

# STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

## SIGNATURE AND COVER PAGE

<b>State Agency</b> Colorado Department of Transportation	<b>Contract Number</b> Insert CMS number or Other Contract Number
<b>Contractor</b> City and County of Denver	<b>Contract Performance Beginning Date</b> May 31, 2018
<b>Contract Maximum Amount</b> Initial Term State Fiscal Year 2018                      \$100,000.00  Total for All State Fiscal Years              \$100,000.00	<b>Initial Contract Expiration Date</b> May 31, 2020  <b>Contract Description</b> CDOT agrees to provide \$100,000 towards the Denver GES Healthy Food Challenge to facilitate access to fresh food in the Elyria and Swansea Neighborhood. This Intergovernmental Agreement between CDOT and the City and County of Denver clarifies the provision and use of CDOT funds to support healthy food access in the Globeville and Elyria-Swansea (GES) neighborhoods.

### THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

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

<p style="text-align: center;"><b>CONTRACTOR</b> City and County of Denver</p> <hr/> <p>By: Tristan Sanders, Public Health Program Manager</p> <p>Date: _____</p>	<p style="text-align: center;"><b>STATE OF COLORADO</b> John W. Hickenlooper, Governor Colorado Department of Transportation Michael Lewis, Executive Director</p> <hr/> <p>By: Rebecca White, Central 70 Deputy Director of External Programs and Outreach</p> <p>Date: _____</p>
<p style="text-align: center;">2nd State or Contractor Signature if Needed</p> <hr/> <p>By: Name &amp; Title of Person Signing for Signatory</p> <p>Date: _____</p>	<p style="text-align: center;"><b>LEGAL REVIEW</b> Cynthia H. Coffman, Attorney General</p> <hr/> <p>By: _____ Assistant Attorney General</p> <p>Date: _____</p>
<p style="text-align: center;">In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;"><b>STATE CONTROLLER</b> <b>Robert Jaros, CPA, MBA, JD</b></p> <p style="text-align: center;">By: _____</p> <p style="text-align: center;">Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval</p> <p style="text-align: center;">Effective Date: _____</p>	

## 1. PARTIES

This Contract is entered into by and between Contractor named on the Signature and Cover Page for this Contract (the “City”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Contract (the “State”). Contractor and the State agree to the terms and conditions in this Contract.

## 2. TERM AND EFFECTIVE DATE

### A. Effective Date

This Contract shall not be valid or enforceable until the Effective Date. The State shall not be bound by any provision of this Contract before the Effective Date, and shall have no obligation to pay the 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. Early Termination in the Public Interest

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

#### i. Method and Content

The State shall notify the 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.

#### ii. Obligations and Rights

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

#### iii. Payments

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

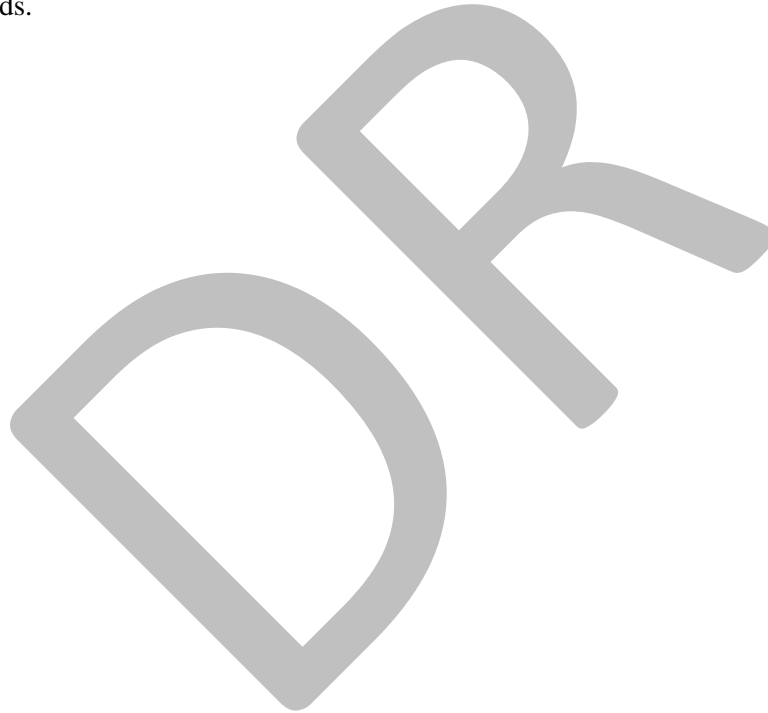
### 3. **AUTHORITY**

Authority to enter into this Contract exists in Insert statutory and/or other legal reference here.

### 4. **PURPOSE**

The I-70 East Project (also called the Central 70 Project) recently completed the National Environmental Policy Act (NEPA) process with a Record of Decision (ROD) for Phase 1. During the NEPA process, it was determined that two local businesses, Stop N Shop and Pilot Travel Center truck stop, which potentially offer fresh/healthy foods to the community would be displaced by the project. As the neighborhood is an Environmental Justice community with limited fresh/healthy food options and as public comments highlighted concern regarding access to fresh/healthy foods, Colorado Department of Transportation (CDOT) has committed to support fresh/healthy food access mitigation.

While no specific mitigation method was determined during the early stages of the NEPA process, CDOT learned of the City's program offering grants and loans to innovative projects addressing a range of problems in the Globeville and Elyria-Swansea (GES) community including access to healthy food by residents. The program, named the "GES Healthy Food Challenge" focuses on the same neighborhood impacted by the I-70 East Project. The ROD commits CDOT to provide \$100,000 toward the GES Healthy Food Challenge that will help facilitate access to fresh food. As the ROD has been executed, CDOT intends to start implementing the mitigation commitments as soon as possible. This Intergovernmental Agreement between CDOT and the City and County of Denver clarifies the provision and use of CDOT funds to support healthy food access in the Globeville and Elyria-Swansea (GES) neighborhoods.



## 5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “**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.
- B. “**Chief Procurement Officer**” means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202 to procure or supervise the procurement of all supplies and services needed by the state.
- C. “**Contract**” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- D. “**Contract Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Contract.
- 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 Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Contract.
- G. “**Exhibit**” means the following exhibit attached to this Contract:
  - i. **Exhibit A**, Statement of Work.
- H. “**Goods**” means any movable material acquired, produced, or delivered by Contractor as set forth in this Contract and shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.
- I. “**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.”
- J. “**Initial Term**” means the time period defined in **§2.B**
- K. “**Party**” means the State or Contractor, and “**Parties**” means both the State and Contractor.
- L. “**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.

- M. **“Services”** means the services to be performed by Contractor as set forth in this Contract, and shall include any services to be rendered by Contractor in connection with the Goods.
- N. **“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.
- O. **“State Fiscal Rules”** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- P. **“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.
- Q. **“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.
- R. **“Subcontractor”** means third-parties, if any, engaged by Contractor to aid in performance of the Work.
- S. **“Work”** means the Goods delivered and Services performed pursuant to this Contract.
- T. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

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

## 6. STATEMENT OF WORK

The Contractor shall complete the Work as described in this Contract and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate the Contractor for the

delivery of any goods or the performance of any services that are not specifically set forth in this Contract.

## **7. PAYMENTS TO CONTRACTOR**

### **A. Maximum Amount**

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

### **B. Payment Procedures**

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

- a. The State shall pay Contractor in the amounts and in accordance with the schedule and other conditions set forth in Exhibit A.
- b. Contractor 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 Contractor and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Contractor shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under this Contract.

#### **ii. Interest**

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

#### **iii. Payment Disputes**

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

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

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Contractor beyond the current State Fiscal Year

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

v. Erroneous Payments

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

## 8. REPORTING - NOTIFICATION

A. Quarterly Reports.

In addition to any reports required pursuant to §19 or pursuant to any other Exhibit, for any contract having a term longer than 3 months, Contractor shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Contract. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State 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 Contractor is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Contract or may affect Contractor's ability to perform its obligations under this Contract, Contractor shall, within 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 Outside the State of Colorado or the United States, §24-102-206, C.R.S.

To the extent not previously disclosed in accordance with §24-102-206, C.R.S., Contractor shall provide written notice to the State, in accordance with §16, within 20 days following the earlier to occur of Contractor's decision to perform Services outside of the State of Colorado or the United States, or its execution of an agreement with a Subcontractor to perform, Services outside the State of Colorado or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado or the United States and the reason why it is necessary or advantageous to perform such Services at such location or

locations, and such notice shall be a public record. Knowing failure by Contractor to provide notice to the State under this §8.C shall constitute a breach of this Contract. This §8.C shall not apply if the Contract Funds include any federal funds.

## **9. CONTRACTOR RECORDS**

### **A. Maintenance**

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the “Contractor Records”). Contractor Records shall include all documents, records, communications, notes and other materials maintained by Contractor that relate to any Work performed by Subcontractors, and Contractor shall maintain all records related to the Work performed by Subcontractors required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until the last to occur of: **(i)** the date 3 years after the date this Contract expires or is terminated, **(ii)** final payment under this Contract is made, **(iii)** the resolution of any pending Contract matters, or **(iv)** if an audit is occurring, or Contractor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the “Record Retention Period”).

### **B. Inspection**

Contractor shall permit the State to audit, inspect, examine, excerpt, copy and transcribe Contractor Records during the Record Retention Period. Contractor shall make Contractor Records available during normal business hours at Contractor’s office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days’ notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

### **C. Monitoring**

The State, in its discretion, may monitor Contractor’s performance of its obligations under this Contract using procedures as determined by the State. The State shall monitor Contractor’s performance in a manner that does not unduly interfere with Contractor’s performance of the Work.

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

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

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

### **A. Confidentiality**

Contractor shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Contractor shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Contract, permitted by law or approved in Writing by the State. Contractor shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and



guidelines. Contractor shall immediately forward any request or demand for State Records to the State's principal representative.

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

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

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

Contractor 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. Contractor shall provide the State with access, subject to Contractor's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Contract, Contractor shall return State Records provided to Contractor or destroy such State Records and certify to the State that it has done so, as directed by the State. If Contractor is prevented by law or regulation from returning or destroying State Confidential Information, Contractor warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

**D. Incident Notice and Remediation**

If Contractor becomes aware of any Incident, 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 Contractor can establish that none of Contractor or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

**11. CONFLICTS OF INTEREST**

**A. Actual Conflicts of Interest**

Contractor shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Contractor under this Contract. Such a conflict of interest would arise when a Contractor or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an

employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Contract.

**B. Apparent Conflicts of Interest**

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

**C. Disclosure to the State**

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

**12. INSURANCE**

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

**A. Contractor Insurance**

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

**B. Subcontractor Requirements**

Contractor shall ensure that each Subcontractor that is a public entity within the meaning of the GIA, maintains at all times during the terms of this Contract, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA. Contractor shall ensure that each Subcontractor that is not a public entity

within the meaning of the GIA, maintains at all times during the terms of this Contract all of the following insurance policies:

i. Workers' Compensation

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

ii. 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:

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

iii. Automobile Liability

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

C. Additional Insured

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

D. Primacy of Coverage

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

E. 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 Contractor and Contractor shall forward such notice to the State in accordance with §16 within 7 days of Contractor's receipt of such notice.

F. Subrogation Waiver

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

G. Certificates

For each commercial insurance plan provided by Contractor under this Contract, Contractor shall provide to the State certificates evidencing Contractor's insurance coverage required in this Contract within 7 Business Days following the Effective Date. Contractor shall provide

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

### **13. BREACH**

#### **A. Defined**

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

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

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

### **14. REMEDIES**

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

If Contractor is in breach under any provision of this Contract and fails to cure such breach, the State, following the notice and cure period set forth in §13.B., shall have all of the remedies listed in this §14.A. in addition to all other remedies set forth in this Contract or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

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

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

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

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

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

b. Payments

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

c. Damages and Withholding

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

ii. Remedies Not Involving Termination

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

a. Suspend Performance

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

b. Withhold Payment

Withhold payment to Contractor until Contractor corrects its Work.

c. Deny Payment

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

d. Removal

Demand immediate removal of any of Contractor'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 Contract is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

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

B. Contractor's Remedies

If the State is in breach of any provision of this Contract and does not cure such breach, Contractor, following the notice and cure period in §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 Contract, which cannot be resolved by the designated Contract representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Contractor for resolution.

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of Insert Dept. or IHE Acronym as described in §24-101-301(30), C.R.S. following the same resolution of controversies process as described in §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Contract.

**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 §16 without a formal amendment to this Contract. Unless otherwise provided in this Contract, notices shall be effective upon delivery of the written notice.

**For the State:**

Rebecca White  
Colorado Department of Transportation  
Central 70 Project

10825 E. 47th Avenue

Denver, CO 80239

[rebecca.white@state.co.us](mailto:rebecca.white@state.co.us)

**For Contractor:**

Tristan Sanders  
City and County of Denver  
Department of Public Health and  
Environment

200 W. 14<sup>th</sup> Avenue

Suite 300

Denver, CO 80204

[Tristan.Sanders@denvergov.org](mailto:Tristan.Sanders@denvergov.org)

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

**A. Work Product**

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

**B. Exclusive Property of the State**

Except to the extent specifically provided elsewhere in this Contract, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, “State Materials”). Contractor shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Contractor’s obligations in this Contract without the prior written consent of

the State. Upon termination of this Contract for any reason, Contractor shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

## **18. GOVERNMENTAL IMMUNITY**

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.*, C.R.S.

## **19. STATEWIDE CONTRACT MANAGEMENT SYSTEM**

If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this **§19** shall apply. Contractor agrees to be governed by and comply with the provisions of §24-106-103, §24-102-206, §24-106-106, and §24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Contractor's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Contract, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

## **20. GENERAL PROVISIONS**

### **A. Assignment**

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

### **B. Subcontracts**

Contractor shall not enter into any subcontract in connection with its obligations under this contract without providing notice to the State. The State may reject any such subcontract, and Contractor shall terminate any subcontract that is rejected by the State and shall not allow any Subcontractor to perform any work after that Subcontractor's subcontract has been rejected by the State." Contractor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Contractor in connection with this Contract shall comply with all applicable federal and state laws and regulations, shall provide



that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Contract.

C. Binding Effect

Except as otherwise provided in **§20.A.**, all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

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

E. Captions and References

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

F. Counterparts

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

G. Entire Understanding

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

H. Jurisdiction and Venue

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

I. Modification

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

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

Any reference in this Contract to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been

changed or amended since the Effective Date of this Contract.

K. Order of Precedence

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

- i. Exhibit A, Statement of Work.
- ii. Colorado Special Provisions in §21 of the main body of this Contract.
- iii. The provisions of the other sections of the main body of this Contract.

L. Severability

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

M. Survival of Certain Contract Terms

Any provision of this Contract that imposes an obligation on a Party after termination or expiration of the Contract shall survive the termination or expiration of this Contract 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 Contractor. Contractor shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Contractor may wish to have in place in connection with this Contract.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §20.A., this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to this Contract, 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 Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single

or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

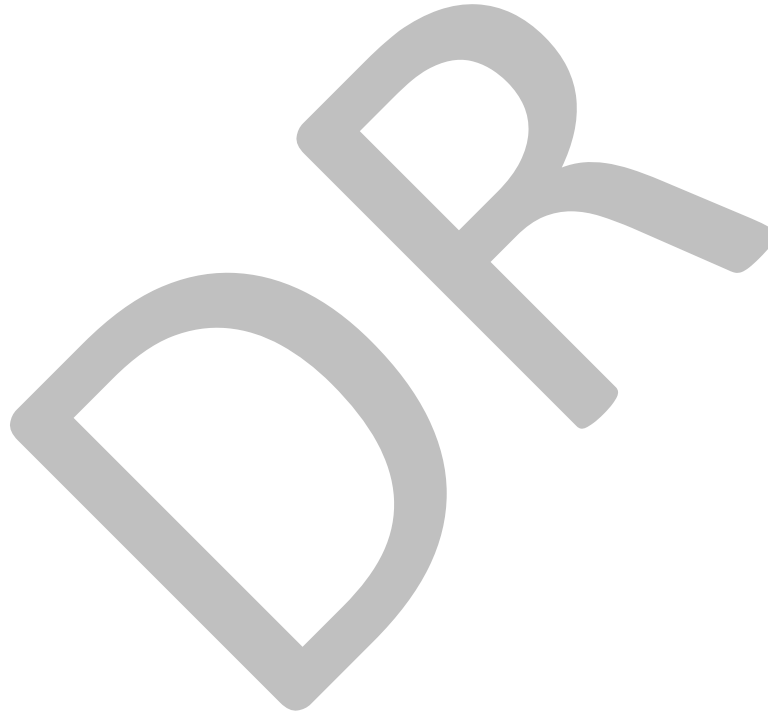
To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

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

S. Licenses, Permits, and Other Authorizations.

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



## **EXHIBIT A, STATEMENT OF WORK**

### **1. TERMINOLOGY**

- 1.1. In addition to the terms defined in §5 of this Contract, acronyms and abbreviations are defined at their first occurrence in this Exhibit A, Statement of Work. The following list of terms shall be construed and interpreted as follows:
  - 1.1.1. Business Interruption - Any event that disrupts Contractor's ability to complete the Work for a period of time, and may include, but is not limited to a Disaster, power outage, strike, loss of necessary personnel or computer virus.
  - 1.1.2. Closeout Period - The period beginning on the earlier of 90 days prior to the end of the last Extension Term or notice by the State of its decision to not exercise its option for an Extension Term, and ending on the day that the Department has accepted the final deliverable for the Closeout Period, as determined in the Department-approved and updated Closeout Plan, and has determined that the closeout is complete.
  - 1.1.3. Deliverable - any tangible or intangible object produced by Contractor as a result of the work that is intended to be delivered to the State, regardless of whether the object is specifically described or called out as a "Deliverable" or not.
  - 1.1.4. Disaster - An event that makes it impossible for Contractor to perform the Work out of its regular facility or facilities, and may include, but is not limited to, natural disasters, fire or terrorist attacks.
  - 1.1.5. Effective Date - The date on which this Contract is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Contract.
  - 1.1.6. Key Personnel - The position or positions that are specifically designated as such in this Contract.
  - 1.1.7. Other Personnel - Individuals and Subcontractors, in addition to Key Personnel, assigned to positions to complete tasks associated with the Work.
  - 1.1.8. Work - The Goods delivered and Services performed pursuant to this Contract.

### **2. CONTRACTOR'S GENERAL REQUIREMENTS**

- 2.1. Contractor shall work cooperatively with State staff and, if applicable, the staff of other State contractors to ensure the completion of the Work. The State may, in its sole discretion, use other contractors to perform activities related to the Work that are not contained in the Contract or to perform any of the State's responsibilities. In the event of a conflict between Contractor and any other State contractor, the State will resolve the conflict and Contractor shall abide by the resolution provided by the State.
- 2.2. Deliverables
  - 2.2.1. All Deliverables shall meet State-approved format and content requirements. The State will specify the number of copies and media for each Deliverable.
  - 2.2.2. Each Deliverable will follow the Deliverable submission process as follows:
    - 2.2.2.1. Contractor shall submit each Deliverable to the State for review and approval.

- 2.2.2.2. The State will review the Deliverable and may direct Contractor to make changes to the Deliverable. Contractor shall make all changes within 5 Business Days following the State's direction to make the change unless the State provides a longer period in writing.
- 2.2.2.2.1. Changes the State may direct include, but are not limited to, modifying portions of the Deliverable, requiring new pages or portions of the Deliverable, requiring resubmission of the Deliverable or requiring inclusion of information or components that were left out of the Deliverable.
- 2.2.2.2.2. The State may also direct the Contractor to provide clarification or provide a walkthrough of any Deliverable to assist the State in its review. Contractor shall provide the clarification or walkthrough as directed by the State.
- 2.2.2.2.3. Once the State has received an acceptable version of the Deliverable, including all changes directed by the State, the State will notify Contractor of its acceptance of the Deliverable in writing. A Deliverable shall not be deemed accepted prior to the State's notice to Contractor of its acceptance of that Deliverable.
- 2.2.3. Contractor shall employ an internal quality control process to ensure that all Deliverables are complete, accurate, easy to understand and of high quality. Contractor shall provide Deliverables that, at a minimum, are responsive to the specific requirements for that Deliverable, organized into a logical order, contain accurate spelling and grammar, are formatted uniformly, and contain accurate information and correct calculations. Contractor shall retain all draft and marked-up documents and checklists utilized in reviewing Deliverables for reference as directed by the State.
- 2.2.4. If any due date for a Deliverable falls on a day that is not a Business Day, then the due date shall be automatically extended to the next Business Day, unless otherwise directed by the State.
- 2.2.5. All due dates or timelines that reference a period of days, months or quarters shall be measured in calendar days, months and quarters unless specifically stated as being measured in Business Days or otherwise. All times stated in the Contract shall be considered to be in Mountain Time, adjusted for Daylight Saving Time as appropriate, unless specifically stated otherwise.
- 2.2.6. No Deliverable, report, data, procedure or system created by Contractor for the State that is necessary to fulfilling Contractor's responsibilities under the Contract, as determined by the State, shall be considered proprietary.
- 2.2.7. If any Deliverable contains ongoing responsibilities or requirements for Contractor, such as Deliverables that are plans, policies or procedures, then Contractor shall comply with all requirements of the most recently approved version of that Deliverable. Contractor shall not implement any version of any such Deliverable prior to receipt of the State's written approval of that version of that Deliverable. Once a version of any Deliverable described in this subsection is approved by the State, all requirements, milestones and other Deliverables contained within that Deliverable shall be considered to be requirements, milestones and Deliverables of this Contract.
- 2.2.8. Contractor shall uphold "Buy America" requirements if funding from the State goes towards the purchase of anything made of steel is made in America.
- 2.2.9. Contractor shall uphold "Davis-Bacon" requirements if any construction projects associated with the GES Healthy Food Challenge are implemented with the State's funds.

2.2.9.1. Any Deliverable described as an update of another Deliverable shall be considered a version of the original Deliverable for the purposes of this subsection.

### 2.3. Stated Fresh Food Deliverables and Performance Standards

2.3.1 The Contractor shall invoice the State for a one-time payment of \$100,000 to support healthy food access for the Elyria-Swansea neighborhood.

2.3.1.1 The State shall provide \$100,000 to the Contractor within 45 days after receiving an invoice from the Contractor.

2.3.2 The Contractor shall select a suitable program(s) within 12 months of receiving State funds (or an initial program if multiple programs are selected), to address community needs and emerging opportunities based on the nature of collaboration and community identified healthy food access projects.

2.3.3 The Contractor shall ensure that funds will be provided to support one or more of the following strategies to improve healthy food access:

- Strategy 1: Expand healthy food inventories at new and existing food retail establishments
- Strategy 2: Start or expand innovative food retail, including mobile, delivery, and popup markets
- Strategy 3: Technical assistance for healthy food business development, or supporting start-up expenses, e.g. licensing for a food truck or other healthy food entrepreneurs interested in immediately serving GES
- Strategy 4: Recruit a full-service grocery store to serve the residents in this area

2.3.4 The Contractor shall ensure that the selected program(s) for Fresh Food facilitation provide documentation detailing the allocation of funds provided by the State no later than May 31, 2020.

2.3.5 The deadlines set forth in this Section may be extended or waived by mutual agreement of the Parties.

### 2.4 Communication with the State

2.4.1 To comply with minimum reporting standards stated in Fiscal Rule 3-1 (8A Reporting), the Contractor shall provide quarterly status reports to the State documenting programs in consideration for selection and share all deliverables required by the recipients with the State.

2.4.1.1 DELIVERABLE: Program(s) Status Report

2.4.1.2 DUE: Quarterly until all funds provided by the State are utilized

2.4.2. All reports will include updates on the following overall goals for this scope of work:

- Increasing the number of access points for healthy food in GES
- Increasing the number of customers served at healthy food access points to decrease hunger in GES
- Increasing the number of healthy food products sold in GES

2.4.3. The Contractor shall provide an annual written report on the utilization of funds and outcomes from the State funds during the calendar year, including information documenting:

- Funding provided by the State spent on steel products and information about the Buy America requirement
- Funding spent on construction activities and information on following the Davis-Bacon requirements

2.4.3.1.DELIVERABLE: Annual Progress Report

2.4.3.2.DUE: Provided annually beginning May 2019

2.4.4. The Contractor shall provide a final report when all funds are disbursed and resulting projects are completed.

2.4.4.1. DELIVERABLE: Final Progress Report

2.4.4.2. DUE: Prior to the Close Out Period

2.5. Communication with the Public

2.5.2.1. The Contractor shall collaborate with the State and identify opportunities for building community awareness regarding the State's role in GES fresh food facilitation.

2.5.2.1.1. DELIVERABLE: Identified opportunities for building community awareness of the State's role in fresh food facilitation.

2.5.2.1.2. DUE: Opportunities to build fresh food awareness identified as appropriate.

2.5.2.2. The Contractor shall not engage in any non-routine communication with the media or the public related to the Work without the prior written consent of the State.

### **3. CONTRACTOR PERSONNEL**

3.4. Personnel General Requirements

3.4.2. Contractor shall provide qualified Key Personnel and Other Personnel as necessary to perform the Work throughout the term of the Contract.

3.4.3. If any individual filling a Key Personnel position leaves employment with Contractor, Contractor shall notify the State and propose a replacement person to the State. The replacement person shall have qualifications that are equivalent to or exceed the qualifications of the individual that previously held the position, unless otherwise approved, in writing, by the State.

3.4.3.1.DELIVERABLE: Name(s) and professional contact information for the person(s) replacing anyone in a Key Personnel position who leaves employment with Contractor.

3.4.3.2.DUE: Within 20 Business Days following Contractor's receipt of notice that the person is leaving employment, unless the State allows for a longer time in writing for Contractor to recruit a replacement.

3.5. Personnel Availability

3.5.2. Contractor shall ensure Key Personnel and Other Personnel assigned to the Contract are available for meetings with the State during the State's normal business hours, as determined by the State. Contractor shall also make these personnel available outside of the State's normal business hours and on weekends with prior notice from the State.

- 3.5.3. Contractor's Key Personnel and Other Personnel shall be available for all regularly scheduled meetings between Contractor and the State, unless the State has granted prior, written approval otherwise.
- 3.5.4. Contractor shall ensure that the Key Personnel and Other Personnel attending all meetings between the State and Contractor have the authority to represent and commit Contractor regarding work planning, problem resolution and program development.
- 3.6. Key Personnel
  - 3.6.2. Contractor shall designate people to hold the following Key Personnel positions:
    - 3.6.2.1. Project Lead
      - 3.6.2.1.1. The Project Lead shall be responsible for all of the following:
        - 3.6.2.1.1.1. Serving as Contractor's primary point of contact for the State.
        - 3.6.2.1.1.2. Ensuring the completion of all Work in accordance with the Contract's requirements. This includes, but is not limited to, ensuring the accuracy, timeliness and completeness of all work.
        - 3.6.2.1.1.3. Overseeing all other Key Personnel and Other Personnel and ensuring proper staffing levels throughout the term of the Contract.
    - 3.6.2.2. Project Support
      - 3.6.2.2.1. The Project Support personnel shall be responsible for all of the following:
        - 3.6.2.2.1.1. Serving as Contractor's secondary point of contact for the State.
- 3.7. Providing support for completion of all Work in accordance with the Contract's requirements. This includes, but is not limited to, ensuring the accuracy, timeliness and completeness of all work. Other Personnel Responsibilities
  - 3.7.2. Contractor shall use its discretion to determine the number of Other Personnel necessary to perform the Work in accordance with the requirements of this Contract. If the State has determined that Contractor has not provided sufficient Other Personnel to perform the Work in accordance with the requirements of this Contract, Contractor shall provide all additional Other Personnel necessary to perform the Work in accordance with the requirements of this Contract at no additional cost to the State.
  - 3.7.3. Contractor shall ensure that all Other Personnel have sufficient training and experience to complete all portions of the Work assigned to them. Contractor shall provide all necessary training to its Other Personnel, except for State-provided training specifically described in this Contract.

#### **4. CLOSEOUT PERIODS**

- 2.3.1. During the Closeout Period, Contractor shall complete all of the following:
  - 2.3.1.1. Provide to the State or any other contractor at the State's direction, all reports, notifications, deliverables and other information reasonably necessary for a transition as determined by the State or included in the most recent Closeout Plan that has been approved by the State.
    - 2.3.1.1.1. DELIVERABLE: Provide reports, notifications, or deliverables as requested by the State.
    - 2.3.1.1.2. DUE: No later than 15 days prior to the Closeout date.



- 2.3.1.2. Ensure that all responsibilities under the Contract have been transferred to the State, or to another contractor at the State's direction, without significant interruption.
- 2.3.1.3. Notify any Subcontractors of the termination of the Contract, as directed by the State.
- 2.3.1.4. Continue meeting each requirement of the Contract as described in the State-approved and updated Closeout Plan, or until the State determines that specific requirement is being performed by the State or another contractor, whichever is sooner. The State will determine when any specific requirement is being performed by the State or another contractor, and will notify Contractor of this determination for that requirement.
- 2.3.2. The Closeout Period may extend past the termination of the Contract. The State will perform a closeout review to ensure that Contractor has completed all requirements of the Closeout Period. If Contractor has not completed all of the requirements of the Closeout Period by the date of the termination of the Contract, then any incomplete requirements shall survive termination of the Contract.

#### 4.4. Closeout Plan

- 4.4.2. The Closeout Plan shall designate an individual to act as a closeout coordinator, who will ensure that all requirements, steps, timelines, milestones and Deliverables contained in the Closeout Plan are completed and work with the State and any other contractor to minimize the impact of the transition on the State. Contractor shall deliver the Closeout Plan to the State for review and approval.

- 2.3.2.1.1. DELIVERABLE: Closeout Plan
- 2.3.2.1.2. DUE: 30 days following the Effective Date

## 5. COMPENSATION AND INVOICING

#### 5.4. Compensation

#### 5.5. Detailed Invoicing and Payment Procedures

- 5.5.2. Contractor shall invoice the State for \$100,000 on a single occurrence within 45 days after the Effective Date.
- 5.5.3. The State will provide a single payment in full to the Contractor, which is to be paid within 45 days after receiving the invoice from the Contractor.

#### 5.6. Closeout Payments

- 2.3.3. Notwithstanding anything to the contrary in this Contract, all payments for the final month of this Contract shall be paid to Contractor no sooner than 10 days after the State has determined that Contractor has completed all of the requirements of the Closeout Period.