

**INTERGOVERNMENT AGREEMENT AMENDMENT
AMERICAN RESCUE PLAN ACT FUNDS ALLOCATED BY
US DEPARTMENT OF TREASURE TO BOULDER COUNTY**

AMENDMENT DETAILS SUMMARY	
Amendment OFS Number-Version <i>(County internal use only)</i>	302385 v. 2
Amendment Effective Date	3/15/2023
Additional Time Period	NA
Additional Amount	\$3,993,436
Boulder County	
Department	Commissioners' Office
Recipient	
Name	Boulder County Housing Authority
Brief Description of Work	
The County desires to increase the amount of the subaward to the Boulder County Housing Authority to be used for the projects set forth on the Scope of Work.	
Additional Contract Documents	
Exhibit A – Project Details & Scope of Work Exhibit B - Fee Schedule Exhibit C - Federal Award Addendum	
Purchasing Details – County internal use only	
Grant Funded?	YES
If YES, identify Grant Source	US Treasury ARPA Funds
Bid Number	
Award Date	
If no Bid No., bid process used	IGA or IDA
Purchasing Notes <i>(optional)</i>	
Amendment Notes	
<i>Additional information (optional)</i>	
117.45058.81000.1010.102493.DR12 – coding from original IGA confirmed by Maggie Rainwater	

This AMENDMENT (“Amendment”) to the above-referenced Contract (“Contract”) is entered into by and between the Board of County Commissioners on behalf of the County of Boulder, State of Colorado, a body corporate and politic (“County”) and the Housing Authority of the County of Boulder, State of Colorado, a public body, corporate and politic (“BCHA”).

1. INCORPORATION OF AMENDMENT SUMMARY

The **Amendment Summary** is incorporated into this Amendment. The **Additional Contract Documents**, if any are listed, are incorporated into this Contract by reference.

2. EFFECTIVE DATE AND ENFORCEABILITY

This Amendment shall not be effective or enforceable until it is approved and signed by both Parties. Upon mutual execution hereof, the Parties agree that this Amendment shall be effective commencing on the **Amendment Effective Date** set forth above.

3. LIMITS OF EFFECT

This Amendment is incorporated by reference into the Contract. The Contract, and all prior amendments thereto, if any, shall remain in full force and effect except as specifically modified herein.

4. MODIFICATIONS

The Contract and all prior amendments thereto, if any, are modified as follows:

a. Contract Documents. The **Additional Contract Documents** amend and restate the original Contract Documents in their entirety.

b. Amount. The IGA Amount is amended to include additional funds not-to-exceed the **Additional Amount** for the current **Contract Term**.

c. Compliance Requirements. The following sections are added to the IGA:

“24. Wages and Labor Standards. The U.S. Treasury requires subrecipients to provide documentation of wages and labor standards for capital expenditure projects and infrastructure projects over \$10 million, and has provided compliance guidance as follows:

(a) Recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code, for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law. If such certification is not provided, Recipient must provide a project employment and local impact report detailing:

- The number of employees of contractors and sub-contractors working on the project;
- The number of employees on the project hired directly and hired through a third party;
- The wages and benefits of workers on the project by classification; and
- Whether those wages are at rates less than those prevailing.

(b) Recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the

National Labor Relations Act (29 U.S.C. 158(f)). If Recipient does not provide such certification, Recipient must provide a project workforce continuity plan, detailing:

- How Recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project, including a description of any required professional certifications and/or in-house training;
- How Recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;
- How Recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g., OSHA 10, OSHA 30);
- Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market;
- Whether the project has completed a project labor agreement;
- Whether the project prioritizes local hires; and
- Whether the project has a Community Benefit Agreement, with a description of any such agreement.

25. Compliance. Recipient must (a) determine the extent to which the requirements in Section 24 and Exhibit C apply to the projects funded hereunder, (b) comply with such requirements to the extent they are applicable, and (c) maintain sufficient records to substantiate its compliance information upon request. Recipient will provide County with any information it may reasonably require as part of the County's reporting or other compliance obligations related to the federal funding awarded to Recipient under this IGA."

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties have executed and entered into this Amendment as of the latter day and year indicated below.

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

EXHIBIT A

PROJECT DETAILS & SCOPE OF WORK

1. AFFORDABLE HOUSING PROJECTS

The County is allocating this funding to Boulder County Housing Authority to be used for (a) affordable housing development projects that are currently underway but in need of additional funding to reach completion and (b) administration of BCHA's affordable housing portfolio. The primary objective is to quickly increase the inventory of permanently affordable housing units available in Boulder County for rental and/or sale and to provide economically challenged individuals, families, elders, and our workforce, with safe, stable, high-quality affordable homes.

A. Willoughby Corner - \$8,889,342.00

Willoughby Corner is a new construction project to create a neighborhood of diverse housing options that will help the City of Lafayette and the broader region reach important goals for addressing the lack of housing affordability in the years ahead. Willoughby Corner will serve generations of families and individuals, elders, and our workforce, who need safe, stable, high-quality affordable homes.

The project will include 400 permanently affordable homes in a variety of building types, including duplexes, townhomes, apartments, and community amenity spaces. The planned housing site is a 24-acre parcel located southwest of 120th Street and East Emma Street in Lafayette. The land parcel sits in an ideal location near important services and the Lafayette town center. The area is considered a priority by the Boulder County Transportation Department for the enhancement of multi-modal transportation options.

B. Casa de la Esperanza - \$350,000.00

Casa de la Esperanza, an aging property owned and operated by BCHA, currently provides 36 units of family housing for farmworkers in Boulder County through a USDA grant and loan program, the terms of which are not beneficial to BCHA or the project's residents.

BCHA will use the funds to perform a physical needs assessment and market study for the property and engage service providers for financial and legal consultation in anticipation of conducting much-needed upgrades to the buildings and refinancing the outstanding loan(s) on the property.

C. Willoughby Corner - \$3,993,436

The second portion of ARPA funds will be used primarily for reimbursements of pre-development and design costs, which have already occurred with various contractors incurred in connection with Phase 1A and 1B of the project and will be expended in the first year of construction, which is expected to begin in early 2023.

2. EXPENSE DETAILS

Willoughby Corner

Contractor	Services	Total Spending	ARPA Amount	Timeline
Pinkard Construction	Horizontal infrastructure buildout	\$ 9,450,410	\$ 8,889,342	Feb 2023 - May 2024
Contractor Varies	Pre-development and design costs	\$ 1,816,756	\$ 1,816,756	Feb 2023 – Dec 2023
		<u>\$ 2,176,680</u>	<u>\$ 2,176,680</u>	
		\$ 3,993,436	\$ 3,993,436	

Casa de la Esperanza

Contractor	Services	Total Spending	ARPA Amount	Timeline
Butler Snow LLP	USDA RD Legal Counsel	\$ 225,000	\$ 150,000	Dec 2023 - Dec 2024
SB Clark, Inc	Public Finance Consultant	\$ 25,000	\$ 25,000	
JRES	Prelim Market Study	\$ 3,600	\$ 3,600	
JRES	Full Market Study	\$ 6,900	\$ 6,900	
TBD	CM/GC - preconstruction	\$ 63,000	\$ 63,000	
TBD	Architect and engineering	\$ 177,000	\$ 101,500	
		<u>\$ 448,200</u>	<u>\$ 350,000</u>	

3. TIMELINE

BCHA will exhaust the funding between November 1, 2022 and December 31, 2025.

EXHIBIT B

FEE SCHEDULE

Proposed Fee Schedule

Balance of all funds (\$9,239,342) to be deposited to the Boulder County Housing Authority no later than January 16, 2023. Initial funds have been received and are on deposit at First Bank.

Balance of additional funds (\$3,993,436) to be deposited to the Boulder County Housing Authority no later than April 10, 2023. ARPA Award is to be made to BCHA for these funds and then BCHA will loan the funds into the LIHTC project for eligible costs. Please note a portion of these funds would be allocated to reimburse BCHA for previously incurred development expenditures for phases 1A and 1B, in addition to being applied to current encumbrances and future development expenditures for Phase 1A and 1B payable to various vendors.

EXHIBIT C

ARPA COVER PAGE FOR FEDERAL AWARD ADDENDA

ARPA-funded contract?

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

No

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

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

Name/Type of Federal Award	On March 11, 2021, the American Rescue Plan Act was signed into law, and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Funds, which together make up the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) program.
Recipient name	Boulder County, Colorado
Boulder County DUNS number	075755199
Federal Award Identification Number (FAIN)	20-1982-0-1-806
Federal Award Date (Federal award date means the date when the Federal award is signed by the authorized official of the Federal awarding agency)	March 11, 2021
Federal Award Identification Number (FAIN)	20-1982-0-1-806
Federal Award Date (Federal award date means the date when the Federal award is signed by the authorized official of the Federal awarding agency)	March 11, 2021
Subrecipient/Contractor name	Boulder County Housing Authority
Subrecipient/Contractor DUNS number	116262429
Subrecipient/Contractor sam.gov number	MAFLKJ7D4GZ7
Contract Period of Performance Start Date	November 1, 2022
Contract Period of Performance End Date	December 31, 2025
Amount of Federal Funds Obligated by this action	\$3,993,436
Total Amount of Federal Funds Obligated to the subrecipient	\$13,232,778
Total Amount of SLFRF funds awarded to Boulder County	\$63,359,749.00

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

ADDENDUM TO CONTRACT
OFFICE OF MANAGEMENT AND BUDGET
FEDERAL SUBAWARD REQUIREMENTS

This is an addendum to the **Housing Pipeline Project Contract, Project 102493.2.15.2 – Housing Pipeline Willoughby and Project 102493.2.15.3 – Housing Pipeline Casa**, Contract (the “Contract”) between **Boulder County Housing Authority** (“Subrecipient”), and Boulder County, (the “County”).

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

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

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

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

[All contracts]

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

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

[All contracts]

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

2 C.F.R. § 200.303 Internal controls.

[All contracts]

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

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

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

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

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

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

This subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the Subrecipient because under this Contract, Subrecipient may have the following responsibilities:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision-making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

2 C.F.R. § 200.332 Requirements for pass-through entities.

[For subawards received by subrecipients as defined by 2 C.F.R. § 200.331(a)]

(a)(1) Subrecipient certifies that it has received from County, as a pass-through entity, the best information available to describe the Federal award and subaward, including the Federal Award Identification information as set forth in 2 C.F.R. § 200.331(a)(1).

(a)(2) Subrecipient certifies that it has received and shall comply with all Federal award requirements imposed on County. Subrecipient shall use the Federal award in accordance with Federal statutes, regulations, and terms and conditions of the Federal award.

(a)(3) Subrecipient certifies that it has received and shall comply with all additional requirements that County imposes on Subrecipient in order for County, as the pass-through entity, to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports.

(a)(4) Subrecipient certifies that it has received an approved federally recognized indirect cost rate negotiated between Subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between County and Subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in § 200.414 Indirect (F&A) costs, paragraph (f).

(a)(5) Subrecipient shall permit County and auditors to have access to Subrecipient's records and financial statements as necessary for County to meet its requirements under federal regulations.

(a)(6) Subrecipient certifies that it has received and shall comply with the appropriate terms and conditions concerning closeout of the subaward that Subrecipient is receiving as a subrecipient.

(b) Subrecipient shall provide to County, upon request and in order for County to fulfill its obligations under 2 C.F.R. § 200.331(b), the following information:

(1) Subrecipient's prior experience with the same or similar subaward;

(2) Results of previous audits including whether or not Subrecipient receives a Single Audit in accordance with Subpart F – Audit Requirements of 2 C.F.R. Part 200, and the extent to which the same or similar subaward has been audited as a major program;

(3) Whether Subrecipient has new personnel or new or substantially changed systems;
and

(4) The extent and results of Federal awarding agency monitoring (e.g., if Subrecipient also receives Federal awards directly from a Federal awarding agency).

(c) County reserves the right to impose specific subaward conditions upon Subrecipient if appropriate as described in 2 C.F.R. § 200.207.

(d)(1) Subrecipient shall provide financial and performance reports as requested by County for purposes of ensuring that the subaward is used for authorized purposes, including compliance with Federal statutes, regulations, the terms and conditions of the subaward, and achievement of subaward performance goals.

(d)(2) Subrecipient shall take timely and appropriate action on all deficiencies pertaining to the Federal award detected through audits, on-site reviews, and other means.

(d)(3) The Parties agree that the Contract is subject to 2 C.F.R. § 200.521.

(e) Subrecipient agrees to cooperate with County in (1) providing training and technical assistance on program-related matters, (2) performing on-site reviews of Subrecipient's program operations, and (3) arranging for agreed-upon-procedures engagements as described in 2 C.F.R. § 200.425, as deemed necessary by County to ensure compliance with program requirements and achievement of performance goals.

(f) Without limiting the intent of any other provision contained in the Contract or this Addendum, Subrecipient agrees to comply with any audit as required by Subpart F – Audit Requirements of 2 C.F.R. Part 200 when it is expected that Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 C.F.R. § 200.501.

(h) County reserves the right to take enforcement action against Subrecipient as set forth in 2 C.F.R. § 200.338 for noncompliance with 2 C.F.R. Part 200 and program regulations.

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

(A) *[For contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908]*

Breach. Any breach of the Contract by Subrecipient shall be governed by the termination and remedies provisions of the Contract. Additionally, in the event that the County incurs damages as a result of Subrecipient's breach, the County may pursue recovery of such damages from Subrecipient. The County further retains the right to seek specific performance of the Contract at any time as authorized by law. The County further retains the right to otherwise pursue any remedies available to the County as a result of the Subrecipient's breach, including but not limited to administrative, contractual, or legal remedies, as well as any applicable sanctions and penalties. Termination for cause and convenience are governed by the provisions of the Contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Debarment and Suspension (Executive Orders 12549 and 12689). Subrecipient attests that it is not listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

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

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

(J) [*All contracts*]

Procurement of recovered materials (2 CFR §200.323). All parties agree to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(K) [*All contracts*]

Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR §200.216). Subrecipient is prohibited from obligating or expending funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or

renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

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

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

(L) *[All contracts]*

2 C.F.R. Part 25 (Universal Identifier and System for Award Management) and 2 C.F.R. Part 170 (Reporting Subaward and Executive Compensation Information).

Subrecipient must obtain and provide to County a unique entity identifier pursuant to 2 CFR Part 25. Subrecipient must comply with 2 C.F.R. Part 170 regarding reporting Federal awards to establish requirements for recipients' reporting of information on subawards and executive total compensation, as required by the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of Public Law 110-252, hereafter referred to as “the Transparency Act”.

(M) *[All contracts]*

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

(N) *[All contracts]*

Civil Rights Requirements

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

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

Assurances of Compliance with Civil Rights Requirements

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

2. Subrecipient acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury’s implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that

meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.

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

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

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

(O) *[All contracts]*

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

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

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

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

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

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

(P) *[All contracts]*

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

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

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

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

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

(Q) *[All contracts]*

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

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

(R) *[All contracts]*

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

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

(S) *[All contracts]*

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

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

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

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

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

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

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

with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.