

**STATE OF COLORADO INTERGOVERNMENTAL GRANT AGREEMENT  
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

**Cover Page**

<p><b>State Agency</b> Colorado Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, Colorado 80246</p>	<p><b>Grantee:</b> City of Englewood 1000 Englewood Parkway Englewood, Colorado 80110</p> <p><b>Grantee UEI: N/A</b></p>
<p><b>Grant Number</b> 2026*2057</p>	<p><b>Grant Performance Beginning Date</b> The later of the Effective date or September 17, 2025</p>
<p><b>Grant Agreement Maximum Amount</b> <b>Initial Term</b> 09/17/2025-06/30/2027                      \$100,000.00</p> <p><b>Grant Agreement Maximum Amt \$100,000.00</b></p>	<p><b>Grant Agreement Expiration Date</b> June 30, 2027</p> <p>Except as stated in <b>§2.D.</b>, the total duration of this Contract, including the exercise of any options to extend, shall not exceed <b>five years</b> from its Performance Beginning Date.</p> <p><b>Fund Expenditure End Date</b> N/A</p>
<p><b>Pricing/Funding</b></p> <p><b>Price Structure:</b> Cost Reimbursement <b>Contractor Shall Invoice:</b> Quarterly</p> <p><b>Funding Source:</b> <b>State</b> \$100,000.00</p> <p>If the funding source shows only non-federal funds, all references in this grant agreement to federal funds, federal awards, and federal awarding agency will not apply.</p>	<p><b>Grant Authority</b> FAIN &amp; Short Description: N/A</p> <p>Federal Award Date: N/A Subaward Period of Performance: N/A Subaward Budget Period: N/A Total Federal Funds Obligated: N/A CFDA # &amp; Title: N/A Solicitation Information: RFA 41164B.</p>
<p><b>Representative for State</b> John Duggan, Unit Manager Water Quality Control Division, Source Water &amp; Emerging Contaminants Unit Colorado Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246 <a href="mailto:john.duggan@state.co.us">john.duggan@state.co.us</a></p>	<p><b>Representative for Grantee</b> Andrea Stucky Acob, Regulatory Specialist Data and Regulatory Program, South Platte Renew City of Englewood 1000 Englewood Parkway Englewood, Colorado 80110</p> <p><b>Local Agency Representative:</b> Pieter Van Ry</p> <p><b>2nd State or Local Agency Representative:</b> Blair Corning</p>
<p><b>Grant Purpose</b> This project will protect the public health from certain hazardous substances by reducing the risk of exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) across the Colorado state waters.</p>	
<p><b>Exhibits and Order of Precedence</b> The following Exhibits and attachments are included with this Grant:</p> <ol style="list-style-type: none"> <li>1. Exhibit A, Additional Provisions</li> <li>2. Exhibit B, Statement of Work</li> <li>3. Exhibit C, Budget</li> <li>4. Exhibit D, Sample Option Letter</li> </ol> <p>In the event of a conflict or inconsistency between this Grant and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:</p> <ol style="list-style-type: none"> <li>1. Colorado Special Provisions in <b>§18</b> of the main body of this Agreement.</li> </ol>	

2. The provisions of the other sections of the main body of this Agreement.
3. Exhibit B, Statement of Work.
4. Exhibit D, Sample Option Letter.
5. Exhibit C, Budget.
6. Exhibit A, Additional Provisions.

**SIGNATURE PAGE**

**THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT**

<p align="center"><b>GRANTEE</b> City of Englewood</p>     <p align="center">_____ By: Signature</p>  <p align="center">_____ Name of Person Signing for Grantee</p>  <p align="center">_____ Title of Person Signing for Grantee</p>  <p>Date: _____</p>	<p align="center"><b>ACKNOWLEDGEMENT</b> City of Littleton</p>     <p align="center">_____ By: Signature</p>  <p align="center">_____ Name of Person Signing for Grantee</p>  <p align="center">_____ Title of Person Signing for Grantee</p>  <p>Date: _____</p>
<p align="center"><b>STATE OF COLORADO</b> Jared S. Polis, Governor Colorado Department of Public Health and Environment Jill Hunsaker Ryan, MPH, Executive Director</p>     <p align="center">_____ By: Signature</p>  <p align="center">_____ Name of Executive Director Delegate</p>  <p align="center">_____ Title of Executive Director Delegate</p>  <p>Date: _____</p>	<p>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 align="center"><b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b></p>     <p align="center">_____ By: Signature</p>  <p align="center">_____ Name of Executive Controller Delegate</p>  <p align="center">_____ Title of Executive Controller Delegate</p>  <p>Effective Date: _____</p>

## 1. Grant

As of the Effective Date, the State Agency shown on the first page of this Grant Agreement (the “State”) hereby obligates and awards to Grantee shown on the first page of this Grant Agreement (the “Grantee”) an award of Grant Funds in the amounts shown on the first page of this Grant Agreement. By accepting the Grant Funds provided under this Grant Agreement, Grantee agrees to comply with the terms and conditions of this Grant Agreement and requirements and provisions of all Exhibits to this Grant Agreement.

## 2. Term

### A. Initial Grant Term and Extension

The Parties’ respective performances under this Grant Agreement shall commence on the Grant Issuance Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Grant Agreement. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in the Statement of Work Exhibit.

### B. Early Termination in the Public Interest

The State is entering into this Grant Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Grant Agreement ceases to further the public interest of the State or if State, Federal or other funds used for this Grant Agreement are not appropriated, or otherwise become unavailable to fund this Grant Agreement, the State, in its discretion, may terminate this Grant Agreement in whole or in part by providing written notice to Grantee that includes, to the extent practicable, the public interest justification for the termination. If the State terminates this Grant Agreement in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Grant Agreement that corresponds to the percentage of Work satisfactorily completed, as determined by the State, less payments previously made. Additionally, the State, in its discretion, may reimburse Grantee for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Grant Agreement that are incurred by Grantee and are directly attributable to the uncompleted portion of Grantee’s obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to Grantee hereunder. This subsection shall not apply to a termination of this Grant Agreement by the State for breach by Grantee.

### C. Grantee’s Termination Under Federal Requirements

Grantee may request termination of this Grant by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Grant is terminated in this manner, then Grantee shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

### D. Extension Terms - State’s Option

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of one year or less at the same rates and under the same terms specified in this Grant (each such period an

“Extension Term”). In order to exercise this option, the State shall provide written notice to Grantee in a form substantially equivalent to Sample Option Letter attached to this Grant.

### 3. Definitions

The following terms shall be construed and interpreted as follows:

- A. **“Agreement”** means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **“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.
- C. **“Breach of Agreement”** means 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. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Grantee is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.
- D. **“Budget”** means the budget for the Work described in Exhibit C.
- E. **“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.
- F. **“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.
- G. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1 *et seq.*, C.R.S.
- H. **“Cost Sharing”** means a portion of project costs not paid under this Subaward. This includes match which refers to required levels of cost share that must be provided (2 CFR 200.306).
- I. **“Grant Agreement”** means this Agreement which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.
- J. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Grant Agreement.
- K. **“Grant Expiration Date”** means the Grant Expiration Date shown on the first page of this Grant Agreement.
- L. **“Grant Issuance Date”** means the Grant Issuance Date shown on the first page of this Grant Agreement.

- M. “**Exhibits**” exhibits and attachments included with this Grant as shown on the first page of this Grant
- N. “**Extension Term**” means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Grant Agreement
- O. “**Federal Award**” means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Regulations by a Federal Awarding Agency to the 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.
- P. “**Federal Awarding Agency**” means a Federal agency providing a Federal Award to a Recipient. Insert Federal Awarding Agency's Full Legal Name and Acronym is the Federal Awarding Agency for the Federal Award which is the subject of this Grant.
- Q. “**Goods**” means any movable material acquired, produced, or delivered by Grantee as set forth in this Grant Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- R. “**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.
- S. “**Initial Term**” means the time period between the Grant Issuance Date and the Grant Expiration Date.
- T. “**Party**” means the State or Grantee, and “**Parties**” means both the State and Grantee.
- U. “**PCI**” means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- V. “**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.
- W. “**PII**” means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101 C.R.S. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, et. seq., C.R.S.
- X. “**Recipient**” means the State Agency shown on the first page of this Grant Agreement, for the purposes of the Federal Award.

- Y. “**Services**” means the services to be performed by Grantee as set forth in this Grant Agreement, and shall include any services to be rendered by Grantee in connection with the Goods.
- Z. “**State Confidential Information**” means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- AA. “**State Fiscal Rules**” means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a) C.R.S.
- BB. “**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.
- CC. “**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.
- DD. “**Sub-Award**” means this grant by the State (a Recipient) to Grantee (a Subrecipient) funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to this Sub-Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- EE. “**Subcontractor**” means third-parties, if any, engaged by Grantee to aid in performance of the Work. “Subcontractor” also includes sub-grantees.
- FF. “**Subrecipient**” means an entity that receives a Sub-Award from a pass-through entity to carry out part of a Federal award. The term subrecipient does not include a beneficiary or participant. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency. For the purposes of this Grant, Grantee is a Subrecipient.
- GG. “**Tax Information**” means Federal and State of Colorado tax information including, without limitation, Federal and State tax returns, return information, and such other tax-related information as may be protected by Federal and State law and regulation. Tax Information includes, but is not limited to all information defined as Federal tax information in Internal Revenue Service Publication 1075.
- HH. “**Uniform Guidance**” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to the Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- II. “**Work**” means the delivery of the Goods and performance of the Services described in this Grant Agreement.

- JJ. **“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 Grant Issuance Date that is used, without modification, in the performance of the Work.

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

#### **4. Statement of Work**

Grantee shall complete the Work as described in this Grant Agreement and in accordance with the provisions of Exhibit B. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Grant Agreement.

#### **5. Payments to Grantee**

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

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Grant that exceeds the Grant Amount for each State Fiscal Year shown on the first page of this Grant Agreement. 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. The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Grant Issuance Date or after the Grant Expiration Date; provided, however, that Work performed and expenses incurred by Grantee before the Grant Issuance Date that are chargeable to an active Federal Award may be submitted for reimbursement as permitted by the terms of the Federal Award.

##### **B. Federal Recovery**

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

##### **C. Matching Funds.**

Grantee shall provide the Local Match Amount shown on the first page of this Grant Agreement and described in Exhibit C (the “Local Match Amount”). Grantee’s obligation to pay all or part of any matching funds, whether direct or contingent, only extends to funds duly and lawfully appropriated for the purpose of this Agreement by the authorized representatives of Grantee and paid into Grantee’s treasury or bank account. Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Grant Agreement each fiscal year prior to accepting any Grant Funds for that fiscal year. Grantee does not by accepting this Grant Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Grant Agreement is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee’s laws or policies.

##### **D. Reimbursement of Grantee Costs**

Upon prior written approval, the State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Grant Agreement for all allowable costs described in this Grant Agreement and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Grant Agreement or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. The State shall reimburse Grantee for the Federal share of properly documented allowable costs related to the Work after the State's review and approval thereof, subject to the provisions of this Grant. The State shall only reimburse allowable costs if those costs are: **(i)** reasonable and necessary to accomplish the Work and for the Goods and Services provided; and **(ii)** equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

E. Close-Out.

Grantee shall close out this Grant within 45 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Grant Agreement and Grantee's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If the Federal Awarding Agency has not closed this Federal Award within 1 year and 90 days after the Grant Expiration Date due to Grantee's failure to submit required documentation, then Grantee may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

F. Option to Increase or Decrease Maximum Amount

The State has the Option to increase or decrease the statewide quantity of Goods and Services based upon the rates established in this Grant Agreement, and increase or decrease the maximum amount payable accordingly. In order to exercise this option, the State shall provide written notice to Grantee in a form substantially equivalent to Sample Option Letter attached to this Grant Agreement. Delivery of Goods and performance of Services shall continue at the same rates and terms as described in this Grant Agreement. The State may include and incorporate a revised budget with the option letter, as long as the revised budget does not unilaterally change rates or terms specified in this Grant Agreement.

## 6. Reporting - Notification

A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out described in §5.E, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

B. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

## 7. Grantee Records

A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

B. Monitoring

The State will monitor Grantee's performance of its obligations under this Grant Agreement using procedures as determined by the State. Grantee shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Grantee. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work. If Grantee enters into a subcontract or subgrant with an entity that would also be considered a Subrecipient, then the subcontract or subgrant entered into by Grantee shall contain provisions permitting both Grantee and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

C. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Grant or the Work, whether the audit is conducted by Grantee or a third party. Additionally, if Grantee is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Grantee shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

**8. Confidential Information-State Records**

A. Confidentiality

Grantee shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee 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 Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee'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 Grant Agreement. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Grantee or any of its Subcontractors will or may receive the following types of data, Grantee or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Grant as an Exhibit, if applicable, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security

Policy for all CJI, and (iv) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Grant, if applicable. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

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

C. Use, Security, and Retention

Grantee 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. Grantee shall provide the State with access, subject to Grantee'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 Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S. In addition, as set forth in § 24-74-102, *et. seq.*, C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State

databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as Exhibit \_\_ on an annual basis Contractor's duty and obligation to certify as set forth in Exhibit \_\_ shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

## **9. Conflicts of Interest**

Grantee 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 Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests and absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Grantee acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Grantee further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Grant.

## **10. Insurance**

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"). Grantee shall ensure that any Subcontractors maintain all insurance customary for the completion of the Work done by that Subcontractor and as required by the State or the GIA.

## **11. Breach of Agreement**

In the event of a breach of agreement, the aggrieved party shall give written notice of breach of agreement 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 §12 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 this agreement in order to protect the public interest of the state; or if grantee is debarred or suspended under §24-109-105, C.R.S., the state, in its discretion, need not provide notice or cure period and may terminate this agreement in whole or in part or institute any other remedy in this agreement as of the date that the debarment or suspension takes effect.

## **12. Remedies**

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

In addition to any remedies available under any exhibit to this grant agreement, if grantee 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 §11, shall have all of the remedies listed in this section 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 grantee's uncured breach, the state may terminate this entire agreement or any part of this agreement. Additionally, if grantee fails to comply with any terms of the federal award, then the state may, in its discretion or at the direction of a federal awarding agency, terminate this entire agreement or any part of this agreement. Grantee shall continue performance of this agreement to the extent not terminated, if any.

The State may also terminate this grant agreement at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

### a. Obligation and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Grantee 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, Grantee shall assign to the State all of Grantee's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee but in which the State has an interest. At the State's request, Grantee shall return materials owned by the State in Grantee's possession at the time of any termination. Grantee shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

### b. Payments

Notwithstanding anything to the contrary, the State shall only pay Grantee for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Grantee was not in breach or that Grantee'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.B**.

### c. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee shall remain liable to the State for any damages sustained by the State in connection with any breach by Grantee, and the State may withhold payment to Grantee for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due Grantee 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 Grantee's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Grantee to an adjustment in price or cost or an adjustment in the performance schedule. Grantee 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 Grantee after the suspension of performance.

### b. Withhold Payment

Withhold payment to Grantee until Grantee corrects its Work.

### c. Deny Payment

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

### d. Removal

Demand immediate removal of any of grantee's employees, agents, or subcontractors from the work whom the state deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this agreement is deemed by the state to be contrary to the public interest or the state's best interest.

### e. Intellectual Property

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

### f. Collection of Unallowable Costs (2 CFR 200.410)

Payments made for costs determined to be unallowable by either the awarding Federal agency, cognizant agency for indirect costs, or pass-through entity must be refunded with interest to the Federal Government. Unless directed by Federal statute or regulation, repayments must be made in accordance with the instructions provided by the Federal agency or pass-through entity that made the allowability determination. See §§ 200.300 through 200.309, and § 200.346.

## B. Grantee's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Grantee, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

### **13. Dispute Resolution**

Except as herein specifically provided otherwise or as required or permitted by federal regulations related to any Federal Award that provided any of the Grant Funds, disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

### **14. Notices and Representatives**

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Grant Agreement shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §13.

### **15. Rights in Work Product and Other Information**

Grantee hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

### **16. 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 Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

### **17. General Provisions**

#### **A. Assignment**

Grantee's rights and obligations under this Grant 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 Grantee's rights and obligations approved by the State shall be subject to the provisions of this Grant Agreement.

#### **B. Captions and References**

The captions and headings in this Grant Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Grant 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.

#### **C. Entire Understanding**

This Grant 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 Grant Agreement.

D. Modification

The State may modify the quantities of this Grant by issuance of an option letter, which shall be effective following receipt of the executed option letter. The Parties may also agree to modification of the terms and conditions of the Grant in a formal amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

E. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Grant 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 Grant Issuance Date. Grantee 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. Digital Signatures

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

G. Severability

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

H. Survival of Certain Grant Agreement Terms

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

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Grant Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

J. Waiver

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

K. Accessibility

- i. Contractor shall comply with and the Work Product provided under this Contract shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S. Contractor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii. The State may require Contractor's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Contractor's Work Product and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

L. RESERVED

**18. Colorado Special Provisions (Colorado Fiscal Rule 3-3)**

**A. Statutory Approval. §24-30-202(1) C.R.S.**

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

**B. Fund Availability. §24-30-202(5.5) C.R.S.**

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

**C. Governmental Immunity.**

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

**D. Independent Contractor.**

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

when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

**E. Compliance with Law.**

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

**F. Choice of Law, Jurisdiction, and Venue.**

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

**G. Prohibited Terms.**

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

**H. Software Piracy Prohibition.**

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

**I. Employee Financial Interest/Conflict of Interest. §§24-18-201 and 24-50-507 C.R.S.**

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