

FUNDING AGREEMENT

THIS FUNDING AGREEMENT (the “**Agreement**”) made and entered into, effective as of execution of the Agreement, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “**City**”), and **MERCY HOUSING MOUNTAIN PLAINS**, a Colorado non-profit corporation, with an address of 1600 Broadway, Suite 2000, Denver, Colorado 80202 (the “**MHMP**”).

RECITALS

WHEREAS, the City, through its Office of Children’s Affairs, and MHMP desire to cooperate in the establishment, development and operation of a Mile High United Way Early Childhood Education Center (“Early Childhood Education Center” or “ECE”), which, when constructed, will serve low income households;

WHEREAS, the Early Childhood Education Center will be constructed on the first floor of a new affordable housing development with a combination of grants and loans, including a loan from the Colorado Health Foundation;

WHEREAS, City and the Office of Children’s Affairs was awarded American Recovery Plan Act (“ARPA”) funds specifically for the purposes of developing and supporting childcare;

WHEREAS, the City therefore desires to provide funding to MHMP for the development, use and support of the completed Early Childhood Education Center with the intent that the programs conducted in the Early Childhood Education Center promote and support City’s and the Office of Children’s Affairs purposes regarding childcare and education;

WHEREAS, MHMP proposes to perform and complete the work and services as described in the attached **Exhibit A** to this Agreement;

WHEREAS, the completed services involve the type of work and services contemplated as a part of the purposes of the ARPA funding as well as the Office of Children’s Affairs’ purposes;

WHEREAS, by means of this Agreement, the City and MHMP desire to specify the terms and conditions upon which the funds will be provided by the City to MHMP, and the associated services to be undertaken by MHMP.

NOW, THEREFORE, in consideration of the above premises which are incorporated in this Agreement, and the mutual promises and covenants contained herein, the City and MHMP agree as follows:

1. **Coordination and Liaison:** MHMP has begun, or shall begin, the work of developing, designing and constructing an Early Childhood Education Center, or ECE. The funding provided to MHMP under this Agreement is intended to support the development, design, construction and completion of the ECE and the subsequent services that will be performed as a part of the operations of the ECE. MHMP is fully responsible of the design, construction and completion of the ECE, and as a result, shall also fully perform the work and services, including any reporting requirements, under the Agreement, in accordance with the City's requirements as described in the attached **Exhibit A** which is incorporated herein by reference ("MHMP's Services"). MHMP's Services includes its obligation to report to the City the progress of the development and completion of the ECE. City has no further funding obligations other than as set forth in this Agreement.

2. **Representatives:**

A. **City's Representative.** The City's Executive Director of the Office of Children's Affairs (the "**Executive Director**") is vested with the authority to act on behalf of the City in performing the City's obligations under this Agreement. The Executive Director may designate representative ("**Executive Director's Representative**"). The City may change its authorized representative at any time by providing written notice to MHMP of such change.

B. **MHMP's Representative.** MHMP's authorized representative under this Agreement is [NAME OR TITLE] ("**MHMP's Representative**") and will oversee the satisfactory performance of the services in accordance with the terms and conditions of this Agreement. MHMP may change its authorized representative at any time by providing written notice to the City of such change.

3. **MHMP's Responsibilities:**

A. Except as expressly provided in this Agreement, MHMP shall have the responsibility with respect to undertaking and performing and completing the services in accordance with this Agreement.

B. **Reporting.** MHMP shall provide a quarterly report of the prior quarter's activity to the City by no later than fifteen (15) days after the close of the quarter. MHMP shall further provide any additional pertinent information to assist the City in assessing the progress and status of MHMP's project in accordance with **Exhibit A**. The City may request additional information as may be necessary. MHMP's reporting obligations shall continue until satisfactory

completion of the project work as determined by the City. Among other factors, MHMP shall obtain all final approvals of completion and occupancy before the City will deem MHMP's obligations fully satisfied.

4. **Confirmation of Lawful Employment:**

(1) The Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance").

(2) MHMP agrees and represents that:

(a) At the time of its execution of this Agreement, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement.

(b) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(c) MHMP also agrees and represents that:

(i) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(ii) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to MHMP that it shall not knowingly employ or contract with a worker without authorization to perform work under the Agreement.

(iii) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.

(iv) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(v) If it obtains actual knowledge that a subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within

three (3) days. MHMP shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the worker without authorization, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.

(vi) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

MHMP is liable for any violations as provided in the Certification Ordinance. If MHMP violates any provision of this paragraph or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, MHMP shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this paragraph or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying MHMP from submitting bids or proposals for future contracts with the City.

5. **Term; Termination; Remedies:**

A. Term. The term of this Agreement shall become effective as of execution of the Agreement, and shall terminate no later than December 31, 2023, or upon the satisfactory completion of MHMP's obligations under this Agreement, if prior to December 31, 2023, except to the extent set forth in this Agreement regarding termination and default.

B. Termination; Remedies. This Agreement may be terminated as follows:

(1) MHMP Default. In the event that MHMP shall default or breach, on its part, in the performance or fulfillment of one or more material terms or conditions of this Agreement (“**MHMP Default**”), and shall fail to cure such MHMP Default within ninety (90) days following delivery of written notice from the Executive Director to MHMP specifying the default, the Executive Director may, in the Executive Director's reasonable discretion, terminate this Agreement. If the Executive Director decides to terminate the Agreement upon MHMP Default not being cured by the cure deadline date, then the Executive Director shall so notify MHMP of the termination in accordance with this Paragraph 5 and the notice provisions, below. Upon termination City shall have no obligation to pay unexpended funds, if any remains, to MHMP.

(2) City Default. In the event that the City shall default or breach, on its part, in the performance or fulfillment of one or more material terms or conditions of this Agreement (“**City Default**”), and shall fail to cure such City Default within ninety (90) days following delivery of written notice from MHMP to the Executive Director, MHMP may, in its reasonable discretion, terminate this Agreement. If MHMP decides to terminate the Agreement upon the City Default not being cured by the cure deadline date, then MHMP shall so notify the Executive Director’s Representative of such in accordance with this Paragraph 5 and the notice provisions, below. Upon termination City shall have no obligation to pay unexpended funds, if any remains, to MHMP.

(3) Time Extension. Upon mutual agreement of the parties, the time to cure any MHMP Default or City Default may be extended to a date certain and the manner and extent of cure may be modified. The deadline for any cure under this Paragraph 5 shall not excuse the obligation of any defaulting party to take timely and proper action to prevent, stop, mitigate, or alleviate any recent or impending damage to city-owned property or any existing or imminent threat to public health and safety.

(4) Mutual Consent Termination. Upon mutual written consent, the City and MHMP may terminate this Agreement, with or without cause.

(5) Remedies. The parties agree that this Agreement may be enforced in law or in equity for specific performance, injunctive, or other appropriate relief, including actual damages, costs, expenses and attorney’s fees (and including any obligations of MHMP that are specified under this Agreement to survive termination), as may be available according to the laws and statutes of the State of Colorado.

6. **Funding**:

A. Funding; Contingency. The City shall provide to MHMP those amounts as specified in **Exhibit A** to this Agreement on a contingency payment basis. MHMP shall, at a minimum, submit an invoice to the City for payment within 15 (fifteen) days of the end of each quarter MHMP’s ECE project is ongoing. MHMP shall provide the City an invoice, or invoices, no less frequently than once per quarter, but no more frequently than once per month. Invoices shall be submitted electronically as instructed by the Executive Director’s Representative. The City’s Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement. Payment will be made based on complete and responsive invoices

as soon as reasonably possible once the City has fully processed the invoice in the City's financial system of record. Unless otherwise stipulated in writing, the City shall not pay MHMP for ineligible costs including, but not limited to, costs not related to development of the ECE project and any other expenditures deemed ineligible for reimbursement by the City or not related to purposes of the ARPA funding.

B. City's Maximum Financial Obligation. In no case shall the City's financial obligation under this Agreement exceed **FIVE HUNDRED SEVENTY-TWO THOUSAND FOUR HUNDRED EIGHTY-THREE DOLLARS AND ZERO CENTS (\$572,483.00)**. Any proposal to expend more than **\$572,483.00** shall require an amendment to this Agreement, which must be approved and executed in the same manner as the Agreement and, if the amendment expands the City's financial obligation to over \$500,000.00, approval of the Denver City Council shall be required.

7. **Insurance:**

A. General Conditions. MHMP may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. MHMP certifies that the certificate of insurance attached as **Exhibit B** preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of MHMP's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

B. Proof of Insurance. MHMP may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. MHMP certifies that the certificate of insurance attached as **Exhibit B** preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of MHMP's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

C. Additional Insureds. For Commercial General Liability, MHMP and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

D. Waiver of Subrogation. For all coverages required under this Agreement, with the exception of Professional Liability, MHMP's insurer shall waive subrogation rights against the City.

E. Subcontractors and Subconsultants. All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of MHMP. MHMP shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. MHMP agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

F. Workers' Compensation/Employer's Liability Insurance. MHMP shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.

G. Commercial General Liability. MHMP shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

H. Business Automobile Insurance. MHMP shall maintain Automobile Liability with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

8. **ARPA Funds**: MHMP agrees and acknowledges that some or all of the funds encumbered by the City to pay for the services described herein have been provided in accordance with Section 603(b) of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act, Public Law No. 117-2 (March 11, 2021) (along with all rules and regulations promulgated thereunder, "ARPA"). The Parties acknowledge that all funding from ARPA

(collectively, “ARPA Funds”) may only be used to cover those eligible costs incurred by the City during the period that begins on March 3, 2021 and ends on December 31, 2024:

- A. To respond to the public health emergency with respect to the Coronavirus Disease 2019 (“COVID-19”) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or to aid impacted industries such as tourism, travel and hospitality;
- B. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the City that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
- C. For the provision of government services to the extent of the reduction in revenue of the City due to the COVID-19 public health emergency relative to the revenues collected in the most recent full fiscal year of the City prior to the emergency; or
- D. To make necessary investments in water, sewer, or broadband infrastructure.

MHMP shall only utilize ARPA Funds for the purposes described in the Scope of Services attached as **Exhibit A**. MHMP agrees and acknowledges that, as a condition to receiving the ARPA Funds, it shall strictly follow the Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions attached hereto and incorporated herein as **Exhibit C**. All invoices submitted by MHMP to the City pursuant to this Agreement shall use “COVID-19” or “Coronavirus” as a descriptor for those costs that are paid by ARPA Funds to facilitate the tracking of Agreement-related spending related to COVID-19. MHMP shall segregate and specifically identify the time and expenditures billed to the City on each invoice to allow for future review and analysis of COVID-19 related expenses. To avoid an unlawful duplication of federal benefits, the Parties agree and acknowledge that the services and/or goods provided by MHMP for which ARPA Funds are used shall not, to the extent that ARPA Funds are used, also be paid for or reimbursed by monies provided under any other federal program.

The City agrees and acknowledges that it shall obligate the use of ARPA funds for the services performed and/or good provided by MHMP under this Agreement no later than December 31, 2024. MHMP agrees and acknowledges that all services performed and/or goods provided by

MHMP using ARPA Funds must be performed and/or provided, respectively, by MHMP no later than December 31, 2026. Further, MHMP agrees and acknowledges that payment for all services performed and/or goods provided by MHMP using ARPA Funds must be provided by the City to MHMP no later than December 31, 2026. As such, MHMP shall invoice the City not later than November 1, 2026 for all work performed pursuant to this Agreement for which ARPA Funds will be used to enable sufficient time for the City to review, process, and pay such invoice no later than the performance deadline prescribed in ARPA (the “Invoice Deadline Date”). Any invoice submitted by MHMP after the Invoice Deadline Date for services performed and/or goods provided on or prior to December 31, 2026 may not be eligible to be paid by ARPA Funds, and, to the extent that ARPA Funds are not available to pay such invoice, partially or in total, such invoice shall only be paid subject to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of this Agreement.

To the extent that MHMP’s services hereunder contemplate the spending of ARPA Funds, MHMP shall provide to the City information responsive to mandatory performance measures, including programmatic data sufficient to conduct oversight as well as understand aggregate program outcomes. Further, in providing the ARPA-required information to the City, to the extent possible, MHMP shall provide this programmatic data related to such services disaggregated by race, ethnicity, gender, income, and other relevant demographic factors as may be determined by the City. MHMP shall insert the foregoing requirement into all subcontracts related to this Agreement, thereby obligating all subcontractors to the same reporting requirement as MHMP.

9. **General Provisions:**

A. Authority of MHMP. The scope of authority that MHMP may exercise with respect to the services shall be as expressly delegated, assigned, or allowed under, or necessarily implied in, this Agreement. MHMP shall have no authority to avoid, modify or waive any applicable City ordinances or regulatory requirements enacted or adopted under the City’s police or taxing powers. This Agreement is not intended, nor shall this Agreement be construed, to establish or constitute a joint venture between the City and MHMP.

B. Reasonable Efforts; Good Faith; Fair Dealing.

(1) Reasonable Efforts; Good Faith. MHMP and the City agree to work diligently together and in good faith, using reasonable efforts to resolve any unforeseen issues and disputes and to expeditiously take such actions as are necessary and appropriate to perform the

duties and obligations of this Agreement.

(2) Fair Dealing. In all cases where the consent or approval of one party is required before the other may act, or where the agreement or cooperation of the parties is separately or mutually required as a legal or practical matter, then in that event the parties agree that each will act in a fair and reasonable manner with a view to carrying out the intents and goals of this Agreement as the same are set forth herein, subject to the terms hereof; provided, however, that nothing in this Agreement shall be construed as imposing on either party any greater duty or obligation to the other than that which already exists as a matter of Colorado law, including but not limited to any fiduciary duty or other responsibility greater than that of reasonable parties contracting at “arm’s length.”

C. Appropriation. Notwithstanding any provision of this Agreement to the contrary, MHMP agrees that any and all of the rights and obligations of the City under this Agreement, including financial obligations, are contingent upon all funds necessary for obligations or expenditures contemplated under this Agreement being budgeted, appropriated and otherwise made available by the City. MHMP acknowledges that this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City, except to the extent that capital improvement funds that are lawfully appropriated can be lawfully carried over to subsequent years.

D. Taxes, Charges and Penalties. The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City’s prompt payment ordinance D.R.M.C. § 20-107, *et seq.* MHMP shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under the Agreement. City shall have no obligation with regard to MHMP’s taxes, charges, penalties, or any other financial responsibilities or debts.

E. Non-waiver. No party shall be excused from complying with any provision of this Agreement by the failure of the other party to insist upon or to seek compliance. No assent, expressed or implied, to any failure by a party to comply with a provision of this Agreement shall be deemed or taken to be a waiver of any other failure to comply by said party.

F. Examination of Records & Audit. The Contractor shall maintain records of the documentation supporting the use of ARPA Funds in an auditable format, for the later of five (5) years after final payment on this Agreement or the expiration of the applicable statute of

limitations. Any authorized agent of the City, including the City Auditor or his or her representative, and for ARPA Funds any authorized agent of the Federal government, including the Special Inspector General for Pandemic Recovery (“Inspector General”) have the right to access, and the right to examine, copy and retain copies, at the official’s election in paper or electronic form, any pertinent books, documents, papers and records related to the Contractor’s use of ARPA Funds pursuant to this Agreement. The Contractor shall cooperate with Federal and City representatives and such representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of five (5) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of the use of ARPA Funds, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this section shall require the Contractor to make disclosures in violation of state or federal privacy laws. The Contractor shall at all times comply with D.R.M.C. 20-276.

G. Applicable Law/Exercise of Authority. The parties agree to comply with all applicable Federal, State and local statutes, charter provisions, ordinances, resolutions, rules, regulations, policies, and standards in existence as of the effective date of this Agreement or as may be subsequently enacted or adopted and become applicable; provided, however, the City agrees that it shall not enact or adopt any ordinance, resolution, rule, regulation, policy or standard (other than those necessary to comply with a lawful citizen initiative or referendum) which would substantially interfere with or diminish the obligations and rights under this Agreement or result in effectively nullifying this Agreement, in whole or part, but otherwise this paragraph shall not limit the powers and authority of the City.

H. No Discrimination in Employment. In connection with the performance of work under this Agreement, MHMP may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, protective hairstyle, or physical or mental disability. MHMP shall insert the foregoing provision in all subcontracts.

I. Conflict of Interest. MHMP agrees that no official, officer or employee of

the City shall have any personal or beneficial interest whatsoever in the services or property described herein, and MHMP further agrees not to hire or contract for services any official, officer or employee of the City or any other person which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter provisions 1.2.9 and 1.2.12. MHMP shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. MHMP represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of MHMP by placing MHMP's own interests, or the interests of any party with whom MHMP has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement if it determines a conflict exists, after it has given MHMP written notice describing the conflict.

J. Defense & Indemnification.

(1) MHMP hereby agrees to defend, indemnify, reimburse and hold harmless the City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“**Claims**”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of MHMP or its subcontractors either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

(2) MHMP's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. MHMP's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

(3) MHMP will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on

behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

(4) Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of MHMP under the terms of this indemnification obligation. MHMP shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

(5) This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

K. Governmental Immunity. Nothing in this Agreement shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the City may have under the Colorado Governmental Immunity Act (§24-10-101, C.R.S. et seq.) or to any other defenses, immunities, or limitations of liability available to the City against third parties by law.

L. Force Majeure. MHMP shall not be liable for delay or failure to perform hereunder, despite best efforts to perform, if such delay or failure is the result of *force majeure*, and any time limit expressed in this Agreement shall be extended for the period of any delay resulting from any *force majeure*. Timely notices of the occurrence and the end of such delay shall be provided by MHMP when asserting *force majeure* to the City. "*Force majeure*" shall mean causes beyond the reasonable control of MHMP such as, but not limited to, adverse weather conditions, acts of God or the public enemy, strikes, work stoppages, unavailability of or delay in receiving labor or materials, faults by contractors, subcontractors, utility companies or third parties, fire or other casualty, or regulatory action of a government authority.

M. Further Assurances. From time to time, upon the request of a party, the other party agrees to make, execute and deliver or cause to be made, executed and delivered to the requesting party any and all further instruments, certificates and documents consistent with the provisions of this Agreement as may, in the reasonable opinion of the requesting party, be necessary or desirable in order to effectuate, complete or perfect the rights of said party under this Agreement, provided said requesting party is currently in full compliance with the provisions of this Agreement and has tendered or offered to tender any reciprocal instruments, certificates and documents to which the other party is entitled under the Agreement.

N. Contracting or Subcontracting.

(1) Limits on Contracting Authority. The authority delegated under this

Agreement shall not be construed to grant MHMP the right or power to bind, or to impose any liability upon, the City through any contracts or agreements MHMP may make, unless the prior, written approval of the Executive Director is obtained, and the contract or agreement is in accordance with Applicable Law. Likewise, the City shall have no authority to bind, or to impose liability upon, MHMP through any contracts or agreements the City may make, unless the prior, written approval of MHMP is obtained.

(2) Contracts Subject to this Agreement. Any work that is allowed to be contracted or subcontracted under this Agreement shall be subject, by the terms of the contract or subcontract, to every provision of this Agreement. Compliance with this provision shall be the responsibility of the party who arranged the contract or authorized the subcontract. The City shall not be liable nor have a financial obligation to or for any contractor, subcontractor, supplier, or other person or entity with which MHMP contracts or has a contractual arrangement.

O. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the United States, the State of Colorado, and the applicable provisions of the Charter and Revised Municipal Code of the City and County of Denver. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver.

P. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to MHMP and the City; and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on such agreements. It is the express intention of MHMP and the City that any person or entity other than MHMP and the City receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

Q. Disputes. All disputes between the City and MHMP arising out of or regarding the Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Executive Director as defined in this Agreement.

R. Notice. All notices, demands or consents required or permitted under this Agreement shall be in writing and delivered personally or sent by certified mail, return receipt

requested, to the following:

- To MHMP: Lincoln Hills Cares
2530 N. Washington Street, Suite 100
Denver, Colorado 80205
- To the City: Executive Director of the Office of Children’s Affairs
City and County of Denver
201 West Colfax Ave, Department 1101
Denver, Colorado 80202
- With a Copy to: City Attorney’s Office
City and County of Denver
1437 Bannock Street, Room 353
Denver, Colorado 80202

The persons or addresses set forth above may be changed at any time by written notice in the manner provided herein. Any communications between the Executive Director’s Representative and MHMP’s Representative as provided under this Agreement may be made by email.

S. Entire Agreement. This Agreement, including the exhibits which are hereby incorporated into this Agreement by reference, constitutes the entire agreement of the parties. The parties agree there have been no representations, oral or written, other than those contained herein and that the various promises and covenants contained herein are mutually agreed upon and are in consideration for one another.

T. Amendment. Except as otherwise expressly provided in this Agreement, this Agreement may be amended, modified, or changed, in whole or in part, only by written agreement executed by the parties in the same manner as this Agreement.

U. No Construction Against Drafting Party. The parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because any provisions of the Agreement were prepared by a particular party.

V. No Assignment. No party shall assign its rights or delegate its duties hereunder, with the exception of contracting and subcontracting as provided in this Agreement, without the prior written consent of the other party.

W. Severability. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective;

provided, however, the parties shall forthwith enter into good faith negotiations and due diligence to draft a legal term or condition that will achieve the original intent and purposes of the parties hereunder.

X. Survival of Certain Provisions. The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, MHMP's obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

Y. Advertising and Public Disclosure. MHMP shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of MHMP's advertising or public relations materials without first obtaining the written approval of the Executive Director. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. MHMP shall notify the Executive Director in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

Z. Headings for Convenience. Headings and titles contained herein are intended for the convenience and reference of the parties only and are not intended to combine, limit, or describe the scope or intent of any provision of this Agreement.

AA. Authority. Each party represents and warrants that it has taken all actions that are necessary or that are required by its applicable law to legally authorize the undersigned signatories to execute this Agreement on behalf of the party and to bind the party to its terms. The person(s) executing this Agreement on behalf of each party warrants that he/she/they have full authorization to execute this Agreement.

BB. Execution of Agreement. This Agreement shall not be or become effective or binding, and shall not be dated, until it has been fully executed by all signatories of the City and MHMP.

CC. Electronic Signatures and Electronic Records. MHMP consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The parties

agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGES FOLLOW.]**

Contract Control Number: MOEAI-202263349-[[This Amendment Number]]
Contractor Name: MERCY HOUSING MOUNTAIN PLAINS

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

MOEAI-202263349-[[This Amendment Number]]
MERCY HOUSING MOUNTAIN PLAINS

By:  _____
CA673B7CFE78D4B1...

Name: Shelly Marquez
(please print)

Title: President MHMP
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT A

SCOPE OF WORK –

May 9, 2022

OVERVIEW

Contractor Info:	
Organization:	Mercy Housing Mountain Plains
Contact Person:	Carolyn Reid
Address:	1600 Broadway, Suite 2000
Phone:	720-547-5536
Email:	creid@mercyhousing.org
Signatory Authority Name (Primary):	Dee Walsh
Contact phone and email:	dwalsh@mercyhousing.org
Signatory Authority Name Secondary):	Kuhl Brown
Contact phone and email:	Kuhl.brown@mercyhousing.org
Project:	Rose on Colfax ECE Center
Program:	ARPA
Fund:	11011
Cost Center:	0103100
Program Code:	n/a
Grant ID:	GR000002242

Contract Term: May 1, 2022 – December 31, 2023**Contract Amount: Not to exceed \$572,493****Please Note: All ARPA expenses must be billed no later than January 31, 2024****Work Description:**

1. The funds will provide funding contributed toward the development of The Mile High United Way Early Childhood Education center (ECE), which will serve low-income households at 1500 N.

EXHIBIT A

Valentia St., Denver, Colorado 80220 on the first floor of The Rose on Colfax affordable housing project (1510 N. Valentia St). The ECE portion of the building is being constructed with a combination of grants and a Program Related Investment loan from The Colorado Health Foundation that is acting as a construction bridge loan to pay for capital improvements. Funding under this agreement will be contributed toward development of the ECE. This project will result in ECE programming and payments are contingent on satisfactory progress of development. Final payment shall be approved upon issuance of a temporary certificate of occupancy (TCO).

The ECE will be approximately 6,600 square feet and include four classrooms, staff offices, prep kitchen, and a partially enclosed play area. The ECE will have a capacity of 48 students across the four classrooms from ages 6 weeks to 4 years.

Budget & Invoice Schedule

	<i>Budget</i>
1.) Personnel	\$0
2.) Fringe	\$0
3.) Travel	\$0
4.) Equipment	\$0
5.) Supplies/Materials	\$0
6.) Sub-Contracts	\$0
7.) Construction	\$572,493
8.) Other Direct Costs	\$0
9.) Indirect Costs	\$0
TOTAL:	\$572,493

EXHIBIT A

<u>Milestone</u>	<u>Minimum Invoice Term</u>	<u>Required Documentation</u>
25% construction completion	Quarterly	Invoice, supporting documentation & construction progress report
50% construction completion	Quarterly	Invoice, supporting documentation & construction progress report
75% construction completion	Quarterly	Invoice, supporting documentation & construction progress report
95% construction completion	Quarterly	Invoice, supporting documentation & construction progress report
100% construction completion	Upon issuance of temporary certificate of occupancy	Invoice, supporting documentation & copy of TCO

Grant Requirements - General

- American Recovery Plan Act funds have separate federal provisions which will be included in the contract.

Requirements – Office of Children’s Affairs

- Vendor staff may be required to meet with an Office of Children’s Affairs representative to debrief, share lessons learned about grant process, programming impact, etc.
- Vendor may be required to host one site visit for Office of Children’s Affairs staff each year.
- All modifications to the services and/or budget that exceeds 5% in change to any line item must be pre-approved in writing by the Office of Children’s Affairs
- Vendor must submit a copy of the Temporary Certificate of Occupancy (TCO) and Certificate of Occupancy (CO) to the Office of Children’s Affairs upon issuance by the City & County of Denver



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/02/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER 1-303-481-7821 Edgewood Partners Insurance Center (EPIC) [Greenwood Village - Branch ID 15327] 8101 E. Prentice Ave., Suite 410 Greenwood Village, CO 80111	CONTACT NAME: NREP Certs PHONE (A/C, No, Ext): (303) 481-7821 FAX (A/C, No): (855) 228-1425 E-MAIL ADDRESS: NREPCerts@epicbrokers.com														
INSURED Mercy Housing Mountain Plains c/o Mercy Housing, Inc. 1600 Broadway, Suite 2000 Denver, CO 80202	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: LEXINGTON INS CO</td> <td style="text-align: center;">19437</td> </tr> <tr> <td>INSURER B: TRAVELERS PROP CAS CO OF AMER</td> <td style="text-align: center;">25674</td> </tr> <tr> <td>INSURER C: See Attached</td> <td style="text-align: center;">36056</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: LEXINGTON INS CO	19437	INSURER B: TRAVELERS PROP CAS CO OF AMER	25674	INSURER C: See Attached	36056	INSURER D:		INSURER E:		INSURER F:	
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INSURER C: See Attached	36056														
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES **CERTIFICATE NUMBER: 64473634** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$10,000 SIR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			080877850	07/01/21	07/01/22	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			TJCAP9F337796TIL21	07/01/21	07/01/22	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$ 0			See Attached	07/01/21	07/01/22	EACH OCCURRENCE \$ 25,000,000 AGGREGATE \$ 25,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			UB2N1751862151R	07/01/21	07/01/22	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B				UB1N3971392151K	07/01/21	07/01/22	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 RE: Evidence of insurance with respect to the even at the Rose on Colfax located at 1500 and 1510 N. Valentia Street, Denver, CO 80220 on February 7, 2022. The City and County of Denver, its elected and appointed officials, employees and volunteers are included as additional insured, as their interest may appear.

Notice of Cancellation is 30 days/10 days for non-payment.

CERTIFICATE HOLDER City and County of Denver Attn: Risk Management 201 W. Colfax Avenue Denver, CO 80202 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

SUPPLEMENT TO CERTIFICATE OF INSURANCE

DATE

02/02/2022

NAME OF INSURED: Mercy Housing Mountain Plains
c/o Mercy Housing, Inc.

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SUPPLEMENT TO CERTIFICATE OF INSURANCEDATE
02/02/2022**NAME OF INSURED:** Mercy Housing Mountain Plains
c/o Mercy Housing, Inc.

Schedule of Participation - Excess Liability

Insurer: Mercer Insurance Co.

Policy Number: 20000000177

Participation: \$2,000,000 Each Occurrence/Aggregate

Insured: Allied World Insurance Co.

Policy Number: 03129657

Participation: \$3,000,000 Each Occurrence/Aggregate xs of \$2,000,000 Each Occurrence/Aggregate

Insured: Ategrity Specialty Insurance Co.

Policy Number: 01BXP000309550

Participation: \$5,000,000 Each Occurrence/Aggregate xs of \$5,000,000 Each Occurrence/Aggregate

Insured: Steadfast Insurance Co.

Policy Number: AEC097192502

Participation: \$5,000,000 Each Occurrence/Aggregate xs of \$10,000,000 Each Occurrence/Aggregate

Insured: Lexington Insurance Co.

Policy Number: 08303275

Participation: \$5,000,000 Each Occurrence/Aggregate xs of \$15,000,000 Each Occurrence/Aggregate

Insured: Federal Insurance Co.

Policy Number: 93652713

Participation: \$5,000,000 Each Occurrence/Aggregate xs of \$20,000,000 Each Occurrence/Aggregate

Total Limit: \$25,000,000 Each Occurrence/Aggregate

Terrorism Liability:

Carrier: Lloyd's of London (Lloyd's Syndicate 4000)

Policy Number: WTS40002505318

Limits of Liability: \$25,000,000 Any One Occurrence

Exhibit C

OMB Approved No.:1505-0271

Expiration Date: 11/30/2021

U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS LOCAL FISCAL RECOVERY FUND

Recipient name and address: City and County of Denver 201 West Colfax Avenue, Dept. 1010 Denver, Colorado 80202	DUNS Number: 080483932 Taxpayer Identification Number: 846000580 Assistance Listing Number and Title: 21.019
--	--

Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

Recipient:

Authorized Representative:
Title:
Date signed:

U.S. Department of the Treasury:

Authorized Representative:
Title:
Date signed:

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS LOCAL FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.

- a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.

4. Maintenance of and Access to Records

- a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
- c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.

8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. Compliance with Applicable Law and Regulations.

- a. Recipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

- v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Recipient’s noncompliance with section 602 of the Act, other applicable laws, Treasury’s implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury.”
14. Debts Owed the Federal Government.
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
 - b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

OMB Approved No. 1505-0271

Expiration Date: November 30, 2021

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS
ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the "Recipient") provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient's program(s) and activity(ies), so long as any portion of the Recipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.
4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

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

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure 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. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.

- 7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
- 8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.
- 9. Recipient must provide documentation of an administrative agency’s or court’s findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.
- 10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient’s obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

City and County of Denver
Recipient

Date

Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.