

**SUBAWARD AGREEMENT
BY AND BETWEEN THE**

DENVER REGIONAL COUNCIL OF GOVERNMENTS

1001 17th Street, Suite 700
Denver, Colorado 80202
("DRCOG")

and

CITY AND COUNTY OF DENVER

201 West Colfax Avenue
Denver, Colorado 80202
("Subrecipient/Contractor")

Project Number: 704024

Agreement Number EX25043

Subrecipient's Unique Entity Identifier in SAM: JHZYLXQAKY33

Federal Award Identification Number: 00118200

CFDA Number: 66.046 – Climate Pollution Reduction Grant

EPA Award Date: 10/10/2024

This Agreement ("Agreement") is made by and between the Denver Regional Council of Governments ("DRCOG") and City and County of Denver ("Subrecipient").

RECITALS

- A. Subrecipient is also identified as "Contractor" in this Agreement which has been funded with an award of Federal funds from the Climate Pollution Reduction Grant from the Environmental Protection Agency (EPA) to design and implement greenhouse gas (GHG) reduction programs, policies, projects, and measures identified in a Prior Climate Action Plan (PCAP) through four main objectives: implementation of ambitious measures that will achieve significant cumulative GHG reductions by 2030 and beyond; pursuit of measures that will achieve substantial community benefits, particularly in low-income and disadvantaged communities; complementing other funding sources to maximize these GHG reductions and community benefits; and pursuit of innovative policies and programs that are replicable and can be scaled up across multiple jurisdictions (the "Project").
- B. DRCOG desires to engage the Subrecipient for the purpose of providing services related to the Project as further described herein (the "Services").
- C. The Subrecipient represents that it has the special expertise, qualifications and the background necessary to complete the Services.

TERMS

1. Scope of Services

The Subrecipient agrees to provide the specific Services and to perform the specific tasks, duties and responsibilities set forth in Scope of Services attached hereto as **Exhibit A** and incorporated herein by reference. Subrecipient shall furnish all tools, labor and supplies in such quantities and of the proper quality as are necessary to professionally and timely perform the Services. In its sole discretion, DRCOG may contract with other subrecipients to provide the same or similar services during the term of this Agreement.

2. Term

The term of this Agreement shall commence upon execution and shall end September 14, 2029. No work shall commence and no costs shall be incurred prior to the execution of this Agreement, as reflected by the execution date herein.

This Agreement may be terminated as follows:

2.1 Termination of Agreement for Cause

If through any cause, the Subrecipient shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Subrecipient shall violate any of the covenants, agreements, or stipulations of this Agreement, DRCOG shall thereupon have the right to terminate this Agreement by giving written notice to the Subrecipient of such termination. This notice will: (1) specify in reasonable detail the nature of the breach; (2) provide the Subrecipient with an opportunity to cure, which must be requested in writing no less than 14 days from the date of the Termination Notice; and (3) shall specify the effective date of termination in the event the Subrecipient fails to correct the breach. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of DRCOG, become its property, and subject to DRCOG's right of setoff, the Subrecipient shall be entitled to receive compensation for any satisfactory work completed on such documents or other materials which were completed to the satisfaction of DRCOG. Notwithstanding the above, the Subrecipient shall not be relieved of liability to DRCOG for any damages sustained by DRCOG by virtue of any breach of the Agreement by the Subrecipient, and DRCOG may withhold all payments to the Subrecipient for the purpose of setoff for damages due DRCOG.

2.2 Termination for Convenience of DRCOG

DRCOG and Subrecipient may terminate this Agreement at any time by giving 30 days written notice to the Subrecipient of such termination. If the Agreement is terminated by DRCOG as provided herein, the Subrecipient will be paid for services satisfactorily rendered through the date of termination in accordance with the tasks and rates set forth in **Exhibit B**.

2.3 Termination Due to Loss of Funding

The parties hereto expressly recognize that the Subrecipient is to be paid, reimbursed, or otherwise compensated with funds provided to DRCOG for the purpose of contracting for the services provided for herein. Therefore, the Subrecipient expressly understands and agrees that all its rights, demands, and claims to compensation arising under this Agreement are contingent upon receipt of such funds by DRCOG. In the event that such funds or any part thereof are not received by DRCOG, DRCOG may immediately terminate this Agreement without liability, including costs for termination.

3. Payment.

3.1 Payment Amount

The total cost of the Agreement shall not exceed Two Million Dollars (\$2,000,000.00). The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Subrecipient's efforts, including but not limited to salaries, benefits, overhead, administration, profits, and expenses. Services cannot commence prior to an executed contract.

3.2 Invoices and Payment

- a. DRCOG shall pay the Subrecipient in the amounts and in accordance with the project budget attached hereto as Exhibit B and incorporated herein by reference.
- b. Reimbursement Requests. Contractor shall submit a reimbursement request in a form prescribed by DRCOG. Such report and request shall be filed on or before the fifteenth day of the month following the month in which services are provided, throughout the term of the Contract. If the fifteenth of the month falls on a holiday or weekend, then submissions shall be due the business day prior to the fifteenth. Failure to submit the monthly reimbursement request by the fifteenth day of the following month will delay processing of payments until the next calendar month. Final billing on the Agreement must be received within 30 days after the end of the Agreement term. Contractor is responsible for the timely filing, completeness and accuracy of all reimbursement requests. All payments are subject to verification by DRCOG. DRCOG agrees to reimburse Contractor via Electronic Funds Transfer (EFT) (Attachment B) into the bank account designated by Contractor upon approval of reimbursement request during regularly scheduled payment cycles.
- c. DRCOG pays on a Net 30 following receipt of invoices, so long as the amount invoiced correctly represents Work completed by Subrecipient and is approved by DRCOG's Program Manager. If it is determined that the amount of any invoice is not correct, then Subrecipient shall make all changes necessary to correct the invoice. The acceptance of an invoice shall not constitute acceptance of any Work performed or Deliverables provided under this Agreement.
- d. DRCOG agrees to pay Subrecipient each month into the bank account designated by Subrecipient via Electronic Funds Transfer (EFT) upon approval of invoices during regularly scheduled payment cycles (5th and the 20th).

4. Allowable Costs

Subrecipient shall only be reimbursed for costs incurred for the performance of this Agreement which are determined by DRCOG to be allowable, allocable, and reasonable in accordance with the following Federal cost principles, as from time to time amended:

1. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Parts 200 and 1500.
2. 2 CFR 200.216 concerning the prohibition on certain telecommunications and video surveillance service equipment or services.
3. Expenses shall not exceed U.S. General Services Administration ("GSA") per diem rates available at: <http://www.gsa.gov/portal/content/104877>.
4. Air travel must be pre-approved by DRCOG. All air travel must be at the lowest, reasonably available coach fare. First class or business class travel is not authorized

5. Use of Funds

Subrecipient shall use funds only for eligible costs identified herein and/or in the project budget (**Exhibit B**). Subrecipient may adjust budgeted expenditure amounts up to 10% between line items of said Budget without approval of DRCOG. Budget line item adjustments exceeding 10% must be submitted in advance of actual expenditure and receive written approval by DRCOG's Administration and Finance Director. Approval may be transmitted informally by email or such other means that does not rise to the level of an amendment to this Agreement. Budget adjustments shall not increase DRCOG's total consideration beyond the maximum amounts designated in Section 3 without an amendment to this Agreement.

6. Assurances.

In addition to all other obligations contained herein, Subrecipient agrees: (a) to proceed with diligence and promptness and to perform the Services in accordance with the prevailing standard of practice normally exercised in the performance of services of a similar nature in the Denver metropolitan area; and (b) to comply, at its own expense, with the provisions of all state, local and federal laws, regulations, ordinances, requirements and codes which are applicable to the performance of the Services hereunder or to Subrecipient as an employer.

7. Inspection and Audit.

DRCOG and its duly authorized representatives shall have access to any books, documents, papers, and records of the Subrecipient that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

8. Colorado Governmental Immunity Act.

If the Subrecipient is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS 24-72-200.1, et seq., as amended ("Act"), Subrecipient assumes

responsibility for the actions and omissions of its agents and its employees in the performance or failure to perform under this Agreement. By agreeing to this provision, Subrecipient does not waive or intend to waive the limitations on liability which are provided to the Subrecipient under the Act.

9. Insurance.

- A. Subrecipient shall procure and maintain and shall cause each subrecipient hired by Subrecipient to perform services under this Agreement to procure and maintain, the minimum insurance coverages listed below. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by Subrecipient pursuant to this Agreement. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured by Subrecipient to maintain such continuous coverage:
 1. Workers' Compensation in statutory limits.
 2. Employer's Liability Insurance: \$100,000/ each accident, \$500,000/ disease - policy limit, and \$100,000/ disease - each employee.
 3. Comprehensive General Liability Insurance: \$1,000,000/ Occurrence
 4. Automobile Liability or Hired & Non-Owned Vehicle Liability Insurance: \$1,000,000/each accident.
 5. Professional Liability Insurance: \$1,000,000/Claim.
 6. Security & Privacy Liability or Cyber Risk insurance: \$1,000,00/ Occurrence
- B. DRCOG, its officers and employees are to be named as additional insured for both the Subrecipient's General and Automobile Liability policies under sections Certificate Holder and Description of Operations. In addition, the term of said Agreement and the Agreement number must be outlined under the Description of Operations.
- C. All coverages shall be continuously maintained from the date of commencement of Services hereunder, and in the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured by the Subrecipient so as to maintain such continuous coverage. The Subrecipient shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. All insurance policies required hereunder shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against DRCOG, its agencies, institutions, organizations, officers, agents, employees and volunteers.
- D. The insurance company shall endeavor to notify DRCOG of any cancellation of the insurance policy with 30 days' notice.
- E. The Subrecipient shall provide certificates showing adequate insurance coverage, as required above to DRCOG with the signed Agreement. Subrecipient shall deliver to DRCOG certificates of insurance evidencing renewals thereof. Upon request by DRCOG at any other time during the term of this Agreement, Subrecipient, shall, within 10 days of such request supply to DRCOG evidence satisfactory to DRCOG of compliance with the provisions of this Section.

F. If the Subrecipient is a “public entity” within the meaning of the Colorado Governmental Immunity Act, CRS 24-72-200.1, et seq., as amended (“Act”), the Subrecipient shall at all times during the term of this Agreement maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act.

10. Equal Employment Opportunity.

Subrecipient will not discriminate against any employee or applicant for employment because of any status protected by applicable federal, state or local law. Subrecipient will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to any status protected by applicable federal, state or local law. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.

Subrecipient shall comply with the appropriate areas of the Americans with Disabilities Act of 1990 as enacted and from time to time amended.

The parties hereby incorporate the requirements of 41 C.F.R. § 60-1.4(a) and 29 C.F.R. § 471, Appendix A to Subpart A, if applicable.

This Subrecipient and subcontractors/subrecipients shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), if applicable. These regulations prohibit discrimination against qualified protected veterans and qualified individuals with disabilities and require affirmative action by covered prime recipients and subcontractors/subrecipients to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.

11. Assignment.

This Agreement shall not be assigned by Subrecipient without the prior written consent of DRCOG.

12. Rights In Data, Documents, and Computer Software.

12.1 Deliverables.

Subrecipient agrees to provide to DRCOG a royalty-free, non-exclusive and irrevocable license to reproduce publish or otherwise use and to authorize others to use any software, research, reports, studies, estimates, data, photographs, negatives or other documents, plans, drawings, memoranda, computation sheets or materials prepared by the Subrecipient in the performance of its obligations under this contract (the “Deliverables”), for the purpose of DRCOG. The Subrecipient shall deliver all Deliverables

to DRCOG at no further expense to DRCOG upon completion, termination, or cancellation of this contract.

12.2 Exclusive Property of DRCOG.

Any software (including source code), research, reports, proposals, studies, estimates, data, photographs, negatives or other documents, plans, drawings, memoranda, ideas, concepts, know-how, computation sheets or materials, and information provided by or on behalf of DRCOG to the Subrecipient (collectively "DRCOG Materials") are the exclusive property of DRCOG and all such materials shall be delivered by the Subrecipient to DRCOG at no further expense to DRCOG upon completion, termination, or cancellation of this contract. Subrecipient shall not use, willingly allow, cause or permit DRCOG Materials to be used for any purpose other than the performance of Subrecipient's obligations under this contract without the prior written consent of DRCOG.

12.3 Exclusive Property of Subrecipient.

Subrecipient retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Subrecipient including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Subrecipient under this contract, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Subrecipient Property"). Subrecipient Property shall be licensed to DRCOG as set forth in subsection 12.1, above, or by separate license agreement: (i) entered into as an exhibit to this Agreement, (ii) obtained by DRCOG from the applicable third-party vendor, or (iii) in the case of open-source software, the license terms set forth in the applicable open-source license agreement.

12.4 Intellectual Property Indemnification.

To the extent permitted by law, Subrecipient agrees to indemnify, save, and hold harmless DRCOG against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorney fees and costs) incurred by DRCOG in relation to any claim that any Service, Deliverable, or software provided by Subrecipient under this Agreement, or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. If any Service, Deliverable, or software is held to infringe and the use thereof is enjoined or restrained or, if as a result of a settlement or compromise, such use is materially adversely restricted, Subrecipient shall, at its own expense, either: (i) procure for DRCOG the right to continue to use the Service, Deliverable, or software; (ii) modify the Service, Deliverable, or software to make it non-infringing, provided that such modification does not materially adversely affect DRCOG's authorized use of the Service, Deliverable, or software; (iii) replace the Service, Deliverable, or software with a functionally equivalent non-infringing program at no additional charge to DRCOG; or (iv) if none of the foregoing alternatives is reasonably available to Subrecipient, either party may terminate this Agreement. Any reference to the "DRCOG" in this Subsection shall be deemed to include officers and employees of the DRCOG.

No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the Contractor of the Colorado Governmental Immunity Act, C.R.S. § 24-

10-101 *et seq.* or the Federal Tort Claims Act, 28 U.S.C. § 2671 *et seq.* as applicable, as now or hereafter amended. The Contractor, by execution of this Contract containing this indemnification clause does not waive the operation of any law concerning the Contractor's ability to indemnify.

13. Performance Reports.

Subrecipient agrees to submit quarterly performance progress reports in accordance with the Subrecipient's Scope of Work to their designated project manager within 30 days following quarter end. Subrecipient also agrees to submit a semi-annual report by the 15th of the month following the 6-month reporting period (i.e. October-March reporting would be due by April 15 and April-September reporting would be due by October 15). DRCOG will include a reporting template. Reporting could include reporting on applicable areas, which may include without limitation: (1) comparison of actual technical progress and milestones achieved during the reporting period to outputs/outcomes and performance measures identified in the Scope of Services; (2) budget update; (3) if necessary, the reasons why any timelines/milestones were missed; (4) community engagement activities conducted in low-income and disadvantaged communities; (5) strategies for mitigating environmental risks; (6) climate resiliency planning, siting, design, and operation; (7) updates to key contacts and/or changes to the roles and responsibilities of key contacts; (8) as applicable, updates regarding which organizations have the authority to implement each measure and the reason(s) for the change(s); (9) as applicable, updates regarding changes to contracts, subgrants, and participant support costs; (10) progress on generating high-quality jobs with a diverse, highly skilled workplace; and (11) summary of anticipated activities for the next period. The deadlines for and forms of such reports shall be determined by DRCOG. Notwithstanding the foregoing, Subrecipient agrees to report adverse conditions that will materially impair Subrecipient's ability to meet the output/outcomes specified in its Scope of Services. Subrecipient agrees to inform DRCOG immediately rather than waiting until the next performance report is due.

14. Quality Assurance (QA) Requirements.

If Subrecipient's service(s) involve the collection, evaluation, or use of environmental data, such activities must comply with DRCOG's Quality Assurance (QA) program as outlined in its [Quality Management Plan](#). Additional details are outlined in **Exhibit D** attached hereto and incorporated herein by this reference.

15. Accessibility.

If the Services include developing or furnishing software, digital content, or electronic and information technology for DRCOG, the Subrecipient agrees that it shall comply with C.R.S. §24-85-101, *et seq.*, the Accessibility Standards for Individuals with a Disability as established by the Office of Information Technology (codified at 8 CCR 1501-11), and Sections 504 and 508 of the Rehabilitation Act (codified at 36 CFR Part 1194).

16. Notice.

Any notice required or permitted by this Agreement shall be in writing and shall be sufficiently given for all purposes if sent by: (a) personal delivery; (b) certified mail or registered mail, postage and fees prepaid, to the address set forth on the first page of this Agreement; or (c) email with read receipt requested to the email address, if any, set forth on the first page of this Agreement. Personally delivered notices are effective upon delivery; mailed notices are effective three (3) business days after mailing; and emailed notices are effective once sent and received. Either party may change their contact information by providing notice to the other party without a formal amendment to this Agreement.

17. Waiver.

A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

18. Governing Law; Venue

This Agreement shall be governed by the laws of the State of Colorado. Venue for any action relating to this Agreement shall be in the City and County of Denver, Colorado and federal district courts for the State of Colorado. Nothing herein shall preclude the parties from mutually agreeing to submit to arbitration or mediation to resolve a dispute arising hereunder.

19. Binding Effect

This Agreement shall inure to the benefit of, and be binding upon, the parties, their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

20. Subcontractors/Subrecipients

Subrecipient may utilize subcontractors/subrecipients to assist with non-specialized works as necessary to complete projects provided that it first submits any proposed subcontractors/subrecipients and the description of their services to DRCOG for approval. DRCOG will not work directly with the subcontractors/subrecipients.

21. Independent Contractor

The Subrecipient is an independent contractor and not an employee of DRCOG. As an independent contractor, Contractor and its employees are not entitled to workers' compensation benefits except as may be provided by the Contractor nor to unemployment insurance benefits unless unemployment compensation coverage is provided by the Contractor or some other entity. The Contractor is obligated to pay all federal and state income tax on any moneys earned or paid pursuant to this contract relationship. The parties agree that the Contractor is free from the direction and control of DRCOG except such control as may be required by any state or federal statute or regulation, and that DRCOG does not require the Contractor to work exclusively for

DRCOG; does not provide tools, training or benefits to the Contractor, and does not dictate the time of performance by the Contractor, except through a completion schedule. Contractor shall not create any indebtedness on behalf of DRCOG.

22. 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 DRCOG and Subrecipient, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other

23. Entire Agreement

This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

24. Debarment, Suspension

By signing this Agreement, the Subrecipient represents that its organization and its principals are not suspended or debarred per federal requirements, including but not limited to 2 C.F.R. Part 180.

25. CORA Disclosure.

To the extent not prohibited by federal law, this Contract and the performance measures and standards under CRS § 24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS § 24-72-200.1, et seq., as may updated.

26. Federal Requirements.

Subrecipient shall at all times during the term of this Agreement strictly adhere to, and comply with, all applicable federal and state laws, and their implementing regulations, as they currently exist and may hereafter be amended, including but not limited to the Federal Award Requirements set forth in Exhibit C, attached hereto and incorporated herein by this reference. Subrecipient shall also require compliance with these statutes and regulations in subcontract/subaward agreements associated with this Agreement. Should any new laws, regulations, certifications or assurances, or other guidance documents be issued by the Federal government which are applicable to this Agreement and which contain language to which the Subrecipient cannot comply, this Agreement may be terminated in accordance with Section 2.2.

27. Certification for Federal-Aid Awards.

This section applies if the amount of this Agreement exceeds \$100,000. Subrecipient, by signing this Agreement, certifies to the best of its knowledge and belief:

- A. No Federal Funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal Funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. Subrecipient shall require that the language of this certification be included in any subcontract exceeding \$100,000 at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

28. Provisions

The parties agree that this Agreement is also subject to the provisions set forth in the Exhibits and Attachments of this Agreement, attached hereto and incorporated herein.

29. Authority

The undersigned signatories of Subrecipient represent that they have been duly authorized to execute this Agreement and have full power and authority to bind Subrecipient to the terms and conditions hereof, and certify that their signatures below, whether handwritten, electronic, or digital or submitted by facsimile or electronic mail are their own. Subrecipient further understands and agrees that no further certification authority or third-party verification is necessary to validate any signature hereto and that the lack of such certification or verification will not in any way affect the enforceability of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the _____ day of _____, 20____ and acknowledge that electronic or digital signatures hereto are the legally binding equivalent to handwritten signatures.

**DENVER REGIONAL COUNCIL
OF GOVERNMENTS**

CITY AND COUNTY OF DENVER

By: _____
Douglas W. Rex, Executive Director

By: _____
Title: _____

ATTEST:

ATTEST:

By: _____
Jenny Hunnings, Director
Administration and Finance

By: _____
Title: _____

Exhibit A Scope of Services

Background

The Denver Regional Council of Governments received a \$199.7 million Climate Pollution Reduction Grant from the Environmental Protection Agency (EPA) to develop a Building Decarbonization Program focused on reducing climate pollution from the building sector. Within this larger program lies the Building Policy Collaborative (BPC), a subprogram designed to support jurisdictions across the region in implementing new, above state minimum building energy codes and performance standards, permitting reform and other building policies.

As a part of this support, the BPC allocated \$34.8 million as formula subawards across all jurisdictions in the DRCOG. The subawards support local jurisdictions by providing funding for new staff capacity, training and professional development related to decarbonization policies, enhancements to permitting processes, technical assistance on policy development and adoption, community engagement support, and any other activities designed to reduce climate pollution from the building sector.

This subaward is being awarded between DRCOG and the City and County of Denver (hereafter referred to as “Denver”) because it meets the requirements and eligible uses, as required by DRCOG and EPA, and will advance Decarbonize DRCOG’s goals of reducing greenhouse gases from the built environment within our region. This scope of work (SOW) outlines the activities, processes, and deliverables related to the work Denver will be performing with this subaward.

Project Summary

Through this subaward funding, Denver will increase internal staff capacity consisting of new mechanical inspectors and an energy plans reviewer, conduct permit system upgrades to streamline permitting of new and replacement heat pumps in existing commercial buildings and other permit system upgrades; and conduct technical assistance and research to help Denver identify and develop innovative policies.

Project Goals

Denver has an ambitious climate goal of eliminating 100% of greenhouse gas emissions for new and existing buildings by 2040. One of the ways Denver will work towards this goal is to aid compliance with current building decarbonization policies, such as the 2025 Denver Energy Code which is based on the 2021 International Energy Conservation Code (IECC-2021).

An internal assessment of current compliance rates for residential projects with Denver’s energy code found that approximately 50% of new construction projects and 0% of additions receive a full energy review that includes all Denver Energy Code provisions and Manual J/S/D submittals. Additionally, mechanical inspections of energy code provisions for residential projects are currently minimal at best. Lastly, Denver has identified a need to reduce permit issuance time for commercial projects with exterior or rooftop mechanical or plumbing equipment from two to four weeks to two business days or less.

To increase compliance and success with the energy code, Denver is using this subaward funding to:

- Increase the compliance rate with the energy code for residential projects: Increase internal staff capacity to aid in permit review, accomplishing 100% review of new

construction projects and 75% review of large additions, and 100% inspection of mechanical items per energy code provisions

- Create a Streamlined Permitting Process for existing commercial buildings: First, convert the permitting guide for commercial mechanical and plumbing equipment (including heat pumps) in existing buildings to an interactive “Wizard” accessed via Denver’s website that will provide a better customer service experience, and, second, provide a new artificial intelligence module to give customers a “Pre-Application Review” of the permit submittal documents with near real time feedback resulting in permit approval in three days
- Launch an on-going data capture and aggregation platform for gas to electric equipment market transformation
- Assess emerging decarbonization policies: Conduct research exploring and evaluating new innovative building decarbonization policies that will help Denver to lead the region.

Project Description & Deliverables

Task 1. Project Administration, Reporting & Management:

- Track progress of project deliverables and budget spend down, timely informing DRCOG of any significant projected variances; submit accurate cost reporting and back up documentation in accordance with DRCOG and federal requirements.
- Ensure compliance with DRCOG and EPA requirements, to include any subcontractors performing work under the subaward.
- Participate in regular check-in meetings with DRCOG; submit quarterly progress reports and other information as may be requested by DRCOG (e.g. for semiannual and annual EPA reporting).
- In the final year of the subaward, generate a final report summarizing project performance relative to outcomes and goals attainment

Task 2: Increase Staff Capacity:

- Hire and onboard new staff members with an anticipated 36-month limited term duration, including two new mechanical inspectors and a new energy plans reviewer.
- The Energy Plans Reviewer will focus on residential projects (single-family, duplexes and townhomes), with a target for full energy review of 100% of new construction projects and 75% of large additions in Year 2 and beyond.
- The two Mechanical Inspectors will focus on training and process development in Year 1 and target 100% inspection of mechanical energy code items in Year 2 and beyond.

Task 3: Enhance Permitting System:

- Add interactive “Wizard” for permitting mechanical and plumbing equipment in existing commercial buildings accessed via Denver’s website. The “Wizard” will both educate customers and produce a customized submittal checklist.
- Incorporate “Pre-Application Review” of the mechanical and plumbing permit submittal documents with near real time feedback through a completeness score. An artificial intelligence module will provide customers a “Pre-Application Review” of the permit submittal documents with near real time feedback of Pass or Fail. Pass allows the project to be submitted for plan review. Fail notifies the customer so they can correct their submittal documents and attain a Pass before submitting for plan review.
- Conduct miscellaneous updates to the core permitting platform, Accela, to support equipment replacement permitting to remove barriers of decarbonizing space and water

heating equipment and support other energy code provisions. Perform small projects throughout the grant performance period which will include, but are not limited to, implementing energy code and regulation updates, adding new inspection types, and making other upgrades to improve energy code implementation.

- Launch a platform to enable data capture and aggregation regarding gas to electric equipment market transformation to be used on an on-going basis. Data capture and aggregation will help to gain insight into the state of market transformation from gas to electric space and water heating, cooking, and other process equipment such as pool heating, as well as on-site solar, energy storage and electric vehicle infrastructure. This tool will streamline collection, integration, and analysis of permit data from multiple sources. Automating these processes will provide credible reporting metrics, enhance transparency, improve decision-making, help identify technical research needs, and provide important feedback to track progress towards Denver's decarbonization goals.

Task 4: Policy Research:

- Oversee research to explore and evaluate new building decarbonization policies, coordinating with DRCOG to ensure research complements and does not duplicate DRCOG's efforts. Priority topics include strategies for local governments to drive gas system decommissioning, evaluation of appliance decarbonization strategies, recommendations on including embodied carbon in building codes, opportunities to support decarbonization of rental housing, an evaluation of Passive House design in Denver's climate zone, or other research related to advancing energy codes or decarbonization policies. The intent is to include equity impacts, ratepayer protections, and mitigation of cost increases in any analysis. Research topics and plan must be approved by DRCOG prior to any research work commencing.

Quality Assurance

- As may be directed by DRCOG, develop a Quality Assurance Project Plan (QAPP) and/or Sampling Analysis Plan (SAP) describing quality assurance measures for project activities involving environmental data collection, analysis and reporting. Plan templates shall be provided by DRCOG. DRCOG and EPA must approve the QAPP and/or SAP before any such technical activities may begin.

Deliverable Table

Deliverables are subject to change and may be updated over time, subject to DRCOG approval. Please note that DRCOG reserves the right to deny reimbursement for costs that do not comply with subaward policies or fall outside the scope of eligible and approved uses.

Task	Deliverable #	Deliverable	Due date
Ongoing across budget periods			
Task 1. Project Administration, Reporting & Management	1.1	Submit cost reporting and backup documentation submitted via WebGrants	Monthly; due by the 15 th for prior month costs
Task 1. Project Administration, Reporting & Management	1.2	Submit project narrative and meet with DRCOG to provide project updates	Quarterly; within 30 days of calendar quarter end

Task	Deliverable #	Deliverable	Due date
Budget Period 1: Jan 1, 2026 – Dec 31, 2026			
Task 2. Increase Staff Capacity	2.1	Conduct interviews and hire new staff members; submit final job descriptions	March 2026
Task 2. Increase Staff Capacity	2.2	Provide annual report of how many inspections and reviews were completed by new staff	December 2026
Task 3. Enhance Permitting System	3.1	Launch permitting system updates; provide project scope and timeline, along with contract	June 2026
Task 3. Enhance Permitting System	3.3	Report on permit system updates completed that support energy code implementation	December 2026
Task 3. Enhance Permitting System	3.4	Launch collection of market transformation data; provide market transformation project scope and timeline, along with any associated contract	December 2026
Task 4. Policy Research	4.1	Issue task order to consultant for policy research; provide initial outline of research	March 2026
Task 4. Policy Research		Submit draft research report for DRCOG review/input	October 2026
Task 4. Policy Research	4.2	Submit final research report	December 2026
Budget Period 2: Jan 1, 2027 – Dec 31, 2027			
Task 2. Increase Staff Capacity	2.3	Quantity of inspections and reviews completed	December 2027
Task 3. Enhance Permitting System	3.5	Report on permit system updates completed that support energy code implementation	December 2027
Task 3. Enhance Permitting System	3.6	Submit report of market transformation trends from data aggregation with DRCOG	December 2027

Task	Deliverable #	Deliverable	Due date
Task 4. Policy Research	4.3	Submit report of final research with DRCOG and BPC	January 2027
Budget Period 3: Jan 1, 2028 – Dec 31, 2028			
Task 2. Increase Staff Capacity	2.4	Quantity of inspections and reviews completed	December 2028
Task 3. Enhance Permitting System	3.7	Report on permit system updates completed that support energy code implementation	December 2028
Task 3. Enhance Permitting System	3.8	Submit report of market transformation trends from data aggregation with DRCOG	December 2028
Budget Period 4: Jan 1, 2029 – Sept 30, 2029			
Task 2. Increase Staff Capacity	2.5	Conduct residential reviews and inspections and share with quantity with DRCOG	March 2029
Task 1. Project Administration, Reporting & Management	1.3	Submit Subaward project final report	August 2029

Jurisdictional Subaward Planning Timeline and Milestones

City and County of Denver

Rev: 9/12/2025

	2025					2026					2027					2028					2029																	
Activity	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Ongoing Processes and Meetings																																						
Kickoff																																						
Project management																																						
Semi-annual reports																																						
Monthly Invoices																																						
Stakeholder meetings																																						
Task 2 Staffing																																						
Prehire (no grant \$)																																						
Onboarding / Training / Process Development																																						
Reviews and Mechanical Inspections for Energy																																						
Task 3 Permit Platform																																						
Phase B.1 Permitting Guide (no grant \$)																																						
Phase B.1 SOW, Task Order Processing (no grant \$)																																						
Phase B.1.a Mechanical Equipment Permit Wizard																																						
Phase B.1.b Pre-Application Review																																						
Phase B.1.c Full AI + Accela Integration (TBD)																																						
Phase B.2.a SOW, Task Order Processing (no grant \$)																																						
Phase B.2.a Accela Updates																																						
Phase B.2.b SOW, Task Order Processing (no grant \$)																																						
Phase B.2.b Data Aggregation																																						
Task 4 Policy																																						
SOW, Task Order Processing (no grant \$)																																						
Research and report by contractor																																						
Denver steering committee review																																						
Publication																																						

Exhibit B Project Budget

Building Decarbonization DRCOG Budget Jurisdictional Subawards									
City and County of Denver									
	Quantity	Unit	Rate	Year 1 2026	Year 2 2027	Year 3 2028	Year 4 2029	Year 5	Total
Personnel									
Plan Reviewer A - Year 1	1560	hours	\$59.74	\$93,194.40	\$0.00	\$0.00	\$0.00	\$0.00	\$93,194.40
Plan Reviewer A - Year 2	2080	hours	\$61.53	\$0.00	\$127,982.40	\$0.00	\$0.00	\$0.00	\$127,982.40
Plan Reviewer A - Year 3	2080	hours	\$63.37	\$0.00	\$0.00	\$131,809.60	\$0.00	\$0.00	\$131,809.60
Plan Reviewer A - Year 4	520	hours	\$65.27	\$0.00	\$0.00	\$0.00	\$33,940.40	\$0.00	\$33,940.40
Inspector A - Year 1	1560	hours	\$48.92	\$76,315.20	\$0.00	\$0.00	\$0.00	\$0.00	\$76,315.20
Inspector A - Year 2	2080	hours	\$50.39	\$0.00	\$104,811.20	\$0.00	\$0.00	\$0.00	\$104,811.20
Inspector A - Year 3	2080	hours	\$51.90	\$0.00	\$0.00	\$107,952.00	\$0.00	\$0.00	\$107,952.00
Inspector A - Year 4	520	hours	\$53.46	\$0.00	\$0.00	\$0.00	\$27,799.20	\$0.00	\$27,799.20
Inspector B - Year 1	1560	hours	\$46.35	\$72,306.00	\$0.00	\$0.00	\$0.00	\$0.00	\$72,306.00
Inspector B - Year 2	2080	hours	\$47.74	\$0.00	\$99,299.20	\$0.00	\$0.00	\$0.00	\$99,299.20
Inspector B - Year 3	2080	hours	\$49.17	\$0.00	\$0.00	\$102,273.60	\$0.00	\$0.00	\$102,273.60
Inspector B - Year 4	520	hours	\$50.64	\$0.00	\$0.00	\$0.00	\$26,332.80	\$0.00	\$26,332.80
			Total, Personnel	\$241,815.60	\$332,092.80	\$342,035.20	\$88,072.40	\$0.00	\$1,004,016.00
Fringe									
Plan Reviewer A - Year 1	1560	hours	\$20.91	\$32,618.04	\$0.00	\$0.00	\$0.00	\$0.00	\$32,618.04
Plan Reviewer A - Year 2	2080	hours	\$21.54	\$0.00	\$44,793.84	\$0.00	\$0.00	\$0.00	\$44,793.84
Plan Reviewer A - Year 3	2080	hours	\$22.18	\$0.00	\$0.00	\$46,133.36	\$0.00	\$0.00	\$46,133.36
Plan Reviewer A - Year 4	520	hours	\$22.84	\$0.00	\$0.00	\$0.00	\$11,879.14	\$0.00	\$11,879.14
Inspector A - Year 1	1560	hours	\$17.12	\$26,710.32	\$0.00	\$0.00	\$0.00	\$0.00	\$26,710.32
Inspector A - Year 2	2080	hours	\$17.64	\$0.00	\$36,683.92	\$0.00	\$0.00	\$0.00	\$36,683.92
Inspector A - Year 3	2080	hours	\$18.17	\$0.00	\$0.00	\$37,783.20	\$0.00	\$0.00	\$37,783.20
Inspector A - Year 4	520	hours	\$18.71	\$0.00	\$0.00	\$0.00	\$9,729.72	\$0.00	\$9,729.72
Inspector B - Year 1	1560	hours	\$16.22	\$25,307.10	\$0.00	\$0.00	\$0.00	\$0.00	\$25,307.10
Inspector B - Year 2	2080	hours	\$16.71	\$0.00	\$34,754.72	\$0.00	\$0.00	\$0.00	\$34,754.72
Inspector B - Year 3	2080	hours	\$17.21	\$0.00	\$0.00	\$35,795.76	\$0.00	\$0.00	\$35,795.76
Inspector B - Year 4	520	hours	\$17.72	\$0.00	\$0.00	\$0.00	\$9,216.48	\$0.00	\$9,216.48
			Total, Fringe	\$84,635.46	\$116,232.48	\$119,712.32	\$30,825.34	\$0.00	\$351,405.60
Fringe = 35% per Denver Budget									
Travel									
Airfare		each		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Lodging		night	\$215.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Per diem		day	\$92.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Mileage		mile	\$0.70	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
			Total, Travel	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Supplies									
		each		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
			Total, Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Contractual									
Part B - Permitting System				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Phase B.1. a Mechanical Equipment Permit Wizard				\$100,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$100,000.00
Phase B.1. b Pre-Application Review				\$100,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$100,000.00
Phase B.1. c Full AI + Accela Integration (TBD)				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Phase B.2. a Accela Updates				\$20,000.00	\$20,000.00	\$20,000.00	\$0.00	\$0.00	\$60,000.00
Phase B.2. b Data Aggregation				\$ 81,265.16	\$0.00	\$0.00	\$0.00	\$0.00	\$81,265.16
Part C - Technical Assistance				\$100,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$100,000.00
			Total, Contractual	\$401,265.16	\$20,000.00	\$20,000.00	\$0.00	\$0.00	\$441,265.16
Other Costs									
IT/Software				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Printing				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
			Total, Other Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Indirects									
Indirect cost rate agreement				\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
De minimis				\$48,967.66	\$67,248.79	\$69,262.13	\$17,834.66	\$0.00	\$203,313.24
			Total, Indirects	\$48,967.66	\$67,248.79	\$69,262.13	\$17,834.66	\$0.00	\$203,313.24
Indirect = 15% per Federal de minimus									
Total				\$776,683.88	\$535,574.07	\$551,009.65	\$136,732.40	\$0.00	\$2,000,000.00

Exhibit C Federal Award Requirements

The Subrecipient shall comply with the following terms and conditions to the extent applicable. These terms and conditions are in addition to the assurances and certifications made as a part of the Agreement and the terms, conditions, or restrictions cited throughout the Agreement.

1. **Grant Agreement.** The Grant Agreement by and between Denver Regional Council of Governments and the US Environmental Protection Agency, Grant Number (FAIN): 00I18200, dated October 10, 2024, a copy of which is available from DRCOG.
2. **EPA Terms and Conditions.** The most recent version of EPA General Terms and Conditions available at: <https://www.epa.gov/grants/grant-terms-and-conditions#general>. For purposes of this Agreement, EPA is the Federal awarding agency, DRCOG is the “pass-through entity” or “recipient,” and Subrecipient is the subrecipient.

Non-Discrimination Laws and Social Policies

3. **Non-Discrimination Laws.** Title VI of the Civil Rights Act, Title VI of the Civil Rights Act of 1964, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, The Age Discrimination Act of 1975. These four laws prohibit discrimination in the provision of services or benefits, on the basis of race, color, national origin, sex, disability or age, in programs or activities receiving federal financial assistance.
4. **Executive Order 11246.** Part III of Executive Order No. 11246 (September 24, 1965) as amended prohibits discrimination in Federally assisted construction activities. As provided in section 301 of the Executive Order, Pass-through entities must ensure that subrecipients include the seven clauses specified in section 202 of the Order in all construction contracts. Section 302 defines "Construction contract" as “any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.” Contracts less than \$10,000 are exempt from the requirements of the Order.
5. **Executive Order 13798.** Executive Order 13798 established a policy of promoting free speech and religious liberty. It reinforces the requirement that religious organizations be allowed to participate in Federal financial assistance programs on an equal footing with other organizations without being required to alter their religious character. States or other public grantees may not condition subawards in a manner that would disadvantage grant applicants based on their religious character.
6. **Disadvantaged Business Enterprises.** EPA regulations at 40 CFR Part 33, “Participation by Disadvantaged Business Enterprises in U.S. Environmental Protection Agency Programs” set forth requirements for making good faith efforts to ensure that Disadvantaged Business Enterprises, including Minority Business Enterprises and Women’s Business Enterprises receive a fair share of contracts awarded with funds provided by EPA financial assistance agreements. These requirements apply to subrecipients in accordance with 40 CFR 33.102 and the definition of “Recipient” in 40 CFR 33.103.
7. **Clean Air Act and Clean Water Act.** Section 306 of the Clean Air Act (CAA) and section 508 of the Clean Water Act (CWA), as implemented by Executive Order 11738 (1973), prohibit performance of Federal assistance agreements at facilities disqualified due to certain violations of the CAA or CWA. Disqualified facilities are listed in the System for Award Management. Pass-through entities must ensure that subrecipients

are not disqualified and that they are aware of the requirement to check SAM, to determine if facilities that will be used to perform contracts or subawards are listed in SAM.

Financial Management Policies

8. **Federal Funding Accountability and Transparency Act.** As set forth in the General Condition of the pass-through entity's agreement with EPA entitled "Reporting Subawards and Executive Compensation" the pass-through entity must ensure that subrecipients comply with Federal Funding Accountability and Transparency Act (FFATA) reporting requirements. Unless a first-tier subrecipient is exempt, the recipient must report the executive total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if: (a) The total federal funding authorized to date under the subaward equals or exceeds \$30,000; and in the subrecipient's preceding fiscal year, the subrecipient received: (i) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal awards subject to the Transparency Act; and (ii) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal awards (and subawards) subject to the Transparency Act; and (3) the public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986 after receiving this subaward. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at: [http:// www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm). Subrecipients must report their executive total compensation to the recipient. The recipient is required to submit this information to FSRS at <http://www.fsrs.gov> no later than the end of the month following the month in which the subaward was made. (For example, if a subaward was made on any date during the month of October of a given year, the subaward must be reported no later than November 30 of that year).
9. **Suspension and Debarment.** Subrecipient shall fully comply with Subpart C of 2 C.F.R. Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business With Other Persons," as implemented and supplemented by 2 C.F.R. Part 1532. Subrecipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 C.F.R. Part 180, entitled "Covered Transactions," and 2 C.F.R. § 1532.220, includes a term or condition requiring compliance with 2 C.F.R. Part 180, Subpart C. Subrecipients may access the SAM.gov exclusion list at <https://sam.gov/SAM/> to determine whether an entity or individual is presently excluded or disqualified.
10. **Limits on Fees Charged by Individual Consultants – Consultant Cap.** EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subrecipients shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, available at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices). Information on how to calculate the maximum daily rate and the daily pay limitation is available at the Office of Personnel Management's Fact Sheet: How to Compute Rates of Pay and Fact Sheet: Expert and Consultant Pay. Specifically, to determine the maximum daily rate, follow

these steps: (a) Divide the Level IV salary by 2087 to determine the hourly rate. Rates must be rounded to the nearest cent, counting one-half cent and over as the next higher cent (e.g., round \$18.845 to \$18.85); (b) Multiply the hourly rate by 8 hours. The product is the maximum daily rate. Contracts and subcontracts with firms for services that are awarded using the procurement requirements in Subpart D of 2 CFR Part 200 are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 2 CFR 1500.10.

- 11. Management Fees.** Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses; unforeseen liabilities; or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.
- 12. New Restrictions on Lobbying, 40 CFR Part 34.** All recipients of EPA funds, including subrecipients, are subject to the requirements in 40 CFR Part 34.
- 13. Uniform Grant Guidance Requirements (UGG).** Subrecipients must comply with 2 CFR Part 200 requirements including, but not limited to, when they award procurement contracts, make subawards, and incur other costs borne by EPA financial assistance including domestic preferences for procurement.
- 14. Build America, Buy America Act.** Subrecipients shall comply with the Buy America sourcing requirements under the Build America, Buy America (BABA) provisions of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58, §§70911-70917). The BABA requirements apply to expenditures for projects for which funds have been obligated on or after May 14, 2022 under a Federal financial assistance program for infrastructure, unless the expenditures are subject to an EPA-approved waiver. The BABA provisions require that all of the iron, steel, manufactured products, and construction materials used in these projects be produced in the United States. The BABA sourcing requirements apply to an entire infrastructure project, even if it is funded by both Federal and non-federal funds under one or more awards. Pass-through entities and subrecipients must implement these requirements in their procurements, and these requirements must be included in the terms of all subawards and contracts at any tier. For descriptions of general applicability waivers, legal definitions and sourcing requirements, pass-through entities and subrecipients must consult EPA's BABA website.
- 15. Davis-Bacon and Related Acts (DBRA).** Davis-Bacon and Related Acts (DBRA) (<https://www.dol.gov/agencies/whd/governmentcontracts/construction>) is a collection of labor standards provisions administered by the Department of Labor, that are applicable to grants involving construction. These labor standards include the: (a) Davis-Bacon Act, which requires payment of prevailing wage rates for laborers and mechanics on construction contracts of \$2,000 or more; (b) Copeland "Anti-Kickback" Act, which prohibits a contractor or subcontractor from inducing an employee into giving up any part of the compensation to which he or she is entitled; and (c) Contract Work Hours and Safety Standards Act, which requires overtime wages to be paid for over 40 hours of work per week, under contracts in excess of \$100,000. By accepting this contract, the contractor acknowledges and agrees to the terms provided in the DBRA Requirements for Contractors and Subcontractors Under EPA Grants (<https://www.epa.gov/grants/contract-provisions-davis-bacon-and-related-acts>).

- 16. Reporting Waste, Fraud and Abuse.** Consistent with 2 CFR 200.113, the recipient and any subrecipients of this award must promptly report in writing whenever there is credible evidence of the commission of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act (31 U.S.C. 3729-3733) to the EPA Project Officer, the pass-through entity (if applicable), and the EPA Office of Inspector General (OIG). The methods to contact the EPA OIG are (1) online submission via the EPA OIG Hotline Complaint Form; (2) email to OIG_Hotline@epa.gov; (3) phone 1-888-546-8740; or (4) mail directed to Environmental Protection Agency, Office of Inspector General, 1200 Pennsylvania Avenue, N.W. (2410T), Washington, DC 20460. To support awareness of the OIG hotline, recipients and/or subrecipients receiving an EPA award or subaward of \$1,000,000 or more must display EPA OIG Hotline posters in facilities where the work is performed under the grant. EPA OIG Hotline posters may be downloaded or printed or may be obtained by contacting the OIG at 1- 888-546-8740. Recipients and subrecipients need not comply with this requirement if they have established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct and have provided instructions that encourage employees to make such reports.
- 17. Whistleblower Protections.** This award is subject to whistleblower protections, including the protections established at 41 U.S.C. 4712 and 2 CFR 200.217 providing that an employee of the recipient or subrecipient may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (a)(2) of 41 U.S.C. 4712 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, grant, or subaward, 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), grant. Consistent with 41 U.S.C. 4712(d), the recipient and subrecipients must inform their employees in writing, in the predominant language of the workforce or organization, of employee whistleblower rights and protections under 41 U.S.C. 4712. Additional information about whistleblower protections, including protections for such employees may be found at the EPA Office of Inspector General's Whistleblower Protection page.
- 18. Participant Support Costs.** Participant support costs include rebates, subsidies, stipends, or other payments to program beneficiaries. The recipient agrees to the following eligibility, restrictions, timelines, and other programmatic requirements on participant support costs: (1) Participant support costs must be reasonable, incurred within the project period and otherwise allocable to the EPA assistance agreement. Participant support costs for rebates must be supported by guidelines issued by the recipient and approved by the EPA's Award Official or Grants Management Officer, defining the rules, restrictions, timelines, programmatic requirements, reporting and transaction documentation requirements, eligibility, and funding levels that rebate beneficiaries must follow. (2) Recipient must abide by EPA Participant Support Cost regulation(s) and guidelines including but not limited to "Interim EPA Guidance on Participant Support Costs" (<https://www.epa.gov/grants/rain-2018-g05-r1>). "The EPA Guidance on Participant Support Costs" specifies requirements for rebate program approval by Authorized EPA Officials. (3) Recipient must enter into a written agreement with the program beneficiary that receives participant support costs. Such agreement should not be structured as a subaward agreement, and the administrative grant regulations under 2 CFR Part 200 and 2 CFR Part 1500, as well as the EPA's general terms and conditions do not flow down to program beneficiaries receiving participant

support costs. Such written agreement is also required if a subrecipient or contractor intends to issue participant support costs to a program beneficiary. The written agreement must: a. describe the activities that will be supported by rebates, stipends, subsidies or other payments; b. specify the amount of the rebate, subsidy, stipend, or other payment; c. identify which party will have title to equipment (if any) purchased with a rebate or subsidy or other payment; d. specify any reporting required by the program beneficiary and the length of time for such reporting; e. establish source documentation requirements (e.g., invoices) for accounting records; and f. describe purchasing controls to ensure that the amount of the participant support cost is determined in a commercially reasonable manner as required by 2 CFR 200.404. (4) Recipient must obtain prior written approval from the EPA's Award Official if recipient wants to transfer funds budgeted for participant support costs to other budget categories. If the recipient's request would result in undermining the integrity of the competition this grant or cooperative agreement was awarded under, the EPA will not approve the request.

Environmental Authorities

- 19. National Environmental Policy Act.** Where applicable, the National Environmental Policy Act (NEPA) requires federal agencies to conduct an environmental review of their proposed actions, with a view toward ensuring informed decision-making and public input. EPA's NEPA regulations are at 40 CFR Part 6, and note that certain EPA actions are exempt from NEPA. Passthrough entities and subrecipients may be required to assist EPA with NEPA compliance, where appropriate.
- 20. National Historic Preservation Act.** Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such undertakings. Under the ACHP's regulations, consultations generally occur in the first instance with state and/or tribal historic preservation officials, with direct ACHP involvement in certain 6 cases. EPA funded projects with the potential to affect historic properties – i.e., properties listed in or eligible for listing in the National Register of Historic Places – may implicate this statute. This may include, for instance, EPA-funded projects that involve alteration of structures (e.g., asbestos abatement) that are historic properties or construction/remediation on culturally sensitive lands.
- 21. Archeological and Historic Preservation Act.** This law applies if archeologically significant artifacts or similar items are discovered after an EPA funded construction project has begun, and compliance may be coordinated with the NHPA, discussed above. The AHPA requires federal agencies to identify relics, specimens, and other forms of scientific, prehistorical, historical, or archaeological data that may be lost during the construction of federally sponsored projects to ensure that these resources are not inadvertently transferred, sold, demolished or substantially altered, or allowed to deteriorate significantly. Pass-through entities must ensure that subrecipients performing construction projects are aware of this requirement and pass-through entities must notify EPA if the AHPA is triggered.
- 22. Protection of Wetlands, Executive Order 11990 (1973), as amended.** EPA funded projects involving new construction in wetlands may implicate this Executive Order. The terms and conditions of the EPA assistance agreement may require passthrough entities to ensure that subrecipients assist EPA in determining whether a proposed project will be located in (or affect) a wetland, and if so, evaluating practicable alternative locations for the project or other mitigation.
- 23. Flood Plain Management, Executive Order 11988 (1977), as amended, and Executive Order 13690 (2015).** EPA funded projects that are in or will affect a flood

plain are covered by these Executive Orders and Water Resources Council guidance. EPA assistance agreement terms and conditions may require pass-through entities to ensure that subrecipients work with EPA to evaluate practicable alternatives or other mitigation to reduce flood risks and protect flood plains.

- 24. Farmland Protection Policy Act.** This statute requires EPA to use criteria developed by the Natural Resources Conservation Service (NRCS) to identify the potential adverse effects of Federal programs on farmland and its conversion to nonagricultural uses, to mitigate these effects, and to ensure that programs are carried out in a manner that is compatible with the farmland preservation policies of state and local governments, and private organizations. Pass-through entities and their subrecipients may need to work with EPA or NRCS, as appropriate, to ensure compliance.
- 25. Wild and Scenic Rivers Act.** This statute prohibits federal assistance for water resource projects that would have direct and adverse effects on, invade, or unreasonably diminish, the special values of a congressionally designated wild and scenic river. Pass-through entities and subrecipients should consult with appropriate state or federal (National Park Service or Bureau of Land Management) agency to determine whether the project or any alternatives under consideration may affect a designated river.
- 26. Endangered Species Act (ESA).** This statute requires Federal agencies to ensure that their activities are not likely to jeopardize endangered species, adversely modify designated critical habitats, or incidentally take (injure or kill) endangered animals without authorization, in consultation with the appropriate federal wildlife agency (the U.S. Fish and Wildlife Service or National Marine Fisheries Service) as described in 50 CFR Part 402. The ESA consultation process is triggered when an action “may affect” ESA-protected species or critical habitat. Pass-through entities and subrecipients should coordinate with EPA to ensure consultation occurs where appropriate.”
- 27. Magnuson-Stevens Fisheries Conservation and Management Act.** Magnuson-Stevens Fisheries Conservation and Management Act as amended by The Sustainable Fisheries Act of 1996 is intended to manage and conserve Essential Fish Habitats (EFH). The National Marine Fisheries Service (NMFS) administers the Act. Pass-through entities and subrecipients must coordinate with NMFS to determine whether a proposed project may adversely affect an EFH. If an action may adversely affect an EFH, the subrecipient must complete an EFH consultation with NMFS.
- 28. Clean Air Conformity Act.** This statute prohibits any Federal assistance for an activity within a non- attainment or maintenance area that fails to conform to an applicable State Implementation Plan. Passthrough entities and subrecipients should first consult with their state air program’s website to determine if an EPA funded activity is in a non-attainment or maintenance area. If the EPA funded activity is within a non-attainment or maintenance area the pass-through entity and subrecipient should consult with the state air program to determine conformity. Note that EPA regulations at 40 CFR 93.153(c) exempt a number of activities including planning, studies, technical assistance and remediation under the Comprehensive Environmental Response, Liability and Compensation Act (CERCLA).
- 29. Safe Drinking Water Act.** Precludes the use of EPA financial assistance for projects that would contaminate sole source aquifers. Pass-through entities and subrecipients must contact state officials to determine whether a sole source aquifer is in the vicinity of the proposed project. If a sole source aquifer is in the project planning area, then the assistance recipient, in consultation with state ground water officials, must conduct investigations to determine if the aquifer could be contaminated by the project. If the project could potentially affect ground water supplies, the assistance recipient, in

consultation with ground water officials, must elect an alternative site or devise adequate mitigating measures.

- 30. Resource Conservation and Recovery Act.** Consistent with section 6002 of RCRA (42 U.S.C. 6962) and 2 CFR 200.323, the recipient or subrecipient that is a State agency or agency of a political subdivision of a State and its contractors are required to purchase certain items made from recycled materials, as identified in 40 CFR Part 247, when the purchase price exceeds \$10,000 during the course of a fiscal year or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. Pursuant to 40 CFR 247.2(d), the recipient or subrecipient may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price. The subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products per Executive Order 14057, section 101, Policy.

National Defense

- 31. Prohibition using Federal funds for certain telecommunications and video surveillance services or equipment (Section 889 of P.L. 115-232).** This statute prohibits using Federal funds to procure equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified as subject to the section 889. These entities are recorded in the System for Award Management exclusion list. Section 889 is implemented in 2 CFR 200.216 and the general terms and conditions of EPA assistance agreements. EPA recipients, subrecipients, and borrowers under EPA funded revolving loan fund programs are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services produced by entities subject to section 889 as a substantial or essential of any system, or as critical technology as part of any system.

Other

- 32. Disclosing Conflicts of Interest.** As required by 2 CFR 200.112, EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at <https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COI's described in section 4.0(b)(c) and (d) of the COI Policy regardless of the amount of the transaction. Subrecipients being considered for or receiving subawards shall disclose COI to the pass-through entities in a manner that, at a minimum, is in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy
- 33. Copyrighted Material and Data.** In accordance with 2 CFR 200.315, EPA has the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement for Federal purposes. This includes the right to require recipients and subrecipients to make such works available through agency-designated public access repositories.
- 34. Use of Logos.** If the EPA logo is appearing along with logos from other participating entities on websites, outreach materials, or reports, it must not be prominently displayed to imply that any of the recipient or subrecipient's activities are being conducted by the

EPA. Instead, the EPA logo should be accompanied with a statement indicating that Denver Regional Council of Governments received financial support from the EPA under an Assistance Agreement. More information is available at:
<https://www.epa.gov/stylebook/using-epa-seal-and-logo#policy>.

- 35. Acknowledgement Requirements.** Any reports, documents, publications, or other materials developed for public distribution supported by this assistance agreement shall contain the following statement: "This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the Environmental Protection Agency endorse trade names or recommend the use of commercial products mentioned in this document, as well as any images, video, text, or other content created by generative artificial intelligence tools, nor does any such content necessarily reflect the views and policies of the Environmental Protection Agency."
- 36. Required Certifications and Consequences of Fraud.** As outlined in 2 CFR 200.415(b), subrecipients of all tiers under the Federal award must certify to the pass-through entity whenever applying for funds, requesting payment, and submitting financial reports as follows: "I certify to the best of my knowledge and belief that the information provided herein is true, complete, and accurate. I am aware that the provision of false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative consequences including, but not limited to violations of U.S. Code Title 18, Sections 2, 1001, 1343 and Title 31, Sections 3729-3730 and 3801-3812." The certifications must be maintained in accordance with the record retention requirements at 2 CFR 200.334.
- 37. Access to Records.** In accordance with 2 CFR 200.337, EPA, the pass-through entity, the EPA Office of Inspector General (OIG), and the Comptroller General of the United States have the right to access any records of the recipient and subrecipient pertinent to this award, to perform audits, execute site visits, or for any other official use. This right of access also includes timely and reasonable access to the recipient and subrecipient's personnel for the purpose of interview and discussion related to such documents or the Federal award in general. This right of access shall continue as long as the records are retained. Examples of records include but are not limited to subrecipient financial statements and reports, performance reports including information on environmental results and audits.
- 38. Records Retention/Required Documentation.** Subrecipient shall retain all Federal award records, including but not limited to, financial records, supporting documents, and statistical records for at least three years from the completion of the Services. The records must be retained until all litigation, claims, or audit findings have been resolved and final action has been taken if any litigation, claim, or audit is started before the expiration of the three-year period.
- 39. Cybersecurity Grant Condition.** The EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the subrecipient to transfer data under this agreement, are secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition. If the subrecipient's connections as defined above do not go through the Environmental Information Exchange Network or the EPA's Central Data Exchange, the subrecipient agrees to contact EPA no later than 90 days after the date of this award and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into

Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by the EPA's regulatory programs for the submission of reporting and/or compliance data.

- 40. Competency of Organizations Generating Environmental Measurement Data.** In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, Subrecipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, Subrecipient agrees to demonstrate competency prior to carrying out any activities under the award involving environmental information operations (i.e., the collection, production, evaluation, or use of environmental information and/or the design, construction, operation, or application of environmental technology). The subrecipient shall maintain competency for the duration of the agreements period of performance, and this will be documented during the annual reporting process. To access the Policy and other information about the Policy, visit <https://www.epa.gov/measurements-modeling/documents-aboutmeasurement-competency-under-assistance-agreements>.

Exhibit D

Quality Assurance Requirements

To the extent that Contractor's scope of service(s) may involve the collection, evaluation, or use of environmental data, such activities must comply with DRCOG's Quality Assurance (QA) program as outlined in its [Quality Management Plan](#). Environmental data includes data and information that describe environmental processes or conditions (e.g. from the use of models, or compiled or obtained from databases, software applications, decision support tools, websites, existing literature, and other sources). Compliance with DRCOG's QA program helps to ensure that environmental information operations, products and services are of known and documented quality for their intended use(s). To that end, Contractor agrees to the following:

1. *Compliance with DRCOG Quality Assurance Policies.* The Contractor must adhere to QA requirements outlined in DRCOG's [Quality Management Plan](#), ensuring that all personnel, subcontractors and vendors are informed of QA requirements as applicable to their respective duties and responsibilities.
2. *QA Program Implementation.* If instructed by DRCOG, the Contractor shall contribute to the development and implementation of a Quality Assurance Project Plan (QAPP). Contractor may not start any environmental data collection until notified by DRCOG that the underlying QAPP has been approved by the Region 8 U.S. Environmental Protection Agency. The QAPP shall outline, at a minimum, objectives, sampling methods, data management, and error handling procedures.
3. *Data Quality and Integrity.* The Contractor is responsible for ensuring the accuracy and integrity of the environmental data.
4. *Quality Assurance Reviews and Audits.* DRCOG may conduct periodic reviews and audits of the Contractor's work, including reviewing and approving QA documents. If issues are identified, the Contractor must develop and implement a corrective plan, detailing the problem, root cause, and steps for resolution, which must be approved by DRCOG.
5. *Reporting Requirements.* The Contractor must include QA-related updates in its required progress reports to DRCOG including updates on QA activities, audits, and any issues encountered. Notwithstanding, any issues that may materially impact the Contractor's ability to uphold QA requirements must be reported immediately to DRCOG.