

## STATE OF COLORADO GRANT AGREEMENT

### SIGNATURE AND COVER PAGE

<b>State Agency</b> COLORADO DEPARTMENT OF TRANSPORTATION	<b>Agreement Number</b> 19-HTS-XA-00016
<b>Grantee</b> Adams County Government	<b>Agreement Performance Beginning Date</b> The later of the Effective Date or October 1, 2018
	<b>Initial Agreement Expiration Date</b> September 30, 2021
<b>Agreement Maximum Amount</b> Initial Term Federal Fiscal Year 2019; Task Order #01 \$125,000.00	<b>Fund Expenditure End Date</b> Identified individually each fully executed Grant Task Order
<b>Cumulative Maximum Amount</b> Total of all Issued Task Orders	<b>Agreement Description</b> Traffic Fatality and Serious Accident Reductions

### THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

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

<b>GRANTEE</b> Adams County Government  <u>Sgt. Michael Robbins</u> By: Printed Name & Title of Person Signing for Contractor  Date: <u>9-15-18</u>  2nd State or Grantee Signature if Needed   By: Name & Title of Person Signing for Signatory  Date: _____	<b>STATE OF COLORADO</b> John W. Hickenlooper, Governor Colorado Department of Transportation Michael P. Lewis, Executive Director  <u>Joshua Laipply</u> By: Joshua Laipply, P.E., Chief Engineer  Date: <u>9/26/2018</u>  <b>LEGAL REVIEW</b> Cynthia H. Coffman, Attorney General  <u>N/A</u> By: Assistant Attorney General  Date: _____
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.  <b>STATE CONTROLLER</b> Robert Jaros, CPA, MBA, JD  <u>Robert Jaros</u> By: Department of Transportation  Effective Date: <u>9/27/18</u>	

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### 1. PARTIES

This Grant Agreement (“Grant”) is entered into by and between the Grantee shown on the Signature and Cover Page for this Agreement (“Grantee”), and the STATE OF COLORADO acting by and through the State Agency shown on the Signature and Cover Page for this Agreement (“State” or “CDOT”). Grantee and the State hereby agree to the following terms and conditions.

### 2. TERM AND EFFECTIVE DATE

#### A. Effective Date

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

#### B. Initial Term

The Parties’ respective performances under this Contract shall commence on the Contract Performance Beginning Date shown on the Signature and Cover Page for this Contract and shall terminate on the

Initial Contract Expiration Date shown on the Signature and Cover Page for this Contract (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Contract.

**C. End of Term Extension**

If this Contract approaches the end of its Initial Term, the State, at its discretion, upon written notice to Contractor as provided in §16, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Contract in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement contract or modification extending the total term of the Contract.

**D. Early Termination in the Public Interest**

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

**i. Method and Content**

The State shall notify Contractor of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract or a Task Order. A termination of all or a part of a Task Order shall not be interpreted to terminate this Contract or any other Task Order.

**ii. Obligations and Rights**

Upon receipt of a termination notice for termination in the public interest, Contractor shall be subject to the rights and obligations set forth in §14.A.i.1.

**iii. Payments**

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

**3. AUTHORITY**

Authority to enter into this Grant exists in the law as follows:

Authority to enter into this Grant exists in CRS §§43-5-401 and 24-42-101, as amended, and funds have been budgeted, appropriated and otherwise made available pursuant to Title 23, USC §§154, 157, 402, 405, 408, 410, and 411; P.L. 112-141 and 23 CFR Parts 924, 1200, 1205, 1206, 1250, 1251, 1252, 1313, 1335, 1345 and 1350 and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

**4. PURPOSE**

Grantee shall lower the number of DUI fatalities in crashes in Adams County involving a driver or motorcycle operator with a BAC of .08 or higher from 15% to 13% as well as lower the number of non-DUI traffic fatalities and serious accidents by 15%.

**5. DEFINITIONS**

The following terms as used herein shall be construed and interpreted as follows:

- A. **“Agreement”** means this agreement, including all attached Exhibits, all documents incorporated by reference, all references 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 Specifically indicate otherwise.
- C. **“Budget”** means the budget on **Exhibit B** for the work described in **Exhibit A**.
- D. **“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.
- E. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- F. **“Effective Date”** means the date on which this Grant is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Grant.
- G. **“End of Term Extension”** means the time period defined in **§2.D**.
- H. **“Evaluation”** means the process of examining Grantee’s work and rating it based on criteria established in §6, §19, and **Exhibits A and B**.
- I. **“Exhibits”** means the following exhibits attached to this Agreement:
  - i. **Exhibit A** (Contract Objective Plan)
  - ii. **Exhibit B** (Contract Evaluation Data and Financial Budget)
  - iii. **Exhibit C** (Sample Task Order)
  - iv. **Exhibit D** (Sample Option Letter)
  - v. **Exhibit E** (Grantee Certifications and Assurances)
  - vi. **Exhibit F** (Supplemental Federal Provisions)
  - vii. **Exhibit G** (Non-Discrimination Assurances)
- J. **“Extension of Term”** means the time period described in **§2.C**.
- K. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract, under the Federal Acquisition Regulations or by a formula or block grant, 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.
- L. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. National Highway Traffic Safety Administration (“NHTSA”) is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- M. **“Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- N. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- O. **“Grant Task Order”** means a document issued in accordance with **§6.B** of this Grant that specifically describes the work to be performed on a project.

- P. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401 et. seq. C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- Q. **“Initial Term”** means the time period defined in §2.B.
- R. **“Manual”** refers to the CDOT, Office of Transportation Safety’s “Contract Management Manual”.
- S. **“Party or Parties”** means the State or Grantee and “Parties” means both the State and Grantee.
- T. **“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, C.R.S.
- U. **“Program”** means the Office of Transportation Safety’s grant program identified in **Exhibit A** that provides the funding for this Grant.
- V. **“Project”** means a specific portion of the Work that is included in a Grant Task Order.
- W. **“Recipient”** means the State agency shown on the Signature and Cover Page of this Agreement, for the purposes of this Federal Award.
- X. **“Review”** means examining Grantee’s Work to Ensure that it is adequate, accurate, correct and in accordance with the criteria established in §6, §19 and **Exhibits A and B**.
- Y. **“Services”** means the services to be performed by Grantee as set forth in this 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 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 the CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure by 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 that 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. “Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of the Work. “Subcontractor” also includes sub-grantees of grant funds.

**EE. “Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, commonly known as the “Super Circular, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.

**GG. “Work”** means the Goods delivered and Services performed pursuant to this Agreement.

**HH. “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, information, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

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

## **6. STATEMENT OF WORK AND TASK ORDERS**

### **A. General Statement of Work**

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

### **B. Grant Task Orders**

The State may execute Grant Task Orders to authorize Grantee to perform portions of the Work. The State may execute Grant Task Orders in its discretion and the State is not required to execute any minimum number of Grant Task Orders under this Grant.

#### **i. Grant Task Order Development**

To initiate a Grant Task Order, the State will provide a request to Grantee describing the general scope and intent of the Work it desires Grantee to perform under that Grant Task Order and the timeline for Grantee to submit a proposal in response to the request. Grantee shall submit a proposal to the State, within the timeline provided by the State, in response to the State’s request that contains, without limitation, a description of all of the following for the Project described in that Grant Task Order:

- a. The final deliverables and other end results of the Project that the State will use to determine if the Project is complete and the dates on which those deliverables and other end results will be complete.
- b. All activities necessary for Grantee to complete the Project. This description may be in the form of a work breakdown structure if requested or approved by the State.
- c. All timeliness and milestones that the State will use to determine if Grantee is on schedule to complete the Project. This description may be in the form of a project plan if requested or approved by the State.
- d. The total price of the Project, including a breakdown of any applicable materials costs, labor costs and other cost components as requested by the State as described in this Grant. The total price of a Project shall be determined based on the rates described in this Grant, and

Grantee shall not include any work in a Grant Task Order for which an applicable rate is not provided in this Grant.

e. Grantee may complete a Project in phases, so long as all other requirements of this paragraph 6.B.i are included for each phase of the Project.

The State may direct Grantee to make changes to any proposal Grantee submits to the State. Grantee shall make all changes as directed by the State and may modify its price for the Project contained in that proposal to account for those changes. The State may accept or reject any proposal Grantee submits at any time, and may choose to not proceed with a Project prior to execution of a Grant Task Order for that Project, in its sole discretion.

**ii. Grant Task Order Issuance**

If the State accepts a proposal from Grantee, then the State will include that proposal as the statement of work for a Grant Task Order. The State shall execute that Grant Task Order in a form substantially similar to Exhibit C. Grantee shall not begin work on any Project until the Grant Task Order for that Project is fully executed.

**iii. Grant Task Order Completion**

Grantee shall perform the Project described in each Grant Task Order that the State has executed, within the timelines and by the due dates described in that Grant Task Order. The obligations and requirements of a Grant Task Order shall be deemed to be obligations and requirements of this Grant.

**iv. Grant Task Order Modifications**

When the Parties desire to modify a Grant Task Order, Grantee shall update its proposal that was included in the Grant Task Order to account for the modification the Parties desire to make. If both Parties agree to the updated proposal, they may modify the Grant Task Order by executing an amendment to the Grant Task Order that includes the updated proposal. No modified requirement of a Grant Task Order shall be enforceable prior to the execution of the amendment to the Grant Task Order that includes that modification. This paragraph 6.B.iv shall not apply to any modification to a Grant Task Order that only modifies timelines within a Project without changing the due date of any deliverable or other end result, or only modifies the breakdown of costs within a Project without changing the total maximum amount for any State Fiscal Year, which may be made if the State approves of the modification in writing.

**v. Grant Task Order Termination**

Regardless of the date of any deliverable or other end result of a Grant Task Order, all Grant Task Orders shall automatically terminate upon the date that this Grant expires or is terminated for any reason, unless the State directs otherwise in writing.

**7. PAYMENTS TO GRANTEE**

The State shall, in accordance with the provisions of this §7, pay Grantee in the following amounts and using the methods set forth below:

**A. Maximum Amount**

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The Grant Maximum Amount for each State Fiscal Year shall be equal to the total maximum amount of all Grant Task Orders for that State Fiscal Year. The State shall not pay Grantee any amount under this Grant for a State Fiscal Year that exceeds the maximum of all Grant Task Orders for that State Fiscal Year, and shall not pay any amount under any Grant Task Order for a State Fiscal Year that exceeds the maximum amount shown on that Grant Task Order for that State Fiscal Year.

**B. Payment Procedures**

**i. Invoices and Payment**

- a. The State shall pay Grantee in the amounts and in accordance with the condition set forth in **Exhibit A** and the terms of each Grant Task Order.
- b. Grantee shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Grantee and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Grantee shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Grant.

**ii. Interest**

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

**iii. Payment Disputes**

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

**iv. Available Funds-Contingency-Termination**

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

**v. Erroneous Payments**

The State may recover, at the State's discretion, payments made to Grantee in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Grantee. The State may recover such payments by deduction from subsequent payments under this Grant, deduction from any payment due under any other contracts, grants or agreements between the State and Grantee, or by any other appropriate method for collecting debts owed to the State.

**C. Reimbursement of Grantee Costs.**

The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in any executed Grant Task Order issued hereunder, in the incorporated Budget therein and §7 for all allowable costs described in this Grant 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 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 review and approval thereof, subject to the provisions of this Agreement and the any executed Grant Task Order issued hereunder, in the incorporated Budget therein. However, any costs incurred by Grantee prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. Grantee's costs for Work performed after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. The State shall only reimburse allowable costs described in this Contract and shown in the Budget 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 the items of value received by Grantee that reduce the cost actually incurred).

**D. Close-Out.**

Grantee shall close out this Award within 45 days after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement. To complete close-out, Grantee shall submit to the State all deliverables (including documentation) as defined in this 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 Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement 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

**8. REPORTING - NOTIFICATION**

Reports, Evaluations, and Reviews required under this §8 shall be in accordance with the procedures of and in such form as prescribed by the State and in accordance with §19, if applicable.

**A. Quarterly Reports**

In addition to any reports required pursuant to §19, or pursuant to any other Exhibit, for any Agreement having a term longer than 3 months, Grantee shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than 5 Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

**B. Litigation Reporting**

If Grantee is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Grantee's ability to perform its obligations under this Agreement, Grantee shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §16.

**C. Performance and Final Status**

Grantee's shall submit all financial, performance and other reports to the State no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

**D. 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.

**9. GRANTEE RECORDS**

Grantee shall make, keep, maintain and allow inspection and monitoring of the following records:

**A. Maintenance**

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records until the last to occur of the following: (i) a period of three years after the date this Grant is completed or terminated, or (ii) final payment is made hereunder, whichever is later, or (iii) for such further period as may be necessary to resolve any pending matters, or (iv) if an audit is occurring, or Grantee has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved (the "Record Retention Period").

**B. Inspection**

Grantee shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Grantee's records related to this Grant during the Record Retention Period for a period of three years following termination of this Grant or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate Grantee's performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Grant, including any extension. If the Work fails to conform to the requirements of this Grant, the State may require Grantee promptly to bring the Work into conformity with Grant requirements, at Grantee's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Grantee to take necessary action to ensure that future performance conforms to Grant requirements and exercise the remedies available under this Grant, at law or in equity in lieu of or in conjunction with such corrective measures.

**C. Monitoring**

Grantee shall permit the State, the federal government, and other governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Grantee pursuant to the terms of this Grant using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Grantee's performance hereunder.

**D. Final Audit Report**

If an audit is performed on Grantee's records for any fiscal year covering a portion of the term of this Grant, Grantee shall submit a copy of the final audit report to the State or its principal representative at the address specified herein.

**E. Federal Single Audit Act Amendment**

If Grantee is a state or local government or non-profit organization receiving more than \$750,000 from all funding sources that are defined as federal financial assistance for Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156 (collectively, the "Single Audit Act") purposes shall comply with the audit requirements of OMB Circular A-133 (Audits of States, Local Governments, and Non-profit Organizations). The Single Audit Act requirements that apply to grantees receiving federal funds are as follows:

- i. If the grantee expends less than \$750,000 in federal funds (all sources, not just highway funds) in its fiscal year then this requirement does not apply.
- ii. If the grantee expends more than \$750,000 in federal funds, but only received highway funds (Catalog of Federal Domestic Assistance, CFDA: ) a program specific audit may be performed. This audit will only examine the "financial" procedures and processes for this program area.

- iii. If the grantee expends more than \$750,000 in federal funds, and the federal funds are from multiple sources (FTA, HUD, NPS, etc.,) then the Single Audit Act applies, which is an audit on the entire organization/entity.
- iv. Audits pursuant to the Single Audit Act can only be conducted by an independent auditor, not by an auditor on staff.
- v. Audit requirements are laid out in Subpart F – Auditors, of OMB Circular 78 FR 78589.

Audits pursuant to the Single Audit Act are an allowable direct or indirect cost.

## 10. CONFIDENTIAL INFORMATION-STATE RECORDS

### A. Confidentiality

Grantee shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Grantee shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law or approved in Writing by the State. 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 including, without limitation: (i) the most recently promulgated IRS Publication 1075 for all Tax Information, (ii) 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.

### 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 Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions.

### 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 Agreement, 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. Unless Grantee can establish that none of Grantee or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Grantee shall be responsible for the cost of notifying each person who may have been impacted by the Incident. 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. The State may adjust or direct modifications to this plan, in its sole discretion and Grantee shall make all modifications as directed by the State. If Grantee cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Grantee shall reimburse the State for the reasonable costs thereof.

**E. Compliance**

Grantee shall review, on a semi-annual basis, all OIS policies and procedures which OIS has promulgated pursuant to CRS §§ 24-37.5-401 through 406 and 8 CCR § 1501-5 and posted at <http://oit.state.co.us/ois>, to ensure compliance with the standards and guidelines published therein. Grantee shall cooperate, and shall cause its Subcontractors to cooperate, with the performance of security audit and penetration tests by OIS or its designee.

**F. Safeguarding PII**

If Grantee or any of its Subcontractors will or may receive PII under this Contract, Grantee shall provide for the security of such PII, in a form acceptable to the State, including, without limitation, non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall take full responsibility for the security of all PII in its possession or in the possession of its Subcontractors, and shall hold the State harmless for any damages or liabilities resulting from the unauthorized disclosure or loss thereof.

**11. CONFLICTS OF INTEREST**

**A. Actual 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. Such a conflict of interest would arise when a Grantee or Subgrantee's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Grant.

**B. Apparent Conflicts of Interest**

Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests. 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

**C. Disclosure to the State**

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. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Grant.

**12. INSURANCE**

Grantee shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

**A. Workers' Compensation**

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

**B. General Liability**

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

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

**C. Automobile Liability**

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

**D. Protected Information**

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

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

**E. Professional Liability Insurance**

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

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

**F. Crime Insurance**

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

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

**G. Additional Insured**

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

**H. Primacy of Coverage**

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

**I. Cancellation**

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

**J. Subrogation Waiver**

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

**K. Public Entities**

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

**L. Certificates**

For each commercial insurance plan provided by Grantee under this Agreement, Grantee shall provide to the State certificates evidencing Grantee's insurance coverage required in this Agreement within 7 Business

Days following the Effective Date. Grantee shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within 7 Business Days following the Effective Date, except that, if Grantee's subcontract is not in effect as of the Effective Date, Grantee shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within 7 Business Days following Grantee's execution of the subcontract. No later than 15 days before the expiration date of Grantee's or any Subcontractor's coverage, Grantee shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Grantee shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

### **13. BREACH**

#### **A. Defined**

In addition to any breaches specified in other sections of this Grant, the failure of either Party to perform any of its material obligations hereunder, in whole or in part or in a timely or satisfactory manner, constitutes a breach. 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 20 days after the institution or occurrence thereof, shall also constitute a breach.

#### **B. Notice and Cure Period**

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §16. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §15. Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

### **14. REMEDIES**

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

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 §13.B, shall have all of the remedies listed in this §A. in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

##### **i. Termination for Breach**

In the event of 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.

#### **1. Obligations 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 Contract'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.

## **2. 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.D.

## **3. 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:

### **1. 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.

### **2. Withhold Payment**

Withhold payment to Grantee until Grantee corrects its Work.

### **3. 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.

### **4. 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.

### **5. 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 Contractor; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

**B. 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 §13.B and the dispute resolution process in §15 shall have all remedies available at law and equity.

**15. DISPUTE RESOLUTION**

**A. Initial Resolution**

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

**B. Resolution of Controversies**

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Grantee shall submit any alleged breach of this Grant by the State to the Procurement Official of CDOT as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Grantee wishes to challenge any decision rendered by the Procurement Official, Grantee's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Grantee pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

**16. NOTICES and REPRESENTATIVES**

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Contract shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party's principal representative at the address set forth below or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §17 without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

**A. State:**

Leslie Chase, Grants Specialist
Office of Transportation Safety, CDOT
2829 W. Howard Pl., 5 <sup>th</sup> Floor
Denver, CO 80204
303.512.5003

Leslie.chase@state.co.us
--------------------------

**B. Grantee:**

Sgt. Michael Robbins
Adams County Government
4201 E. 72 <sup>nd</sup> Ave.
Commerce City, CO, 80022
720.523.6164
mrobbins@adcogov.org

**17. GOVERNMENTAL IMMUNITY**

Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the GIA. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the GIA and the risk management statutes, CRS §24-30-1501, *et seq.*, as amended.

**18. STATEWIDE CONTRACT MANAGEMENT SYSTEM**

If the maximum amount payable to Grantee under this Grant is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §20 applies.

Grantee agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state Grants and inclusion of Grant performance information in a statewide Contract Management System.

Grantee's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Grant, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Grantee's performance shall be part of the normal Grant administration process and Grantee's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Grantee's obligations under this Grant shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Grantee's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Grant term. Grantee shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Grantee demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by CDOT and showing of good cause, may debar Grantee and prohibit Grantee from bidding on future Grants. Grantee may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Grantee, by the Executive Director, upon a showing of good cause.

**19. GENERAL PROVISIONS****A. Assignment and Subgrants**

Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or subgranted without the prior, written consent of the State. Any attempt at assignment, transfer, or subgranting without such consent shall be void. All assignments, subgrants, and Subgrantees approved by Grantee or the Staet

are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of subgranting arrangements and performance.

**B. Subcontracts**

Grantee shall not enter into any subcontract in connection with its obligations under this Agreement without providing notice to the State. The State may reject any such Subcontractor, and Grantee shall terminate any subcontract that is rejected by the State and shall not allow any Subcontractor to perform any work after that Subcontractor's subcontract has been rejected by the State. Grantee shall submit to the State a copy of each such subgrant or subcontract upon request by the State. All subgrants and subcontracts entered into by Grantee in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement. If the entity with whom Grantee enters into a subcontract or subgrant would also be considered a Subrecipient, then the subcontract or subgrant entered into by Grantee shall also contain provisions permitting both Grantee and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

**C. Authority**

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

**D. Binding Effect**

Except as otherwise provided in §20(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

**E. Captions and References**

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

**F. Counterparts**

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

**G. Entire Understanding**

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

**H. Jurisdiction and Venue**

All suits, actions, or proceedings related to this Grant shall be held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

**I. Modification**

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

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

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

**K. Order of Precedence**

The provisions of this Grant shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Grant and its exhibits and attachments including, but not limited to, those

provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. **Exhibit F** (Supplemental Federal Provisions),
- ii. **Exhibit E** (Grantee Certification and Assurances),
- iii. **Exhibit G** (Non-Discrimination Assurances),
- iv. **Colorado Special Provisions**,
- v. **The provisions**, of the main body of this Grant,
- vi. **Exhibit A** (Contract Objective Plan),
- vii. **Exhibit B** (Contract Evaluation Data and Contract Financial Budget), and
- viii. **Exhibit D** (Sample Option Letter).
- ix. **Exhibit C** (Sample Task Order)

**L. Severability**

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

**M. Survival of Certain Agreement Terms**

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

**N. Taxes**

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Grantee. Grantee shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Grantee may wish to have in place in connection with this Agreement.

**O. Third Party Beneficiaries**

Except for the Parties' respective successors and assigns described in §19.A, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

**P. Waiver**

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

**Q. CORA Disclosure**

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

**R. Standard Manner of Performance**

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

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

Grantee shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and

Subcontractors secure and maintain at all times during the term of their employment, agency or Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

**T. Indemnification**

**i. General Indemnification**

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

**ii. Confidential Information Indemnification**

Disclosure or use of State Confidential Information by Grantee in violation of §10 may be cause for legal action by third parties against Grantee, the State, or their respective agents. Grantee shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys’ fees and costs) incurred by the State in relation to any act or omission by Grantee, or its employees, agents, assigns, or Subcontractors in violation of §10.

**iii. Intellectual Property Indemnification**

Grantee shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys’ fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

**U. Federal Provisions**

Grantee shall comply with all applicable requirements of **Exhibits E, F, and G** at all times during the term of this Grant.

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## 20. COLORADO SPECIAL PROVISIONS

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

### A. CONTROLLER'S APPROVAL. CRS §24-30-202 (1)

This Grant shall not be deemed valid until it has been approved by the Colorado State Controller or designee.

### B. FUND AVAILABILITY. CRS §24-30-202(5.5)

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

No term or condition of this Grant shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 *et seq.*, or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 *et seq.*, as applicable now or hereafter amended.

### D. INDEPENDENT CONTRACTOR

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee 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 Grantee or any of its agents or employees. Unemployment insurance benefits will be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Grant. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Grantee 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

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. CHOICE OF LAW

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

### G. BINDING ARBITRATION PROHIBITED

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

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

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

### I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and

**24-50-507**

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 Grant. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

**J. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4**

*[Not applicable to intergovernmental agreements]*

Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, *et seq.*; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

**K. PUBLIC GRANTS FOR SERVICES. CRS §8-17.5-101**

*[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]*

Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Grant and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Grant, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant or enter into a grant with a Subgrantee that fails to certify to Grantee that the Subgrantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant. Grantee (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Grant is being performed, (b) shall notify the Subgrantee and the granting State agency within three days if Grantee has actual knowledge that a Subgrantee is employing or contracting with an illegal alien for work under this Grant, (c) shall terminate the subgrant if a Subgrantee does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the granting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or CRS §8-17.5-101 *et seq.*, the granting State agency, institution of higher education or political subdivision may terminate this Grant for breach and, if so terminated, Grantee shall be liable for damages.

**L. PUBLIC GRANTS WITH NATURAL PERSONS. CRS §24-76.5-101**

Grantee, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 *et seq.*, and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Grant.

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**21. EXHIBIT A**

**CONTRACT OBJECTIVE PLAN**

**COLORADO DEPARTMENT OF TRANSPORTATION  
CONTRACT OBJECTIVE PLAN**

**Three-Year SMART Goal #1:** Over the three years of this program, the Adams County Sheriff's Office goal is to reduce the number of DUI/D fatalities in crashes in Adams County involving a driver or motorcycle operator with a BAC of .08 or higher from the current 15 percent to 13 percent by September 30, 2021.

**Three-Year SMART Goal #2:** Over the three years of this program, the Adams County Sheriff's Office goal is to have a direct impact on lowering the number of traffic fatalities (non-DUI related) and serious injury accidents in Adams County by 15 percent from the 324 major accidents that occurred in 2017.

22. EXHIBIT B

CONTRACT FINANCIAL BUDGET

CONTRACT

FINANCIAL BUDGET

EXHIBIT B

WBS# 19NHTSA405D.1120

Agency Name: Adams County Sheriff's Office

DETAILED Budget Budget Year 2019

Personal Services Salaried Person

Name of Position	Monthly Full-time Salary	Monthly Part-Time Salary	Total Monthly cost	REQUI RED # of Month s to this projec t	Total	CDOT Share \$	Local Match \$	% to Grant
			\$0		\$0	\$0	\$0	100%
			\$0		\$0	\$0	\$0	100%
			\$0		\$0	\$0	\$0	100%
			\$0		\$0	\$0	\$0	100%
Total					\$0	\$0	\$0	100%
Hourly Employee and/ or Overtime								
Name of Position	REQUIRED Straight time Rate	Straig ht time hours	Over time hours	REQUI RED # month s	Total	CDOT Share \$	Local Match \$	
					\$0	\$0	\$0	100%
DEPUTY SHERIFF					\$0	\$0	\$0	100%
					\$0	\$0	\$0	100%
					\$0	\$0	\$0	100%
					\$0	\$0	\$0	100%
Total					\$0	\$0	\$0	100%
Total Personal Services					\$0	\$0	\$0	
Fringe Benefit Cost								
Fringe Benefits	Fringe %	Total Payr oll Mon thly Payr oll	Total Monthly Fringe cost	REQUI RED # month s	Total	CDOT Share \$	Local Match \$	
Fringe as a Percentage					\$0.00	\$0.00	\$0.00	
Fringe as a Flat amount					\$0.00	\$0.00	\$0.00	100



<b>Total Travel</b>					<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Travel cost per persons is mileage, hotel, etc. Per Diem is separate. IF there is air fare or car rental list separately.							
<b>Capital Equipment</b>							
% To Grant							
Description	Single Item Cost	OR Number of units	Cost Per Unit	Total Cost	Total	CDOT Share \$	Local Match \$
				\$0	\$0	\$ -	\$ -
<b>Total Capital Equipment</b>							
<b>Narrative: CAPITAL EQUIPMENT</b>							
100%							
<b>Indirect Cost</b>							
% To Grant							
Indirect Rate %- approved by Cognizant entity	Total Plan ned Cost	Total indirect Cost		Total	CDOT Share \$	Local Match \$	
	\$0	\$0.00		\$0	\$0	\$0	
<b>Total Indirect</b>							
Indirect cost rate must be pre-approved by CDOT or the Cognizant agency							
<b>BUDGET SUMMARY</b>							
					Total	CDOT Share \$	Local Match \$
Personal Services					\$0	\$0	\$0
Fringe Benefits					\$0	\$0	\$0
Operating Expense & Incentives					\$0	\$0	\$0
Contractual Services					\$0	\$0	\$0
Travel					\$0	\$0	\$0
Capital Equipment					\$0	\$0	\$0
<b>Subtotal before Indirect</b>					\$0	\$0	\$0
Indirect Cost					\$0	\$0	\$0
<b>Total Projected Budget</b>					\$ -	\$ -	\$ -

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**23. EXHIBIT C**  
**SAMPLE TASK ORDER**

<b>State Agency</b> Insert Department's or IHE's Full Legal Name	<b>Task Order Number</b> Insert the Task Order Number (e.g. "1" for the first Task Order)
<b>Contractor</b> Insert Contractor's Full Legal Name, including "Inc.", "LLC", etc...	<b>Master Task Order Contract Number</b> Insert CMS number or Other Contract Number of the Master Task Order Contract
<b>Task Order Maximum Amount</b>	<b>Task Order Contract Number</b> Insert CMS number or Other Contract Number of this Task Order
State Fiscal Year 20xx \$0.00	<b>Task Order Performance Beginning Date</b> The later of the Task Order Effective Date or Month Day, Year
State Fiscal Year 20xx \$0.00	
State Fiscal Year 20xx \$0.00	
State Fiscal Year 20xx \$0.00	
State Fiscal Year 20xx \$0.00	
Total for All State Fiscal Years \$0.00	<b>Task Order Expiration Date</b> Month Day, Year

In accordance with §6.B of the Master Task Order Contract referenced above, Contractor shall complete the following Project:

**PROJECT DESCRIPTION**

Contractor shall complete the Project described in Contractor's proposal that is attached hereto and incorporated herein (the "Proposal"). All terminology used in this Task Order and the Proposal shall be interpreted in accordance with the Master Task Order Contract unless specifically defined differently in this Task Order.

**1. PAYMENT**

The State shall pay Contractor the amounts shown in the Proposal in accordance with the requirements of that Proposal and the Master Task Order Contract. The State shall not make any payment for a State Fiscal Year that exceeds the Task Order Maximum Amount shown above for that State Fiscal Year.

**2. PERFORMANCE PERIOD**

Contractor shall complete all Work on the Project described in this Task Order by the Task Order Expiration Date stated above. Contractor shall not perform any Work on the Project described in the Proposal prior to the Task Order Performance Beginning Date or after the Task Order Expiration Date stated above.

**3. TASK ORDER EFFECTIVE DATE:**

The effective date of this Task Order is upon approval of the State Controller.

<b>GRANTEE</b> <b>INSERT-Legal Name of Grantee</b>  By: Name & Title of Person Signing for Grantee  Date: _____	<b>STATE OF COLORADO</b> <b>John W. Hickenlooper, GOVERNOR</b> Department of Transportation  By: _____ Joshua Laipply, P.E., Chief Engineer (For) Michael P. Lewis, Executive Director  Date: _____
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In accordance with §24-30-202 C.R.C., this Grant Task Order is not valid until signed and dated below by the State Controller or an authorized delegate

<b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b>  By: _____ Department of Transportation  Task Order Effective Date: _____
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**24. EXHIBIT D**

**SAMPLE OPTION LETTER**

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

**1. OPTIONS:**

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

**2. REQUIRED PROVISIONS:**

- A. **For use with Option 1(A):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current Agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
- B. **For use with Options 1(B and C):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to Increase/Decrease the quantity of the Goods/Services or both at the rates stated in the Original Agreement, as amended.
- C. **For use with Option 1(D):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to modify the Agreement rates specified in Exhibit/Section Number/Letter. The Agreement rates attached to this Option Letter replace the rates in the Original Agreement as of the Option Effective Date of this Option Letter.
- D. **For use with Option 1(E):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc, which shall begin on Insert start date and end on Insert ending date at the cost/price specified in Section Number.
- E. **For use with all Options that modify the Agreement Maximum Amount:** The Agreement Maximum Amount table on the Agreement's Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above.

**3. OPTION EFFECTIVE DATE:**

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

<p align="center"><b>STATE OF COLORADO</b> John W. Hickenlooper, Governor INSERT-Name of Agency or IHE INSERT-Name &amp; Title of Head of Agency or IHE</p> <p>By: _____ Name &amp; Title of Person Signing for Agency or IHE</p> <p>Date: _____</p>	<p>In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p align="center"><b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b></p> <p>By: _____ Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval</p> <p>Option Effective Date: _____</p>
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25. **EXHIBIT E**

**GRANTEE CERTIFICATIONS AND ASSURANCES**

**EQUIPMENT**

Equipment acquired under this Grant for use in highway safety program areas shall be used and kept in operation for highway safety purposes by the Grantee 23 CFR 1200.21.

The Grantee will comply with all applicable procurement procedures and will maintain a financial management system that complies with the minimum requirements of 49 CFR 18.20. Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5,000 or more have the prior written approval of the federal awarding agency and CDOT.

**PROCUREMENT**

Grantee will comply with all applicable procurement procedures in 49 CFR 18.36, which outlines procurement requirements for states, grantees and Sub grantees.

**CIVIL RIGHTS**

The Grantee will comply with all federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21); (b) Title IX of the Education Amendments of 1972, as amended (20 USC §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 USC. §794) and the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq.; PL 101-336), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27); (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; The Civil Rights Restoration Act of 1987, which provides that any portion of a state or local entity receiving federal funds will obligate all programs or activities of that entity to comply with these civil rights laws; and, (k) the requirements of any other nondiscrimination statute(s) which may apply to the Grant.

**BUY AMERICA ACT**

The Grantee will comply with the provisions of the Buy America Act (49 USC 5323(j)) which contains the following requirements:

Only steel, iron and manufactured products produced in the United States may be purchased with federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest; that such materials are not reasonably available and of a satisfactory quality; or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

**POLITICAL ACTIVITY (HATCH ACT)**

The Grantee will comply, as applicable, with provisions of the Hatch Act (5 USC §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal fund.

**CERTIFICATION REGARDING FEDERAL LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in

connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Grantee shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

#### **RESTRICTION ON STATE LOBBYING**

None of the funds under this Grant will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

#### **CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**

##### **Instructions for Lower Tier Certification**

1. By signing this Grant, the lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The lower tier participant shall provide immediate written notice to the person to which this Grant is submitted if at any time the lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this Grant is submitted for assistance in obtaining a copy of those regulations.
5. The lower tier participant agrees by submitting this Grant that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The lower tier participant further agrees by submitting this Grant that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below)
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows

that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

- 8 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions:**

1. The lower tier participant certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction by any Federal department or agency.

## 26. EXHIBIT F

### SUPPLEMENTAL FEDERAL PROVISIONS

#### 1. APPLICABILITY OF PROVISIONS.

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

#### 2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.

- 2.1.1. “Agreement” means the Grant Agreement to which these Federal Provisions are attached and includes all Award types in §2.1.2.1 of this Exhibit.

- 2.1.2. “Award” means an award of Federal financial assistance, and the agreement setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.

- 2.1.2.1. Awards may be in the form of:

- 2.1.2.1.1. Grants;

- 2.1.2.1.2. Contracts;

- 2.1.2.1.3. Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);

- 2.1.2.1.4. Loans;

- 2.1.2.1.5. Loan Guarantees;

- 2.1.2.1.6. Subsidies;

- 2.1.2.1.7. Insurance;

- 2.1.2.1.8. Food commodities;

- 2.1.2.1.9. Direct appropriations;

- 2.1.2.1.10. Assessed and voluntary contributions; and

- 2.1.2.1.11. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

- 2.1.2.1.12. Any other items specified by OMB in policy memoranda available at the OMB website or other source posted by the OMB.

- 2.1.2.2. Award *does not* include:

- 2.1.2.2.1. Technical assistance, which provides services in lieu of money;

- 2.1.2.2.2. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;

- 2.1.2.2.3. Any award classified for security purposes; or

- 2.1.2.2.4. Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

- 2.1.3. “Contractor” means the party or parties to an Agreement funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

- 2.1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.
- 2.1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpart C;
  - 2.1.5.1. A governmental organization, which is a State, local government, or Indian Tribe;
  - 2.1.5.2. A foreign public entity;
  - 2.1.5.3. A domestic or foreign non-profit organization;
  - 2.1.5.4. A domestic or foreign for-profit organization; and
  - 2.1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 2.1.6. “Executive” means an officer, managing partner or any other employee in a management position.
- 2.1.7. “Federal Award Identification Number (FAIN)” means an Award number assigned by a Federal agency to a Prime Recipient.
- 2.1.8. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR §200.37
- 2.1.9. “FFATA” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 2.1.10. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.11. “Prime Recipient” means a Colorado State agency or institution of higher education that receives an Award.
- 2.1.12. “Subaward” 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 in accordance with 2 CFR §200.38. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.13. “Subrecipient” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.14. “Subrecipient Parent DUNS Number” means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 2.1.15. “Federal Provisions” means these Federal Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Transparency Act and Uniform Guidance, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.
- 2.1.16. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 2.1.17. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
  - 2.1.17.1. Salary and bonus;

- 2.1.17.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
- 2.1.17.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
- 2.1.17.4. Change in present value of defined benefit and actuarial pension plans;
- 2.1.17.5. Above-market earnings on deferred compensation which is not tax-qualified;
- 2.1.17.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.18. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 2.1.19. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 2.1.20. “Vendor” means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

### 3. COMPLIANCE.

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

### 4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS.

- 4.1. SAM. Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. DUNS. Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor’s information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor’s information.

### 5. TOTAL COMPENSATION.

- 5.1. Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
  - 5.1.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
  - 5.1.2. In the preceding fiscal year, Contractor received:

- 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 5.1.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 5.1.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

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

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

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

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

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

- 8.1. If Contractor is a Subrecipient, Contractor shall report as set forth below.
  - 8.1.1. **To SAM.** A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:
    - 8.1.1.1. Subrecipient DUNS Number;
    - 8.1.1.2. Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;
    - 8.1.1.3. Subrecipient Parent DUNS Number;
    - 8.1.1.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
    - 8.1.1.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
    - 8.1.1.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.
  - 8.1.2. **To Prime Recipient.** A Subrecipient shall report to its Prime Recipient, upon the effective date of the Agreement, the following data elements:
    - 8.1.2.1. Subrecipient's DUNS Number as registered in SAM.
    - 8.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

#### **9. PROCUREMENT STANDARDS.**

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.
- 9.2. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

## 10. ACCESS TO RECORDS

- 10.1. A Subrecipient shall permit Recipient and auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).

## 11. SINGLE AUDIT REQUIREMENTS

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

## 12. CONTRACT PROVISIONS FOR SUBRECIPIENT CONTRACTS

- 12.1. If Contractor is a Subrecipient, then it shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Agreement.

- 12.1.1. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.
- 12.1.1.1. During the performance of this contract, the contractor agrees as follows:
- 12.1.1.1.1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- 12.1.1.1.2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 12.1.1.1.3. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 12.1.1.1.4. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 12.1.1.1.5. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 12.1.1.1.6. In the event of Contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 12.1.1.1.7. Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

12.1.2. **Nondiscrimination Requirements**

12.1.2.1. Grantee shall not under any program or activity for which the Grantee receives federal financial assistance from US DOT, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, national origin, sex, age or disability. Prior to the receipt of any Federal financial assistance from CDOT, the Grantee shall execute the attached Standard DOT Title VI assurance. As appropriate, the recipient shall include Appendix A, B, C or D to the Standard DOT Title VI assurance in any contract utilizing federal funds, land, or other aid. The Grantee shall also include the following in all contract advertisements:

12.1.2.1.1. *The [Grantee], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, DBEs will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*

12.1.2.2. As a condition of federal financial assistance, Grantee shall develop and maintain a Title VI Program in accordance with the “Requirements for FHWA Subrecipients” set forth in CDOT’s Title VI Program Plan. Grantee shall also facilitate compliance with Executive Order 12898 and DOT Order 5610.2(a) by incorporating the principles of environmental justice in planning, project development and public outreach in accordance with applicable CDOT and FHWA guidance.

12.1.2.3. In any contract utilizing federal funds, land, or other federal aid, Grantee shall require the federal-aid recipient or contractor to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability. Grantee shall develop and maintain an ADA Program in accordance with 28 CFR Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services and any other requirements established by CDOT for FHWA subrecipients.

12.1.2.4. The Grantee shall agree to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA’s access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by CDOT, FHWA, FTA, FAA, or any other US DOT operating administration. You must keep records, reports, and submit the material for review upon request to CDOT, FHWA, FTA, FAA, or any other US DOT operating administration or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

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

- 12.1.4. **Rights to Inventions Made Under a Contract or Agreement.** If the Federal Award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- 12.1.5. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.6. **Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.7. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

### 13. CERTIFICATIONS.

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

### 14. EXEMPTIONS.

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.
- 14.3. There are no Transparency Act reporting requirements for Vendors.

### 15. EVENT OF DEFAULT.

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

## 27. EXHIBIT G

**The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination**  
**Assurances for Local Agencies**  
**DOT Order No. 1050.2A**

The [Local Agency] (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Colorado Department of Transportation and the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), is subject to and will comply with the following:

### **Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

### **General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including the FHWA, FTA, or FAA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The [Local Agency] in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the [Local Agency] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by CDOT, FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review upon request to CDOT, FHWA, FTA, or FAA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

[Local Agency] gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on [Local Agency], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Michael Robbins  
(Name of Recipient)

by   
(Signature of Authorized Official)

DATED 9-15-18

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the [Local Agency], CDOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the [Local Agency], CDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the [Local Agency] will impose such contract sanctions as it, CDOT or FHWA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the [Local Agency], CDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).