall state: the title and case number of this case; the description of the water right transferred; the name of the transferor; and the name and mailing address of the transferee. Applicant shall notify any transferee of the requirements of this paragraph.
17. This Ruling shall be filed with the Water Clerk and a copy shall be filed with the State Engineer and Division Engineer, Water Division No. 4.

Dated this 5<sup>th</sup> day of January, 2023.

  
S. Gregg Stanway, Water Referee

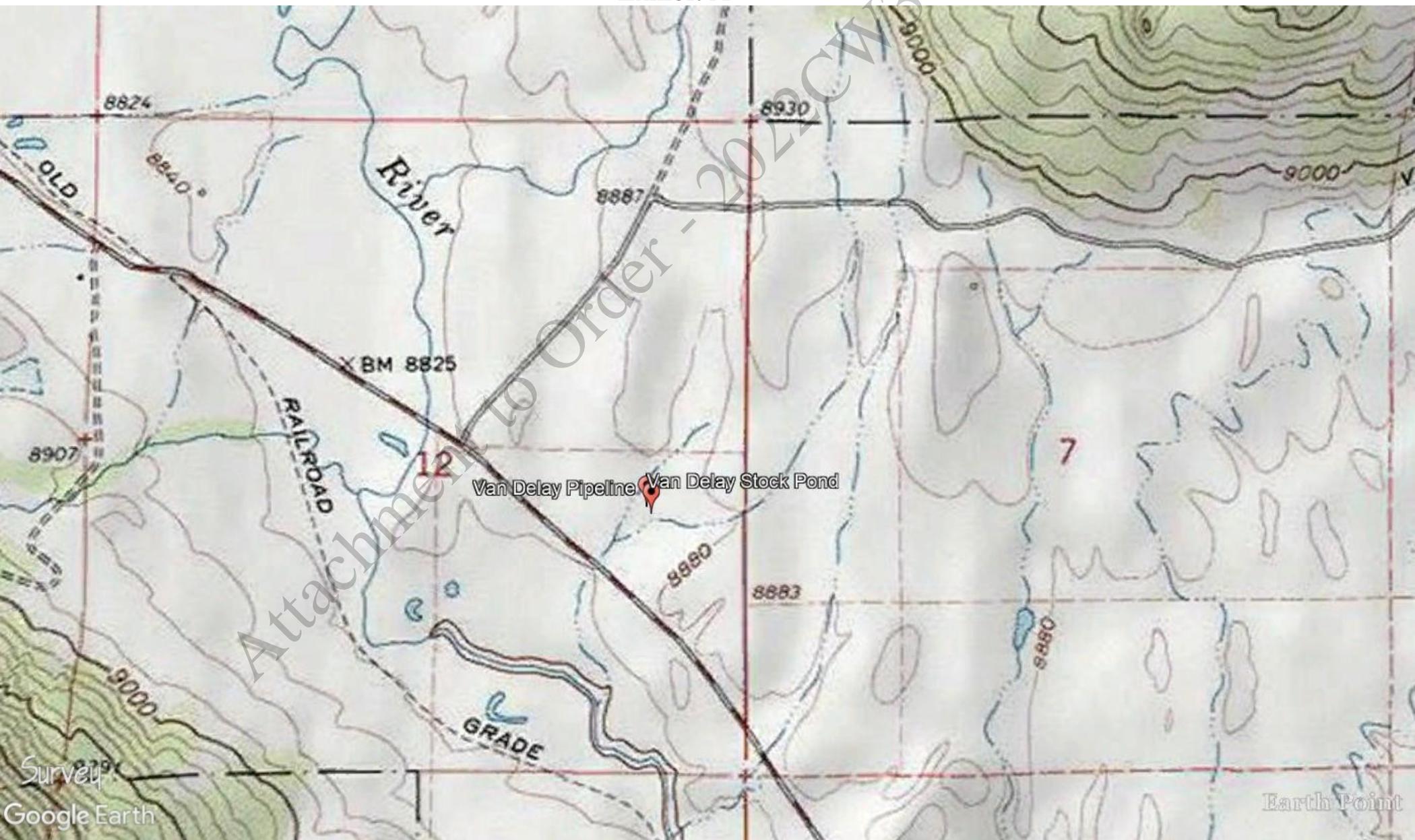
## DECREE

No protest was filed in this matter. The foregoing ruling is confirmed and approved and is made the judgment and decree of this Court. With respect to any portion of the conditional water rights that remains conditional, prior to or during the month of \_\_\_\_\_, 2029, and in every sixth calendar year after the calendar year in which another finding of reasonable diligence has been decreed, the owner(s) or user(s) of the then-remaining conditional portion of the conditional water rights, if such owner(s) or user(s) desire(s) to maintain the same, shall file an application for a finding of reasonable diligence, or said remaining portion of the conditional water rights shall be considered abandoned.

---

J. Steven Patrick  
Water Judge

Exhibit A



975



UPPER GUNNISON RIVER WATER ACTIVITY ENTERPRISE

**CLASS D AUGMENTATION CERTIFICATE**

Certificate Number 92

**Van Delay Industries LLC  
PO Box 1113  
Crested Butte, CO 81224**

**Contract No. MLR-22-104**

Representing - 4 - Base Units of water stored in Meridian Lake Reservoir available for release according to the Plan for Augmentation decreed in Case No. 03CW107, Water Division 4, to augment out of priority depletions by the following structure:

Structure location:

Drainage basin **Slate River**

Township **14S** Range **86W** Section **12** Meridian **NM PM**

Elevation (from USGS map or GPS, in feet) **8,920**

Structure type: **Well**

Well Permit Number: **In Process**

Augmentation for stock watering (17) is permitted by this Certificate, however, use may change.

Address of dwelling units: **25140 State Highway 135, Upper East River Valley,  
Crested Butte, Colorado**

Issued this **23rd** day of **September 2022**

Upper Gunnison River Water Activity Enterprise

By: Sonja Chavez, General Manager

***NOTICE: This Augmentation Certificate and the Base Units represented by the Certificate cannot be transferred without complying with the requirements of the Agreement for Purchase of Augmentation Certificate Providing for Water Service From Meridian Lake Reservoir between the owner of this Certificate and the Upper Gunnison River Water Activity Enterprise. Those requirements include obtaining prior written consent of the District to any transfer.***





## AGRICULTURAL LEASE

THIS AGRICULTURAL LEASE, in duplicate, is executed this 1<sup>st</sup> day of September 2022, in Gunnison County, Colorado, as follows:

1. **OWNER.** The Owner is: Van Delay Industries, President Mindy Sturm hereafter termed "Mindy", whose address is:  
Mindy Sturm  
318 Elk AVE, SUITE 15  
P. O. BOX 1081  
CRESTED BUTTE, CO 81224
2. **LESSEE.** The Lessee is:  
  
PARKER PASTURES, INC., Entity Identifier is #20171770502, a Colorado corporation, whose headquarters address is 379 CR-14, Gunnison, Colorado 81230, hereafter termed "Parker".
3. **LEASE OF PREMISES.** In consideration of the mutual covenants and agreements herein set forth, Mindy leases to Parker the right to graze cattle and other livestock, together with the appurtenant water and water rights necessary for livestock grazing on lands as set forth on the attached exhibit A situate in Gunnison County, Colorado ("leased premises").
4. **TERM.** The term of this lease shall be for a term to commence at 5:00 p.m. on September 1, 2022 and to terminate at midnight on December 31 2025.
5. **LEASE PAYMENTS.** The agreed lease payment is \$10.00 per year.
6. **USE OF LEASED PREMISES.** Parker shall use and occupy the Leased Premises solely for the grazing of livestock and activities necessary and incidental thereto. During the term of this Lease, Parker shall conduct its agricultural operations in accordance with historic and sound agricultural practices and shall commit no waste thereon.

7. **MAINTAIN FENCE:** Mindy will build and maintain the property boundary fence.
8. **PROPERTY TAXES.** Mindy will pay or cause to be paid all real property taxes levied or assessed against the Leased Premises as the same become due and payable.
9. **LEASSEE'S RISK OF LOSS.** Parker shall assume all risk of loss or injury to its livestock during grazing and related uses on the Leased Premises. Such assumed risk shall not include any loss or injury caused by the willful, wanton, or intentional misconduct of Mindy , her beneficiaries, members, agents, officers, employees or guests.
10. **HOLD HARMLESS.** Mindy and Parker mutually covenant and agree each with the other to hold the other harmless and to indemnify the other from any and all claims, demands, damages, causes of action and judgments of any nature arising from the negligence of such party or the failure of such party, and including such party's officers, owners, members, employees, agents, invitees and guests, to comply with the terms and conditions of this lease.
11. **SURRENDER OF LEASED PREMISES.** Parker covenants and agrees that on the last day of this lease or any renewal or extension thereof, it will peaceably and quietly leave and surrender the Leased Premises to Mindy in as good a condition as when received.
12. **DEFAULT OF LEASE.** Neither party shall have the right to cancel this Lease for the default of the other party, unless such default remains uncured to ten days following written notice to the defaulting party, of such default.
13. **RENEWAL OF LEASE.** Owner and Parker agree to the following provisions as to the renewal of this Agricultural Lease:
- 12.1 This lease shall automatically renew for three successive one year terms beginning on January 1, 2023.
14. **ENTIRE AGREEMENT.** This written Lease contains the entire and only agreement between Mindy and Parker, and no oral statement or representations not contained in this Lease shall be of any force and effect between said parties. This Lease shall not be modified or amended in any manner except by signed written instrument by both parties.



15. **APPLICABLE LAW.** This Lease is entered into in the County of Gunnison and State of Colorado, and it is agreed that the proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Lease shall be in the District Court of Gunnison County, Colorado.

16. **FAX SIGNATURES.** Each of the undersigned parties hereto agree that a signature submitted by telephone facsimile (FAX) shall be binding to the same extent as a document containing the original signature. In the event such document containing a FAX signature is utilized, the signer shall provide the actual document containing the original signature to the appropriate parties by regular mail without delay.

IN WITNESS WHEREOF, this Lease is executed the day first above written.

By:   
Mindy Sturm

**PARKER PASTURES, INC** A Colorado corporation:

By:   
Cloe Parker, Member

EXHIBIT A

Township 14 South, Range 86 West, 6<sup>th</sup> P.M.

Section 12: A tract of land located in the SE $\frac{1}{4}$  of said Section 12, more particularly described as follows:

Beginning at the E $\frac{1}{4}$  corner of said Section 12; thence North 89° 11'18" West 186.16 feet along the north line of the SE $\frac{1}{4}$  of said Section 12 to the true point of beginning; thence South 42° 14'00" West 1354.16 feet to a point on the east right of way line of Colorado Highway 135; thence North 47° 46'00" West 511.98 feet along the east right of way line of Highway 135; thence North 42° 14'00" East 902.45 feet to the point of intersection with the north line of the SE $\frac{1}{4}$  of said Section 12; thence South 89° 11'18" East 682.76 feet along the north line of the SE $\frac{1}{4}$  of said Section 12 to the true point of beginning.

County of Gunnison, State of Colorado.

July 2021

To Gunnison County Commissioners and Assessor's Office

During 2019/2020 we did use and access Ms. Sturm property along HWY 135 just like we have over the past years.

Doug Washburn

A handwritten signature in black ink that reads "Doug Washburn". The signature is written in a cursive style with a large, prominent "D" at the beginning.

## **AGRICULTURAL LEASE**

THIS AGRICULTURAL LEASE, in duplicate, is executed this 1<sup>st</sup> day of September 2007, in Gunnison County, Colorado, as follows:

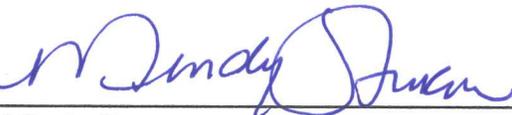
1. **OWNER.** The Owner is: Mindy Sturm hereafter termed "Mindy", whose address is:  
Mindy Sturm  
318 Elk AVE , SUITE 15  
P. O. BOX 1081  
CRESTED BUTTE, CO 81224
  
2. **LESSEE.** The Lessee is:  
  
VIRGIL AND LEE SPANN RANCHES, INC., a Colorado corporation, whose headquarters address is 36781 West Highway 50, Gunnison, Colorado 81230, hereafter termed "Spann".
  
3. **LEASE OF PREMISES.** In consideration of the mutual covenants and agreements herein set forth, Mindy leases to Spann the right to graze cattle, together with the appurtenant water and water rights necessary for livestock grazing on lands as set forth on the attached exhibit A situate in Gunnison County, Colorado ("leased premises").
  
4. **TERM.** The term of this lease shall be for a term to commence at 5:00 p.m. on September 1, 2007 and to terminate at midnight on December 31 2008.
  
5. **LEASE PAYMENTS.** The agreed lease payment is \$10.00 per year.
  
6. **USE OF LEASED PREMISES.** Spann shall use and occupy the Leased Premises solely for the grazing of cattle and activities necessary and incidental thereto. During the term of this Lease, Spann shall conduct its agricultural operations in accordance with historic and sound agricultural practices and shall commit no waste thereon.

7. **MAINTAIN FENCE:** Mindy will build and maintain the property boundary fence.
8. **REAL PROPERTY TAXES.** Mindy will pay or cause to be paid all real property taxes levied or assessed against the Leased Premises as the same become due and payable.
9. **LESSEE'S RISK OF LOSS.** Spann shall assume all risk of loss or injury to its livestock during grazing and related uses on the Leased Premises. Such assumed risk shall not include any loss or injury caused by the willful, wanton, or intentional misconduct of Mindy, her beneficiaries, members, agents, officers, employees or guests.
10. **HOLD HARMLESS.** Mindy and Spann mutually covenant and agree each with the other to hold the other harmless and to indemnify the other from any and all claims, demands, damages, causes of action and judgments of any nature arising from the negligence of such party or the failure of such party, and including such party's officers, owners, members, employees, agents, invitees and guests, to comply with the terms and conditions of this lease.
11. **SURRENDER OF LEASED PREMISES.** Spann covenants and agrees that on the last day of this lease or any renewal or extension thereof, it will peaceably and quietly leave and surrender the Leased Premises to Mindy in as good a condition as when received.
12. **DEFAULT OF LEASE.** Neither party shall have the right to cancel this Lease for the default of the other party, unless such default remains uncured to ten days following written notice to the defaulting party, of such default.
13. **RENEWAL OF LEASE.** Owner and Spann agree to the following provisions as to the renewal of this Agricultural Lease:
  - 12.1 This lease shall automatically renew for three successive one year terms beginning on January 1, 2009.
14. **ENTIRE AGREEMENT.** This written Lease contains the entire and only agreement between Mindy and Spann, and no oral statement or representations not contained in this Lease shall be of any force and effect between said parties. This Lease shall not be modified or amended in any manner except by signed written instrument by both parties.

**15. APPLICABLE LAW.** This Lease is entered into in the County of Gunnison and State of Colorado, and it is agreed that the proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Lease shall be in the District Court of Gunnison County, Colorado.

**16. FAX SIGNATURES.** Each of the undersigned parties hereto agree that a signature submitted by telephone facsimile (FAX) shall be binding to the same extent as a document containing the original signature. In the event such document containing a FAX signature is utilized, the signer shall provide the actual document containing the original signature to the appropriate parties by regular mail without delay.

IN WITNESS WHEREOF, this Lease is executed the day first above written.

By:   
Mindy Sturm

**VIRGIL AND LEE SPANN RANCHES, INC.,** A Colorado corporation:

By:   
Lee L. Spann, President

## EXHIBIT A

Township 14 South, Range 86 West, 6<sup>th</sup> P.M.

Section 12: A tract of land located in the SE $\frac{1}{4}$  of said Section 12, more particularly described as follows:

Beginning at the E $\frac{1}{4}$  corner of said Section 12; thence North 89° 11'18" West 186.16 feet along the north line of the SE $\frac{1}{4}$  of said Section 12 to the true point of beginning; thence South 42° 14'00" West 1354.16 feet to a point on the east right of way line of Colorado Highway 135; thence North 47° 46'00" West 511.98 feet along the east right of way line of Highway 135; thence North 42° 14'00" East 902.45 feet to the point of intersection with the north line of the SE $\frac{1}{4}$  of said Section 12; thence South 89° 11'18" East 682.76 feet along the north line of the SE $\frac{1}{4}$  of said Section 12 to the true point of beginning.

County of Gunnison, State of Colorado.

# GRIZZLY FENCE & STONE

**For the really scary jobs.**

PO Box 7071  
Gunnison, CO 81230

c: 970.275.1229  
spencerthefencer@yahoo.com

Invoice # 357

TO: Mindy Sturm  
Premier Mountain Properties

RE: Gate installation, fence repair and rebuilding,  
dirtwork, landscape

AT: Mile 25.1 Hwy 135 Crested Butte, CO

Deposit: none

TOTAL \$1,650.<sup>00</sup>

Due



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[Land](#)
[Buildings](#)
[Sales and Conveyance](#)
[Community Info](#)
[Comper](#)
[Map](#)
[Google Earth](#)
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## ▾ PRIOR YEAR ASSESSMENT INFORMATION

YEAR	ACTUAL VALUE	ASSESSED VALUE	MILL LEVY	AD VALOREM TAXES
2022	\$308,640	\$89,510	68.01	\$6,088
2021	\$308,640	\$89,510	58.62	\$5,247
2020	\$377,840	\$109,570	57.98	\$6,353
2019	\$190	\$60	56.67	\$3
2018	\$180	\$50	58.65	\$3
2017	\$180	\$50	59.24	\$3
2016	\$170	\$50	55.64	\$3
2015	\$170	\$50	54.83	\$3
2014	\$150	\$40	56.40	\$2
2013	\$150	\$40	49.80	\$2
2012	\$140	\$40	43.36	\$2
2011	\$140	\$40	44.43	\$2
2010	\$140	\$40	40.24	\$2

# Creekside Angling & Environmental

# INVOICE

341 Blackfoot Trail  
 Gunnison, CO 81230  
 (970) 209 - 6389  
[creeksideangling@hotmail.com](mailto:creeksideangling@hotmail.com)

DATE:	9/26/2022
INVOICE #	100
Customer ID	Marc and Mindy
Project ID	Irrigation work

## BILL TO

Marc and Mindy  
 Hwy 135  
 Crested Butte, CO 81224

DESCRIPTION	Rate	AMOUNT
Head gate and pipe		\$ 495.00
Excavation- Skid steer to tram fill dirt and excavator to cut in pipe, ditch and shape dam, mobilize and demobilize	8.5 hrs. @ \$200	\$ 1,700.00
Labor - Armor pipe and spillway, fence facility to protect from cattle herd grubbing new dirt and destroying	8 hrs. @ \$50	\$ 400.00

Subtotal	\$ 2,595.00
Taxable	
Tax rate	
Tax due	\$ -
Other	\$ -
<b>TOTAL Due</b>	<b>\$ 2,595.00</b>

OTHER COMMENTS

Please make all checks payable to  
 Christopher Kruthaupt

*Thank You For Your Business!*



Van Delay industries, LTD – Stock Pond, sent for the record at 8/1/2023 Abatement Hearing