

## AGREEMENT

**THIS AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **ENERGY RESOURCE CENTER**, a Colorado Corporation, with an address for notice purposes of 114 W. Rio Grande St., Colorado Springs, Colorado 80903 (the “Contractor”), jointly “the Parties” and individually a “Party.”

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Contractor agree as follows:

1. **COORDINATION AND LIAISON**: The Contractor shall fully coordinate all services under the Agreement with the Executive Director of the Department of Human Rights and Community Partnerships (“Executive Director”), or the Executive Director’s Designee.
2. **SERVICES TO BE PERFORMED**: As the Executive Director directs, the Contractor shall diligently undertake, perform, and complete all of the services and produce all the deliverables set forth in **Exhibit A, Scope of Work**, to the City’s satisfaction. Additionally, the Executive Director may increase the scope of work described in Exhibit A by written notice to the Contractor which describes any additional work to be performed and corresponding budget amounts, if applicable, for such services. The Contractor is ready, willing, and able to provide the services required by this Agreement. The Contractor shall faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement.
3. **TERM**: The Agreement will commence on January 1, 2022, and will expire, unless sooner terminated, on December 31, 2024.
4. **COMPENSATION AND PAYMENT**
  - 4.1. **Budget**: The City shall pay, and the Contractor shall accept as the sole compensation for services rendered and costs incurred and paid under the Agreement, payment not to exceed the rates and amounts set forth in **Exhibit A**.
  - 4.2. **Reimbursable Expenses**: There are no, non-specified reimbursable expenses allowed under the Agreement. All of Contractor’s expenses are described in **Exhibit A**.
  - 4.3. **Invoicing**: The Contractor shall provide the City with a monthly invoice in a format and with a level of detail acceptable to the City including all supporting documentation required by the City.

The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement.

**4.4. Maximum Contract Amount**

**4.4.1.** Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **ONE MILLION FIFTY THOUSAND DOLLARS AND NO CENTS (\$1,050,000.00)** (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by the Contractor beyond that specifically described in **Exhibit A**. Any services performed beyond those in **Exhibit A**, or as directed by Chief in writing, are performed at the Contractor's risk and without authorization under the Agreement.

**4.4.2.** The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

**5. STATUS OF CONTRACTOR:** The Contractor is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Contractor nor any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

**6. TERMINATION**

**6.1.** The City has the right to terminate the Agreement with cause upon written notice effective immediately, and without cause upon sixty (60) days prior written notice to the Contractor. However, nothing gives the Contractor the right to perform services under the Agreement beyond the time when its services become unsatisfactory to the Executive Director.

**6.2.** Notwithstanding the preceding paragraph, the City may terminate the Agreement if the Contractor or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with the

Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

**6.3.** Upon termination of the Agreement, with or without cause, the Contractor shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in the Agreement.

**6.4.** If the Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools, and facilities it owns that are in the Contractor's possession, custody, or control by whatever method the City deems expedient. The Contractor shall deliver all documents in any form that were prepared under the Agreement and all other items, materials and documents that have been paid for by the City to the City. These documents and materials are the property of the City. The Contractor shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE."

**7. EXAMINATION OF RECORDS AND AUDITS:** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to Contractor's performance pursuant to this agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Contractor shall cooperate with City representatives and City representatives shall be granted access to the forgoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, 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 paragraph shall require Contractor to make disclosures in violation of state or federal privacy laws. Contractor shall at all time comply with D.R.M.C. 20-276.

**8. WHEN RIGHTS AND REMEDIES NOT WAIVED:** In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of the Contractor. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with

respect to any breach or default. No assent, expressed or implied, to any breach of any term of the Agreement constitutes a waiver of any other breach.

## 9. **INSURANCE**

**9.1. General Conditions:** Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, including any extension thereof, and during any warranty period. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-VIII" or better. Each policy shall require notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

**9.2. Proof of Insurance:** Contractor may not commence services or work relating to this Agreement prior to placement of coverages required under this Agreement. Contractor certifies that the certificate of insurance attached as **Exhibit B**, preferably an ACORD form, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the certificate of insurance. 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 Contractor'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.

- 9.3. Additional Insureds:** For Commercial General Liability, Auto Liability Professional Liability (if required), and Excess Liability/Umbrella (if required) the Contractor and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
- 9.4. Waiver of Subrogation:** For all coverages required under this Agreement, with exception of Professional Liability (if required), the Contractor's insurer shall waive subrogation rights against the City.
- 9.5. Subcontractors and Subconsultants:** Contractor shall confirm and document that all subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) procure and maintain coverage as approved by the Contractor and appropriate to their respective primary business risks considering the nature and scope of services provided.
- 9.6. Workers' Compensation/Employer's Liability Insurance:** Contractor 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.
- 9.7. Commercial General Liability:** Contractor shall maintain a Commercial General Liability insurance policy with minimum limits of \$1,000,000 for each bodily injury and property damage occurrence, \$2,000,000 products and completed operations aggregate (if applicable), and \$2,000,000 policy aggregate. Policy shall not contain an exclusion for sexual abuse, molestation or misconduct.
- 9.8. Automobile Liability:** Contractor 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.
- 9.9. Cyber Liability:** Contractor shall maintain Cyber Liability coverage with minimum limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion

and network security. If Claims Made, the policy shall be kept in force, or a Tail policy placed, for three (3) years.

**10. DIVISION OF SMALL BUSINESS OPPORTUNITY REQUIREMENTS**

- 10.1.** This Agreement is subject to Article V of Chapter 28, Denver Revised Municipal Code (“D.R.M.C.”), designated as §§ 28-117 to 28-199 (the “Goods and Services Ordinance”); and any Rules and Regulations promulgated pursuant thereto. The contract goal for MWBE participation established for this Agreement by the Division of Small Business Opportunity (“DSBO”) is 13%.
- 10.2.** Under § 28-132, D.R.M.C., the Contractor has an ongoing, affirmative obligation to maintain for the duration of this Agreement, at a minimum, compliance with the MWBE participation upon which this Agreement was awarded, unless there is a change in the work by the City under § 28-133, D.R.M.C. The Contractor acknowledges that:
- 10.3.** The Contractor must maintain records and submit regular reports, as required under the ordinance and as directed by DSBO, which will allow the City to assess progress in complying with the MWBE participation goal.
- 10.4.** If contract modifications are issued under the Agreement, whether by amendment or otherwise, the Contractor shall have a continuing obligation to promptly inform DSBO in writing of any agreed upon increase or decrease in the scope of work of such contract under § 28-133, D.R.M.C., regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification of the change to the City.
- 10.5.** If there are changes in the work that include an increase in scope of work under this Agreement, whether by amendment or otherwise, which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an MWBE at the time of contract award, such change or modification shall be immediately submitted to DSBO for notification purposes.
- 10.6.** Those amendments or other modifications that involve a changed scope of work that cannot be performed by existing subcontractors shall be subject to the original goal on the contract. The Contractor shall satisfy such goal with respect to the changed scope of work by soliciting new MWBEs in accordance with §§ 28-133, D.R.M.C. The Contractor must also satisfy the requirements under §§ 28-128 and 28-136, D.R.M.C., with regard to changes in MWBE scope or participation. The Contractor shall supply to the DSBO Director all required documentation under

§§ 28-128, 28-133, and 28-136, D.R.M.C., with respect to the modified dollar value or work under the contract.

- 10.7. If applicable, for contracts of one million dollars (\$1,000,000.00) and over, the Contractor is required to comply with § 28-135, D.R.M.C., regarding prompt payment to MWBEs. Payment to MWBE subcontractors shall be made by no later than thirty-five (35) days after receipt of the MWBE subcontractor's invoice.
- 10.8. Failure to comply with these provisions may subject the Contractor to sanctions set forth in § 28-139 of the Goods and Services Ordinance.
- 10.9. Should any questions arise regarding DSBO requirements, the Contractor should consult the Goods and Services Ordinance or may contact the designated DSBO representative at (720) 913-1999.

## **11. DEFENSE AND INDEMNIFICATION**

- 11.1. The Contractor agrees to defend, indemnify, reimburse and hold harmless 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 the Contractor 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.
- 11.2. The Contractor'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. The Contractor'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.
- 11.3. The Contractor shall defend any and all Claims which may be brought or threatened against City and shall 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 will be

in addition to any other legal remedies available to City and will not be the City's exclusive remedy.

**11.4.** Insurance coverage requirements specified in this Agreement in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor is responsible to obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

**11.5.** This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

**12. COLORADO GOVERNMENTAL IMMUNITY ACT:** In relation to the Agreement, the City is relying upon and has not waived the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, C.R.S. § 24-10-101, *et seq.*

**13. 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.* The Contractor shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under the Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

**14. ASSIGNMENT; SUBCONTRACTING:** The Contractor shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the Executive Director's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void and will be cause for termination of this Agreement by the City. The Executive Director has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Contractor shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any sub-consultant, subcontractor or assign.

**15. INUREMENT:** The rights and obligations of the Parties to the Agreement inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Agreement.

**16. NO THIRD-PARTY BENEFICIARY:** Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in the Agreement



gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Contractor receiving services or benefits pursuant to the Agreement is an incidental beneficiary only.

**17. NO AUTHORITY TO BIND CITY TO CONTRACTS:** The Contractor lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

**18. SEVERABILITY:** Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.

**19. CONFLICT OF INTEREST**

**19.1.** No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. The Contractor shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. § 2-51, *et seq.*, or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

**19.2.** The Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Contractor 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 the Contractor by placing the Contractor's own interests, or the interests of any party with whom the Contractor 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 the Contractor written notice describing the conflict.

**20. NOTICES:** All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to the City at the addresses below:

Denver Department of Human Rights and Community Partnerships  
201 West Colfax Avenue, Dept. 1102  
Denver, CO 80204

With a copy of any such notice to:

Denver City Attorney's Office  
1437 Bannock St., Room 353  
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

**21. NO EMPLOYMENT OF A WORKER WITHOUT AUTHORIZATION TO PERFORM WORK UNDER THE AGREEMENT**

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

**21.2.** The Contractor certifies that:

**21.2.1.** 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, nor will it knowingly employ or contract with a worker without authorization to perform work under this Agreement in the future.

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

**21.2.3.** It will not enter into a contract with a subconsultant or subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

**21.2.4.** It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this 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.

**21.2.5.** If it obtains actual knowledge that a subconsultant or subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor 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 the 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.

**21.2.6.** It will comply with a 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.

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

**22. DISPUTES:** All disputes between the City and the Contractor 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.

**23. GOVERNING LAW; VENUE:** The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

**24. NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under the Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts.

- 25. NO DISCRIMINATION IN PROGRAM ASSISTANCE:** In connection with the performance of work under the Agreement, the Contractor may not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts.
- 26. FAITH BASED ORGANIZATIONS AND SECTARIAN ACTIVITIES:** The Contractor shall not engage in inherently religious activities, such as worship, religious instruction, or proselytizing as part of the programs or services funded under this Agreement.
- 27. COMPLIANCE WITH ALL LAWS:** The Contractor shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.
- 28. LEGAL AUTHORITY:** The Contractor represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into the Agreement. Each person signing and executing the Agreement on behalf of the Contractor represents and warrants that he has been fully authorized by the Contractor to execute the Agreement on behalf of the Contractor and to validly and legally bind the Contractor to all the terms, performances and provisions of the Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of either the Contractor or the person signing the Agreement to enter into the Agreement.
- 29. 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.
- 30. ORDER OF PRECEDENCE:** In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.
- 31. INTELLECTUAL PROPERTY RIGHTS:** The City and the Contractor intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, URLs, domain names, music, sketches, web pages, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Contractor and paid for by the City pursuant to this Agreement,

in preliminary or final form and on any media whatsoever (collectively, “Materials”), shall belong to the City. The Contractor shall disclose all such items to the City and shall assign such rights over to the City upon completion of the Project. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, *et seq.*, the Materials are a “work made for hire” and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a “work made for hire,” the Contractor (by this Agreement) sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such rights in perpetuity. The City and Contractor agree that all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, URLs, domain names, music, sketches, web pages, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information of Contractor made available, directly or indirectly, by Contractor to City as part of the Scope of Services, are the exclusive property of Contractor or the third parties from whom Contractor has secured the rights to use such product. The Contractor Materials, processes, methods and services shall at all times remain the property of the Contractor; however, the Contractor hereby grants to the City a nonexclusive, royalty free, perpetual and irrevocable license to use the Contractor Materials. The Contractor shall mark or identify all such Contractor Materials to the City.

- 32. 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, the Contractor’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.
- 33. ADVERTISING AND PUBLIC DISCLOSURE:** The Contractor shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of the Contractor’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. The Contractor 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.

### **34. CONFIDENTIAL INFORMATION**

**34.1. City Information:** The Contractor acknowledges and accepts that, in performance of all work under the terms of this Agreement, the Contractor may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. The Contractor agrees that all Proprietary Data, confidential information or any other data or information provided or otherwise disclosed by the City to the Contractor shall be held in confidence and used only in the performance of its obligations under this Agreement. The Contractor shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent contractor would to protect its own proprietary or confidential data. "Proprietary Data" shall mean any materials or information which may be designated or marked "Proprietary" or "Confidential," or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance and provided or made available to the Contractor by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

### **34.2. Use and Protection of Proprietary Data or Confidential Information**

**34.2.1.** Except as expressly provided by the terms of this Agreement, the Contractor agrees that it shall not disseminate, transmit, license, sublicense, assign, lease, release, publish, post on the internet, transfer, sell, permit access to, distribute, allow interactive rights to, or otherwise make available any data, including Proprietary Data or confidential information or any part thereof to any other person, party or entity in any form of media for any purpose other than performing its obligations under this Agreement. The Contractor further acknowledges that by providing data, Proprietary Data or confidential information, the City is not granting to the Contractor any right or license to use such data except as provided in this Agreement. The Contractor further agrees not to disclose or distribute to any other party, in whole or in part, the data, Proprietary Data or confidential information without written authorization from the Executive Director and will immediately notify the City if any information of the City is requested from the Contractor from a third party.

**34.2.2.** The Contractor agrees, with respect to the Proprietary Data and confidential information, that: (1) the Contractor shall not copy, recreate, reverse engineer or decompile such data, in

whole or in part, unless authorized in writing by the Executive Director; (2) the Contractor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; and (3) the Contractor shall, upon the expiration or earlier termination of the Agreement, destroy (and, in writing, certify destruction) or return all such data or work products incorporating such data or information to the City.

**34.2.3.** The Contractor shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted data received from, or on behalf of City. It is the responsibility of the Contractor to ensure that all possible measures have been taken to secure the computers or any other storage devices used for City data. This includes industry accepted firewalls, up-to-date anti-virus software, controlled access to the physical location of the hardware itself.

**34.3.** **Employees and Subcontractor**: The Contractor will inform its employees and officers of the obligations under this Agreement, and all requirements and obligations of the Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement. The Contractor shall not disclose Proprietary Data or confidential information to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality provisions at least as strict as those contained in this Agreement.

**34.4.** **Disclaimer**: Notwithstanding any other provision of this Agreement, the City is furnishing Proprietary Data and confidential information on an “as is” basis, without any support whatsoever, and without representation, warranty or guarantee, including but not in any manner limited to, fitness, merchantability or the accuracy and completeness of the Proprietary Data or confidential information. The Contractor is hereby advised to verify its work. The City assumes no liability for any errors or omissions herein. Specifically, the City is not responsible for any costs including, but not limited to, those incurred as a result of lost revenues, loss of use of data, the costs of recovering such programs or data, the cost of any substitute program, claims by third parties, or for similar costs. If discrepancies are found, the Contractor agrees to contact the City immediately.

**34.5.** **Contractor’s Confidential Information; Open Records**: If the City is furnished with proprietary data or confidential information that may be owned or controlled by Contractor (“Contractor’s Confidential Information”), the City will endeavor, to the extent provided by law, to comply with the requirements provided by the Contractor concerning the Contractor’s

Confidential Information. However, the Contractor understands that all the material provided or produced by the Contractor under this Agreement may be subject to the Colorado Open Records Act., § 24-72-201, *et seq.*, C.R.S. In the event of a request to the City for disclosure of such information, the City will advise the Contractor of such request in order to give the Contractor the opportunity to object to the disclosure of any of it's the Contractor Confidential Information and take necessary legal recourse. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Contractor agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. The Contractor further agrees to defend, indemnify, save, and hold harmless the City from any Claims arising out of the Contractor's intervention to protect and assert its claim of privilege against disclosure under this section including, without limitation, prompt reimbursement to the City of all reasonable attorneys' fees, costs, and damages that the City may incur directly or may be ordered to pay by such court.

### **35. DATA PROTECTION**

**35.1.** The Contractor shall ensure that all City data, information, and records, regardless of form, in the Contractor's possession are protected and handled in accordance with the requirements of this Agreement and any exhibits or attachments, City policies, and applicable laws. If the Contractor or any of its subcontractors receives the following types of data, the Contractor or its subcontractors shall provide for the security of such data according to the following: (i) the most recently promulgated IRS Publication 1075 for all tax information and in accordance with the Safeguarding Requirements for Federal Tax Information, attached to this Agreement as an exhibit if applicable; (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI; (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all criminal justice information (CJI); (iv) the Colorado Consumer Protection Act, (v) the Children's Online Privacy Protection Act (COPPA); (vi) the Family Education Rights and Privacy Act (FERPA); (vii) C.R.S. § 24-73-101, *et seq.*; (viii) the Telecommunications Industry Association (TIA) Telecommunications Infrastructure Standard for Data Centers (TIA-942); (ix) the Fair Credit Reporting Act (FCRA); and (x) the federal Health Insurance Portability and Accountability Act for all protected health information (PHI) and in accordance with the HIPAA Business Associate Terms attached to this Agreement, if applicable. The Contractor shall



immediately forward any request or demand for City information or records to the notice addresses contained herein.

**35.2.** If the Contractor receives personal identifying information (“PII”) under this Agreement, the Contractor shall implement and maintain reasonable written security procedures and practices that are appropriate to the nature of the PII and the nature and size of the Contractor’s business and its operations. The Contractor shall be a “Third-Party Service Provider” as defined in C.R.S § 24-73-103(1)(i) and shall maintain security procedures and practices consistent with C.R.S §§ 24-73-101 *et seq.* Unless the Contractor agrees to provide its own security protections for the information it discloses, the Contractor shall require all its subcontractors, employees, agents, and assigns to implement and maintain reasonable written security procedures and practices that are appropriate to the nature of the PII disclosed and reasonably designed to help protect the PII subject to this Agreement from unauthorized access, use, modification, disclosure, or destruction. The Contractor and its subcontractors, employees, agents, and assigns that maintain electronic or paper documents that contain PII under this Agreement shall develop a written policy for the destruction of such records by shredding, erasing, or otherwise modifying the PII to make it unreadable or indecipherable when the records are no longer needed.

**36. DATA ACCESS FOR COLLECTING AND STORING CITY DATA:**

**36.1.** Contractor shall provide permission to approved City analysts for access to Contractor’s server storing City data in relational database form. Contractor shall provide a fully developed data dictionary and relational database structure map. Every City datapoint stored in Contractor’s system shall be accessible to City analysts.

**36.2.** At a minimum, and upon request of the City, the Contractor shall regularly upload all new City records from all tables in tabular (rows and columns) form to a Secure File Transfer Protocol (SFTP) location accessible to the City. Contractor shall provide data on a frequent basis, minimally every twenty-four hours. Contractor shall provide data with a simple schema (ideally tab- or comma-delimited files) and instructions for populating them to a City server and database. Contractor shall provide a fully developed data dictionary and relational database structure map.

**37. CITY EXECUTION OF AGREEMENT:** The Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

- 38. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS:** The Agreement is the complete integration of all understandings between the Parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.
- 39. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:** The Contractor shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.
- 40. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** The Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature under the Agreement, 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.
- 41. PAYMENT OF CITY MINIMUM WAGE:** Contractor shall comply with, and agrees to be bound by, all requirements, conditions, and City determinations regarding the City’s Minimum Wage Ordinance, Sections 20-82 through 20-84 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid no less than the City Minimum Wage in accordance with the foregoing D.R.M.C. Sections. By executing this Agreement, Contractor expressly acknowledges that Contractor is aware of the requirements of the City’s Minimum Wage Ordinance and that any failure by Contractor, or any other individual or entity acting subject to this Agreement, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.”

## **Exhibits**

### **Exhibit A - Scope of Work**

**Exhibit B - Certificate of Insurance**

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

**Contract Control Number:** HRCRS-202160568-00  
**Contractor Name:** ENERGY RESOURCE CENTER

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:**

HRCRS-202160568-00  
ENERGY RESOURCE CENTER

By:   
UB0882216E9C4B5...

Name: Charlie Sanchez  
(please print)

Title: Program Director  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

## EXHIBIT A

# 2022-2024 RESIDENTIAL AND NONPROFIT ENERGY EFFICIENCY SERVICES- HRCP2021-RFP01

## SCOPE OF WORK

### OVERVIEW

Vendor Information	
Organization Name:	Energy Resource Center
Contact Person:	Charles Sanchez
Physical Address:	953 Decatur Street
Phone:	720-236-1331
Email:	charlies@erc-co.org

**Contract Term: January 1, 2022 to December 31, 2024**

**Contract Amount: \$1,050,000.00**

**Project/Program/Work Narrative:** (Two to three paragraphs of what agreement is for)

1. **Work Narrative/Scope:** Over the next three-year grant cycle, Energy Resource Center (ERC) plans to conduct weatherization services in the form of comprehensive energy audits and home energy improvements to an estimated 240 Denver area residences per year (720 over the life of the grant) from January 2022 through December 2024. This will lower energy consumption and energy costs for low-income families within the Denver community. The Agency for Human Rights and Community Partnerships funding will leverage existing Colorado Affordable Residential Energy Program funding (CARE) and Weatherization Assistance Program funds (WAP) in the Denver Metro area.

**EXHIBIT A**

During this grant cycle ERC will utilize these dollars to expand outreach and communication with diverse populations within the City and County of Denver. We will extend our wraparound health and safety services approach to create a more impactful and wholistic service for our clients. One of ERC's goals is to eradicate energy waste for groups of people who are disproportionately affected and who might not otherwise be able to realize the benefit of weatherization savings or renewable energies. ERC is focused on including diverse and low-income populations in the conversation and investments in green equity measures.

The overall benefit in this approach is a savings of 25% or more in energy consumption for residents on their utility bills over a 20-year period (or longer) and is at zero cost to these residents. These savings then convert to real dollars that can be used on other life essentials, all while having a positive impact on the environment in the way of carbon emissions savings as well. This contributes to the Denver City and County long-term plans for carbon reduction and environmental sustainability.

**2. Home Energy Efficiency Improvement Measures**

- a. Air Leakage Reduction
- b. Building Shell Insulation
  - i. Attic to R-49 or greater
  - ii. Wall to Dense Packed R-13 or greater
  - iii. Sub Space Floor to R-19 or greater
- c. LED Lighting Upgrades
- d. Pipe and Duct Insulation
  - i. R-5.6 on sub space water lines
  - ii. R-11 on sub space and attic duct runs
- e. High efficiency furnace replacements
- f. Energy Star Rated refrigerator replacement
- g. Beneficial electrification
  - i. Rooftop Photovoltaic renewable energy array
  - ii. Utilization of solar gardens for renewable energy credits on homes that aren't good candidates for rooftop PV installations
  - iii. Heat pump technology for heating systems and water heating
- h. Health and safety measures
  - i. Smoke alarms
  - ii. Carbon detectors
  - iii. Plumbing and electrical repairs associated with efficiency measures
  - iv. Indoor air quality improvements

## EXHIBIT A

## v. Domestic Water Heater (DWH) replacements

**Payment Schedule:**

ERC will provide the D-ONE executed invoice in the required format and expected detail, and include all of the supporting documentation required. D-ONE shall pay ERC on a Net 30 pay scale for services rendered and costs incurred under the agreement set forth in the budget. Amounts billed shall not exceed the budget of \$350,000 per year (\$1,050,000 over the life of the grant) as set forth in grant. D-ONE is not obligated to execute any additional amendments beyond the aforementioned amendment above, and all services performed by ERC beyond the agreement are at ERC's own risk.

Invoices must be submitted for payment no later the 15th of every month, for the prior month's billing.

All annual expenses must be billed no later than January 15th of the following year.

**Location of Services**

Physical Address: ERC, 953 Decatur Street, Denver, CO 80204

**Neighborhood(s) Served** (See map: <https://www.denvergov.org/maps/map/neighborhoods>):

**Council District Served** (See map: <https://www.denvergov.org/maps/map/councildistricts>):

OR

Check if Citywide

**Program Description:** (Narrative mission, vision, history, description of what the funds aim to achieve)

Energy Resource Center's (ERC) mission is to improve home energy efficiency, conserve energy, promote health, increase comfort and expand quality of life for **every** Coloradan. ERC is



**EXHIBIT A**

focused on eliminating energy waste in Colorado's low-income housing stock and we have been advancing this mission to Colorado low-income households since 1979. ERC has a 40+ year track record of providing quality and professional energy savings services and is well known in the Colorado residential energy efficiency field. ERC currently has four offices (Alamosa, Colorado Springs, Denver and Loveland) and is a Weatherization Assistance Program (WAP) provider in 27 of Colorado's 64 counties. ERC has been a WAP provider in the Denver Metro area since 2014. Currently, ERC collaborates with multiple entities to fulfill our mission and deliver our services to qualifying residents. Some of ERC's partners include the U.S. Department of Energy (DOE) and the Colorado Energy Office (CEO) which provide the Weatherization Assistance Program (WAP), Energy Outreach Colorado (EOC) which provides Colorado Affordable Residential Energy (CARE) and the Colorado Department of Human Services (DHS) which provides the low-income Energy Assistance Program (LIHEAP) funding that pays for the Crises Intervention Program (CIP). In Denver, ERC also partners with GRID Alternatives (GRID), Groundwork Denver, The NextFifty Initiative, The Denver Foundation, Colorado Housing and Finance Authority (CHFA), local governments and utility providers who help fund energy efficiency programs throughout our service area.

ERC delivers services to Denver residents through three primary programs: WAP, CARE and CIP. The CIP program is a heating emergency program run by DHS and administered by Energy Outreach Colorado (EOC). ERC provides no-cost heating system repair and replacements for LEAP qualifying customers that are paid through Federal and State LIHEAP funding. The WAP program (Funded by the State of Colorado Energy Office with a per unit average of \$9,247) allows ERC to provide comprehensive weatherization services to households at or below 200% of the Federal Poverty Limit (FPL). The CARE program household eligibility marker is 80% of Area Median Income (AMI) and is funded by Energy Outreach Colorado and Xcel Energy's low-income demand side management rebates (at an average cost with all health and safety measures of a PUA of \$4,200). Both of these programs provide extensive in-depth site-specific energy audits, energy modeling and prioritization of cost-effective energy measures. ERC also repairs or replaces all combustion appliances that have health and safety issues per DOE or local guidelines, whichever are more stringent. ERC performs all measures for both programs following the DOE Standard Work Specification guideline and have all jobs inspected by a Building Performance Institute (BPI) certified Quality Assurance (QA) Inspector. Ten percent of all WAP funded jobs have a Colorado State QA inspection for quality and subsequent guideline regulation. Measured services include air sealing, attic, wall and subspace insulation, refrigerator replacements, lighting upgrades, water conservation measures, heating replacements, heat pump domestic water heater and furnace upgrades, photovoltaic (PV) solar installations, attic re-wiring, electrical panel upgrade for PV systems and more.

## EXHIBIT A

Over ERC's 40+ years of delivering energy solutions for Colorado low-income residents, ERC has consistently met or exceeded the DOE and the CEO's budgetary performance expectations and goals and has successfully created partnerships that leverage dollars and stretch ERC's budget. This year it is anticipated that D-ONE funding will be leveraged against more than \$11.2 million dollars in federal, state, local and private funding that will serve more than 1,700 households across our service territory. Specifically, D-ONE funding will leverage dollars against \$2.714 million (this is two thirds of the 4,071,760.21 ERC Metro Office budget, roughly 1/3 goes to Jefferson County) which will serve approximately 240 homes in the City and County of Denver in ERC's 2021-2022 fiscal year.

**Program Services:** (Program specifics (be detailed here. Include target population, location and demographic service area, detailed schedule)

Metro Denver and surrounding areas are experiencing increasingly high rental and home purchase prices in all neighborhoods. ERC is poised to maximize energy efficiency savings which will financially impact those at or below 200% of the Federal Poverty Level. ERC recognizes that more than 28,000 residents in Denver County are financially eligible for WAP services and that many are paying more than 14% of their monthly income on utility-based payments. Financially stable residents are only paying out 3 to 4% of their monthly income on the same expenses. Therefore, ERC will focus on all Denver area zip codes that typically have schools in low-income focal points as defined by Denver Public Schools (DPS) or have housing that is 40+ years old and are typically high energy users. Homes in these areas are not likely to have ever been upgraded with energy efficiency measures. In addition, ERC focuses on the over age 65 population, people with disabilities and households with children under age five. ERC is continuously working on plans to engage diverse populations in the Denver area.

### **Plan to increase services to more diverse populations**

The coronavirus has focused attention on the racial, social, economic and medical disparities and inequities across the country and has contributed to an increased need for ERC services in Colorado. It is widely documented that low-income people are likely to experience energy poverty, live in the most compromised housing stock in a community, are people of color and may require need for additional social support services and financial assistance.

Serving qualifying low-income clients from all backgrounds and circumstances without discrimination has always been ERC's policy and practice. ERC engages in targeted neighborhood outreach efforts and is developing relationships with trusted partners and community organizers from within these neighborhoods with the most need in Denver County.

## EXHIBIT A

Some future examples that ERC plans to implement in 2022, which will extend through the three-year D-ONE contract, is to engage with the leadership at the Denver Senior Resource Center as well as the Denver Regional Council of Government to have access to a large diverse population of Denver senior citizens, as well as citizens with disabilities, in an attempt for ERC to share the wide array of energy efficiency services our program provides. Additionally, ERC will communicate to these groups the benefit of the Low-Income Energy Assistance Program (LEAP) bill payment assistance as well as the Crises Intervention Program, both of which are offerings set forth by having LEAP benefits. ERC also plans to help the program providers navigate the LEAP application process and provide information about the LEAP call center to enable the beneficiary to access a knowledgeable network of individuals to help them navigate these services. As this becomes a solidified network for engaging these groups, ERC will expand those efforts to additional program providers of other diverse groups such as these.

ERC is actively recruiting board members from historically under-represented, diverse populations in order to better reflect the communities we serve.

ERC received funds from the NextFifty Initiative recently specifically to build capacity to serve Metro Denver residents age 50 and older.

ERC is committed to participating in Supplemental Environmental Projects (SEP) which often reflect extreme examples of racial inequity, whenever possible. In years past, ERC has been a part of neighborhood revitalization efforts utilizing SEP grants in the Globeville, Elyria-Swansea districts and recently we engaged in Commerce City and Jefferson County actions.

A Rocky Mountain Institute, 8/20 article, states: "Low-income residents... pay a higher percentage of their income on energy costs than higher-income residents. And the very lowest income bands, which have higher energy burdens, are disproportionately Black. Thus, weatherization through programs like WAP improves racial and income equity... and can also improve health equity... can help counteract the impact of the variety of factors that have contributed to racial and economic inequities such as residential segregation, economic burdens and extreme weather and climate impacts due to substandard housing."

### **Plan to increase LEAP eligibility**

ERC Denver refers prospects and clients to LEAP for utility bill payment assistance on a regular basis if they are not already receiving these benefits. In addition to this, ERC plans to connect and communicate with a more diverse population through educational efforts such as reaching out to the Denver Senior Resource Center and the Denver Regional Council of Governments to help direct these populations who are typically constricted by fixed incomes for these beneficial funds that assist utility payments. Additionally, ERC has plans to expand our messaging to several other Denver based community groups such as The Center for African American Health,

## EXHIBIT A

the Latino Community Foundation and more. With this focus, ERC will include LEAP information that is complementary to our services on our social media, in e-newsletters and on our website, LEAP benefits pamphlets and so on. ERC would also be happy to facilitate a meeting with Ms. Theresa Kullen, LIHEAP Manager, Energy Assistance Division, Colorado Department of Human Services, Denver One and other interested parties to discuss ideas regarding increasing Denver resident participation in the LEAP program, should this be of interest.

### **Program Goals/Outcomes: (Please detail your evaluation plan)**

Total Dollars Approved	Total number of households to be served	Total number of households to be audited	Total number of households: Energy Efficiency Upgraded	2022 average <b>estimated</b> D-ONE cost per household with both WAP and CARE combined
1,050,000	720	720	720	\$1,459
Total <b>Estimated</b> Energy Savings: KWh over the life of the grant	Total <b>Estimated</b> Energy Savings: Therms over the life of the grant	Total <b>Estimated</b> Annual Dollars Savings per Households \$1/therm, \$.11 /KWh	Total Funds Leveraged for 2022 (Denver Allocation)	Dollar savings for nonenergy benefits (Xcel Annual Savings%)  Education on 100 jobs
1,387,314	536,239.8	\$48,969.84	\$3,629,793	\$24,484.92/ \$12,400

ERC is driven to eradicate energy waste in dwellings that are occupied by the most vulnerable populations in Colorado, and over the next several years hope to expand our provided services on a larger scale. ERC's plan is to clearly record the number of audits, households served and demonstrate the energy savings and carbon reductions we provide for the city with real data driven Therm and KWh savings data that will be collected on measures and reported to D-ONE quarterly (March, June, September, January 20<sup>th</sup>) using a tracking document designated by D-ONE to capture these data points. Additionally, through ERC's multiple cloud-based data collection and reporting systems (Salesforce system reporting for the Colorado weatherization programs, Salesforce and Hancock reporting for Energy Outreach Colorado's energy efficiency programs, ERC's FileMaker client and job data software), ERC has the ability to calculate and report on any data points as requested by D-ONE. ERC also has the ability to demonstrate cost

## EXHIBIT A

effectiveness through the National Energy Audit Tool (NEAT) or Mobile Home Energy Audit (MHEA) home energy assessment tools on all Colorado Energy Office funded jobs.

**Budget/Budget Narrative:**

***Program Budget/Budget Narrative:*** (Please use the table below or copy and paste your budget into this section.)

**Summary:** This proposal is built to directly leverage dollars against two programs that ERC successfully operates in the Denver area currently. ERC plans to offset \$1663 of direct costs per job under our WAP contract, and an average of 75% of total operations cost under our CARE program grant until the grant is exhausted for the year. This D-ONE allocation of \$350,000.00 a year to ERC represents approximately 7.83% of ERC's existing resources to deliver nearly identical services in Denver. The 7.83% of Denver's resources equates to just under 3% of ERC's total overall budget. 3% of ERC's operating costs by category have been re-allocated back into our program.

Additionally as a note, Denver ONE Grant dollars help to create an even larger impact as a cascading effect in reference to funding and nonprofit partnerships that are bridging services to the same client base. For example, in this case, ERC's D-ONE funding is leveraged against the Colorado Affordable Residential Energy program grant (CARE), which ERC provides to Denver area residents. The administrator of the program is Energy Outreach Colorado (EOC) who is also trying to stretch CARE program dollars to create these same services throughout the entire state, helping to bridge gaps, build equity and diversity while enveloping others with the same needs in far reaching parts of the state. Our D-ONE leveraged funds allow EOC more flexibility with their funding due to the savings we can provide to them and it impacts more clients throughout the entire state because through more service dollars available. Ultimately, this is the City and County of Denver having a larger impact state wide!

<p><b>1. <u>Technology Training</u></b>-(Please provide a narrative)</p> <p>Energy Resource Center spends a nominal amount of funding yearly on technology training. Most training in this field are an extended service of the Colorado State WAP program, in turn paid by WAP funding outside of our grant. Some technical training has technology training involved (heat pumps, PV Solar, etc.), but ERC has no technology training slated for the 2022 FY currently and its TBD for the following years.</p>	<p>\$0</p>
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## EXHIBIT A

<p><b>2. <u>Consultants</u></b> - (Please provide a narrative)</p> <p>Energy Resource Center utilizes a whole gambit of consultants and contractors to help administratively and technically drive our services, which keeps ERC on the cutting edge of what's new in the world of energy efficiency and functioning at a high level with a clean financial track record. As a 501©3 ERC utilizes two financial auditors to keep tabs on the overall budget for our Board of Directors, but also the innerworkings of our day-to-day operations focusing on inventory P&amp;L.</p> <p>Additionally, in reference to both the technical &amp; administration side of our business, ERC spends a fairly sizable amount of funding on leveraging support, legal, communications, IT services, software support, outreach advertising and social media just to keep the wheels turning. ERC is also very invested in our staff and think it's important to focus on the human interaction, so in turn ERC spends a portion of our yearly budget on life coaches and other mental health support.</p> <p>On the technical side of the business, ERC utilizes asbestos training facilities, Lead paint certifiers, quality control certification bodies, furnace and gas course/ certification providers to name a few and are continually adding more to our repertoire as we see the need to expand our staff's horizons.</p> <p>The dollar amount is the estimated average that will be charged to D-ONE for the 240 jobs in 2022.</p>	<p>\$14,651.36</p>
<p><b>3. <u>Supplies/ Job Materials</u></b> – (Please provide a narrative)</p> <p>All weatherization materials and supplies to provide energy efficiency measures and support administration to complete weatherization services and billing. This encompasses ERC Denver's office supply expenses at 12% as well as all necessary EE direct install goods and materials for administering these services at each of the 240 construction sites throughout the City and County of Denver. Examples of materials being purchased with these funds are 95% forced air furnaces, programmable thermostats, domestic water heaters, cellulose insulation, loose fill fiberglass insulation, various fiberglass batt insulation, duct insulation, refrigerators, Ashrae ceiling fans, pipe insulation, LED lighting to name a few examples.</p> <p>The dollar amount is the estimated average that will be charged to D-ONE for the 240 jobs in 2022.</p>	<p>\$147,580.42</p>
<p><b>4. <u>Operating Expenses</u></b> – (Please provide a narrative)</p>	<p>\$137,465.74</p>

## EXHIBIT A

<p>The operations expenses encompass several categories, the largest of which is ERC’s wages and benefits portion at roughly \$63,599 dollars or just over 18% of the funding granted by D-ONE for these services yearly. Other additional covered costs are general permits and insurance that is necessary to do this work in the Metro area, ERC’s facility costs and utility payments, temporary employment services as needed, PPE and clothing necessary to administer this work, tools of the trade as well as capital equipment &amp; vehicle maintenance costs for the fleet and machinery.</p> <p>The dollar amount is the estimated average that will be charged to D-ONE for the 240 jobs in 2022.</p>	
<p><b>5. <u>Direct Operations- Subcontractors</u></b> – (Please provide a narrative)</p> <p>State wide, ERC’s direct service sub contractor costs are nearly 15% of our overall services, that is no different in the Denver area. Typical housing stock ERC tends to work in is normally older than 40 years and is often in dire need of some repair. Typically, the disrepair is due to the financial situations our clientele finds themselves in.</p> <p>ERC has a wide variety of sub contractors that help update building shell systems so ERC can leave the client with a safe and healthy building envelope. Types of services that are provided are varied but often fall in the categories of: electrical upgrades- attic rewires and Ashrae fans, domestic water heater installations, Major and minor plumbing repairs to stop moisture issues, boiler installations, Insulation measures, air leakage work, building shell repair, etc.. This is varied on each job, but typically one or more of these measures will be done on 85% of all housing stock we serve.</p> <p>The dollar amount is the estimated average that will be charged to D-ONE for the 240 jobs in 2022.</p>	\$50,302.44
<p><b><u>Total</u></b>: Estimate for 2022 Grant Year.</p>	\$349,999.96

### **Data Collection and Reporting**

Vendor agrees to use Xcel Energy calculator provided in D-ONE’s request for proposals (RFP Name: 2022-2024 Residential and Nonprofit Energy Efficiency Services, RFP Number: HRCP2021-RFP01)

Quarterly reports will be required. The Denver Office of Nonprofit Engagement (D-ONE) will provide a standard reporting template. The quarterly report should include the following at minimum:

- Number of Audits;

## EXHIBIT A

- Number of households or units served;
- Number of households or units served at or below 60% SMI and/or 80% of AMI or less (please identify which);
- Dollars/funds Leveraged;
- Estimated kWh saved using Xcel Energy Calculator;
- Estimated Therms saved using Xcel Energy Calculator;
- Annual energy dollar savings using Xcel Energy Calculator;
- Dollars savings for nonenergy benefits using Xcel Energy Calculator (Cost/(energy savings+ energy saving\*50%);
- Number of households/buildings receiving education;
- Percentage of annual goals completed (see tables in Goals section above);
- Other relevant data points/formula at vendor discretion;
- Demographic data (age, race, ethnicity, gender, marital status, income, living with a disability, education level, and employment);
- Annual program reports and final program report shall be submitted to D-ONE within 45 days after the end of the Contract, and;
- Nonenergy benefits

An annual report will be required no later than February 15th of the following year.

A 3-year report will be required no later than February 15th, 2024.

### **Contract Requirements – Agency for Human Rights & Community Partnerships**

- Organization staff may be required to meet with an Agency for Human Rights & Community Partnerships representative to debrief, share lessons learned about the contract/grant process, programming impact, etc.
- Organization shall be reimbursed or paid for services provided under this agreement according to the approved cost allocation budget, attached to and made a part of this Agreement.
- Organization shall follow City and County of Denver Fiscal Rule 8.1, Procurement, which requires that at least three (3) documented quotations be secured for all purchases of services (including insurance), supplies, or other property that costs more than \$5,000.00 in the aggregate.
- All modifications to the services and/or budget that exceeds 5% in change or more to any line item must be preapproved in writing by the Agency for Human Rights & Community Partnerships.





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/2/2021

**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 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).**

<b>PRODUCER</b> AssuredPartners Colorado 101 N Cascade Ave, Suite 410 Colorado Springs CO 80903	<b>CONTACT NAME:</b> Jill Walsh <b>PHONE (A/C, No, Ext):</b> 719-354-4304 <b>E-MAIL ADDRESS:</b> jwalsh@assuredptrco.com <b>FAX (A/C, No):</b> 719-354-4112												
<b>INSURER(S) AFFORDING COVERAGE</b>													
<b>INSURED</b> Energy Resource Center 540 E. Cimarron St. Colorado Springs CO 80903	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">INSURER A : Pinnacol Assurance</td> <td style="width: 20%;">NAIC #</td> </tr> <tr> <td>INSURER B : Philadelphia Indemnity Company</td> <td>41190</td> </tr> <tr> <td>INSURER C : United Fire &amp; Casualty Co</td> <td>18058</td> </tr> <tr> <td>INSURER D : Travelers Casualty And Surety Company</td> <td>13021</td> </tr> <tr> <td>INSURER E :</td> <td>19038</td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER A : Pinnacol Assurance	NAIC #	INSURER B : Philadelphia Indemnity Company	41190	INSURER C : United Fire & Casualty Co	18058	INSURER D : Travelers Casualty And Surety Company	13021	INSURER E :	19038	INSURER F :	
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**COVERAGES** **CERTIFICATE NUMBER: 916515813** **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
C	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y		60514848	4/1/2021	4/1/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
C	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	Y		60514848	4/1/2021	4/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			60514848	4/1/2021	4/1/2022	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ \$
A	<input type="checkbox"/> <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N	1210322	2/1/2021	2/1/2022	<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
D B	Crime Liability Cyber Liability			106498526 PHSD1619488	4/1/2021 4/1/2021	4/1/2022 4/1/2022	Crime Limit 1,000,000 Cyber Limit 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
 Contract Name: 2022-2024 Residential and Nonprofit Energy Efficiency Services Grant  
 Contract Number: HRCP2021-RFP01

As required by contract, the City and County of Denver, its Elected and Appointed Officials, Employees and Volunteers are included as Additional Insured as respects the above referenced General Liability and Business Auto policies if required by written contract.

<b>CERTIFICATE HOLDER</b>  City and County of Denver Denver Office of Nonprofit Engagement 201 W. Colfax Ave Denver CO 80202	<b>CANCELLATION</b>  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 
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