

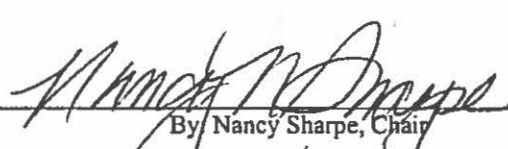
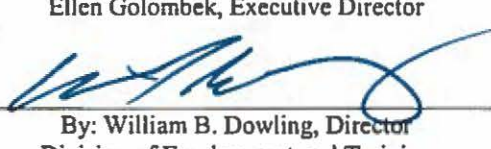
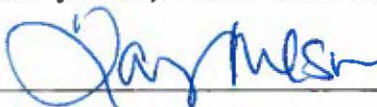
# AGREEMENT FOR WORKFORCE DEVELOPMENT PROGRAMS

## SIGNATURE AND COVER PAGE

<b>State Agency</b> Colorado Department of Labor and Employment	<b>Agreement Number</b> CMS 105077
<b>The Local Area</b> Arapahoe County	<b>Agreement Performance Beginning Date</b> The later of the Effective Date or November 16, 2017
<b>Agreement Maximum Amount</b> Term State Fiscal Year 2018	<b>Agreement Expiration Date</b> June 30, 2026
N/A	<b>Agreement Description</b> To provide Federal, State, and other funding to Local Areas for implementation and operation of existing and new programs for the State's workforce development program
<b>Total for All State Fiscal Years</b> N/A	

## THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

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

<b>THE LOCAL AREA</b> The Board of County Commissioners of Arapahoe County   By: Nancy Sharpe, Chair Date: 12/14/17	<b>STATE OF COLORADO</b> John W. Hickenlooper, Governor Colorado Department of Labor and Employment Ellen Golombek, Executive Director   By: William B. Dowling, Director Division of Employment and Training Date: 1-8-18
The Board of County Commissioners of Arapahoe County  By: _____ Date: _____	<b>LEGAL REVIEW</b> Cynthia H. Coffman, Attorney General  By: _____ N/A Date: _____
<p style="text-align: center;">In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;"><b>STATE CONTROLLER</b>          Tammy Nelson, State Controller Delegate</p> <p style="text-align: center;">By: </p> <p style="text-align: center;">Effective Date: 1/8/2018</p>	

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## 1. PARTIES

This Agreement is entered into by and between The Board of County Commissioners of Arapahoe County on behalf of the Local Area named on the Signature and Cover Page for this Agreement, and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the "State" or "CDLE"). The Local Area and the State agree to the terms and conditions in this Agreement.

## 2. TERM AND EFFECTIVE DATE

### A. Effective Date

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

### B. Term

- i. The Parties' respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Signature and Cover Page for this Agreement and shall terminate no later than June 30, 2026 (the "Term") unless sooner terminated or further extended in accordance with the terms of this Agreement. The Term shall include multiple Periods of Performance.
- ii. Except as stated in §2.C, the total duration of this Agreement, including the exercise of any options to extend, shall not exceed 9 (*nine*) years from its Effective Date.
- iii. If the Local Area has unspent, State-allocated funds that fall with the Period of Performance that extends past the Agreement Expiration Date, then those funds shall be transferred into a successor agreement for the Work executed by both the Local Area and the State.

### C. End of Term Extension

If this Agreement approaches the end of its Term, or any Extension Term then in place, the State, at its discretion, upon written notice to the Local Area as provided in §16, may unilaterally extend such Term or Extension Term for a period not to exceed 2 months (an "End of Term Extension"), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement 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 Agreement or modification extending the total term of the Agreement.

### D. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. This subsection shall not apply to a termination of this Agreement by the State for breach by the Local Area, which shall be governed by §14.A.i.

#### i. Method and Content

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

ii. **Obligations and Rights**

Upon receipt of a termination notice for termination in the public interest, the Local Area shall be subject to §14.A.i.a.

iii. **Reimbursement**

If the State terminates this Agreement in the public interest, the State shall reimburse the Local Area an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily performed, as determined by the State, less reimbursements previously made.

**3. AUTHORITY**

- A. Authority to enter into this Agreement exists in Colorado Revised Statutes §8-77-109 C.R.S., Establishment of the Employment Support Fund (ESF), for use by the Colorado Department of Labor and Employment, Division of Employment and Training, §8-83 C.R.S., Workforce Development Part 1 Division of Employment and Training, §8-83-104 C.R.S., State Employment Service; and §8-83 C.R.S., Part 2, Workforce Investment Act, the Federal Workforce Innovation and Opportunity Act of 2014 (WIOA) (Public Law #113-128 enacted July 22, 2014, and the WIOA Technical Amendments Act (Public Law #114-15 enacted May 22, 2015) (collectively, codified as 29 USC §§ 3101 et seq.), both including the Wagner Peyser Act (WP) as amended, and also pursuant to the authority of the Colorado Workforce Development Council (CWDC) to approve the use of WIOA and WP discretionary funds, the authority of the Colorado Department of Labor and Employment, Division of Employment and Training, as administrator of the WIOA and WP, including the Governor's WIOA and WP discretionary funds, and other workforce development programs (WDP).
- B. Pursuant to the WIOA, the WP, the State's Long Bill for the appropriation of the ESF, and other Federal and State funding appropriations for programs, such as, the Jobs for Veterans State Grant (JVSG) Program, (Public Law #107-288, enacted November 7, 2002), National Dislocated Worker Grants, and other WDP funds have been budgeted, appropriated and otherwise made available, and a sufficient unencumbered balance remains available for payment. Required approvals, clearance and coordination have been accomplished with appropriate agencies, State Incentive Grants and other WDPs.
- C. Funds have been budgeted, gifts, grants, donations, and other receivable funding may be appropriated, and spending authority shall be approved for allocation to the Local Areas.
- D. The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Agreement.

**4. PURPOSE**

This Agreement is to provide Federal, State, and other funding to Local Areas for implementation and operation of existing and new programs for the State's workforce development program as defined in §8-83-204 C.R.S. This Agreement, in part, is intended to comply with and carry out the purposes of the federal Workforce Innovation and Opportunity Act (29 USC 3101, et seq.), or any future statutes that, in whole or part, may be enacted to replace or supplement federal workforce policy.

**5. DEFINITIONS**

The following terms shall be construed and interpreted as follows (additional program definitions are attached hereto as Exhibit A):



- A. **"Agreement"** means this Agreement, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Agreement, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Federal law, Colorado State law, Fiscal Rules, State Controller Policies, Policy Guidance Letters (PGL), or other funding/granting authority and related terms.
- B. **"Agreement Funds"** means the funds that have been appropriated, designated, encumbered, or otherwise made available for reimbursement by the State to the Local Area under this Agreement. Agreement Funds are further described in Section 7 of this Agreement and in Exhibit A, Section 2.
- C. **"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 listed in §24-11-101(1) C.R.S.
- 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. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.
- F. **"End of Term Extension"** means the time period defined in §2.C.
- G. **"Effective Date"** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.
- H. **"Evaluation"** means the review and monitoring of the Work performed by the Local Area based on criteria established in Federal and State laws and regulations, PGLs, and Work Plans.
- I. **"Exhibits"** means the following exhibits attached to this Agreement. The State may update, supplement, or adjoin, as appropriate, the Exhibits, or any one Exhibit, to this Agreement; provided, however, any updated, supplemented, or adjoined Exhibit shall not materially alter the scope of services as a workforce development program nor materially change the financial method of calculation for fund allocation within a specific Period of Performance. The Local Area's compliance with any updated, supplemented, or adjoined Exhibit shall be required prospectively from the effective date of the State or federal government change. The following Exhibits, as amended, supplemented, or changed, shall be:
- i. **Exhibit A**, Administrative Requirements and Funding Provisions (current and prospective years).
  - ii. **Exhibit B**, Local Plan (current and prospective years).
  - iii. **Exhibit C**, Supplemental Provisions for Federal Awards, 2 CFR 200.
  - iv. **Exhibit D**, Federal Funding Accounting and Transparency Act of 2006 ("FFATA"), as amended
  - v. **Exhibit E**, Notice of Funding Allocation ("NFA").
  - vi. **Exhibit F**, Notice of Funding Reduction / Recapture ("NFR").
  - vii. **Exhibit G**, Certification Regarding Debarment and Suspension.

- viii. **Exhibit H, Certification Regarding Lobbying.**
- ix. **Exhibit I, Drug-Free Workplace Certifications.**
- x. **Exhibit J, Tobacco-Free Certification.**
- J. **"Incident"** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- K. **"Term"** means the time period defined in §2.B.
- L. **"Local Area"** means a labor market area, regional economic development area, or other appropriate contiguous area designated a local workforce development area by the Governor, or as otherwise defined by §8-83-203(22) C.R.S. "Contractor" shall be interpreted identically as "Local Area" for all purposes in this Agreement.
- M. **"Notice of Funding Allocation"** (or "NFA") means the document authorized by the State that allocates funds to the Local Area. The NFA is further described in Exhibit A, Section 1.
- N. **"Party"** means the State or Local Area, and "Parties" means both the State and Local Area.
- O. **"Period of Performance"** means the time period that the Local Area may incur expenditures in performance of the Work. Federal awards include expenditures and obligations under an NFA or grant.
- P. **"PII"** means personally identifiable information including, without limitation, any information maintained by the State or Local Area (or a Local Area's Subrecipient as defined by 2 CFR §§200.93 and 200.330) 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 C.R.S.
- Q. **"PHI"** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: (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.
- R. **"Program"** means the federal or State initiatives that require the delivery of career services, education and training, and supportive services by the Local Area to jobseekers, workers, and businesses. Program is further described in Exhibit A.
- S. **"Policy Guidance Letter"** (or "PGL") means the documents issued by the State to the Local Area that identify policies and procedures, and performance requirements, to be followed in a Program's implementation and operation.
- T. **"Services"** means the required Program services to be performed by Local Area as set forth in this Agreement, and shall include any services to be rendered by a Subrecipient of a Local Area. "Goods and Services" shall include any movable material acquired, produced, or delivered by the Local Area (or any Subrecipient or its contractors) in connection with the

Services.

- 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, CJI, and State personnel records not subject to disclosure under CORA.
- V. **"State Fiscal Rules"** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).
- 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. **"Subrecipient"** means non-federal entities engaged to aid in performance of the Work. For all purposes under this Agreement, the meaning of Subrecipient shall not be interpreted in a manner at conflict with 2 CFR §§200.93 and 200.330.
- Z. **"Work"** means the required tasks and activities the Local Area performs in fulfillment of this Agreement including but not limited to Exhibit A and Exhibit B.
- AA. **"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.

In this Agreement, "shall" and "must" are to be interpreted as imperative rather than permissive terms. In general, "shall" specifies a duty while "must" assigns a conditional requirement. Neither term shall be construed or interpreted as less than an essential requirement. Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

## 6. WORK PLAN

The Local Area shall provide and perform Services to complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A and Exhibit C. The State shall have no liability to reimburse the Local Area for the performance of any Services that are not specifically set forth in this Agreement. Excepting the Colorado Rural Workforce Consortium, all persons employed by the Local Area or its Subrecipients or contractors are not employees of the State for any purposes under this Agreement.

## 7. AGREEMENT FUNDS

- A. Funds shall be distributed based on their availability under either a Reimbursement or Performance-based method.
- B. Fund Types

Reimbursement, also referred to as cost-reimbursement, to the Local Area is limited to the unpaid (by the State), incurred allowable expenditures under an NFA issued pursuant to this Agreement and the executed Work Plan. Properly incurred, documented, allowable costs after review and

approval, off-set by any gross income earned by the Local Area directly generated as a result of a supported activity or earned as a result of a Federal award during the Period of Performance (as defined by 2 CFR part 200.80) received by the Local Area in connection with any program, subject to the provisions of this Agreement and Exhibit A, for Goods and Services reimbursed to the Local Area by the State using Federal and State funds. Funding issued under this Agreement by the State includes:

- i. Federal formula allocated funds defined in Federal law and regulation.
- ii. Federal formula allocated discretionary funds made available to CDLE by the Governor and formula allocated based on participation and performance criteria.
- iii. State funds for Programs defined by legislative enactment.
- iv. State formula allocated funds based on participation and performance criteria.
- v. Other Federal, State, or other funds awarded to CDLE including but not limited to gifts, grants, and donations, or deliverable or performance-based funding.

**C. Reimbursement-based Funding**

The State will allocate funds to the Local Area in accordance with the provisions set forth in Exhibits A and B. The Local Area may use allocated funds solely for allowable administrative, program, and staffing costs identified in Federal and State law, Program Guidance Letters, or as may be negotiated between the Parties.

**D. Performance-based Funding**

Should any funds under this Agreement require a deliverable or performance basis, as opposed to cost-reimbursement, then the following payment procedures shall apply.

**i. Invoices and Payment**

- a. The State shall pay the Local Area in the amounts and in accordance with the schedule and other conditions set forth this Agreement and Exhibit A.
- b. The Local Area shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay within 45 days following the State's receipt of the Agreement Funds from the federal government and receipt of an invoice from the Local Area, so long as the amount invoiced correctly represents Work completed by the Local Area 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 the Local Area shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice for payment 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 receipt of the Agreement Funds from the federal government and 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. The Local Area 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 the Local Area disputes any calculation, determination or amount of any payment, the Local Area shall notify the State in writing of its dispute within 30 days following the earlier to occur of the Local Area'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 the Local Area 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. Reporting

The Local Area shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State in an approved Work Plan.

v. Remedies

In addition to any remedies available to the State set forth in §14, the State may also withhold payment to the Local Area until the Local Area corrects its Work under a deliverable or performance-based Work Plan. Should the remedies involve termination for breach, the State shall only pay Local Area for accepted Work received as of the date of termination.

E. Fund Issuance

The State shall allocate funds to the Local Area in accordance with the provisions set forth in Exhibit A. The Local Area may use allocated funds only for allowable administrative, program, and staffing costs identified in Federal and State law, Policy Guidance Letters, or as may be negotiated and agreed to by the Parties.

F. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Funding beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Agreement 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 Agreement Funds the State's obligation to reimburse the Local Area shall be contingent upon such non-State funding continuing to be made available for payment. Reimbursements to be made pursuant to this Agreement shall be made only from Agreement Funds, and the State's liability for such reimbursements shall be limited to the amount remaining of such Agreement Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, at the State's sole discretion, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to reimburse for Services that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the

public interest as described in §2.D.

**G. Maximum Amount**

The maximum amount reimbursed to the Local Area by the State shall not exceed the total amount of funding allocated to and accepted by the Local Area under this Agreement and shall be determined by the State from available funds and set forth in the issued NFAs. Reimbursements to the Local Area are limited to the incurred allowable but unpaid balance of the Agreement.

**H. Recapture of Funds**

Funding not expended by the Local Area within the Period of Performance may be deobligated and recaptured by the State or carried forward. The State may reallocate such funds for use in the next program year(s) up through the Period of Performance end date or grant date.

**I. Disallowed Costs**

The Local Area shall promptly return to the State funds for disallowed costs based on a later audit or review. Also, the State may recover such reimbursements or payments by deduction from subsequent reimbursements under this Agreement, deduction from any reimbursement due under any other Agreements, grants or agreements between the State and the Local Area, or by any other appropriate method for collecting debts owed to the State. Any recovery of these costs must be made within the Record Retention Period.

**J. Erroneous Reimbursement Payments**

The State may recover, at the State's discretion, reimbursements made to the Local Area in error for any reason, including, but not limited to, excess reimbursements or improper reimbursements, disallowed costs, and unexpended or excess funds received by the Local Area. The State may recover such reimbursements or payments by deduction from subsequent reimbursements under this Agreement, deduction from any reimbursements due under any other Agreements, grants or agreements between the State and the Local Area, or by any other appropriate method for collecting debts owed to the State.

**8. REPORTING - NOTIFICATION**

**A. Litigation Reporting**

If the Local Area 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 Agreement or may affect the Local Area's ability to perform its obligations under this Agreement, the Local Area shall, within 10 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 in §16.

**B. Noncompliance**

Failure by the Local Area to provide reports or to notify the State in a timely manner in accordance with this §8 may result in delay of reimbursement or payment and/or termination as provided under this Agreement and in accordance with Exhibit A.

**C. Local Area Subrecipient Reporting**

The Local Area shall submit copies of all contracts or Memorandums of Understanding ("MOU") entered into with a Subrecipient in order to perform the Work hereunder to the

State or to the federal government upon request. Any contracts or MOUs entered into by the Local Area to perform the Work must comply with all applicable terms and conditions of this Agreement. The Local Area shall ensure that its Subrecipient is required to: (1) allow the State to audit its books and records pertaining to this Agreement, and (2) maintain such books and records for a period of not less than specified in §9 for Local Area record maintenance.

**D. Violations Reporting**

The Local Area and any Local Area Subrecipient shall disclose, in a timely manner, in writing to the State all violations of Federal or State criminal law involving fraud, bribery, or gratuity violations affecting any award under this Agreement. Penalties for noncompliance may include, pursuant to §14, termination or suspension of this Agreement, or other penalties as specified by law (2 CFR part 180 and 31 USC 3321).

**9. LOCAL AREA RECORDS**

**A. Maintenance**

The Local Area shall make, keep, maintain, a complete file of all records, documents, communications, notes and other written materials, electronic media files, and electronic communications, pertaining in any manner to the Work or delivery of Services (including, but not limited to the operation of programs) hereunder (the "Local Area Records"). The Local Area Records must include all documents, records, communications, notes and other materials maintained by the Local Area that relate to any Work performed by Subrecipients, and the Local Area shall maintain all records related to the Work performed by Subrecipients required to ensure proper performance of that Work. The Local Area shall maintain the Local Area Records until the last to occur of: (i) the date three (3) years after the Period of Performance, (ii) final payment under this Agreement is made, (iii) the resolution of any pending Agreement matters including but not limited to final resolution of litigation (including appeal), or (iv) if an audit is occurring, or the Local Area 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**

The Local Area shall permit the State or the federal government to audit, inspect, examine, excerpt, copy and transcribe the Local Area Records during the Record Retention Period. The Local Area shall make the Local Area Records available during normal business hours at the Local Area's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two (2) Business Days' notice from the State or federal government, 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, in its discretion, may monitor the Local Area's performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor the Local Area's performance in a manner that does not unduly interfere with the Local Area's performance of the Work.

**D. Final Audit Report**

The Local Area shall promptly submit to the State a copy of any final audit report of an audit

performed on the Local Area's records that relates to or affects this Agreement or the Work, whether the audit is conducted by the Local Area or a third party.

## **10. CONFIDENTIAL INFORMATION**

### **A. Confidentiality**

The Local Area shall hold and maintain, and cause all Subrecipients to hold and maintain, any and all State Records that the State provides or makes available to the Local Area for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by the Local Area under CORA. The Local Area shall not, without prior written approval of the State, use for the Local Area's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Agreement. The Local Area 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 including, without limitation, 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. The Local Area shall immediately forward any request or demand for State Records to the State's principal representative.

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

The Local Area may provide State Records to its agents, employees, assigns and Subrecipients as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subrecipients who require access to perform their obligations under this Agreement. The Local Area shall ensure all such agents, employees, assigns, and Subrecipients sign nondisclosure agreements at least as protective as those in this Agreement, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subrecipient has access to any State Confidential Information. The Local Area shall provide copies of those signed nondisclosure restrictions to the State upon request.

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

The Local Area shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. The Local Area shall provide the State with access, subject to the Local Area'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 Agreement, the Local Area shall return State Records provided to the Local Area or destroy such State Records and certify to the State that it has done so, as directed by the State. If the Local Area is prevented by law or regulation from returning or destroying State Confidential Information, the Local Area warrants it shall guarantee the confidentiality of, and cease to use, such State Confidential Information.

### **D. Incident Notice and Remediation**

If the Local Area becomes aware of any Incident, it shall notify the State immediately in accordance with §16 and cooperate with the State regarding recovery, remediation, and the



necessity to involve law enforcement, as determined by the State. Unless the Local Area can establish that none of the Local Area or any of its agents, employees, assigns or Subrecipients are the cause or source of the Incident, the Local Area shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, the Local Area 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. The Local Area shall carry out its duties under this section in consultation and cooperation with the State.

## **11. CONFLICTS OF INTEREST AND INTEGRITY IN THE EXPENDITURE OF PUBLIC FUNDS**

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

The Local Area 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 the Local Area under this Agreement. Such a conflict of interest would arise when the Local Area or Subrecipient'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 this Agreement.

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

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

### **C. Integrity in the Expenditure of Public Funds**

The Local Area shall maintain integrity in the expenditure of the public funds to be reimbursed under this Agreement and shall perform the Work in an impartial manner, free from personal, financial, political, or other questionable or improper gain or motive. The Local Area and its executive staff and employees shall avoid situations that may give rise to a suggestion or perception that any decision made by the Local Area is influenced by prejudice, bias, special interest, or personal gain.

### **D. Disclosure to the State**

If a conflict or the appearance of a conflict or question of integrity arises, or if the Local Area is uncertain whether a conflict or question of integrity has arisen, the Local Area shall submit to the State in accordance with §16 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 Agreement.

## **12. INSURANCE**

The Local Area shall obtain and maintain, and ensure that each Subrecipient shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance must be issued by insurance companies with an AM Best rating of A-VIII or better.

### **A. The Local Area Insurance**

Excepting the Colorado Rural Workforce Consortium, the Local Area is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA") and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

**B. Subrecipient Requirements**

The Local Area shall ensure that each Subrecipient that is a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subrecipient's obligations under the GIA. The Local Area shall ensure that each Subrecipient that is not a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement all of the following insurance policies:

**i. Workers' Compensation**

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

**ii. General Liability**

Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- a. \$1,000,000 each occurrence;
- b. \$1,000,000 general aggregate;
- c. \$1,000,000 products and completed operations aggregate; and
- d. \$50,000 any 1 fire.

**iii. Automobile Liability**

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

**iv. Protected Information**

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$2,000,000 general aggregate.

**v. Crime Insurance**

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

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

C. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction Agreements require additional insured coverage for completed operations) required of the Local Area and Subrecipients.

D. Primacy of Coverage

Coverage required of the Local Area and each Subrecipient shall be primary over any insurance or self-insurance program carried by the Local Area or the State.

E. Cancellation

All commercial insurance policies must include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to the Local Area and the Local Area shall forward such notice to the State in accordance with §16 within 7 days of the Local Area's receipt of such notice.

F. Subrogation Waiver

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

G. Certificates

For each commercial insurance plan provided by the Local Area under this Agreement, the Local Area shall provide to the State certificates evidencing the Local Area's insurance coverage required in this Agreement within 7 Business Days following the Effective Date. The Local Area shall provide to the State certificates evidencing Subrecipient insurance coverage required under this Agreement within 7 Business Days following the Effective Date, except that, if the Local Area's contract engaging a Subrecipient is not in effect as of the Effective Date, the Local Area shall provide to the State certificates showing Subrecipient insurance coverage required under this Agreement within 7 Business Days following the Local Area's execution of the contract engaging the Subrecipient. No later than 15 days before the expiration date of the Local Area's or any Subrecipient's coverage, the Local Area shall deliver to the State certificates in accordance with §16 of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, the Local Area shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

**13. BREACH**

A. Defined

The failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner, shall be a breach.

B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §14 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this

Agreement in whole or in part or institute any other remedy in the Agreement in order to protect the public interest of the State.

#### **14. REMEDIES**

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

If the Local Area is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §13.B., shall have all of the remedies listed in this §14.A. in addition to all other remedies set forth in this Agreement 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**

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

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

To the extent specified in any termination notice, the Local Area shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and contracts with Subrecipients or other third parties. However, the Local Area 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 Agreement's terms. At the request of the State, the Local Area shall assign to the State all of the Local Area's rights, title, and interest in and to such terminated orders or contracts with Subrecipients or other third parties. Upon termination, the Local Area shall take timely, reasonable and necessary action to protect and preserve property in the possession of the Local Area but in which the State has an interest. At the State's request, the Local Area shall return materials owned by the State in the Local Area's possession at the time of any termination. The Local Area 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. Reimbursement by Payment**

Notwithstanding anything to the contrary, the State shall only reimburse the Local Area for allowable expenditures incurred as of the date of termination. If, after termination by the State, the State agrees that the Local Area was not in breach or that the Local Area'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 Agreement had been terminated in the public interest under §2.D.

##### **c. Damages and Withholding**

Notwithstanding any other remedial action by the State, to the extent permitted by law, the Local Area shall remain liable to the State for any damages sustained by the State in connection with any breach by the Local Area, and the State may withhold reimbursement to the Local Area for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from the Local Area is determined. The State may withhold any amount that may



be due the Local Area 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 the Local Area's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling the Local Area to an adjustment in price or cost or an adjustment in the performance schedule. The Local Area 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 the Local Area after the suspension of performance.

b. Withhold Reimbursement by Payment

Withhold reimbursement to the Local Area until the Local Area corrects its Work.

c. Deny Reimbursement by Payment

Deny reimbursement for Work not performed, or that due to the Local Area'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 reimbursement must be equal to the value of the obligations not performed.

d. Intellectual Property

If any Work infringes a patent, copyright, trademark, trade secret or other intellectual property right, the Local Area shall, as approved by the State (a) secure that right to use such Work for the State or the Local Area; (b) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (c) remove any infringing Work and refund the amount paid for such Work to the State.

B. The Local Area's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, the Local Area, following the notice and cure period in §13.B and the dispute resolution process in §15 shall have all remedies available at law and equity.

**15. DISPUTE RESOLUTION**

A. Initial Resolution

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

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, the Local Area shall submit any alleged breach of this Agreement by the State to the

purchasing director of CDLE for resolution in accordance with the provisions of §24-101-301(30), C.R.S. following the same resolution of controversies process as described in §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if the Local Area wishes to challenge any decision rendered by the purchasing director, the Local Area's challenge must be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before the Local Area pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes must apply including, without limitation, time limitations.

## **16. NOTICES AND REPRESENTATIVES**

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement must be in writing, and must be delivered (i) by hand with receipt required, (ii) by certified or registered mail to such Party's principal representative at the address set forth below or (iii) as an email with read receipt requested to the principal representative at the email address, if any, set forth below. 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 must 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 §16 without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

### **For the State:**

Lisa Eze  
Purchasing Director  
Colorado Department of Labor and  
Employment  
633 17<sup>th</sup> Street  
11<sup>th</sup> Floor  
Denver, CO 80202-3627  
lisa.eze@state.co.us

### **With a copy to:**

Elise Lowe-Vaughn, Workforce Programs  
Director  
Colorado Department of Labor and  
Employment  
633 17<sup>th</sup> Street, 7<sup>th</sup> Floor  
Denver, CO 80202  
303-318-8054  
elise.lowe-vaughn@state.co.us

### **For the Local Area:**

Commissioner Nancy Sharpe,  
Chair  
The Board of County Commissioners of  
Arapahoe County  
5334 S Prince Street  
Littleton, CO 80120  
(303) 795-4630  
Commissioners@arapahoe.gov.com

### **With a copy to:**

Joe Barela  
A/D Works!  
6974 S Lima Street  
Centennial, CO 80112  
(303) 636-1225  
jbarela@arapahoe.gov.com

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

### **A. Work Product**

The Local Area 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. Whether or not the Local Area is under Agreement with the State at the time, the Local Area 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. The Parties intend the Work Product to be works made for hire.

### **B. Exclusive Property of the State**

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, "State Materials"). The Local Area shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of the Local Area's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, the Local Area shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

### **C. Federal License**

The federal government reserves a perpetual, paid-up, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal purposes: i) the copyright in all products developed under this Agreement, including any subcontracts; and ii) any rights of copyright to which the Local Area or a Subrecipient purchases ownership under this Agreement (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. Federal funds may not be used to pay any royalty or licensing fee associated with such copyrighted material, although they may be used to pay costs for obtaining a copy, that is limited to the developer/seller costs of copying and shipping. If revenues are generated through selling products developed with Federal grant funds, including intellectual property, these revenues are program income. Program income is added to the grant-funding amount and must be expended for allowable activities pursuant to the applicable Federal funding source. Additionally, the U.S. Department of Labor requires intellectual property developed under a competitive Federal award process to be licensed under a Creative Commons Attribution license. This license allows subsequent users to copy, distribute, transmit and adapt the copyrighted work and requires such users to attribute the work in the manner specified by the recipient.

## **18. GOVERNMENTAL IMMUNITY**

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; 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.

## **19. GENERAL PROVISIONS**

### **A. Assignment**

The Local Area's rights and obligations under this Agreement 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 the Local Area's rights and obligations approved by the State must be subject to the provisions of this Agreement

### **B. Contracts with Subrecipients**

The Local Area shall not enter into any contract (or Memorandum of Understanding, or any agreement, by any name) with a Subrecipient in connection with its obligations under this Agreement without the prior, written approval of the State. The Local Area shall submit to the State in accordance with §16 a copy of each such Subrecipient contract upon request by the State. All contracts with Subrecipients entered into by the Local Area in connection with this Agreement must comply with all applicable federal and state laws and regulations, must provide that they are governed by the laws of the State of Colorado, and must be subject to all applicable provisions of this Agreement.

### **C. Binding Effect**

Except as otherwise provided in §19.A., all provisions of this Agreement, 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 Agreement and the performance of such Party's obligations have been duly authorized.

### **E. Captions and References**

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement 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 Agreement 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 Agreement 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 Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

### **H. Jurisdiction and Venue**

All suits or actions related to this Agreement shall be filed and proceedings held in the State



of Colorado and exclusive venue shall be in the City and County of Denver.

**I. Modification**

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Notwithstanding anything else in this Agreement to the contrary, this Agreement is subject to such modifications as may be required by changes in Federal or State law, or their implementing regulations, and such change shall be incorporated automatically into and become part of this Agreement on the effective date of such change, as if fully set forth herein. The Local Area is independently charged with obtaining and maintaining knowledge of relevant changes to Federal or State law. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies promulgated by the Colorado State Controller.

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

Any reference in this Agreement 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 Agreement.

**K. Order of Precedence**

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

- i. Exhibit D, Federal Funding Accounting and Transparency Act of 2006 ("FFATA"), as amended
- ii. Exhibit C, Supplemental Provisions for Federal Awards, 2 CFR 200
- iii. Colorado Special Provisions in §20 of the main body of this Agreement.
- iv. The provisions of the other sections of the main body of this Agreement.
- v. Exhibit A, Administrative and Program Provisions.
- vi. Exhibit E, Notice of Funding Allocation (executed).
- vii. Exhibit F, Notice of Funding Recapture (executed).
- viii. Exhibit B, Approved Work Plan
- ix. Exhibits G-L, Federal Certifications and Assurances

**L. Severability**

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

**M. Survival of Certain Agreement Terms**

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

**N. Third Party Beneficiaries**

Except for the Parties' respective successors and assigns described in §20.B., this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement 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 Agreement are incidental to the Agreement, and do not create any rights for such third parties.

**O. Waiver**

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, 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.

**P. CORA Disclosure**

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-103.5-101 C.R.S., if any, are subject to public release through the CORA.

**Q. Standard and Manner of Performance**

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

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

The Local Area shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subrecipients secure and maintain at all times during the term of their employment, agency or contractual obligation, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

**S. Nondiscrimination**

The Local Area shall comply with all applicable federal, state and local laws, ordinances, executive orders, and regulations that prohibit discrimination on the basis of race, color, national origin, religion, and sex, including but not limited to: Title VI of the Civil Rights Act of 1964, as amended (P.L. 88-352), 42 U.S.C. § 2000d et seq., and Title VII of the Civil Rights Act of 1964, as amended. Unless required by federal law or regulation, employers may not automatically bar applicants or employees with an arrest or conviction record from employment.

**T. Criminal Background Checks**

The Local Area shall ensure that all employees, and all Subrecipients' employees, have passed comprehensive criminal background checks prior to performing Work under this Agreement.

**U. Acceptance of Signatures**

The Parties agree that this Contract, agreements ancillary to this Contract, and related documents to be entered into in connection with this Contract will be considered signed when the signature of a Party is delivered by facsimile transmission or delivered by scanned image

(e.g. .pdf or .tiff file extension name) as an attachment to electronic mail (email). Such facsimile or scanned signature must be treated in all respects as having the same effect as an original signature.

**V. Section 508 Compliance**

By signing this Agreement, the Local Area expressly agrees and certifies that all electronic and information technology deliverables under this Agreement shall comply with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794 (d); 36 CFR Part 1194) and the Access Board Standards. Section 508 requires that accessibility for people with disabilities is incorporated into all electronic and information technology developed, procured and maintained under Agreements. The Local Area shall: (1) upon request, provide the State with its accessibility testing results and written documentation verifying accessibility; (2) promptly respond to and resolve accessibility complaints; and (3) to the extent permitted by law, indemnify and hold the State harmless in the event of claims arising from inaccessibility.

**W. Governor's Executive Orders for Greening of State Government**

Pursuant to Colorado Governor's Executive Order D-2015-013 (<http://greengov.state.co.us/eo>), the State is committed to taking a leadership position in the areas of energy and water efficiency, petroleum reduction, greenhouse gas emissions reduction, and environmental preferable purchasing, that affect the health and well being of Colorado citizens. During the term of this Agreement, the State encourages the Local Area and its Subrecipients to consider environmental factors in all business and purchasing decisions and to consider giving preference to products and services that have a lesser or reduced effect on human health and the environment.

**X. External Communications and Use of Logos**

The Local Area shall obtain the written approval of CDLE's Government Policy and Public Relations ("GPPR") Office before making any external communications, whether digital or print, pertaining to this Agreement. Examples of external communications include, but are not limited to, news releases, advertising or marketing materials, or any other form of brochures, newsletters, flyers, handbooks, etc. The Local Area shall not use any logos, trademarks, or slogans of CDLE, or any of CDLE's divisions or programs, without the prior written approval of CDLE's GPPR Office.

**Y. 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 anytime thereafter, this §19 shall apply. Contractor agrees to be governed by and comply with the provisions of §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 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.

**20. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-1)**

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

**A. CONTROLLER'S APPROVAL. §24-30-202(1), C.R.S.**

This Agreement shall not be valid until it has been approved by the Colorado State Controller 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.**

No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, §24-10-101 *et seq.* C.R.S., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).

**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 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. Unemployment insurance benefits shall be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. 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 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. This clause shall not apply to the Colorado Rural Workforce Consortium, other State agencies, State offices or State employees but shall apply to subcontractors employed by the Colorado Rural Workforce Consortium or to other State agencies or offices.

**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.**

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



**G. BINDING ARBITRATION PROHIBITED.**

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

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

State or other public funds payable under this Agreement 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 Agreement 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 Agreement, including, without limitation, immediate termination of this Agreement 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 Agreement. 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.

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## EXHIBIT A

### ADMINISTRATIVE AND PROGRAM PROVISIONS

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## **1. DEFINITIONS**

The following terms, used throughout this Exhibit A, have the meanings set forth below:

### **A. ANNUAL COMPLIANCE PLAN**

A one-year plan that provides programmatic and administrative information relevant to the Local Area's performance for the upcoming Program Year, submitted by the Local Area prior to the start of a Program Year. The Annual Compliance Plan is incorporated herein by reference to this Exhibit A.

### **B. CONNECTING COLORADO**

The State's case management, tracking and reporting system, used by the Local Area and its partners, to track statewide data, participant and employer data, performance measures and outcomes, case management services, and other Program related data that is used to comply with reporting and Program requirements.

### **C. E-COLORADO.ORG**

The State's internet-based resource center that furnishes information on workforce development programs and policies; provides employment and training resources and services for One-Stop Center customers; and supports collaboration among workforce development professionals and statewide partners.

### **D. FEDERAL FISCAL YEAR**

The Federal Fiscal Year ('FFY' or 'FY') identifies the federal one-year period of performance from October 1 through September 30 within any given year.

### **E. FEDERAL PROGRAM YEAR**

The Federal Program Year ('Program Year or PY') identifies the federal one-year period of performance from July 1 through June 30 in any given year.

### **F. FUNDING PROVISIONS**

Funding Provisions provide specific information on a Program's Resources and costs, and may be included in a NFA or incorporated into a PGL. Funding Provisions are incorporated herein by reference to this Exhibit A.

### **G. LOCAL AND REGIONAL PLAN**

A four-year plan that describes how the Local Area and its designated region shall achieve the purposes of the WIOA. The plan outlines the vision for aligning and integrating local service delivery across Federal programs to foster alignment of education and job training with employer needs, integrate service delivery across programs, and ensure that the State's workforce system is matching employers with skilled individuals. Local and Regional Plans are incorporated herein by reference to this Exhibit A.

#### **H. LOCAL WORKFORCE DEVELOPMENT BOARD ("LWDB" OR "LOCAL BOARD")**

A policy-making body established under 29 U.S. Code § 3122, WIOA Title I, Chapter 2, §107, certified by the Governor, and responsible for oversight of the Local Area's workforce development programs.

#### **I. NOTICE OF FUNDING ALLOCATION ('NFA')**

A document issued by the State that authorizes funding allocations for Program Resources to the Local Area in support of the State's workforce system and the One Stop Delivery System. NFAs are incorporated herein by reference to this Exhibit A as Exhibit E, beginning with E-1 and continuing in ascending numerical order.

#### **J. NOTICE OF FUNDING REDUCTION / RECAPTURE ('NFR')**

A document, issued by the State to a Local Area, when previously allocated funding must be reduced as the consequence of a Federal or State funding rescission, or because the Local Area cannot expend the funding allocation within the period of performance, or error in a previously issued NFA. Pursuant to §5(A)(iii) of this Exhibit A, the NFR shall be signed bilaterally by the State and the Local Area, and the Local Area's recaptured fund amount de-obligated by the State from the Local Area budget.

#### **K. ONE STOP CENTER**

A One-Stop Center, also known as an American Job Center, provides integrated workforce development services in a One-Stop Delivery System environment of a Local Area.

#### **L. ONE-STOP DELIVERY SYSTEM**

A seamless system of service delivery provided through the Local Area One-Stop Center(s) through the collaboration of entities responsible for operating WIOA and other workforce development Programs funded under this Agreement.

#### **M. ONE STOP OPERATOR**

One or more entities competitively selected and certified under WIOA, sec. 121, to assist in the operation of a Local Area's One Stop Centers. At a minimum, the One-Stop Operator must coordinate the service delivery of required One-Stop Partners and service providers.

#### **N. ONE-STOP PARTNER**

An entity that is required to participate in the One-Stop Delivery System pursuant to WIOA.

#### **O. PERFORMANCE OUTCOMES**

Measurement indicators used to monitor the performance of the Local Area's Programs funded under this Agreement. Performance Outcomes include those measurement indicators identified in the WIOA, and in other Federal or State laws, rules and regulations, and those Program specific indicators set forth in PGLs and or as negotiated at the State and Local levels in their Plans.

#### **P. PLANS**

Plans collectively mean the Local and Regional Area four-year Plan, the Annual Compliance Plan, and the Work Plan.

#### **Q. POLICY GUIDANCE LETTER('PGL')**

Policy Guidance Letters, issued by the State to the Local Area, provide policy and procedural guidance for the Local Area to follow in implementing and operating Programs funded under this Agreement, and are incorporated herein by reference to this Exhibit A.

#### **R. PROGRAM**

"Program(s)" means the Federal and State initiatives that require the delivery of career services, education and training, and supportive services by the Local Area to job seekers, workers, and businesses. Such services contribute to the development of strong regional economies.

#### **S. REQUIRED PROGRAM ELEMENTS**

Services, program components, and resources, which the Local Area is required to make available, pursuant to the applicable Federal or State laws and regulations for each funding source, or as may be designated by a grantor outside of the Federal or State government, or as may be designated by a private donor.

#### **T. RESOURCES**

Resources mean the allowable administrative and program services and activities that are provided in the One Stop Delivery System.

#### **U. TRAINING AND EMPLOYMENT GUIDANCE LETTERS (TEGLS)**

United States Department of Labor ('USDOL') issued documents that provide operating guidance for the Workforce Innovation and Opportunity Act ('WIOA'), the Wagner Peyser Act, and other Federal programs administered by the USDOL, Employment and Training Administration, and as applicable are incorporated herein by reference to this Exhibit A.

#### **V. WORK PLAN**

The Work Plan describes a Program's components, activities, budget and Performance Outcomes that the Local Area shall achieve with the funds. The Local Area provides a Work Plan to the State following issuance of a NFA.

### **2. FUNDING**

#### **A. SOURCES**

Funding provided under this Agreement supports a full range of allowable Resources for the One-Stop System.

#### **B. SOURCES**

The State is providing Agreement Funds to the Local Area pursuant to applicable Federal and State laws, rules and regulations, including, but not limited to:

- the Colorado Revised Statutes (C.R.S.) §8-77-109, Establishment of the Employment Support Fund (ESF),
- the Federal Workforce Innovation and Opportunity Act of 2014 (WIOA) (Public Law #113-128 enacted 7/22/14 and effective July 1, 2015, which includes the Wagner Peyser Act ('WP') as amended,



- the WIOA Technical Amendments Act (Public Law #114-18) as referenced in the Federal Training and Employment Notice (TEN) #10-15 issued on September 17, 2015, which includes the Wagner Peyser Act ('WP') of 1933, as amended,
- The Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA), Title IV of Public Law 114-27,
- Jobs for Veterans State Grant ('JVSG') Program, authorized by Title 38, United States Code Chapter 41, and Public Law 107-288 Jobs for Veterans Act of 2002, and other
- Federally awarded grants, State legislated funding, or other sources of funding that may become available under this Agreement.

### **C. COMPLIANCE**

The Local Area shall comply with all administrative, program and performance requirements, set forth in the funding sources' law, rules and regulations, TEGs, PGLs, Funding Provisions, and other policies and requirements that may be defined by the funding source or defined by the State.

### **D. PERFORMANCE OF SERVICES AND ACTIVITIES**

Under the provisions of this Agreement, the State authorizes the Local Area to provide Resources in compliance with the performance requirements set forth in applicable Federal and State law, rules and regulations, policies, and State approved:

- i. Local and Regional four-year Plans,
- ii. Annual Compliance Plans,
- iii. Grant proposals, and
- iv. Work Plans.

### **E. PERFORMANCE EVALUATION**

Local Area performance shall be tracked and reviewed in Work Plans that include budget and quarterly performance charts, in the PY mid-term review described in §4(6) herein, and in the Annual Report described in §6(F) herein.

### **F. PROHIBITED ACTIVITIES AND USE OF FUNDING**

The Local Area shall fully comply with the applicable provisions of the WIOA, and other applicable Federal and State requirements addressing prohibited activities and prohibited uses of funds, and specifically, but not limited to: WIOA final regulations governing prohibited activities and prohibited use of funding, WIOA Title I, Subtitle A, Chapter 2, Section 107 governing the activities of LWDBs, and WIOA Title I, Subtitle E, Section 181 Requirements and Restrictions.

### **G. GRIEVANCE PROCEDURES**

The Local Area shall establish and maintain procedures for grievances and complaints from participants or other parties affected by the local One-Stop Delivery System in accordance with the requirements of WIOA Title I, Subtitle E, Administration Section 181(c), applicable Federal and State regulations, and applicable PGLs concerning grievance procedures.

## **H. E-COLORADO**

The Local Area shall encourage enrolled customers to register with e-Colorado to expand their access to workforce development information, resources, and professional development tools.

## **I. EVALUATION**

In accordance with WIOA Section 116e, applicable PGLs, and other requirements that may be established by the State, the Local Area shall provide data and conduct Program evaluations to "promote, establish, implement, and utilize methods for continuously improving core program activities in order to achieve high-level performance within, and high-level outcomes from, the workforce development system."

## **3. ROLES AND RESPONSIBILITIES OF THE LOCAL AREA**

Under the oversight of the LWDB whose functions are described in an applicable PGL, and in accordance with the provisions set forth in this Agreement, the Local Area shall:

- 1) Be fully responsible for the implementation and operation of its One Stop System.
- 2) Serve as Administrator for the Local Area's One-Stop Center(s).
- 3) Be fiscally responsible for the expenditure and use of all funds allocated to the Local Area under this Agreement.
- 4) Be liable for any misuse of the grant funds allocated to the Local Area under § 3163 and § 3173 of Title 29.
- 5) Ensure that services are available and accessible for individuals with significant barriers to employment, such as, disadvantaged youth, migrant and seasonal farm workers, veterans, persons with disabilities, older workers, ex-offenders, limited English proficient workers, and minorities.
- 6) Be accountable for its performance under all WIOA core measures for Adult, Dislocated Worker, Youth, and Wagner-Peyser under WIOA Subtitle A, Chapter 4, Performance Accountability.
- 7) Be accountable for its performance, as may be set forth in federal or State law, rules and regulations, TEGLs and PGLs, for all sources of funding provided under this Agreement.
- 8) Inform LWDB members about the conflict of interest provisions under Federal and State laws, rules and regulations, and policies applicable to this Agreement.
- 9) Establish and implement policies and procedures to prevent conflict of interest or the appearance thereof, prevent misuse of funds, and ensure conflict of interest policies and procedures are in place prior to procuring a Local Area One-Stop Operator(s) or other services required by WIOA.
- 10) Inform, train and provide oversight and guidance to all its employees, Subrecipients, contractors, and designated officers on conflict of interest requirements under this Agreement, and applicable State and Federal law, rules and regulation, and policy.
- 11) Ensure that its employees and Subrecipients, contractors and designated officers adhere to the provisions of applicable Federal and State laws addressing non-discrimination in performing its duties under this Agreement.

#### **4. ROLES AND RESPONSIBILITIES OF THE STATE**

The State shall:

- 1) Establish planning guidelines, policy guidance, funding provisions, and requirements for Plans, and disseminate these items to the Local Area.
- 2) Allocate funds to the Local Area for Program services in accordance with Federal formulas defined in Federal laws, rules and regulations, State statutes, State Program participation criteria, labor market information, and other criteria that the State may define and establish in the future.
- 3) Discuss planned funding allocation changes with the Local Area and secure written confirmation from the Local Area Director.
- 4) Review Plans and provide recommendations for approval, conditional approval or disapproval if needed to the Colorado Workforce Development Council (CWDC) and to the Local Area.
- 5) Monitor Local Area activities on a quarterly basis for compliance with all applicable federal and state regulations and policies, and evaluate the Local Area's performance relative to the performance measures identified in the law and in Plans.
- 6) Perform a mid-term review of the Local Area's performance that may require Local Area assistance in verifying budget data.
- 7) Document quarterly expenditure rates and performance measures in a written quarterly monitoring report and submit the report to the Local Area, and complete a written summative annual compliance review and report at the end of each Program Year and submit the report to the Local Area.
- 8) Gauge and measure compliance of Local Area to ensure funds are used for authorized purposes in compliance with laws and regulations, assess Local Area internal controls to assure reliable financial reporting and accountability, and assist and recommend areas of improvement of administrative efficiencies and programmatic effectiveness.
- 9) Work with the Local Area to adjust performance measures based on any Federal or State mandated legislative or policy changes that occur during the performance period, and monitor and evaluate any such adjustments made.
- 10) Review draft Work Plans and provide any applicable program feedback to the Local Area.
- 11) Correct coding errors that may be in the Local Area budget chart(s) and advise the Local Area of such corrections.
- 12) Provide program guidance and technical assistance to the Local Area for all Programs funded under this Agreement.
- 13) Enter, upload, and post Local Area line item budgets into the State's CLEAR system (or other financial system that the State may utilize for reimbursement to the Local Area).
- 14) Reimburse or make payment to the Local Area for authorized Program expenditures reported to the State no later than the 14th calendar day of the following month, or, as otherwise designated by the State.

## **5. STATE FUNDING PROCEDURES**

State funding procedures, funding documents, and document instructions shall be set forth in a PGL and updated as necessary from time to time. Any updates shall be incorporated herein by reference.

### **A. NOTICE OF FUNDING ALLOCATION ('NFA') (EXHIBIT E)**

A NFA is a unilateral document issued by the State to the Local Area to advise the Local Area of their Program funding allocations, as set forth in §7B of the Agreement, that support the State's workforce system as defined in C.R.S. §8-83-104 and §8-83-204 et. seq., and the One Stop Delivery System. The NFA authorizes the encumbrance of Program allocations for reimbursement or payment to the Local Area in accordance with the provisions of this Agreement.

- i. The NFA includes, but is not limited to the following information:
  - Allocation amount
  - Program code,
  - Period of Performance,
  - PY and or FY
  - CFDA# when applicable,
  - Grant number, when applicable, and
  - Funding Provisions (when applicable), if such provisions are not included in a PGL.
- ii. NFA's shall be unilaterally signed jointly by the Director of Employment and Training and the State Controller, or their authorized designee(s).
- iii. Decreases in a funding allocation or recapture of funds, shall be documented in a Notice of Funding Reduction/Recapture bilaterally signed (a) jointly by the Director of Employment and Training and by the State Controller, or their designee(s), and (b) jointly by the Director of the LWDB and the Workforce Center Director, or their authorized designee(s). At the Local Area's option, any additional required signatory may also sign the NFR. Funding decreases or recaptures shall be deobligated by the State from the Local Area funding.
- iv. Changes to program codes may be authorized by the State in an email to the Local Area, and will be acknowledged by the Local Area in a return confirmation email.
- v. Changes to the period of performance shall be made by the State in writing to the Local Area and shall be acknowledged by counter-signature by the Local Area.
- vi. The State may change the format of a NFA at its discretion.

### **B. WORK PLANS' (EXHIBIT B)**

After receipt of a NFA, the Local Area shall submit a draft Work Plan to the State for review, negotiation, and approval by the State. After final approval, the Work Plan shall be signed (a) jointly by the Director of the LWDB or authorized designee and the Workforce Center Director or authorized designee, (and as applicable under County policy any other Local Area signature(s)), and (b) countersigned by the Workforce Development Program Operations Manager or authorized designee. The Work Plan may be

electronically (a) sent to the State, and (b) returned to the Local Area. Pursuant to §19.U., a digital record of an original signature may be accepted as evidence of consent or approval. Each Work Plan shall amend and be incorporated into this Agreement and attached as Exhibit B.

**An approved Work Plan must be in place for the Local Area to receive reimbursement or payment as described in Paragraph D below. The State may change the format of a Work Plan at its discretion.**

**C. WORK PLAN BUDGET & PERFORMANCE CHARTS ('CHARTS') (EXHIBIT B)**

The Local Area shall complete Charts for each Work Plan, when applicable, in the format prescribed by the State, and submitted in accordance with the then most current applicable PGL. All charts shall include quarterly performance data and projected current and quarterly budget line item data. All modifications to transfer funds shall be made in accordance with the applicable State-issued PGL for NFA / Work Plan procedures, memorializing the request by the Local Area and the acceptance by the State of the modification, and shall become part of this Agreement.

**D. REIMBURSEMENT**

The Local Area may request reimbursement from the State for expenditures incurred prior to the report submission, in conjunction with the upload of the monthly expenditure report into the State's financial system for Local Area expenditure reimbursement and reporting. Funds shall be deposited into the Local Area's account through an electronic fund transfer.

**E. PERFORMANCE UNDER AN NFA**

The Local Area may begin to incur expenditures under an NFA for formula allocated funds, beginning on the start date of the Period of Performance, however, reimbursement may only be made for those expenditures after the Work Plan has been approved as set forth in this Section. The Local Area may begin to incur expenditures under an NFA for non-formula allocated funds only after a Work Plan has been submitted, approved, and signed by the required Parties. Expenditures incurred prior to the approval and signature date of the Work Plan shall not be reimbursed.

The State and Local Area agree that only retroactive funding is available on the start date of the Period of Performance for each Program. The NFA shall be considered retroactive, and reimbursements can be made for Local Area expenditures beginning on or after the later of the approval by the State as set forth in this Section and the start date of the Period of Performance.

**6. REPORTING PROCEDURES**

The Local Area shall refer to the applicable PGL for guidance on the requirements of each report listed below. The State may change report due dates or requirements upon advance notice to the Local Area.

**A. CURRENT EXPENDITURE REPORTS**

On a monthly basis, the Local Area shall report expenditures to the State. Reports are due to the State no later than the 14th calendar day of the following month (or such other time as the State may designate).



## **B. ACCRUAL REPORTS**

On a quarterly basis, the Local Area shall report accruals for costs incurred and billed in the current quarter but not yet reimbursed by the State. Reports are due on the 14<sup>th</sup> day of the month following the end of the quarter, or as designated by the State.

## **C. FUTURE OBLIGATION REPORTS**

On a quarterly basis, the Local Area shall make a written report of obligations to the State. Reports are due on the 14th day of the month following the end of the quarter, or as designated by the State.

## **D. STAND-IN COSTS/ LEVERAGED RESOURCES REPORTS**

On a quarterly basis, the Local Area may be required to make a written report on stand-in costs and the cost of leveraged resources to the State. If required, reports are due to the State no later than the 14th calendar day of the month following the end of each quarter, or as designated by the State. Reports of stand-in costs and leveraged costs are required on an annual basis and are due to the State no later than June 30th.

## **E. QUARTERLY REPORTING OF SPECIAL INITIATIVE PROJECTS**

The Local Area shall provide to the State no later than the 25th calendar day of the month following the end of each quarter, or as designated by the State, a written report summarizing the progress of any special initiative grant project currently in operation.

## **F. ANNUAL REPORT**

On a date as may be designated by the State from time to time, following the end of each Program Year, the Local Area shall provide to the State an Annual Report summarizing the progress or achievement of the Local Area in meeting its performance outcomes.

## **G. GRANT CLOSE OUT**

Close Out for expiring funds shall be completed within sixty (60) days after the specific period of performance end date identified in the NFA and/or grant award.

# **7. DATA ACCESS AND SYSTEM CONNECTIVITY**

The Local Area, at its own expense, shall maintain computer equipment and system connectivity to access Connecting Colorado, CLEAR, (or other workforce case management system or financial systems that the State may utilize for reimbursement to the Local Area), and other Local Area applications and systems

## **A. ACCESS AND COMPUTER SYSTEM CONNECTIVITY**

The Local Area shall ensure sufficient system connectivity for all Local Area, State, and One-Stop Partner staff (as needed), and Subrecipient employees, within seventy-two (72) hours of hire. The Local Area shall be responsible for maintaining connectivity, at minimum, to Connecting Colorado, and other Local Area databases and software systems.

## **B. SYSTEM SUPPORT AND TRAINING**

The Local Area shall provide comprehensive training for all Local Area, State, and One-Stop Partner staff, and Subrecipient employees who are collocated in the Local Area One-Stop

centers. The Local Area shall also be responsible for providing system support to ensure ongoing connectivity and access needed for optimal operations.

### **C. CONNECTING COLORADO**

The Local Area shall execute a contract directly with the State's Connecting Colorado (or other workforce case management system) contractor to ensure connectivity of the Local Area One-Stop centers and Connecting Colorado.

### **D. DATA EXCHANGE**

The Local Area shall enter into data exchange contracts directly with other One Stop partners or partner programs, as needed, maintaining industry standards for security and confidentiality of data.

### **E. CLEAR SYSTEM**

The Local Area shall use CDLE's CLEAR system (or financial system that the State may utilize for reimbursement to the Local Area) for reporting and requesting reimbursements or payments for all allowable expenditures under this Agreement, unless directed otherwise by the State. The Local Area shall be responsible for obtaining access to CLEAR for its fiscal agent and fund administration responsibilities.

In the event that the Local Area, or its fiscal agent, requires technical assistance for use of CLEAR or for connectivity issues, the Local Area shall contact CDLE's Finance Office to determine a solution and reestablish connectivity and functionality. The State retains the right to charge a reasonable fee to access and use CLEAR, or require the Local Area to obtain a license from the system provider.

### **F. PRODUCTS DEVELOPED IN WHOLE OR IN PART WITH WIOA AND/OR WP FUNDS**

If applicable, the following statement shall be clearly identified on all products developed in whole or in part with WIOA and/or WP funds:

*"This workforce product was funded by a grant awarded by the United States Department of Labor's Employment and Training Administration. The solution was created by the Local Area and does not necessarily reflect the official position of the U.S. Department of Labor. The U.S. Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability or ownership. This product is copyrighted by the institution that created it. Internal use by an organization and/or personal use by an individual for non-commercial purposes is permissible. All other uses require the prior authorization of the copyright owner."*

## **8. PROGRAM PROVISIONS**

Programs described in this Section 8 contain supplemental information in PGLs, TEGs, and Funding Provisions. The Local Area shall reference the PGL(s) applicable to the Program, USDOL TEG(s) applicable to the Program, and Funding Provisions (if any) applicable to the Program.

If a new or updated PGL or TEGL is issued for a Program by the State or USDOL after execution of this Agreement, and/or Funding Provisions are issued by the State, that PGL, TEGL, or Funding Provisions shall be incorporated herein by reference, apply prospectively, and take precedence over any previously issued PGL or TEGL. Prior PGL or TEGL provisions remain valid for the work performed under that guidance.

#### **A. JOBS FOR VETERANS/JOBS FOR VETERANS STATE GRANT ("JVSG")**

The Jobs for Veterans Act (§2(a) of the Act 38 United States Code 4215(a)), creates a priority of service requirement for veterans (and eligible covered persons) who are eligible to receive services under designated USDOL funded workforce development and training programs. Therefore, for all designated workforce development programs funded under this Agreement with Federal funds, the Local Area shall adhere to Federal and State laws and guidance related to veterans' priority of service.

##### **1. FUNDING PURPOSE**

State staff shall provide Program services to all eligible veterans and other eligible applicants. These services include registration, counseling, referral to supportive services, job development, labor market information, resume development, and career services, such as, case management, job search assistance and referral to training. Funding is provided as a contribution toward operating and overhead costs associated with the number of State staff who are collocated in the Local Area's One Stop Center. Supplemental funding may be provided at the discretion of the State for other resources shared or used by State staff at the One Stop Center.

##### **2. COLLOCATION**

The Jobs for Veterans State Grant (JVSG) Program Staff are State staff collocated in the Local Area's One-Stop centers and operating the JVSG Program through the One Stop delivery system. JVSG staff are also known as Local Veterans' Employment Representatives (LVERs), Regional Veterans' Employment Representatives (RVERs), and Disabled Veterans' Outreach Program (DVOPs) specialists.

If the Local Area has a subrecipient relationship with an outside entity to operate a One Stop Center through its own leased or owned building, the outside entity shall be required to provide office space for JVSG funded staff, if determined appropriate by the State. The State shall retain the right to determine which One Stop Centers in the Local Area shall best serve JVSG customers.

##### **3. AUTHORITY**

The State retains authority over all personnel actions which may affect the current base pay, status, performance, or tenure of classified JVSG Program Staff. The State remains the final authority on placement, replacement, and or transfer, of JVSG staff. Any relocation, including moves within the Local Area must be approved by the State Regional Director and the State JVSG Program Coordinator. The State has sole discretion to determine which State employees shall occupy State positions throughout the State

#### **4. DAILY SUPERVISION**

Local Area staff shall provide day-to-day functional and operational supervision to State staff providing services in the Local Area's One-Stop Centers. Day-to-day functional operational supervision may include the setting of work hours and program responsibilities with the exception of the roles and responsibilities of the JVSG Program staff which are set in Federal policy.

#### **5. POSITION CLASSIFICATION**

Unless otherwise specified in writing by the State, State employee positions shall be treated as nonexempt under the Fair Labor Standards Act (FLSA). Notwithstanding the above, State employees serving in positions entitled Regional Veterans' Employment Representative (RVER) or Local Veterans Employment Representative (LVER) shall be considered exempt under the FLSA.

#### **6. PERFORMANCE**

In accordance with State Personnel Rules, the State, with full cooperation and input from the Local Area, shall complete performance evaluations of State employees, follow standard State performance procedures and any grievance procedures that may be necessary, and determine and implement any corrective action or disciplinary actions.

#### **7. POSTED NOTICES**

The Local Area shall post in conspicuous places, all notices required by State law for State staff. The State shall supply necessary copies of such notices at the State's expense.

#### **B. WAGNER-PEYSER ACT**

The Local Area shall reference applicable PGLs beginning with VET, WP, TAA, and ADM for accompanying program policy guidance, and TEGL #19-16, as amended and other applicable TEGLs, for operating guidance.

##### **1. FUNDING PURPOSE**

Wagner-Peyser funds provide labor exchange services, or Basic Career Services, as well as Individualized Career Services as defined in §4 and §6 of the above TEGL. Services must be made available in coordination with other One Stop Center partners. The Local Area shall not charge any fees for WP funded activities.

##### **2. RESTRICTIONS ON FUNDING**

As defined in Federal law, funds cannot be used for:

- Supportive services, follow-up services, or economic development.
- Subrecipient contracting unless implemented under a Merit System as defined below, and provided by another governmental entity.
- Training services.

##### **3. MERIT STAFFING REQUIREMENTS**

The Local Area shall comply with all applicable Federal laws regarding merit staffing requirements including, but not limited to, the Wagner-Peyser Act of 1933, 29 U.S.C. 49, et seq., as amended, the Intergovernmental Personnel Program, Chapter 62 of Title 42, U.S.C., as amended, and all associated rules, regulations and policies, as amended. Staffing

requirements consist of, but are not limited to: 1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment; 2) providing equitable and adequate compensation; 3) training employees, as needed, to assure high-quality performance; 4) retraining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected; 5) assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, or religious creed and with proper regard for their privacy and constitutional rights as citizens; and 6) assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

### **C. WAGNER-PEYSER 10% STATE FUNDS RESERVED BY THE GOVERNOR**

#### **1. FUNDING PURPOSE**

Wagner-Peyser 10% funds allocated to CDLE by the Governor, supports special workforce initiatives that may include, but are not limited to:

- Performance incentives for the Local Area;
- Services for individuals with significant barriers to employment;
- Services targeted at employers; and
- Other initiatives in support of labor exchange services and/or career services provided in the Local Area.

#### **2. REQUIRED PROGRAM ELEMENTS**

Reference the applicable PGL(s) for further policy guidance on any special initiative.

#### **3. FUNDING RESTRICTIONS**

Reference the applicable PGL(s) for further policy guidance on any special initiative.

### **D. GOVERNOR'S SUMMER JOB HUNT (GSJH)**

Funds support the Governor's Summer Job Hunt (GSJH) Program, which provides career awareness, job readiness training, job placement services, job fairs and employment opportunities to youth seeking unsubsidized jobs for the summer. Funding covers staffing costs and outreach activities to promote youth and business participation in the program.

### **E. MIGRANT SEASONAL FARM WORKER PROGRAM**

Funds support the Local Area's delivery of services to Migrant Seasonal Farm Workers (MSFWs), and covers personnel and benefit costs, training and travel costs, and purchase of equipment, supplies, and other materials to operate the MSFW Program.

### **F. REEMPLOYMENT SERVICES AND ELIGIBILITY ASSESSMENT (RESEA)**

#### **1. FUNDING PURPOSE**

Funds support programs for individuals receiving unemployment insurance (UI) benefits. The funds connect participants with in-person assessments and reemployment services through the Local Area. The program helps participants return to work faster.



## **2. REQUIRED PROGRAM ELEMENTS**

Reference the applicable PGL and Funding Provisions for further program Resource and policy guidance.

### **G. WIOA TITLE I ADULT AND DISLOCATED WORKER**

#### **1. FUNDING PURPOSE**

Funds establish a One-Stop Delivery System for Adults and Dislocated Workers, described in WIOA section 121(e); and provides career and training services through the One-Stop Delivery System. Funds also support development of relationships and networks with large and small employers and their intermediaries; and develops, convenes, and implements industry or sector partnerships.

#### **2. REQUIRED PROGRAM ELEMENTS**

The Local Area shall refer to 20 CFR §680 et. seq. for required services and activities, WIOA, Ch. 3, §134 (c and d), TEGL #19-16, or as amended and other applicable TEGLs, and applicable PGLs for further program Resource and policy guidance.

### **H. WIOA TITLE I YOUTH**

#### **1. FUNDING PURPOSE**

Funds provide eligible youth with employment and training services based on an objective assessment of the academic levels, skills levels, and service needs of each participant described in WIOA §129(a).

#### **2. REQUIRED PROGRAM ELEMENTS**

The Local Area shall refer to 20 CFR §680 et. seq. for required services and activities, WIOA, Ch. 3, §129 c.(2and 3), TEGL #21-16 or as amended and other applicable TEGL's, and applicable PGLs for further program and policy guidance.

### **I. WIOA TITLE I 25% STATE FUNDS RESERVED BY THE GOVERNOR**

#### **1. FUNDING PURPOSE**

25% funds may be used for, but are not limited to, Enhanced Dislocated Worker Resources, Rapid Response Resources, Sector Partnerships initiatives, Regional Planning initiatives, and other services and activities as described in WIOA Title 1, §134, Use of Funds for Employment and Training Activities, and applicable PGL's that shall provide further program and policy guidance.

#### **2. REQUIRED PROGRAM ELEMENTS**

Required Program Elements are defined in WIOA Title 1, §134, Use of Funds for Employment and Training Activities, and applicable PGL's for further program and policy guidance.

### **J. TRADE ADJUSTMENT ASSISTANCE (TAA) REAUTHORIZATION ACT (TAARA)**

The Trade Adjustment Assistance (TAA) Program is a federal entitlement program that assists U.S. workers who have lost or may lose their jobs as a result of foreign trade. The Program provides adversely affected workers with opportunities to obtain the skills, credentials, resources, and support necessary to become reemployed.

## **1. FUNDING PURPOSE**

The Trade Adjustment Assistance (TAA) Program provides a variety of reemployment benefits for workers who have lost their jobs due to foreign competition and their company has been certified as being trade impacted by the US Department of Labor (USDOL) ('trade-affected worker'). Possible benefits include retraining, job search assistance, relocation assistance, extensions of Unemployment Insurance (UI) benefits and/or a wage subsidy if the individual is 50 years of age or older and starts a full time job that pays less than the trade certified employment.

## **2. REQUIRED PROGRAM ELEMENTS**

In coordination with the State's TAARA Program staff, the Local Area shall deliver approved services to trade-affected worker that includes:

- **ASSISTANCE**

Assistance for each trade-affected worker in applying for a determination of entitlement to receive TAARA program benefits and in registering each applicant in Connecting Colorado, and

- **PROVIDE SERVICES**

Provide counseling, testing, placement, and supportive and other services required under any other applicable federal law or workforce program to all trade-affected workers.

The Local Area shall refer to applicable PGLs for further program and policy guidance.

## **K. FOREIGN LABOR CERTIFICATION**

### **1. FUNDING PURPOSE**

Funds cover personnel and benefits costs and mileage reimbursement associated with performing Housing Inspections and/or other Labor Certification activities in compliance with the rules and regulations covering the Foreign Labor Certification Program. Costs may be attributed to activities in support of tasks described in 20 CFR Part 654 Subpart E, Housing for Agricultural Workers and/or 29 CFR 1910.142, Temporary Labor Camps.

### **2. REQUIRED PROGRAM ELEMENTS**

Housing Inspections and/or other Labor Certification activities may include, but are not limited to, the following:

- **JOB ORDERS**

Entering position in Connecting Colorado. Maintenance of job order, follow up with employer and continue to screen and refer applicants. All job orders are staff-assisted only. May assist applicants with application process, and interpret if necessary. Job orders may be open for up to 8 months due to 50% requirement. Printing out full job order for clients.

- **HOUSING INSPECTIONS**

Preparation of paperwork for the housing inspection, providing documents to employer. Follow up and re-inspection, if needed, perform physical inspection on new units, and other inspection activities.

- **STAFF TIME**

Conduct routine field and sanitation checks (MSFW Outreach Workers are required to go out at least once a season to H2A employers).

Preparation of outreach logs.

Wage surveys.

Process complaints.

Conduct pesticide training if requested.

Inspection of public housing.

Recruitment of qualified applicants through outreach activities.

Attend Program-related Training

- **ALLOWABLE COSTS**

Allowable costs are those personnel/benefits and mileage costs associated with carrying out the Program Activities above.

**L. C.R.S. 8-77-109 /EMPLOYMENT SUPPORT FUND (ESF)**

Funding is provided under C.R.S. §8-77-109 Establishment of the Employment Support Fund (ESF) for use by the Colorado Department of Labor and Employment,— Division of Employment and Training, and C.R.S. §8-83 Workforce Development Part 1 Division of Employment and Training; and C.R.S. §8-83-104 State Employment Service.

**1. FUNDING PURPOSE**

Funds may be used to carry out employment and training activities in the Local Area and to support workforce center operations.

**2. ALLOWABLE COSTS**

Allowable costs shall be reasonable and necessary for workforce center operations and employment and training activities which include, but are not limited to: building overhead and operating costs; indirect and administrative costs; core services, career services, supportive services, and training services for participants; staff development; information technology initiatives that benefit workforce development programs; leverage and match for other workforce development programs in the Local Area; leasehold improvements and/or the costs of moving a workforce center to a new location and other employment service activities, such as:

- job search and placement services to job seekers including counseling, testing, occupational and labor market information, assessment, and referral to employers;
- appropriate recruitment services and special technical services for employers;
- evaluation of programs;
- developing linkages between services funded under the Wagner Peyser Employment Service Act and related Federal or State legislation, including the provision of labor exchange services at educational sites;

- providing services for workers who have received notice of permanent layoff or impending layoff, or workers in occupations which are experiencing limited demand due to technological change, impact of imports, or plant closures;
- developing and providing labor market and occupational information; and,
- administering the work test for the State unemployment compensation system and providing job finding and placement services for unemployment insurance claimants.

ESF funds may cover all of the allowable costs cited in the regulations and guidelines covering the Workforce Innovation and Opportunity Act. Expenditures of ESF funds may be used as stand-in costs required by other Federal grants provided under the Agreement.

#### **M. STATE LEGISLATED FUNDING FOR WORKFORCE DEVELOPMENT PROGRAMS**

Other State legislated programs for workforce development delivered through the Local Area may exist from time to time. Matters of funding purpose, allowable costs, and program guidance will be determined in consultation with the relevant legislation as required.

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## EXHIBIT B

### Local Area WORK PLAN

This WORK PLAN is agreed to by the partys' signature below:

For the Local Area

X \_\_\_\_\_

LWDB Chair or Designee

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

X \_\_\_\_\_

Workforce Center Director or Designee

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

For Workforce Development Programs

X \_\_\_\_\_

Operations Manager or Designee

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

### I. WORK PLAN SUMMARY

A. THIS WORK PLAN IS FOR (INSERT NFA TABLE BELOW):

a) Does this WORK PLAN include a request for Transfer of Funds.

☐ YES ☐ NO If YES, complete Section V.

B. THIS WORK PLAN MODIFICATION IS FOR:

☐ CHANGE TO WORK PLAN COMPONENTS OR PROJECT PLAN

☐ CHANGE TO BUDGET

☐ CHANGE TO PERFORMANCE OUTCOMES

☐ TRANSFER BETWEEN AD & DW (IF CHECKED, COMPLETE SECTION V)

☐ OTHER Click or tap here to enter text.

b) (complete all changes in review/track changes/strikethrough mode and highlight new information)

### II. PROGRAM CONTACTS

LOCAL AREA COORDINATOR	WDP PROGRAM COORDINATOR	WDP LIAISON
Name: Click or tap here to enter text.	Name: Click or tap here to enter text.	Name: Click or tap here to enter text.
Phone or Email: Click or tap here to enter text.	Phone or Email: Click or tap here to enter text.	Phone or Email: Click or tap here to enter text.
Name: Click or tap here to enter text.	Name: Click or tap here to enter text.	Name: Click or tap here to enter text.
Phone or Email: Click or tap here to enter text.	Phone or Email: Click or tap here to enter text.	Phone or Email: Click or tap here to enter text.



**III. FUNDING PROVISIONS (CHECK ONE)**

- ☐ No changes to previous provisions.
- ☐ Funding provisions included or embedded below:

**IV. WORK PLAN**

**A. WORK PLAN TYPE (SELECT ONE)**

- ☐ Annual Compliance Plan is the WORK PLAN and incorporated by reference.
- ☐ Project Plan/Grant proposal is attached as the WORK PLAN.
- ☐ WORK PLAN follows in Section IV, B & C below.
- ☐ WORK PLAN modification follows in Section IV, B&C below and/or Section VI.

WORK PLAN NFA #: Click or tap here to enter text.

Local Area: Click or tap here to enter text.

**B. WORK PLAN COMPONENTS (CHECK ALL THAT APPLY)**

1.	<input type="checkbox"/>	Planning	7.	<input type="checkbox"/>	Business Services
2.	<input type="checkbox"/>	Outreach	8.	<input type="checkbox"/>	Sector Strategies
3.	<input type="checkbox"/>	Partnerships	9.	<input type="checkbox"/>	Career Pathways
4.	<input type="checkbox"/>	Program Integration	10.	<input type="checkbox"/>	Evaluation
5.	<input type="checkbox"/>	Service Delivery	11.	<input type="checkbox"/>	Other:Click or tap here to enter text.
6.	<input type="checkbox"/>	Work Based Learning			

**C. WORK PLAN COMPONENT NARRATIVE**

**DATE RANGE:** Click or tap here to enter text.

c) Note: Component rows will automatically expand to fit multiple bullet points

Component #	Program/Project Activities -LIST AS BULLET POINTS-	Estimated Completion Date *If ongoing, indicate "OG"	Anticipated Outcome (s) -LIST AS BULLET POINTS-
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			

V. **TRANSFER REQUEST** *(check one)*

☐ Tier I (Up To 50%) ☐ Tier 2 (Between 51% And 75%) ☐ Tier 3 (Between 76% And 100%)

A. **REASON FOR REQUEST** *(SEE PGL WIOA 2017-01)*

B. FOR CDLE USE ONLY:

**TIER 1(CHECK ALL THAT APPLY)**

☐ Local Area has a documented need to transfer funds in order to respond to market conditions and use resources effectively that is based on labor market information, Worker Readjustment and Retraining Notification (WARN) notices, or one-stop center data.

☐ Local Area has met the 70% expenditure requirement for funding available during the prior program year for Adults and Dislocated Workers; and

☐ Local Area is on track to meet participant measurements for the Adult and Dislocated Worker programs.

**TIER 2(CHECK ALL THAT APPLY)**

All Tier 1 items and:

☐ Local area is on track to meet priority of service requirements for the Adult program;

☐ Local area is enrolling participants in Work-based Training (On the Job Training, Apprenticeships, Internships, Work Experiences, etc.) as part of the plan; and

☐ Local area is conducting outreach activities to Dislocated Workers, such as participation in Rapid Response or Reemployment Services and Eligibility Assessment (RESEA), across all eligibility categories applicable to the local area and to those with barriers to employment.

**TIER 3 (CHECK ALL THAT APPLY)**

All Tier 1 and 2 items and:

☐ Local area has a documented, significant need to transfer funds;

☐ Local area has collaboration with Partner Agencies demonstrated by co-enrollments and leveraging of multiple funding streams and program referrals; and

☐ Local Area has met or is on track to meet its goals for discretionary grants that serve adults and dislocated workers.

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## VI. CHARTS (LINE ITEM BUDGET & QUARTERLYS)

*(Double click on the spreadsheet to open, insert information, save and close.)*



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**Supplemental Provisions for Federal Awards**  
**Subject to The Office of Management and Budget Uniform Administrative**  
**Requirements, Cost Principles, and Audit Requirements for Federal Awards**  
**("Uniform Guidance"),**  
**Federal Register, Vol. 78, No. 248, 78590**

The agreement to which these Uniform Guidance Supplemental Provisions are attached has been funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the agreement or any attachments or exhibits incorporated into and made a part of the agreement, the provisions of these Uniform Guidance Supplemental Provisions shall control. In the event of a conflict between the provisions of these Supplemental Provisions and the FFATA Supplemental Provisions, the FFATA Supplemental Provisions shall control.

1. **Definitions.** For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.
  - 1.1. **"Award"** means an award by a 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 Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38
  - 1.2. **"Federal Award"** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. "Federal Award" also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
  - 1.3. **"Federal Awarding Agency"** means a Federal agency providing a Federal Award to a Recipient. 2 CFR §200.37
  - 1.4. **"FFATA"** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
  - 1.5. **"Grant" or "Grant Agreement"** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.
  - 1.6. **"OMB"** means the Executive Office of the President, Office of Management and Budget.
  - 1.7. **"Recipient"** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86
  - 1.8. **"State"** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.
  - 1.9. **"Subrecipient"** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.
  - 1.10. **"Uniform Guidance"** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which 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.
  - 1.11. **"Uniform Guidance Supplemental Provisions"** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing



guidance from relevant Federal agencies or the Colorado State Controller.

2. **Compliance.** Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions automatically shall become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

3. **Procurement Standards.**

- 3.1 **Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.

- 3.2 **Procurement of Recovered Materials.** If Subrecipient is a State Agency or an agency of a political subdivision of a 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.

4. **Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of §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 the Uniform Guidance. 2 CFR §200.331(a)(5).

5. **Single Audit Requirements.** If Subrecipient expends \$750,000 or more in Federal Awards during Subrecipient's fiscal year, 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.

- 5.1 **Election.** Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). 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 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.

- 5.2 **Exemption.** If Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, 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.

- 5.3 **Subrecipient Compliance Responsibility.** Subrecipient shall procure or otherwise arrange for the audit required by Part 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 Uniform Guidance §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 Part F-Audit Requirements.

**6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

**6.1 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."

"During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will

take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

- 4.2 **Davis-Bacon Act.** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- 4.3 **Rights to Inventions Made Under a Contract or Agreement.** If the Federal Award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and 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," 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 awarding agency.
- 4.4 **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 award 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).
- 4.5 **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.
- 4.6 **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.

7. **Certifications.** Unless prohibited by Federal statutes or regulations, 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.
8. **Event of Default.** Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State 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.
9. **Effective Date.** The effective date of the Uniform Guidance is December 26, 2013. 2 CFR §200.110. The procurement standards set forth in Uniform Guidance §§200.317-200.326 are applicable to new Awards made by Recipient as of December 26, 2015. The standards set forth in Uniform Guidance Subpart F-Audit Requirements are applicable to audits of fiscal years beginning on or after December 26, 2014.
10. **Performance Measurement**

The Uniform Guidance requires completion of OMB-approved standard information collection forms (the PPR). The form focuses on outcomes, as related to the Federal Award Performance Goals that awarding Federal agencies are required to detail in the Awards.

Section 200.301 provides guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes.

The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones (200.210). Also, must require the recipient to relate financial data to performance accomplishments of the Federal award.



## EXHIBIT D

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

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

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

**A.1. "Award"** means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- A.1.1.** Grants;
- A.1.2.** Contracts;
- A.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- A.1.4.** Loans;
- A.1.5.** Loan Guarantees;
- A.1.6.** Subsidies;
- A.1.7.** Insurance;
- A.1.8.** Food commodities;
- A.1.9.** Direct appropriations;
- A.1.10.** Assessed and voluntary contributions; and
- A.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award *does not* include:

- A.1.12.** Technical assistance, which provides services in lieu of money;
- A.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- A.1.14.** Any award classified for security purposes; or
- A.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

**A.2. "Contract"** means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.

**A.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.



- A.4. "Data Universal Numbering System (DUNS) Number"** means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet's website may be found at: <http://fedgov.dnb.com/webform>.
- A.5. "Entity"** means all of the following as defined at 2 CFR part 25, subpart C;
- A.5.1.** A governmental organization, which is a State, local government, or Indian Tribe;
  - A.5.2.** A foreign public entity;
  - A.5.3.** A domestic or foreign non-profit organization;
  - A.5.4.** A domestic or foreign for-profit organization; and
  - A.5.5.** A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- A.6. "Executive"** means an officer, managing partner or any other employee in a management position.
- A.7. "Federal Award Identification Number (FAIN)"** means an Award number assigned by a Federal agency to a Prime Recipient.
- A.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."
- A.9. "Prime Recipient"** means a Colorado State agency or institution of higher education that receives an Award.
- A.10. "Subaward"** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient's support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- A.11. "Subrecipient"** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term "Subrecipient" includes and may be referred to as Subgrantee.
- A.12. "Subrecipient Parent DUNS Number"** means the subrecipient parent organization's 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient's System for Award Management (SAM) profile, if applicable.
- A.13. "Supplemental Provisions"** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- A.14. "System for Award Management (SAM)"** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- A.15. "Total Compensation"** means the cash and noncash dollar value earned by an Executive during the Prime Recipient's or Subrecipient's preceding fiscal year and includes the following:
- A.15.1.** Salary and bonus;

- A.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;
- A.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;
- A.15.4. Change in present value of defined benefit and actuarial pension plans;
- A.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
- A.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.

A.16. "Transparency Act" means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.

A.17. "Vendor" means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

**B. Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

**C. System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**

C.1. **SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.

C.2. **DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.

**D. Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:

D.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and

D.2. In the preceding fiscal year, Contractor received:

D.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

D.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and

**D.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.

**E. Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller shall provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.

**F. Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.

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

**G.1. To SAM.** A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

- G.1.1.** Subrecipient DUNS Number;
- G.1.2.** Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;
- G.1.3.** Subrecipient Parent DUNS Number;
- G.1.4.** Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
- G.1.5.** Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
- G.1.6.** Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

**G.2. To Prime Recipient.** A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

- G.2.1.** Subrecipient's DUNS Number as registered in SAM.
- G.2.2.** Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

**H. Exemptions.**

**H.1.** These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or

operate in his or her name.

**H.2.** A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

**H.3.** Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also shall include other types of Awards subject to the Transparency Act.

**H.4.** There are no Transparency Act reporting requirements for Vendors.

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

## EXHIBIT E

### NOTICE OF FUNDING ALLOCATION (NFA)

4/4/2017

To: The Board of County Commissioners for the Local Area(s)

The NFA(s) listed below, and attached or embedded herein; provide funding allocations to the Local Area(s) for expenditure in the Program(s) and Performance Period(s) identified in the NFA(s).

NFA # (s):	AD 17-01, AR 17-01, BO 17-01, CR 17-01, DE 17-01, ET 17-01, JE 17-01, LA 17-01, ME 17-01, WE 17-01
Programs:	PY 17 WAGNER -PEYSER (WP) PY 17 EMPLOYMENT SUPPORT FUND (ESF)

State and Local Area agree that only retroactive funding, identified as formula in the NFA, is available for expenditure on the **start date** of the period of performance for each Program. The NFA shall be considered retroactive, and reimbursements can be made for Local Area expenditures beginning on or after the start date of the period of performance. Reimbursements shall be made in accordance with the applicable provisions of the Workforce Development Programs ('WDP') Master Grant Agreement ('Agreement') with the Local Area(s).

Pursuant to the Agreement, the Local Area(s) shall submit to the State for approval, a Work Plan as described in the Agreement, including budget and performance charts for each funding allocation.

The funding allocations identified herein are subject to the executed Agreement; Funding Provisions attached hereto and or incorporated herein by reference, relevant Policy Guidance Letters ('PGL(s)') and approved Work Plans. These NFAs shall become a part of Exhibit B to the fully executed Agreement(s) for the Local Area(s) identified above.

In accordance with §24-30-202 C.R.S., this NFA is not valid until signed and dated below by the State Controller and the CDLE Division Director, or their authorized delegate(s).

**Colorado Department of Labor and Employment  
Division of Employment and Training**

x \_\_\_\_\_  
**William B. Dowling Director**  
Date: \_\_\_\_\_

x \_\_\_\_\_  
**Tammy Nelson, State Controller Delegate**  
Date: \_\_\_\_\_

Att/Embd: NFAs



**NOTICE OF FUNDING ALLOCATION (NFA)**

Date

Local Area: EL PASO/TELLER COUNTIES

NFA #	ET 17-01
ENTITY #	5225
GAE #(s)	<input checked="" type="checkbox"/> 123

Funding Year	Program	Period of Performance	Program Code	Amount	F o r m u l a	CFDA#	FAIN #
PY 17	WAGNER-PEYSER	7/1/17-6/30/19	XXXX	\$0.00	Y	XX.XX X	AA-28306-16-55-A- 8
PY 17	EMPLOYMENT SUPPORT FUND	7/1/17-6/30/19	XYXY	\$0.00	Y	XX.YY Y	AA-28306-16-55-A- 8

NOTE: COPY ALL TABLES INTO YOUR WORK PLANS

# EXHIBIT F

## NOTICE OF FUNDING RECAPTURE (NFR)

4/4/2017

To: The Board of County Commissioners for the Local Area(s)

The NFR(s) listed below, and attached or embedded herein; return funding allocations from Local Area(s) to the State for the Program(s) identified in the NFA(s).

NFR # (s):	XX 16-08R
Programs:	XXXXXXXXXXXXXXXXXXXXXXXXXXXX

The recaptured funds shall be de-obligated by the State for the Local Area and shall not be available for reimbursement. Pursuant to the Agreement, the Local Area(s) shall submit to the State, if applicable, a revised Work Plan with budget and performance charts.

These NFRs shall become a part of Exhibit B to the fully executed Agreement(s) for the Local Area(s) identified above, and may be executed in counterparts by the State and Local Area.

Local Area	Colorado Department of Labor and Employment

In accordance with §24-30-202 C.R.S., this NFR is not valid until signed and dated below by the State Controller and the CDLE Division Director, or their authorized delegate(s).

Colorado Department of Labor and Employment  
Division of Employment and Training

x \_\_\_\_\_

William B. Dowling Director

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

x \_\_\_\_\_

Tammy Nelson, State Controller Delegate

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

Att/Embd: NFR(s)

**NOTICE OF FUNDING RECAPTURE (NFR)**

Date

Local Area: EL PASO/TELLER COUNTIES

NFA #	XX 16-09R
ENTITY #	5225
GAE #(s)*	<input checked="" type="checkbox"/> 073
	<input checked="" type="checkbox"/> 430

Funding Year	Program	Period of Performance	Program Code	Amount	Formula	CFD A#	FAIN #
PY16	WIOA 10% FUNDS-NATIONAL CONVENING	3/1/17-6/30/17	4DW6	-\$750.00	Y	NA	AA-28306-16-55-A-8
PY16	WIOA 10% FUNDS-LOCAL PLAN INNOVATION	4/1/17-12/31/17	4DW6	-\$15,000.00	Y	NA	AA-28306-16-55-A-8

**NOTE: COPY ALL TABLES INTO YOUR WORK PLANS**

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Certification Regarding  
Debarment, Suspension, Ineligibility and Voluntary Exclusion  
Lower Tier Covered Transaction

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This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

**(BEFORE COMPLETING CERTIFICATION, READ ATTACHED INSTRUCTIONS  
WHICH ARE AN INTEGRAL PART OF THE CERTIFICATION)**

- (1) The prospective recipient of Federal assistance funds certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**LOCAL AREA:**

The Board of County Commissioners of  
Arapahoe County:

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

Nancy Sharpe, Chair

**PROGRAM/TITLE:**

Agreement between The Board of County  
Commissioners of Arapahoe County and State  
of Colorado, Department of Labor and  
Employment, concerning Workforce  
Development Programs.

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

12/4/17

### **Instructions for Certification**

1. By signing and submitting this proposal, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective recipient of Federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DOL.
6. The prospective recipient of Federal assistance funds further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to check the List of Parties Excluded from Procurement or Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.



**CERTIFICATION REGARDING LOBBYING**

**Certification For Contracts, Grants, Loans,  
And Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all \*subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all \*subrecipients shall certify and disclose accordingly.

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

**LOCAL AREA:**

The Board of County Commissioners of  
Arapahoe County:

**PROGRAM/TITLE**

Agreement between The Board of County  
Commissioners of Arapahoe County and State  
of Colorado, Department of Labor and  
Employment, concerning Workforce  
Development Programs.

By: 

Nancy Sharpe, Chair

Date: 12/4/17

Note: In these instances, "All," in the Final Rule is expected to be clarified to show that it applies to covered contract/grant transactions over \$100,000 (per OMB).

**Drug-Free Workplace Certifications**

**Alternate I. (Contractors/Grantees Other Than Individuals)**

- A. The grantee/contractor certifies that it will or will continue to provide a drug-free workplace by:
1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  2. Establishing an ongoing drug-free awareness program to inform employees about-
    - a) The dangers of drug abuse in the workplace;
    - b) The grantee's policy of maintaining a drug-free workplace;
    - c) Any available drug counseling, rehabilitation, and employee assistance programs; and
    - d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  3. Making it a requirement that each employee to be engaged in the performance of the grant/contract be given a copy of the statement required by paragraph 1;
  4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant/contract, the employee will:
    - a) Abide by the terms of the statement; and
    - b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
  5. Notifying the agency in writing, within ten calendar days after receiving notice under paragraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant/contract activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant/contract;
  6. Taking one of the following actions, within 30 calendar days of receiving notice under paragraph 4(b), with respect to any employee who is so convicted:
    - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
    - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
  7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1,2,3,4,5, and 6.
- B. The grantee/contractor may insert in the space provided below the site(s) for the performance of work done in connection with this grant/contract:

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**Alternate II. (Contractors/Grantees Who Are Individuals)**

1. The grantee/contractor certifies that, as a condition of the grant/contract, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant/contractor;

If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant/contract activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant/contract.

## **Exhibit J**

### **Tobacco Free Certification**

Public Law 103-227, the Pro-Children Act of 1994, requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by any entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided by private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. By submitting and signing the application and this contract, the contractor certifies that it will comply with the requirements of the Act. The contractor further agrees that it will require the language of this certification to be included in any subawards (or subcontracts) which contain provisions for children's services and that all subgrantees (or subcontractors) shall certify and perform accordingly.