

## AGREEMENT

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, hereinafter referred to as the "City", and **SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER AND THE STATE OF COLORADO**, acting by and through. **EMILY GRIFFITH OPPORTUNITY SCHOOL**, with an address of **1250 Welton St, Denver, CO 80204** (the "Contractor"), collectively "the parties".

The parties agree as follows:

**1. DEFINITIONS:** The capitalized terms used in this Agreement and any and all exhibits hereto, will have the meanings given such terms in the paragraph in which such terms are parenthetically defined. The meanings given to terms defined will be equally applicable to the singular and plural forms of such terms. In addition, the following capitalized terms shall have the following meanings:

**A.** "City" means the City and County of Denver or a person authorized to act on its behalf.

**B.** "Subcontractor" means an entity, other than a Contractor, that furnished or furnishes to the City or the Contractor services or supplies (other than standard office supplies, office space or printing services) pursuant to this Agreement.

**C.** "Federal Government" shall include representatives of the agency, department or office of the United States of America which is or may hereafter be empowered to promulgate, review or enforce rules governing the expenditure of Federal Funds which are or may hereafter become obligated under this Agreement.

**D.** "Federal Funds" means an award or appropriation of monies from the Federal Government for purposes of administering the Program.

**E.** "Federal Law" shall include any laws of the United States of America which govern funds which are or may after become obligated under this Agreement. Federal Law may include, but is not limited to, federal laws set forth in Article 23 of this Agreement, as well as any and all amendments thereto which may currently or hereafter be in effect.

**F.** "Program" shall mean any and all authorized services and activities necessary to administer the Agency's responsibilities under the Colorado Works Program Act of 1997, as amended, C.R.S. §26-2-701, *et seq.*, ("CWPA") and the "Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996" (the "Act"), Public Law 104-193, as codified at 42 U.S.C. §601, *et seq.*, (TANF-CFDA No. 93.558).

Contractor / Funding [select funding source]/ CA Initials  
GE 01192  
OED-WD - TANF Template (nongov entities)  
Date template issued by CAO: May 27, 2010  
H:\Practice Manager\PMDocuments\91485859\Agreement 6.22.2010.doc

10-837

G. "State Government" shall include representatives of the agency, department or office of the State of Colorado which is or may hereafter be empowered to promulgate, review or enforce rules governing the expenditure of State funds which are or may hereafter become obligated under this Agreement.

H. "State Law" shall include any laws of the State of Colorado which govern funds which are or may become obligated under this Agreement. State Law includes, but is not limited to, the state laws set forth in Article 23 of this Agreement, as well as amendments thereto which may currently or hereafter be in effect.

2. **TERM:** The Agreement will commence on July 1, 2010 and will expire on June 30, 2011 (the "Term"). Subject to the Director's prior written authorization, the Contractor shall complete any work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed or earlier terminated by the Director.

3. **COORDINATION AND LIAISON:** The Contractor will fully coordinate all services under the Agreement with the City acting by and through the Office of Economic Development - Workforce Development (OED-WD). The City's Director of the Workforce Development (the "Director"), or the Director's designee is the City's representative under this Agreement through whom contractual services performed under this Agreement will be coordinated.

4. **SERVICES TO BE PROVIDED:**

A. At the direction of the Director, the Contractor shall diligently undertake, perform, and complete all of the services and produce all the deliverables set forth on **Exhibit A, the Contractor's Work Statement (the "Services")**, to the City's satisfaction.

B. The Contractor is ready, willing, and able to provide the services required by this Agreement.

C. 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.

5. **COMPENSATION AND METHOD OF PAYMENT:**

A. **Budget:** The City shall pay and the Contractor shall accept as the sole compensation for services rendered and costs incurred under the Agreement in accordance with the budget contained in **Exhibit B**.

**B. Reimbursable Expenses:** Except as set forth on **Exhibit B**, there are no reimbursable expenses allowed under the Agreement.

**C. Invoices/Budget modifications.**

(1) Contractor shall provide the City with periodic invoices in a format and with a level of detail acceptable to the City in accordance with Exhibit B and Exhibit C. The amounts invoiced by Contractor will be payable upon receipt and acceptance of designated work product as set forth herein and as fully documented by Contractor's periodic invoice. Funds payable by the City hereunder shall be distributed to the Contractor on a reimbursement basis only, for work performed during the prior month. Invoices submitted for services rendered that are submitted after such deadline are considered to be untimely, and must be submitted separately to be considered for payment. Payment for such late-submitted invoices shall be made only upon a showing of good cause for the late submission. Contractor's invoices will set forth the methodology used to determine costs for services invoiced.

(2) The parties may modify Exhibit A and/or Exhibit B to increase or decrease the services contained therein or the parties may modify Exhibit B to adjust upward or downward specific budget line items; provided, however, that there will be no modification to either or both Exhibits A and B that increases the Maximum Contract Amount. The parties shall memorialize any and all modifications to Exhibit A and/or Exhibit B by the Director's (or the Director's designee's) written approval of:

(a) a change letter submitted by the Contractor explaining the proposed changes; and

(b) a completely revised and restated Exhibit(s) reflecting the date upon which the new Exhibit(s) shall take effect. Any modification to Exhibit A and/or Exhibit B shall not take effect unless and until it is approved in writing by both parties, approved as to form by the City Attorney's office, and placed on file by the Agency with the City Clerk. Any modification to Exhibit A and/or B agreed to by the parties that requires an increase in the Maximum Contract Amount shall be evidenced by a written Amendatory Agreement prepared and executed by both parties in the same manner as this Agreement.

**D. Maximum Contract Amount:**

(1) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed Seven Hundred Sixty-Three Thousand Six Hundred Fourteen and 00/100 Dollars (\$763,614.00) (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 Contractor beyond that specifically described in **Exhibit A**. Any services performed beyond those

in Exhibit A are performed at Contractor's risk and without authorization under the Agreement.

(2) The City's payment obligation, whether direct or contingent, extends only to federal funds received and budgeted for the Program, 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 the 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.

**E. Recovery of incorrect payments.** The City has the right to recover from the Contractor any and all incorrect payments issued to the Contractor due to any omission, error, fraud, and/or defalcation including but not limited to applying a deduction from subsequent payments under this Agreement or other means of recovery by the City as a debt due to the City or otherwise as provided by law.

**F. Additional Program Conditions.** If additional conditions are lawfully imposed on the Program and the City by the federal, state, or local law, executive order, rules and regulations, or other written policy instrument, the Contractor will comply with all such additional conditions. If the Contractor is unable or unwilling to accept any such additional conditions concerning the administration of the Program, the City may withhold payment to the Contractor of any unearned funds. If the City withholds payment for this reason, the City shall advise the Contractor and specify the actions that must be taken as a condition precedent to the resumption of payments.

**G. Return of unexpended funds.** In the event the City determines that the Contractor possesses an unexpended balance of funds from any advance payments made to the Contractor, then all such unexpended advanced funds will be returned to the City within ten (10) days written notice to the Contractor. The City's acceptance of any such amounts shall not constitute a waiver of any claim that the City may otherwise have arising out of this Agreement.

**H. Federal Funds contingency.** All payments under this Agreement, whether in whole or in part, are subject to and contingent upon the continuing availability of State and/or Federal Funds for the purposes of the Program. In the event that State and/or Federal Funds, or any part thereof, are not awarded to the City or are reduced or eliminated by the federal government or the State of Colorado, the City may reduce the total amount of compensation to be paid to the Contractor by revising Exhibits A and B or it may terminate this Agreement.

**I. No duplication of funds for same services.** The Contractor expressly agrees and covenants that the monies provided for and received under the terms of this Agreement are the only and sole funds received by the Contractor from or through the City and County of Denver for payment of the Services provided under this



Agreement. In the event the Contractor shall receive any other monies from or through the City or any other party in order to provide the Services, then the compensation received hereunder may be reduced by such amount or amounts at the sole option of the City. The Contractor shall report promptly, in writing to the Director, all amounts received upon receipt.

**6. 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.

**7. TERMINATION OF AGREEMENT:**

**A.** The City has the right to terminate the Agreement with cause upon written notice effective immediately, and without cause upon twenty (20) days prior written notice to the Contractor. However, nothing herein shall be construed as giving the Contractor the right to perform services under this Agreement beyond the time when such services become unsatisfactory to the Director.

**B.** 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, kick backs, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

**C.** If a Colorado Works Program Memorandum of Understanding executed by the City and the State of Colorado or any subsequent such Memorandum of Understanding is terminated for any reason, the Director may terminate this Agreement effective as of the date of termination of such Memorandum of Understanding.

**D.** 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.

**E.** 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".

## **8. EXAMINATION OF RECORDS:**

**A.** Any authorized representative of the City, including the City Auditor or his or her representative, or any authorized representative of the State of Colorado or the federal government will have the right to access and the right to examine any pertinent books, documents, papers and records of the Contractor, involving transactions related to the Agreement until the latter of six (6) years after the final payment under the Agreement or expiration of the applicable statute of limitations whichever is longer.

**B.** The Contractor will keep true and complete records of all business transactions under this Agreement, will establish and maintain a system of bookkeeping satisfactory to the City's Auditor and give the City's authorized representatives access during reasonable hours to such books and records, except those matters required to be kept confidential by law. The Contractor agrees that it will keep and preserve for at least six (6) years all evidence of business transacted under this Agreement for such period.

**C.** The Contractor acknowledges that it is subject to any and all applicable regulations or guidance of the United States Office of Management and Budget including, but not limited to, all applicable laws, rules, regulations, policy statements, and guidance issued by the Federal Government (including the United States Office of Management and Budget), regarding audit requirements.

**9. 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.

## **10. INSURANCE:**

**A.** If the Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S., as amended ("Act"), the Contractor shall maintain insurance, by commercial policy or self-insurance, as is necessary to meet the Contractor's liabilities under the Act. Proof of such insurance shall be provided upon request by the City.

B. If the Contractor is not a "public entity" then, the following general conditions apply:

(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, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. 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 contain a valid provision or endorsement stating "Should any of the above-described policies be canceled or non-renewed before the expiration date thereof, the issuing company shall send written notice to Denver Risk Management, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202. Such written 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." Additionally, Contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the address above by certified mail, return receipt requested. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Contractor. 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.

(2) **Proof of Insurance:** Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to placement of coverage. Contractor certifies that the certificate of insurance attached as Exhibit D, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of 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.

(3) **Additional Insureds:** For Commercial General Liability and Auto Liability, Contractor and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

(4) **Waiver of Subrogation:** For all coverages, Contractor's insurer shall waive subrogation rights against the City.

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

(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. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Contractor executes this Agreement.

(7) **Commercial General Liability:** Contractor shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

(8) **Business Automobile Liability:** Contractor shall maintain Business Automobile Liability with 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) **Additional Provisions:**

a) For all Commercial General Liability and Excess Liability, the policies must provide the following:

- i. That this Agreement is an Insured Contract under the policy;
- ii. Defense costs in excess of policy limits;

- iii. A severability of interests, separation of insureds or cross liability provision;
- iv. A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City;
- v. No exclusion for sexual abuse or molestation.

b) For claims-made coverage:

i. The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier.

c) Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

**11. LIABILITY:** Each party to this Agreement shall be liable for the actions and omissions of its respective officers, agents, employees and subcontractors, to the extent provided by the Colorado Governmental Immunity Act. This obligation shall survive termination of this Agreement.

**12. COLORADO GOVERNMENTAL IMMUNITY ACT:** In relation to the Agreement, each party 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, LATE CHARGES, AND PERMITS:** 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 hereby represents that it is exempt for the payment of taxes, state or federal sales, use, withholding, excise, personal property, value-added or similar taxes, assessments of any nature; however, any applicable taxes required by current local, state or federal laws, hereafter enacted or amended, the Contractor shall promptly pay when due, all such 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, utilized by the Contractor in performing services under this Agreement, including City-owned land, facilities, improvements, or equipment.

**14. ASSIGNMENT AND SUBCONTRACTING:** The Contractor shall not voluntarily or involuntarily assign any of its rights or obligations under the Agreement or subcontract performance obligations without obtaining the Director's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void, and shall be cause for termination of this Agreement by the City. The 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.

Services subcontracted under this Agreement shall be specified by written agreement and shall be subject to each applicable provision of this Agreement and any and all applicable Federal and State Laws with appropriate changes in nomenclature in referring to such subcontract. The Contractor shall submit proposed subcontract agreements to the Director for the Director's review and approval. Such consent of the City obtained as required by this paragraph shall not be construed to constitute a determination of approval of any cost under this Agreement, unless such approval specifically provides that it also constitutes a determination of approval of such cost.

**15. 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.

**16. 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.

**17. 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.

**18. CONFLICT OF INTEREST:**

**A.** No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement; and the Contractor shall not hire, or contract for services with, any employee or officer of the City 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.

**B.** 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 which 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 in the event it determines a conflict exists, after it has given the Contractor written notice describing the conflict. The Contractor will have thirty (30) days after the notice is received to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

**19. 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 Contractor at the address first above written, and if to the City at:

Director of Workforce Development or Designee  
Office of Economic Development  
City and County of Denver  
201 West Colfax Avenue, Dept. 1011  
Denver, CO 80202

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.

**20. 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 or contemporaneous addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No subsequent novation, renewal, addition, deletion, or other amendment will have any force or effect unless embodied in a written amendment to the Agreement properly executed by the parties. 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. The Agreement is, and any amendments thereto will, be binding upon the parties and their successors and assigns. Amendments

to this Agreement will become effective when approved by both parties and executed in the same manner as this Agreement.

**21. DISPUTES:** All disputes of whatsoever nature between the City and the Contractor regarding this Agreement shall be resolved by administrative hearings pursuant to the procedure established by Denver Revised Municipal Code, § 56-106(b), *et seq.* For the purposes of that procedure, the City official rendering a final determination shall be the City representative identified in Paragraph 3.

**22. 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.

**23. COMPLIANCE WITH APPLICABLE 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, State of Colorado, and with the Charter, ordinances, regulations, policies, and Executive Orders of the City and County of Denver whether or not specifically referenced herein. Any references to specific federal, state, or local laws or other requirements incorporated into this Agreement are not intended to constitute an exhaustive list of federal, state, and City requirements applicable to this Agreement. Applicable statutes, regulations and other documents pertaining to administration or enforcement of the services referenced in this Agreement and all other applicable provisions of federal, state or local law are deemed to be incorporated herein by reference. Compliance with all such statutes, regulations and other documents is the responsibility of the Contractor. Contractor shall ensure that any and all Subcontractors also comply with applicable laws. In particular, and not by way of limitation, the services shall be performed in strict compliance with all laws, executive orders, ordinances, rules, regulations, policies and procedures prescribed by the City, the State of Colorado, and the United States Government, and the following additional federal requirements:

**A.** The Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 U.S.C. §601, *et seq.*;

**B.** The Colorado Works Program Act, C.R.S. §26-2-701, *et seq.*;

**C.** The Deficit Reduction Act of 2005, 109 P.L. 171



D. The applicable terms and conditions of the Colorado Works Program Act Memorandum of Understanding, or any subsequent Memorandum of Understanding between the City and the State of Colorado, and as the same may be executed or amended from time to time.

E. Any and all applicable federal, state, or City rules and regulations relevant to the administration of the Program including but not limited to 45 C.F.R. 260, 45 C.F.R. 261, 45 C.F.R. 262, 45 C.F.R. 263, 45 C.F.R. 265; and 3 C.C.R. 3.600 *et seq.*

F. The general terms and conditions contained in **Exhibit C** are general in scope and may contain requirements covering conditions that may not be encountered in the performance of services under the Contract and which, for this reason, are not necessarily applicable thereto. Where any stipulation or requirement set forth therein applies to any such non-existing condition and is not applicable to the services under this Agreement, and the City so determines in writing, such stipulation or requirement shall have no meaning relative to the performance of such services.

G. Any and all Grant Awards, Contracts, or other Agreements governing this Agreement;

H. Any and all Requests for Proposals, or portions thereof, issued by the City for purposes of this Agreement as designated by the Director;

I. All policies, procedures, information memoranda, Program guidance, instructions or other written documentation issued by the federal government, State of Colorado, or the City and provided to the Contractor concerning the Program or the expenditure of Federal Funds including but not limited to applicable provisions of Colorado Staff Manual Volume 5, codified at 11 Code Colorado Regulations 2508-1, and Volume 7, codified at 12 Code Colorado Regulations 2509-1.;

J. All circulars of the U.S. Office of Management and Budget ("OMB") including but not limited to A-133.

**24. NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under this Agreement, the Contractor agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Contractor further agrees to insert the foregoing provision in all subcontracts hereunder.

**25. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:** The Contractor shall cooperate and comply with the provisions of Executive Order 94 and Attachment A thereto 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 the City barring the Contractor from City facilities or participating in City operations.

## **26. CONFIDENTIAL INFORMATION; OPEN RECORDS:**

**A. Confidential Information:** The Contractor acknowledges and accepts that, in the performance of all work under the terms of this Agreement, the Contractor will or may have access to the following types of information: (1) City Proprietary Data or confidential information that may be owned or controlled by the City ("City Proprietary Data"); (2) confidential information pertaining to persons receiving services from the Agency ("Client Data"), or (3) confidential proprietary information owned by third parties ("Third Party Proprietary Data"). For purposes of this Agreement, City Proprietary Data, Client Data, and Third Party Proprietary Data shall be referred to collectively as "Confidential Information". The Contractor agrees that all Confidential Information provided or otherwise disclosed by the City to the Contractor or as otherwise acquired by the Contractor during its performance under this Agreement shall be held in confidence and used only in the performance of its obligations under this Agreement. The Contractor shall limit access to any and all Confidential Information to only those employees who have a need to know such information in order to provide services under this Agreement. The Contractor shall exercise the same standard of care to protect any and all Confidential Information as a reasonably prudent contractor would to protect its own proprietary or confidential data. Contractor acknowledges that Confidential Information may be in hardcopy, printed, digital or electronic format. The City reserves the right to restrict at any time Contractor's access to electronic Confidential Information to "read-only" access or "limited" access as such terms are designated by the Director.

The Contractor agrees to comply with all applicable state and federal laws protecting the privacy or confidentiality of any and all Client Data that include protected medical records or protected information. The Contractor shall establish and submit to the City, within fifteen (15) days of the City's written request thereof, copies of Contractor's policies and procedures to maintain the confidentiality of any protected medical records or protected information to which the Contractor has access. In the event that the Contractor is required to access Client Data that include protected medical records from a third party provider or is required to provide Client Data, including protected medical records to the City for purposes of monitoring and evaluating the Contractor's performance under this Agreement, then the Contractor agrees to fully coordinate with OED-WD personnel and the client in order to obtain any necessary consent forms, authorization forms, or release forms.

**(1) Use of Confidential Information:** 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 Confidential Information or any part thereof to any other person, party or entity in any form or media for any purpose other than performing its obligations under this Agreement. The Contractor further acknowledges that by providing access to 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 reveal, publish, disclose, or distribute to any other party, in whole or in part, in any way whatsoever, any Confidential Information without prior written authorization from the Director.

(2) **City Methods:** The Contractor agrees that any ideas, concepts, know-how, computer programs, or data processing techniques developed by the Contractor or provided by the City in connection with this Agreement shall be deemed to be the sole property of the City and all rights, including copyright, shall be reserved to the City. The Contractor agrees, with respect to Confidential Information, that: (a) the Contractor shall not copy, recreate, reverse, engineer or decompile such data, in whole or in part, unless authorized in writing by the Director; (b) the Contractor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; (c) 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.

(3) **Employees and Subcontractors:** The requirements of this provision shall be binding on the Contractor's employees, agents, officers and assigns. The Contractor warrants that all of its employees, agents, and officers who designated to provide services under this Agreement will be advised of this provision. All requirements and obligations of the Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement.

(4) **Disclaimer:** Notwithstanding any other provision of this Agreement, the City is furnishing 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, accuracy and completeness of the Confidential Information. The Contractor acknowledges and understands that Confidential Information may not be completely free of errors. The City assumes no liability for any errors or omissions in any Confidential Information. 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.

**B. Open Records:** The parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act, § 24-72-201, *et seq.*, C.R.S. (2009), and that in the event of a request to the City for disclosure of such information, the City shall advise the Contractor of such

request in order to give the Contractor the opportunity to object to the disclosure of any of its proprietary or confidential material. 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 and against disclosure of such material or waive the same.

## 27. INTELLECTUAL PROPERTY RIGHTS:

**A. Copyrights.** Unless otherwise prohibited by Federal Law, the City and Contractor tend that all property rights to any and all records, case files, databases, materials, information, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, studies, reports, negatives, 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 forms and on any media whatsoever (collectively, "Materials"), shall be the sole and exclusive property of the City. The Contractor shall disclose all such items to the City upon completion, termination, or cancellation of this Agreement. The Contractor shall not use, willingly allow another to use, or cause such items to be used for any purpose other than for the performance of the Contractor's duties and obligations under this Contract without the prior, express written consent of the City. To the extent permitted by the U.S. Copyright Act, 17 U.S.C. §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 hereby sells, assigns and transfers all rights, 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 copyright, patent, trademark and other intellectual property rights in perpetuity.

**B. Patent Rights.** If any improvement, or discovery of the Contractor, or any of its third party contractors, is conceived or first actually reduced to practice during the term or course of this Contract, and if such is patentable, then the Contractor shall immediately notify the City in writing of such invention, improvement, or discovery and provide the City with a complete written report on that invention, improvement or discovery. The rights and responsibilities of the Contractor, third party contractors of the Contractor, and the City with respect to such invention, improvement, or discovery shall be determined in accordance with all applicable Federal Laws, regulations, policies or waivers thereof. The Contractor shall include the requirements of this paragraph in its third party contracts, if any, for the performance of work under this Agreement.

**C. Patented Devices, Materials and Processes.** If the Contractor employs any design, device, material or process covered by letter of patent or copyright, it shall provide for such use by suitable legal agreement with the patentee or copyright

owner. The Contractor shall indemnify and save harmless the City from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the City for any costs, expenses and damages which it may be obligated to pay by reason of any infringement, at any time during the prosecution or after the completion of services. None of the above in this subparagraph applies if the Contractor uses patented devices, materials or processes specified by the City.

D. Contractor acknowledges that pursuant to Federal Law, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, all copyrighted material and all material which can be copyrighted.

**28. LEGAL AUTHORITY:** 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 Contractor represents and warrants that he has been fully authorized by Contractor to execute the Agreement on behalf of Contractor and to validly and legally bind 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 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 the Agreement or any provisions thereof were prepared by a particular party.

**30. 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.

**31. 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.

**32. TIME IS OF THE ESSENCE:** The parties agree that in the performance of the terms, conditions, and requirements of this Agreement, time is of the essence.

**33. PARAGRAPH HEADINGS:** The captions and headings set forth herein are for convenience of reference only, and shall not be construed so as to define or limit the terms and provisions hereof.

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

**35. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE:** This Agreement consists of Articles 1 through 36, which precede the signature page and the following attachments which are incorporated herein and made a part hereof by reference:

- A. General Terms and Conditions – Exhibit C;
- B. Work Statement - Exhibit A;
- C. Budget - Exhibit B;
- D. Proof of Insurance – Exhibit D

In the event of an irreconcilable conflict between a provision contained in Articles 1 through 36, and any of the listed attachments or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

- Articles 1 through 36 (Agreement)
- Exhibit C (unless the City specifically notifies the Contractor in writing that a provision of Exhibit C prevails over this Agreement)
- Exhibit A – Work Statement
- Exhibit B – Budget
- Exhibit D – Proof of Insurance

**36. COUNTERPARTS OF THIS AGREEMENT:** This Agreement may be executed in two (2) counterparts, each of which shall be deemed to be an original of this Agreement.

***Balance of page intentionally blank.***

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ATTEST:

CITY AND COUNTY OF DENVER:

By: \_\_\_\_\_  
STEPHANIE Y. O'MALLEY, Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver

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

RECOMMENDED AND APPROVED:

By: \_\_\_\_\_  
Director, Workforce Development

APPROVED AS TO FORM:

DAVID R. FINE, City Attorney for the City and County of Denver

REGISTERED AND COUNTERSIGNED:

By: \_\_\_\_\_  
Assistant City Attorney

By: \_\_\_\_\_  
Manager of Finance  
Contract Control No. GE01192

By: \_\_\_\_\_  
Auditor  
"CITY"

ATTEST: [If required by Corporate procedures]

By: \_\_\_\_\_  
Secretary, Board of Education

SCHOOL DISTRICT NO. 1 IN THE CITY AND COUNTY OF DENVER AND THE STATE OF COLORADO

Taxpayer (IRS) I.D. No. 846001099

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Attorney for School District No. 1 in the City and County of Denver and State of Colorado

By: \_\_\_\_\_  
Chief Operating Officer

"CONTRACTOR"

- Exhibit A – Work Statement
- Exhibit B – Budget
- Exhibit C – General Conditions

Contractor / Funding [select funding source]/ CA Initials  
GE 01192  
OED-WD - TANF Template (nongov entities)  
Date template issued by CAO: May 27, 2010  
H:\Practice Manager\PMDocuments\91485859\Agreement 6.22.2010.doc





**WORK STATEMENT**  
**School District No. 1 in the City and County of Denver and the State of Colorado**  
**acting by and through Emily Griffith Opportunity School (EGOS)**  
**TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**

**1.0 SCOPE**

The Contractor shall provide identified services as listed in Section 1.1. The services provided by the Contractor will support only TANF eligible individuals as determined by the Denver Department of Human Services. The services will further at least one of the four federal purposes of Colorado Works/TANF which purposes are: 1) assisting needy families so that children can be cared for in their own homes; 2) reducing the dependency of needy parents by promoting job preparation, work and marriage; 3) preventing out-of-wedlock pregnancies; and 4) encouraging the formation and maintenance of two-parent families.

**1.1 Services**

1.1.1 The Contractor shall provide services which shall assist in fulfilling TANF work participation requirements and lead to unsubsidized employment. The Contractor shall provide the following services:

- Vocational skills training in High Demand Industries
- Job readiness training
- Community Based training (CBT) placement
- Internship placement
- Job search
- Employment placement
- Case management services
- Employment retention services
- GED Testing
- Vocational English Language Learning for a specific populations

1.1.2 The Contractor shall provide employment and training services at a minimum of:

- 64 Estimated full program carry in participants (the planned number of participants who will be carried in from the previous program year who have not yet completed the program or been placed in unsubsidized employment [CM-PC]) from the High Demand program and
- 9 Estimated full program carry in participants (the planned number of participants who will be carried in from the previous program year who have not yet completed the program or been placed in unsubsidized employment [CM-PC]) from the VELL program.
- 21 Estimated follow-up and retention carry in participants (the planned number of participants who will be carried in from the previous



program year who were placed in unsubsidized employment (L6-RC) from the High Demand program and

- 5 Estimated follow-up and retention carry in participants (the planned number of participants who will be carried in from the previous program year who were placed in unsubsidized employment (L6-RC) from the VELL program.
- 120 minimum new participant enrollments annually (CM-NE), including carry-in limited enrollments (CM-LP), with a monthly capacity of 186 (85 – Training Full enrollment, 42 – pre-training, and 59 – post-training, for the High Demand program and
- 80 minimum new participant enrollments annually (CM-NE), including carry-in limited enrollments (CM-LP), with a monthly capacity of 55 (25 – Training Full enrollment, 12 – pre-training, and 18 – post-training, for the VELL program. At no time in the term of this agreement may the number of limited enrollments be more than 25% of active full enrollments.
- 205 total customers in the High Demand program over the term of this agreement.
- 94 total customers in the VELL program over the term of this agreement

1.1.3 In addition the Contractor shall provide:

- The Contractor shall provide employment placement and employment retention services for 12 months to all Customers who have become employed full-time
  - The Contractor shall re-enroll any customer successfully completing the program and subsequently discontinued from TANF who must re-enter the TANF system within 12 months of Contractor program completion.
- The Contractor shall ensure that all limited, full and retention customers meet Federal Work Participation Requirements (FWPR) through a combination of the following services:
  - Vocational education / Skills training
  - Community based training placement
    - For any limited enrollment customers Prior to full enrollment
    - For all full enrollment customers to supplement other Contractor activities provided under this agreement
  - Job Search Preparation and Facilitated Job Search services
    - For up to one year for all customers successfully completing the Contractor's program who receive Basic Cash Assistance (BCA). Customers' status should be evaluated with OED TANF staff every 90 days.
- All countable activities from Section 1.1.1.

## 1.2 Employment and Training Services Objectives

- 1.2.1 Participation Requirements – A minimum of 65% of enrolled Limited and Program Participants will meet the monthly required federal work participation hours in both the HD and VELL programs.
- 1.2.2 Program Completion - a minimum of 70% of enrolled Program Participants shall complete the Contractor's program as specified in the Contractor's participation policy in both the HD and VELL programs.
- 1.2.3 Employment Placement - a minimum of 60% of Program Participants who successfully complete the program shall be placed in unsubsidized employment in both the HD and VELL programs.
- 1.2.4 Industry Placement - a minimum of 75% of Program Participants placed in unsubsidized employment shall be placed in positions within the program's target industry In the HD program.
- 1.2.5 Six Month Retention - a minimum of 60% of all Program Participants placed in unsubsidized employment shall retain employment for six (6) months from the date of entry into unsubsidized employment in both the HD and VELL programs.
- 1.2.6 Twelve Month Retention - a minimum of 50% all Program Participants placed in unsubsidized employment shall retain employment for twelve (12) months from the date of entry into unsubsidized employment in both the HD and VELL programs.
- 1.2.7 Twelve Month Wage Gain - a minimum of 50% all Program Participants who retain unsubsidized employment for twelve (12) months shall obtain a 2% wage gain from the date of entry into unsubsidized employment in both the HD and VELL programs.

## 2.0 PROGRAMMATIC AND PERFORMANCE REQUIREMENTS

### 2.1 Referral, Recruitment, and Orientation Procedures

- 2.1.1 The Contractor shall receive referrals of TANF participants from The Office of Economic Development (herein after referred to as OED). The referral will include the Joblink Referral, Status Update and Referral Form (SURF), Individual Responsibility Contract (IRC), and all OED assessment results.
- 2.1.2 The Contractor shall not provide services for any person unless the Contractor has received a Joblink Referral from OED.

- 2.1.3 The Contractor may conduct outreach and recruitment activities with OED staff and other contractors as appropriate.
- 2.1.4 The Contractor shall participate in the OED Vendor Fair for one and a half (1.5) hours weekly, and any other designated events to assist in recruitment efforts.
- 2.1.5 The OED assessment shall be the basis for the IRC. The IRC will stipulate the specific activities, timelines, and anticipated outcomes.
- 2.1.6 The Contractor shall provide the results of any additional participant assessments conducted as part of their contracted services to OED, as allowed by the Health Insurance Portability and Accountability Act (HIPAA).
- 2.1.7 The Contractor shall provide an orientation to all new participants. The orientation shall include information about:
  - services available at the Contractor.
  - grievance procedures, signed by the participant, and placed in the participant's file,
  - expectations and responsibilities of the participant,
  - the Contractor's participation policy
  - expectations and responsibilities of the Contractor,
  - evaluation system, and
  - additional related services available from other service providers or the community.

## 2.2 Participation and Program Completion Policy

- 2.2.1 The Contractor shall obtain approval of its participation policy from OED Operations staff within 30 days of the execution of this agreement. The participation policy shall include the requirements for completion of each of the Contractor's programs.
- 2.2.2 The Contractor shall provide its approved participation policy to the participant prior to enrollment into the program. Upon enrollment into the program the participant will sign a copy of the Contractor's participation policy.
- 2.2.3 The Contractor shall monitor employment and training activities daily for each participant.
- 2.2.4 The Contractor will follow OED's Employment and Training Non-Compliance Policy which requires the Contractor to notify the OED Business Development Administrator (BDA) by e-mail within 24 hours of

the participant's failure to comply with the Contractor's OED approved participation policy.

### 2.3 Resource Guide

2.3.1 The Contractor shall provide OED with a resource guide utilizing the provided OED template within thirty (30) days of the start of the contract. The Contractor will update their resource guide as often as necessary following the OED resource guide update process.

2.3.2 The Contractor shall provide copies of the following material to OED within thirty (30) days of the start of the contract. This material will be used by OED staff as a resource when making contractor referrals:

- All orientation materials
- Standard program activity language to be used in the development of the IRC
- Contractor grievance policy
- Contractor participation policy
- Contractor program completion definitions
- Course curricula and associated materials and/or program outlines

### 2.4 Subcontracts

2.4.1 The Contractor shall be responsible for all participants referred to their program including those that they refer to their subcontracted services. The Contractor will provide written notification of such referrals to the BDA.

2.4.2 The Contractor will use Joblink when making referrals to their subcontracted providers.

2.4.3 The Contractor may not make direct referrals to any other programs of which they do not have a subcontract, this includes Memorandums of Understanding (MOU).

### 2.5 Supportive Services

2.5.1 The Contractor will seek resources from OED for participants' supportive services as appropriate.

2.5.2 The Contractor will seek community resources to meet participant needs that cannot be met by OED due to policy or limited resources.

### 2.6 Data Collection and Reporting

- 2.6.1 The Contractor shall be responsible for OED Management Information System (MIS) data collection in accordance with City policies and procedures.
- 2.6.2 The Contractor shall ensure its data reporting systems are compatible with OED systems and meet OED data reporting requirements. The Contractor shall be responsible for supplying and maintaining all required MIS equipment and software, including terminal emulation software.
- 2.6.3 Data collection includes fiscal reports, MIS paperwork, participant case notes on progress, achievement and attendance records, follow-up activities, and any other reports required by OED and identified in this exhibit, or the agreement, or OED's policies.
- 2.6.4 The Contractor must enter the participant's activities into the Joblink database before receiving reimbursement for services provided to the participant. The Contractor shall comply with the OED's Joblink procedures related to data collection and reporting. All contractors must attend data collection and reporting training in order to gain access to the Joblink system.
- 2.6.5 The Contractor will ensure that participation hours for all enrolled TANF participants are reported to OED by close of business each Monday for the previous week's activities utilizing the JobLink database or any alternative participation reporting system and procedures implemented by OED. A copy of each participant's monthly participation hours total will be provided by OED to the Contractor and maintained in the participant's case file.
- 2.6.6 The Contractor will ensure that all participant activities are accurately entered by running designated reports to reconcile any errors or discrepancies. The Contractor will run weekly JobLink error reports, review participation data entry accuracy, and correct any errors by close of business each Monday for the previous week's activities.

## 2.7 Reports

- 2.7.1 The Contractor shall submit performance reports to the assigned OED Contract Administrator within ten (10) calendar days after the end of each quarter or as designated by OED.
- 2.7.2 OED will provide the format of the performance report to the Contractor. The Contractor shall use the quarterly performance goals set forth in a Summary and Detailed Quarterly Activities Performance form (QAP) provided by OED, when completing the performance component of the performance report.

2.7.3 The Contractor shall submit a monthly Customer Progress Report to the Program Participant's primary OED staff. OED will provide the report elements to the Contractor. The Contractor shall report any status changes to OED staff within 24 hours of receiving notification of change.

2.8 Quarterly Activity Performance

2.8.1 The purpose of the QAP is to identify minimum performance outcomes and outline a planned schedule of activities to be provided by the Contractor. The performance accountability outlined in the QAPs was established to assess the effectiveness of providers in achieving continuous improvement of TANF activities funded through OED. OED is expected to meet performance criteria. As a result, the Contractor will also be expected to meet or exceed the minimum performance measures outlined in the QAP.

2.9 Coordination and Contractor Participation

2.9.1 The Contractor shall assure optimal program coordination and linkages with OED and other Denver service providers to ensure appropriate, consistent and efficient provision of services to TANF participants.

2.9.2 The Contractor shall actively participate in any forums, meetings, or planning sessions conducted to further the goals of providing appropriate, consistent, and efficient provision of TANF services.

2.9.3 The Contractor shall participate in OED-provided staff training sessions in programmatic and financial areas including, but not limited to budgeting/cost allocation plans, participant tracking, vouchering process, sectoral employment strategies, and case management.

2.9.4 The Contractor will make available staff and records for review by the Contract Administrator or designated OED staff.

2.10 Documentation/File Management

2.10.1 The Contractor shall provide documented case management for each participant for whom services are provided. The Contractor shall establish and maintain a separate file for each participant and shall keep the file up to date with current information and appropriate required documentation, as prescribed by OED. Case management must include a minimum of one monthly, documented contact for participants who are participating in program activities.



2.10.2 The Contractor is responsible for maintaining an organized file (chronological with most recent on top), with sections identified below, for each participant. File contents will be shared as allowed by the Health Insurance Portability and Accountability Act (HIPAA). At a minimum, the file shall contain a hard copy of:

a. Case Notes

- Case notes (handwritten or computer generated – OED encourages the Contractor to enter case notes in JobLink)
- Case notes must identify the date (month, day and year), the form of contact and the initials of the author
- Letter/Referrals (if applicable)
- Progress Notes (if applicable)

b. Application and Enrollment

- Status Update and Referral Form (provided by OED)

c. Intake, Assessment, Plan and Program Activities

- IRC (provided by OED)
- Staffing Report (provided by OED)
- Subsequent Assessments
- Signed Release of Information
- Signed Grievance Procedure
- Signed Charitable Choice Notice, if applicable,
- Signed Attendance/Participation Policy
- Signed Community Based Training Agreements

d. Employment, Performance (For Employment & Training Activities Only)

- Follow-up Retention Documentation
- Termination or Closure Documentation
- Employment Verification

2.10.3 The Contractor shall send copies of all related placement agreements to the SBDA, for customers involved in Community Based Training activities.

### 3.0 ADMINISTRATIVE REQUIREMENTS

#### 3.1 Compensation and Methods of Payment

3.1.1 The method of payment to the Contractor by OED shall be in accordance with established OED Financial Management Unit (FMU) procedures (OEDPS# 2001-06) for line-item reimbursement. The Contractor must

submit expenses and accruals to OED on or before the 20th day of each month for the previous month's activity.

- 3.1.2 Contractor's Cost Allocation Plan package must be completed and submitted to OED for approval prior to the payment of any invoices. The contractor shall adhere to the requirements and guidance for cost allocation in federal grant programs in accordance to the OMB Circular A-122.
- 3.1.3 The Contractor shall be reimbursed or paid for services provided under this Agreement according to the approved line-item reimbursement budget, attached to and made a part of this Agreement.
- 3.1.4 The Contractor shall submit the final invoice for reimbursement within forty five (45) days after the end of the contract.
- 3.1.5 The Contractor shall submit invoice requests for reimbursement of costs on a regular and timely basis in accordance with OED policies. This requires the submittal of one invoice for each payroll and a separate single invoice with all monthly operating expenses. Invoices shall be submitted on or before the 20th day of each month for the previous month's expenses.
- 3.1.6 The Contractor shall follow the OED Procurement Policy, which requires that at least three (3) documented quotations be secured for all purchases or services (including insurance) supplies, or other property that costs more than \$2,000.00 in the aggregate.

### 3.2 Close-Out

- 3.2.1 The Contractor shall prepare and submit the required OED contract closeout reports within sixty (60) days of the expiration date of this contract. The closeout package will be sent to the Contractor prior to the end of the contract. OED reserves the right to automatically closeout the contract after sixty (60) days, if there are no disallowed cost pending. Once the contract closeout is completed, no further reimbursements will be allowed. Prior to reimbursement for the last invoice, OED will review participant files in accordance with OED Closeout Policy.

### 3.3 Grievance Policy

- 3.3.1 The Contractor shall ensure that participants are being adequately informed over pending actions concerning their continued participation in the program or activities provided by the Contractor. Also participants must be allowed adequate opportunity to communicate dissatisfaction with

the facilities or services offered by the Contractor. In order to satisfy this requirement, the contractor must develop a written "Grievance Policy" as a mechanism to provide opportunities for grantees and participant to meaningfully communicate problems, dissatisfaction, and concerns and to establish procedures for resolution of grievances. The Contractor agrees that a formal "Grievance Policy" will be adopted by its governing body and submitted to OED for approval. It shall be the responsibility of the Contractor to obtain all participant signatures for the Grievance Policy.

#### 3.4 Charitable Choice Notice

3.4.1 If applicable, the Contractor shall ensure that participants are notified of their right to request and receive services from an alternative provider of services if that recipient objects to the religious character of the Contractor. OED and the Contractor shall work together to refer the participant to a reasonably accessible alternative provider that has the capacity to provide comparable services to the individual and provide services which have a value not less than that of the services provided by the Contractor. It shall be the responsibility of the Contractor to obtain all participant signatures for the Charitable Choice Notice.

#### 3.5 Records Retention

3.5.1 The Contractor must provide original files to OED upon request for audit and review. If requested by OED, the Contractor must provide original files to OED after the contract has expired. The Contractor shall make arrangements to transfer ALL documentation to the OED. If OED does not request the files including personnel, financial, and customer records from the Contractor, the Contractor must retain the files for six (6) years after submittal of the final report or until resolution of any pending audit and shall permit access thereto at no cost to the City. In the event that the Contractor cannot continue to maintain and store this documentation, original participant files will be submitted to OED in accordance with OED policy.

#### 3.6 Wage Subsidy

3.6.1 The Contractor shall coordinate all wage subsidy placements, including paid work experience and on-the-job training, with the SBDA to ensure proper enrollment of the participant and disbursement of subsidized payments.

#### 3.7 Cultural Competency

3.7.1 The Contractor shall implement mechanisms to foster and demonstrate its commitment to diversity and inclusion of people from different

backgrounds. Contractor may demonstrate this “inclusiveness” through representation of board members, staff, mentors and/or volunteers.

**COST ALLOCATION PLAN NARRATIVE**  
**Emily Griffith Opportunity School/ TANF Grant**  
**Program Year 2010/2011 – 7/1/10 – 6/30/11**

**Statement of Function and Benefits**

This budget will provide funds for services to Temporary Assistance to Needy Families (TANF) clients. These services include advising, assessment, case management, education and training, job search, placement and job retention of TANF clients, enabling them to attain and maintain self-sufficiency.

The budget also provides funds for services to TANF LEP clients. These funds provide for teaching, assessment, tutoring, job search, placement and job retention of TANF clients, enabling them to attain self-sufficiency.

This twelve month contract will authorize EGOS to provide services to **170 new participants**. The contractor will continue serving an estimated **99 carry-ins**, which includes **73 program carry-ins** and **26 retention carry-ins**.

**Personnel**

*Advisors/Case Managers*

The contract pays for two full-time advisors/case managers. Both are contracted employees and spend 100% of their time working with the TANF program.

The contract pays for one half-time advisor/employment specialist who spends 100% of the time working with the TANF program.

The contract pays for one **Business Development Liaison** (not yet hired) who will spend 100% of the time working with the TANF program.

This full time position will act as a liaison between EGOS, the assigned Business Development Associate (BDA) of record, and the TANF participant to ensure that the customer meets work participation requirements, successfully completes contractor services, and achieves employment outcomes.

The contract pays for one **Community Based Training Coordinator** (not yet hired) who will spend 100% of the time working with the TANF program.

This full time position will develop Community Based Training (CBT) positions with local non-profit organizations, government agencies, and businesses in order to provide work experience and hands-on training opportunities to TANF participants. CBT placements will be utilized prior to, during, and after enrollment with Emily Griffith Opportunity School (EGOS).

***Office Manager***

The contract pays for one full-time office manager who spends 100% of the time working with the TANF program.

***Teaching Positions***

The contract pays for two part-time teachers, both hourly employees of DPS, who will be working with the TANF LEP program. (Hourly is \$29.10)

***Job Coach***

The contract will pay for one part-time (10 hours per week) coach who will be working on job coaching, job retention and developing new job shadowing-employment sites. (Hourly is \$29.10)

***Office Support***

The contract will pay for one part-time office support (10 hours per week) who will be giving placement tests to LEP TANF participants, enroll them into appropriate classes, and keep track of data. (Hourly is \$14.95)

**Fringe Benefits**

Benefit rates are determined by the Denver Public Schools and charged as a percentage rate, calculated annually. Attached is a copy of the 2010/2011 DPS budget guidance manual provided by DPS budget office. The 2010/2011 TANF grant will be held in fund 28 with the corresponding benefits. Regarding health insurance, DPS pays a portion of the health insurance amount. It is a fixed amount per month based on employee classification, and where applicable, is part of the union negotiations for the employee group. The total cost of benefits is based on the type of insurance the employee chooses and if the employee chooses to cover a spouse and/or children.

**Non-Personnel Line Item Descriptors**

Office Expenses, Supplies and Equipment: Office supplies used 100% by the TANF office and food for monthly TANF student group meetings (Career Seekers' Circle) or other TANF student gatherings.

Travel/Client: RTD bus coupons to be provided to TANF students who recently applied for TANF, have not received their transportation allowance, have lost their bus pass, etc. The average will vary, but may total \$210 per month. (See Client Travel Policy attached.)

Equipment Rental: Copier used 100% by the TANF Office is leased from IKON through a contract with Denver Public Schools. The lease includes the copier, toner and maintenance.

Educational Materials/Customers: (High Demand) Classroom textbooks, required for all programs. The estimated average per month for books is \$2500 or \$83 for each of 30 students per month.

(LEP) The funds will be used to purchase books for students and for teacher resources. (\$2500 = \$50/student)

Testing fees: Testing fees will pay for 25 TANF students in the Certified Nursing Assistant and Certified Home Health Aide programs to take the state licensure test which costs \$95.

Tuition: Tuition is charged by Emily Griffith to new and continuing students. Tuition is calculated at \$61 per credit hour plus a capital improvement charge of \$2 per credit hour and a technology fee of \$19 per hour. Tuition and material fees vary from course to course. This cost is included in the cost quoted for each class and is used to upgrade and enhance program and school technology. Tuition and fees for instructional programs are reviewed periodically by the school administrators and are subject to change without prior notification. Proof of Colorado residency is required. Under Colorado law, a person must have lived in Colorado for one full calendar year prior to school enrollment to be entitled to resident tuition rates. For persons not residing in the state of Colorado for one year prior to date of starting class and for visa students, non-resident tuition is an additional \$100 per credit hour.

DPS Indirect: Indirect costs charged by the Denver Public Schools, calculation as a percentage of total expenditures less capital equipment and tuition expenditures. The percentage is determined annually by the State of Colorado to be approximately 4.88% charged to the grant.

EGOS Cost Pool: Costs calculated based upon the percentage of services utilized, estimated at approximately 5%. See attached letter for further explanation.

**Cost per participant served - \$2839.00**

Contractor Name: **EMILY GRIFFITH OPPORTUNITY SCHOOL - Project#1 High Demand & Project #2 ELL/Special Pops**  
 Project: **EMILY GRIFFITH OPPORTUNITY SCHOOL - Project#1 High Demand & Project #2 ELL/Special Pops**  
 Contract Dates: **7/1/2010 to 6/30/2011**  
 Return to OED Project Specialist: **Victoria Lindsay**  
 Program Year: **2010**

Budget Category	Agency Total (All Funding Sources)	Project Costs Funding 1 High Demand	Project Costs Funding 2 ELL/Special Pops		Total Project Costs Requested from OED	Other City & County of Denver Funding (Add applicable funding as assessed)	Other Federal Funding	Non-Federal Funding	Other	Agency Total
			Amount	%						
<b>Personnel Name and Job Title</b>	<b>Total</b>	<b>Total</b>	<b>Total</b>	<b>Total</b>	<b>Total</b>	<b>Total</b>	<b>Total</b>	<b>Total</b>	<b>Total</b>	<b>Total</b>
Thomas, Corin / HD Advisor	75,785	75,785	100.00%	0.00%	75,785	0.00%	0.00%	0.00%	75,785	100%
Fischer, Kevin / HD Advisor	43,161	43,161	100.00%	0.00%	43,161	0.00%	0.00%	0.00%	43,161	100%
TBA / HD Employment Specialist	38,808	38,808	100.00%	0.00%	38,808	0.00%	0.00%	0.00%	38,808	100%
Grove, Debra / HD Office Support III	40,141	40,141	100.00%	0.00%	40,141	0.00%	0.00%	0.00%	40,141	100%
TBA - CAB	40,141	40,141	100.00%	0.00%	40,141	0.00%	0.00%	0.00%	40,141	100%
TBA - BDL	40,141	40,141	100.00%	0.00%	40,141	0.00%	0.00%	0.00%	40,141	100%
Goodspeed, Kaitlyn / MSC Teacher @ 29.10/hr	45,571	45,571	0.00%	50.00%	22,785	0.00%	0.00%	22,785	45,571	100%
Hogg, Kimberly / MSC Teacher @ 25.10/hr	45,571	45,571	0.00%	50.00%	22,785	0.00%	0.00%	22,785	45,571	100%
Mohr, Kevin / MSC Job Coach @ 29.10/hr	52,380	52,380	0.00%	25.00%	13,095	0.00%	0.00%	30,285	52,380	100%
Kraus, Jacqueline / MSC Office Support @ 14.85/hr	26,910	26,910	0.00%	25.00%	6,728	0.00%	0.00%	20,183	26,910	100%
<b>Total Salary:</b>	<b>485,354</b>	<b>314,923</b>	<b>64.89%</b>	<b>13.67%</b>	<b>380,316</b>	<b>78.38%</b>	<b>0.00%</b>	<b>105,038</b>	<b>485,354</b>	<b>100%</b>
<b>Fringes</b>	<b>144,803</b>	<b>119,878</b>	<b>70.39%</b>	<b>11.59%</b>	<b>118,899</b>	<b>81.30%</b>	<b>0.00%</b>	<b>26,144</b>	<b>144,803</b>	<b>100%</b>
<b>Salary and Fringe Total:</b>	<b>630,157</b>	<b>434,801</b>	<b>68.14%</b>	<b>13.04%</b>	<b>498,974</b>	<b>77.19%</b>	<b>0.00%</b>	<b>131,182</b>	<b>630,157</b>	<b>100%</b>
<b>Non-Personnel</b>	<b>5,000</b>	<b>5,000</b>	<b>100.00%</b>	<b>0.00%</b>	<b>5,000</b>	<b>100.00%</b>	<b>0.00%</b>	<b>-</b>	<b>5,000</b>	<b>100%</b>
Office Expenses Supplies & Equipment	5,000	5,000	100.00%	0.00%	5,000	100.00%	0.00%	-	5,000	100%
Communication & postage	2,520	2,520	100.00%	0.00%	2,520	100.00%	0.00%	-	2,520	100%
Travel - Staff	2,000	2,000	100.00%	0.00%	2,000	100.00%	0.00%	-	2,000	100%
Equipment	2,000	2,000	100.00%	0.00%	2,000	100.00%	0.00%	-	2,000	100%
Facilities	32,500	30,000	92.31%	7.69%	32,500	100.00%	0.00%	-	32,500	100%
Educational Materials - Customers	2,375	2,375	100.00%	0.00%	2,375	100.00%	0.00%	-	2,375	100%
Training Fees	157,000.00	157,000.00	100.00%	0.00%	157,000.00	100.00%	0.00%	-	157,000.00	100%
Tuition	\$28,226.00	\$28,226.00	100.00%	0.00%	28,226.00	100.00%	0.00%	-	28,226.00	100%
CPIS - Indirect	\$35,019.00	\$35,019.00	100.00%	0.00%	35,019.00	100.00%	0.00%	-	35,019.00	100%
FEOS - Clear Pass	-	-	-	-	-	-	-	-	-	-
<b>Total Non-Personnel</b>	<b>264,840</b>	<b>253,587</b>	<b>95.82%</b>	<b>4.18%</b>	<b>264,840</b>	<b>100.00%</b>	<b>0.00%</b>	<b>131,182</b>	<b>264,840</b>	<b>100%</b>
<b>Total Project Cost</b>	<b>894,797</b>	<b>671,398</b>	<b>75%</b>	<b>15%</b>	<b>763,814</b>	<b>85.34%</b>	<b>0.00%</b>	<b>131,182</b>	<b>894,797</b>	<b>100%</b>
<b>Program Income (through funded activities)</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00%</b>	<b>0.00%</b>	<b>0.00</b>	<b>0.00%</b>	<b>0.00%</b>	<b>0.00</b>	<b>0.00</b>	<b>0%</b>
<b>Non-Project:</b>										
Personnel Costs										
Non-Personnel Costs										
Other (Specify HUD Breakthrough)										
<b>Total Non-Project Cost</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00%</b>	<b>0.00%</b>	<b>0.00</b>	<b>0.00%</b>	<b>0.00%</b>	<b>0.00</b>	<b>0.00</b>	<b>0%</b>
<b>Grand Total</b>	<b>894,797</b>	<b>671,398</b>	<b>75%</b>	<b>15%</b>	<b>763,814</b>	<b>85.34%</b>	<b>0.00%</b>	<b>131,182</b>	<b>894,797</b>	<b>100%</b>

Submitted by: **Mabel Landri** Assistant Controller Title: **42102010** Date: **04/05/2010**  
 Reviewed by: **TRADUBCAP** Contract Specialist Title: **TRADUBCAP**  
 This section completed by OED. Review of the OED is final when indicated by the three checkmarks.



**EXHIBIT C - GENERAL CONDITIONS**  
**ARTICLE 1**  
**PROGRAM ADMINISTRATION**

**SEC. 101. Records Maintenance, Performance Monitoring and Audits.**

A. The Contractor shall maintain a complete file of all records, notes, reports, communications, documents and other materials ("Program Records") that pertain to the operation of the program/project or the delivery of services under this Agreement. Such files shall be sufficient to properly reflect all direct and indirect costs of labor, materials, equipment, supplies and services, and other costs of whatever nature for which a contract payment was made. Program Records shall be maintained according to generally accepted account principles and shall be easily separable from other Contractor records. These records shall also be maintained in accordance with requirements prescribed by the Federal or State Government or the City with respect to all matters covered by the Contract.

B. Except for disclosures to the City as required in this Agreement and to the extent such disclosures are permitted by applicable law, the Contractor shall maintain the confidentiality of any and all confidential information acquired or maintained by the Contractor under this Agreement. The Contractor shall have written policies governing access to, duplication and dissemination of, all such information and advise its employees and agents, if any, that they are subject to these confidentiality requirements or as may be required by applicable law.

C. The Contractor shall obtain on behalf of the City, the State Government or the Federal Government, any all necessary consent forms from participants receiving services under this Agreement authorizing the release of any and all Program Records to said entities for contract and performance monitoring purposes only. The City shall protect the confidentiality of Program Records received from the Contractor.

D. The Contractor authorizes the State, the federal government or their designee, to perform audits and/or inspections of its records, at any reasonable time to assure compliance with the state or federal government's laws, regulations, rules, requirements and conditions governing this Agreement and to monitor and/or evaluate all activities of the Contractor under this Agreement. Monitoring and/or evaluation may consist of internal evaluation procedures, reexamination of program data, special analysis, on-site verification, formal audit examinations, or any other procedures as deemed reasonable and relevant by the City. All such monitoring shall be performed in a manner that will not unduly interfere with the Contractor's work under this Agreement. Any amounts improperly paid to the Contractor shall be immediately return to the City or may be recovered in accordance with other remedies.

**SEC. 102. Reports and Information.** At such times and in such forms as the Federal, or the State Government or the City may require, the Contractor shall furnish to the Federal, or the State Government or the City, such statements, records, reports, data and information, as the Federal or the State Government or the City may request pertaining to matters covered by the Agreement, or related to implementation of the Agreement.

**SEC. 103. Federal Governments Requirements.** Unearned payments under the Contract may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by the Federal Government at any time; or if any entitlement to the City under Federal Law is suspended or terminated.

**SEC. 104. Accounting.**

A. Records shall provide accurate, separate, and complete disclosure of fund status. Supportive documentation shall be provided for all disbursements. The Contractor will maintain auditable records - i.e., records must be current and traceable to the source documentation of unit transactions.

B. All accounting functions for the contract must be performed in the Metropolitan Denver Area as defined by the boundaries of the Standard Metropolitan Statistical Area, unless waived by the Division of Workforce Development (DWD) Executive Director.

C. Disbursements shall be processed through the City and County of Denver Auditor's Office by the DWD Financial Management Unit.

D. The Contractors shall maintain separate accountability for DWD funds.

E. Proper reporting to Federal, State, and local taxing authorities for the collection, payment, and depositing of taxes withheld shall be adhered to. At a minimum, this includes Federal and State withholding, State Unemployment, Worker's Compensation (staff only), City Occupational Privilege Tax, and FICA.

F. A proper filing of unemployment and worker's compensation (for staff only) insurance shall be made to appropriate organizational units.

G. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the Agreement shall be clearly identified and readily accessible.

**SEC. 105. Vouchering Requirements.**

A. In order to meet the Federal Government and/or State of Colorado requirements for current, auditable books at all times, it is required that all vouchers be submitted monthly to DWD in order to be paid.

1. The first exception will be that expenses cannot be reimbursed until the funds under this contract have been encumbered.

2. The second exception will be that costs cannot be reimbursed until they total a minimum of \$15 unless it is a final payment voucher or the final voucher for the fiscal year (ending December 1)

B. No more than four (4) vouchers may be submitted per contract per month.

C. Agreements that start in one fiscal year and end in the subsequent fiscal year, are required to have all vouchers for the fiscal year be submitted correctly, within forty five (45) days of the Agreement end date, in order to be paid.

D. City and County of Denver Forms shall be used in back-up documents whenever required in the Voucher Processing Policy.

**SEC. 106. Bonding.** Every agency or employee who receives or deposits Federal Government and/or State of Colorado funds into program accounts or issues financial documents, checks or other instruments of payment for program costs shall be bonded to provide protection against loss. The amount of coverage shall be the highest advance received through check or drawdown during the contract period.

**SEC. 107. Personnel.**

A. The Contractor shall submit to DWD their written agency personnel (including complaint and grievance procedures) and Equal Employment Opportunity (EEO) policies as required in DWD's Policy Series and have such policies approved within thirty (30) days of the Agreement start date or the Agreement may be terminated.

B. The Contractor shall submit to the DWD Contract Specialist a copy of the agency written personnel policies and procedures within thirty (30) days of the Agreement start date. The Contractor is responsible for providing DWD with any written revisions to the personnel policy during the term of this Agreement.

**SEC. 108. Contract Monitoring & Compliance With Applicable Audit Requirements.**

A. The Contractor's performance may be reviewed monthly, or more often, by the appropriate operational unit at DWD which has program management responsibility.

B. All reports submitted by the Contractor shall be utilized as part of the determination of Agreement success.

C. All reviews shall be conducted in accordance with internal DWD procedures. Procedures will be available to the Contractor prior to any review.

D. The Contractor is subject to final program audit. The City Auditor reserves the right to select the audit firm. The Contractors shall provide all appropriate records to the auditing personnel. The Audit Guide will be the basis of the performance of the audit. The Contractor agrees to abide by the administrative procedures of DWD regarding the resolution of audit exceptions.

E. The Contractor shall ensure that it, and its subrecipients(s), if any, comply with all provisions of the Single Audit Act Amendments of 1996 (Public Law 104-156) and, revised OMB Circular A-133. If the Contractor expends \$500,000 or more of federal awards in the Contractor's fiscal year, then the Contractor shall submit an audit report, made in accordance with the Single Audit Act Amendments of 1996 (Public Law 104-156) and revised OMB Circular A-133, to the City within the earlier of thirty (30) calendar days after receipt of the auditor's report; or nine (9) months after the end of the period audited. The Contractor shall engage an audit committee that engages an independent auditor, determines the services to be performed, reviews the progress of the audit and the final audit findings, and intervenes in any disputes between management and the independent auditors. The Contractor shall also institute policy and procedures for its lower tier subrecipients that comply with these audit provisions.

**SEC. 109. DWD Equipment.**

A. Contractors will be held accountable for all City property in their possession until relieved of that responsibility in accordance with terms established by

DWD's Financial Management Unit. Contractors shall be held responsible for reasonable care and control of all property in its possession, which shall include:

1. Marking with departmental decals or stencils all government property obtained through any government Employment and Training Administration grant, which includes all funds provided by DWD;
2. Maintaining appropriate maintenance contracts for equipment;
3. Maintaining reasonable safeguards against theft; and
4. Contractors shall reimburse DWD for the value of missing property in accordance with the DWD Policy Series.

B. DWD will conduct an annual property inventory which will involve a comparison and reconciliation of the latest DWD inventory records with the actual physical property that exists (or is missing) at each contractor site.

**SEC. 110. Advertisement and Public Notices.** Contractors using radio or television announcements, newspaper advertisements, press releases, pamphlets, mail campaigns, or any other methods to attract Participants or employers into a DWD funded activity shall first notify the appropriate DWD Contract Specialist prior to release or publication of this information. In any event, all announcements, etc., must include the following statement: "The funding source for this activity is the City and County of Denver, Division of Workforce Development."

**SEC. 111. Assurances.** The Contractor, in operating programs funded under the Grant, further assures that it will administer its program under the Act in full compliance with safeguards against fraud and abuse as set forth in the Federal regulations; that no portion of its program will in any way discriminate against, deny benefits to, deny employment to or exclude from participation any persons on the grounds of race, color, national origin, religion, age, sex, handicap, or political affiliation or belief; that it will provide employment and training services to those most in need of them, including but not limited to low-income persons, handicapped individuals, persons facing barriers to employment commonly experienced by, for example, older workers, and persons of limited-English speaking ability, the eligible disabled and veterans.

**SEC. 112. Charging of Fees.**

A. Contractors may not charge participants a fee for the placement of that Participant into a DWD training or employment program.

B. Contractors may not charge participants a fee for job referral or placement.

**SEC. 113. Theft or embezzlement from employment and training funds; Improper Inducement, Obstruction of Investigations and other Criminal provisions.**

A. Under the law, a contracting agency and any member of its staff is criminally liable if s/he:

1. Knowingly hires an ineligible individual;
2. Embezzles, willfully misapplies, steals or obtains by fraud any of the monies, funds, assets or property which are the subject of the contract;

3. By threat of procuring dismissal of any person from employment, induces any persons to give up money or things of value;

4. Willfully obstructs or impedes an investigation or inquiry under Colorado Works Program Act (CWPA);

5. Directly or indirectly provides any employment, position, compensation, contract, appointment or other benefit, provided for or made possible in whole or in part by CWPA funds to any person as consideration, or reward for any political action by or for the support or opposition to any candidate of any political party;

6. Directly or indirectly knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or threat of denial of any employment or benefit funded under the Act.

## **ARTICLE 2 DISBURSEMENTS AND ACCOUNTING**

### **SEC. 201. Charges Against Project Account.**

A. Payments under the Contract shall be made on an actual cost basis for services that are performed and fully documented as having been performed.

B. The City shall not reimburse or pay any expenditures, costs or payments that are inconsistent with the last approved budget; PROVIDED, HOWEVER, that said budget may be revised for more efficient and effective use of monies available under the Contract upon written request by the Contractor to the City and written approval thereof by the City.

C. At any time or times prior to final payment under this Contract, the City may have the invoices and statements of cost audited. Each payment theretofore shall be subject to reduction for amounts included in the related invoice or voucher which are found by the City on the basis of such audit, not to constitute allowable costs. Any payment may be reduced for over-payment, or increased for under-payments, on preceding invoices or vouchers.

D. After the City has accepted the services actually performed under the Contract, it may require the Contractor to prepare the a summary of services and the value thereof, together with such other records, reports and data as the City may require. All prior approvals and payments shall be subject to correction in the final summary and payment; but in the absence of effort or manifest mistake, it shall be understood that all payments, when approved, shall be evidence of the services performed; PROVIDED, HOWEVER, that all payments made by the City to the Contractor shall be made subject to correction in accordance with the audit findings of the City or the Federal Government of the Contractor's books and records relating to its costs and contributed services for the preparation or completion of the services and work under the Contract, and the Contractor shall promptly repay the City the amount that such payments exceed the total amount payable to the Contractor in accordance with the provisions of the Contract and as determined on the basis of such audit and inspection. From the total amount of the final payment, there shall be deducted first all previous payments made to the Contractor under the Contract; and second, all damages, ineligible costs under the Contract, and other charges properly chargeable to

the Contractor and the balance, if any, shall be paid to the Contractor; PROVIDED, HOWEVER, that prior to the payment to the Contractor of the final payment, the Contractor shall first furnish the City evidence in affidavit form that all claims, liens or other obligations incurred by it and all of its subcontractors or agents in connection with the performance of the services have been properly paid and settled.

E. Prior to final payment under this Contract, the Contractor and each assignee under the Contract whose assignment is in effect at the time of the final payment under the Contract shall, within such time as the City may designate not to exceed sixty (60) days from the termination of the Contract for any reason whatsoever, execute and deliver as required by the City:

1. An assignment to the City in form and substance satisfactory to the City of refunds, rebates, credits and other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the City under the Contract; and

2. A release in such form as the City may prescribe, discharging the City, its officers, agents and employees from all liabilities, obligations and claims arising out of or under this Contract.

F. Contract funds remaining unspent by the Contractor at the termination of the Contract for any cause whatsoever shall be returned to the City within such time following the termination as the City may set. Interest shall accrue in the favor of the City at the rate of eight percent (8%) per annum on such funds thereafter.

**SEC. 202. Method of Payment and Disbursements.**

A. On a regular basis in the due course of conducting its business during the term of this Contract, based upon certain reports and records required by the City of the Contract, the City will approve the dollar value of services under the Contract completed by the Contractor during the preceding performance period. After approval by the City, these reports and records will serve as a basis for a partial payment by the City to the Contractor. The City may withhold the final ten percent (10%) of the money made available under the Contract pending the making of final settlement and final payment as set forth herein.

B. The Contractor shall request payment of the monies available under the Contract on such basis and in such amounts and at such times and under or subject to such conditions as the City may specify. The City agrees to establish a payment procedure that will provide funds in a timely and regular manner.

**SEC. 203. Accounting Controls.**

A. The Contractor shall assist the City, as necessary, in making an evaluation of the Contractor's internal control system, fidelity bonding coverage, accounting and report systems prior to any payment being made under this Contract. The Contractor shall assist the City as necessary in documenting the adequacy or inadequacy of said systems and in continual monitoring for accuracy of such systems, allowing the City and the Federal Government free and ready access to the plants or offices of the Contractor at reasonable times for on-site inspection and audit.

B. Accounting System. The Contractor will establish and maintain on a current basis for accounting of funds available under the Contract an accounting system in accordance with generally accepted accounting principles and standards.

C. Designation of Depository. The Contractor shall designate to the City a commercial bank which is a member of the Federal Deposit Insurance Corporation, acceptable to the City, to be the depository for the receipt of funds under the terms of the Contract. After the City has satisfied itself as to the propriety of the account, it may deposit funds made available hereunder into said account. The commercial bank selected must fully insure and secure against loss continuously all funds on deposit in excess of the amount insured by a Federal or State Agency.

**SEC. 204. Advance Payments.** Monies available under the Contract in the budget may be advanced by the City to the Contractor according to DWD policy, approval of the DWD director and upon approval by the Auditor of the City of each individual request therefore. Approved advanced payments are subject to the terms and conditions of the City's policy.

### **ARTICLE 3 MISCELLANEOUS**

**SEC. 301. Personnel.**

A. The Contractor represents that it has, or will secure with funds available for same under this Agreement, all personnel required in performing its services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.

B. All of the services required hereunder of the Contractor will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

**SEC. 302. Sales and Use Taxes.** Nothing herein shall be deemed to exempt the Contractor or any subcontractor from payment of the Sales Tax or the Use Tax of the City. In accordance with applicable State and Local law, the Contractor will pay, and require subcontractors to pay, all sales and use taxes on tangible personal property, including that built into a project or structure, acquired in pursuance of the Contract. Any and all refunds claimed and received by the city shall not affect any bid price or contract price under the Contract.

**SEC. 303. Extension of Time.** The Contractor shall be considered as having taken into account all hindrances and delays incidental to such services, and will not be granted an extension of time on account thereof.

**SEC. 304. Singular and Plural.** Wherever in the Agreement or any Exhibit thereto the singular or plural form of a noun is used, the meaning may be taken to be either plural or singular, unless the intent taken in the context of the sentence would be changed.



**ARTICLE 4  
PREVAILING WAGE REQUIREMENTS**

**SEC. 401. Labor Standards and Wage Rates.**

A. The City, the Contractor and any subcontractor in the performance of work on any construction contract (project), twenty-five percent (25%) or more of the costs of which are paid from contract entitlement funds: (1) will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act as amended (40 U.S.C. 276a--276a-7); and (2) will be covered by labor standards specified by the Secretary of Labor pursuant to 29 C.F.R., Parts 1, 3, 5, and 7.

B. In situations in which the Davis-Bacon Act (40 U.S. C. 276a to 276a-7 as supplemented by Department of Labor regulations 29 CFR Part 5) standards are applicable, (generally construction contracts in excess of \$2,000), the Contractor or any subcontractor shall comply with all requirements and must file with the regional office of the United States Department of Labor a Standard Form 308 requesting a wage determination for each intended project at least thirty (30) days before the invitation for bids, and must ascertain that the wage determination issued and the contract clauses required by 29 C.F.R. 5.5 are incorporated in any subcontract specifications. The City, the Contractor and any Subcontractor must also satisfy itself that the successful bidder is made aware of its labor standards responsibilities under the Davis-Bacon Act.

C. In the event that the Davis-Bacon Act is deemed not to apply to this Agreement, but yet the Services to be provided hereunder nonetheless require construction or constructions services, then Section 20-76 of the Den. Rev. Mun. Code pertaining to Payment of Prevailing Wages shall apply.

D. If any subcontract involving subcontractors other than State agencies shall involve the construction or maintenance of a public work as set forth in Section 20-76 of the Revised Municipal Code of the City, the following provisions shall apply:

1. Any person or company other than a State agency entering into a subcontract with the State for the construction of any public building or the prosecution or completion of any public work or for repairs upon any public building or public work, shall be required before commencing work, to execute, in addition to all bonds that may now or hereafter be required of them, a penal bond, with good and sufficient surety or sureties, to be approved by the Manager of Public Works of the City, conditioned that such contractors shall promptly make payments of all amounts lawfully due to all persons supplying or furnishing him or it, or his or its subcontractors with labor or materials, or with labor and materials used or performed in the prosecution of the work provided for in such contract, and will indemnify the City to the extent of any and all payments in connection with the carrying out of any such contracts with said City may be required to make under the law.

2. Every worker, mechanic or other laborer employed by any Contractor or subcontractor in the work of drainage or of construction, alteration, improvement, repair, maintenance or demolition of any public building or public work by or in behalf of the City, or for any department of the City, or financed in whole or in part by the City or any department of the City, or engaged in the work of a doorkeeper, caretaker, cleaner,



window washer, porter, keeper, janitor or in similar custodial or janitorial work in connection with the operation of any such public building or the prosecution of any such public work by or in behalf of the City, or for any department of the City, or financed in whole or in part by the City, or any department of the City, shall be paid not less than the wages prevailing for the same class and kind of work in the City as determined by the Career Service Board of the City under Section D hereof.

3. For every subcontract in excess of \$2,000.00 which requires the performance of work involving drainage or involving construction, alteration, improvements, repairs, maintenance or demolition of any public building or public work, or which requires the performance of the work of a doorkeeper, caretaker, cleaner, window washer, porter, keeper, janitor, or similar custodial or janitorial work in connection with the operation of any such public building, or the prosecution of any such public work, the minimum wages to be paid for every class of labor, mechanics or work shall be not less than the scale of wages from time to time determined by said Career Service Board to be the prevailing wages under Section (D) hereof; no increase or increases in such minimum wages shall result in any increased liability on the part of the City, and the possibility and risk of any such increase or increases is assumed by the Contractor.

4. It shall be duty of said Career Service Board to determine, after hearing, the prevailing wages for the various classes of laborers, mechanics, and workers which will be required in the performance of the Subcontract, which determination shall be made periodically at least every six months, and as frequently as may be considered necessary by said Career Service Board in order that the determination which is currently in effect shall accurately represent the current prevailing rates of wages. Prior to making such determination, said Career Service Board shall give reasonable public notice of the time and place of the hearing concerning such proposal determination and shall afford to all interested parties the right to appear before it and to present evidence. "Prevailing Wages" shall mean, for each class of work, (a) the rate of pay currently and most commonly paid to laborers, mechanics and workers performing such classes of work in the City, and (b) the overtime and other benefits currently and most commonly granted to such workers, mechanics, and laborers in the City; except that where the work involved is that of construction, alteration, improvement, repair, maintenance or demolition of any public building or public work, "Prevailing Wages" shall mean, for each class of work, the rate of pay currently and most commonly paid and the overtime and other benefits currently and most commonly granted to such workers, mechanics and laborers in the construction industry of the City.

5. The Contractor and every Subcontractor under the Contract shall pay every worker, mechanic and laborer employed under the Contract, not less than the scale of wages as determined by said Career Service Board under Section D hereof to be the prevailing rate. The Contractor and its subcontractors shall pay all workers, mechanics and other laborers at least once a week the full amounts of wages accrued at the time of payment, computed at wage rates not less than those stated in the specifications. Further, the Contractor shall post in a prominent and easily accessible place at the site of the work the scale of wages to be paid by the Contractor and all Subcontractors working under it. In the event the Contractor or any Subcontractor shall

fail to pay such wages as are required by the Contract, the Auditor of the City shall not approve any warrant or demand for payment to the Contractor until the Contractor furnishes the Auditor of the City evidence satisfactory to him that such wages so required by the Contract have been paid. Further, the Contractor shall furnish to the Auditor of the City each week during which work is in progress under the Contract, a true and correct copy of the payroll records of all workers, laborers and mechanics employed under the Contract, either by the Contractor or Subcontractors. Such payroll records shall include information showing the number of hours worked by each worker, laborer or mechanic employed under the Contract, the hourly pay of each such worker, laborer or mechanic, any deductions made from pay, and the net amount of pay received by each worker, laborer or mechanic for the period covered by the payroll. Said copy of the payroll record shall be accompanied by a sworn statement of the Contractor that the copy is a true and correct copy of the payroll records of all mechanics, laborers and other workers working under the Contract either for the Contractor or Subcontractors, that payments were made to the workers, laborers, and mechanics as set forth in said payroll records, that no deductions were made other than those set forth in said records, and that all workers, mechanics and other laborers employed on work under the Contract, either by the Contractor or Subcontractor, have been paid the prevailing wages. In the event that any laborer, worker or mechanic employed by the Contractor or Subcontractor under the Contract has been or is being paid a rate of wages less than the rate of wages required by the Contract to be paid as aforesaid, the City may, by notice to the Contractor or Subcontractor, suspend or terminate its right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages, and in the event of termination, may prosecute the work to completion by contract or otherwise, and the Contractor and its sureties shall be liable to the State or City for any excess costs occasioned the City thereby.

6. No warrant or demand for payment to the Contractor or Subcontractor shall be drawn or allowed by the Auditor of the City unless the Contractor or Subcontractor shall have filed with said Auditor the reports and statements required by Section E hereof nor while any such Contractor or Subcontractor under it shall be in default in the payment of such wages as are required by the Contract.

7. The Provisions of Sections B through G hereof, inclusive, shall constitute a part of every contract of employment between the Contractor and any subcontractor not a State agency and his or its employee performing work covered by the provisions of said sections.

**SEC. 402. Use of Property.** Whenever Contract funds available for use in whole or in part for the purchase or construction (including rehabilitation) of property (other than office equipment, supplies, materials and other personal property used for the administration of the program), a title to said property shall not be transferred for a period of five (5) years from the date of purchase or completion of construction without the approval of the City. Should it be desirable to sell the property or otherwise transfer the ownership before expiration of the five-year period, a request must be submitted to the City for prior approval.

**ARTICLE 5**  
**PERSONAL PROPERTY**

**SEC. 501. Purchases and City Property.**

A. The Contractor agrees to use its best efforts to obtain all supplies and equipment for use in the performance of this Contract at the lowest practicable cost, in a way not inconsistent with Section 20-61 through 20-67 of the Revised Municipal Code. Any public Contractor may procure its supplies from State or local government sources without regard to any other provision of the Contract to the extent required by State or local law. The City will assist the Contractor and its subcontractors in the following procedures for procurement of supplies and equipment.

B. Title to all non-expendable personal property furnished by the City, if any, shall remain in the City. Title to all such property acquired by the Contractor including acquisition through lease-purchase agreement, for the cost of which the Contractor is to be reimbursed in whole or in part as direct item of cost under the Contract, shall immediately vest in the City upon delivery of such property by the vendor. Title to other such property, the cost of which is to be reimbursed to the Contractor under this Contract, shall immediately vest in the City upon (i) issuance for use of such property in the performance of the Contract; or (ii) commencement of processing or use of such property in the performance of the Contract; or (iii) reimbursement of the cost thereof by the City, whichever first occurs. Title to the City property shall not be affected by the incorporation or attachment thereof if any part thereof be or become a fixture or lose its identity as personal property by reason of affixation to any realty. All City-furnished property, and all property acquired by the Contractor, title to which vests in the City under this paragraph, are subject to the provisions of this clause and are herein collectively referred to as "City Property".

C. The Contractor agrees to accept as correct the records of the City relating to the identification and marking, segregation and co-mingling and taking of inventories of City property. The Contractor shall maintain and administer in accordance with sound business practice, a program for the maintenance, repair, protection and preservation of City property so as to assure its full availability and usefulness for the performance of the Contract. The Contractor shall take reasonable steps to comply with all appropriate directions or instructions which the City may prescribe as reasonably necessary for the protection of the City property including the removal and shipping of City property, where the City deems that the interest of the City requires the removal of such property.

D. The City property shall be used only for the performance of this Contract and its use by the Contractor is understood and agreed to be part of the consideration for which services are provided.

E. The Contractor shall not be liable for any loss of or damage to the City property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any loss or damage (including expenses incidental thereto):

1. Which results from willful misconduct or lack of good faith on the part of any one of the Contractor's directors or officers, or on the part of any of its managers, superintendents or other equivalent representatives;

2. Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of its directors, officers or other representatives mentioned in (1) above to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection and preservation of City property as required by Paragraph (D) hereof, or to take all reasonable steps to comply with any appropriate written directions of the City under Paragraph (D) hereof;

3. For which the Contractor is otherwise responsible under the express terms of the Contract;

4. Which results from a risk required to be insured under the Contract;  
or

5. Which results from a risk which is, in fact, covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement.

The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the City property, except to the extent that the City may have required the Contractor to carry such insurance under any provisions of the Contract.

F. If the Contractor transfers City property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to the property as set forth in Paragraph (F) hereof. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of or damage to the property while in the latter's possession or control, except to the extent that the subcontractor, with the prior approval of the City, provides for the relief of the Contractor from such liability. In the absence of such approval, the subcontractor shall maintain appropriate provisions requiring the return of all City property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the Contract.

G. In the event the Contractor is indemnified, reimbursed or otherwise compensated for any loss or destruction of or damage to the City property, it shall use the proceeds to repair, renovate or replace the City property involved, or shall credit such proceeds against the cost of the work covered by the Contract or shall otherwise reimburse the City, as directed by the City. The Contractor shall do nothing to prejudice the City's rights to recover against third parties for any such loss, destruction or damage and, upon the request of the City, shall, at the City's expense, furnish to the City all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the City) in obtaining recovery. In addition, where the subcontractor has not been relieved from liability for any loss or destruction of or damage to City property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the City property for the benefit of the City.

H. Upon the completion of the Contract, or at such earlier date as may be fixed by the City, the Contractor shall submit to the City in a form acceptable to it, inventory schedules covering either all items of City property, or all items of City property not theretofore delivered to the City, and shall deliver or make such other

disposal of such City property as may be directed or authorized by the City. The net proceeds of any such disposal shall be credited to the cost of the work covered by the Contract or shall be paid in such manner as the City may direct .

- I. Unless otherwise provided herein, the City:
  1. May abandon any City property in place, and thereupon all obligations of the City regarding such abandoned property shall cease; and
  2. Shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of, the Contractor's plant or offices or any portion thereof which is affected by the abandonment or removal of any City property.
- J. All communications issued pursuant to this Section shall be in writing.

## **ARTICLE 6 FIDELITY BOND**

**SEC. 601. Fidelity Bonding Assurance.** Prior to the initial disbursement of funds to the Contractor, the City may request that fidelity bonding be obtained from the surety of the Contractor evidencing that all persons handling funds received or disbursed under the program are covered by fidelity insurance in an amount and manner consistent with the coverage of comparable City employees and consistent with sound fiscal practice. If the bond of any employee of the Contractor is cancelled or coverage is substantially reduced, the Contractor shall notify the City and shall not disburse any funds thereafter until the City receives and acknowledges assurance from the Contractor that adequate insurance coverage has been obtained.

## **ARTICLE 7 REQUIRED CONTRACT CLAUSES FOR ETA GRANTS**

**SEC. 701. Executive Order 11246.** The Contractor must be in compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, as supplemented in Department of Labor regulations (41 DFR chapter 60).

**SEC. 702. Copeland "Anti-Kickback" Act** If this agreement involves construction or repair work, it will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 847) as supplemented in Department of Labor regulations (29 CFR Part 3).

**SEC. 703. Contract Work Hours and Safety Standards Act** The Contractor shall comply with all Federal, State, and Municipal Act, laws, ordinances, rules and regulations relating to minimum wages and maximum hours of work, including Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).

**SEC. 704. Clean Air Act** Notwithstanding any other provision, the Contractor agrees to comply with the Clean Air Act, as amended, (42 U.S.C. 1857 et seq.), the Clean Water Act,

as amended (33 U.S.C. 466 et seq.), and the standards issued pursuant thereto, in facilities which are involved in the activities receiving assistance. All subcontracts will include provisions required by regulations issued by the Department of Labor with respect to the Clean Air Act of 1970 and the Federal Water Pollution Control Act.

**SEC. 705. Energy Policy and Conservation Act** The Contractor shall comply with all applicable standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, Public law 94-163, 89 Stat. 871.

**SEC. 706. Lobbying Certification**

A. None of the funds provided under this Agreement shall be used to influence or attempt to influence any elected or public official to support or defeat any legislation or rules and regulations pending before the Council of the City or the General Assembly of the State of Colorado.

B. Contractor assures and certifies compliance with applicable federal law 45 C.F.R. Part 93 for TANF; 29 C.F.R. Part 93 for WIA; and 45 C.F.R. Part 93 for the Refugee Act.

**SEC. 707. Federal Debarment** This Agreement is subject to the prohibitions on contracting with a debarred organization set out in U.S. Executive Order 12549, Debarment and Suspension implemented at 45 C.F.R. Part 76. By its signature below, the Contractor assures and certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. The Contractor shall provide immediate written notice to the Director if at any time it learns that its certification to enter into this Agreement was erroneous when submitted or has become erroneous by reason of changed circumstances. If the Contractor is unable to certify to any of the statements in the certification contained in this Article 34, the Contractor shall provide a written explanation to the City within thirty (30) calendar days of the date of execution of this Agreement. Furthermore, if the Contractor is unable to certify to any of the statements in the certification contained in this Article 34, the City may pursue any and all available remedies available to the City, including but not limited to terminating this Agreement immediately, upon written notice to the Contractor.

**SEC. 708. Nepotism**

A. No subrecipient or employing agency may hire a person in an administrative capacity, staff position, public-service employment position or on-the-job training position funded under the Act, if a member of that person's immediate family is engaged in an administrative capacity for the recipient or program agent from which the subrecipient or employing agency obtains its funds. To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such state or local requirement shall be followed.

B. For purposes of this section:



1. The term "immediate family" means wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

2. The term "person in an administrative capacity" includes those persons who have overall administrative responsibility for a program, for the obtaining of and/or approval of any grant funded under the Act, as well as other officials who have influence or control over the administration of the program, such as the project director, deputy director and unit chiefs, and persons who have selection, hiring, placement or supervisory responsibilities for public service employment or OJT participants.

3. The term "staff position" includes all CWPA staff positions funded under the Act, such as instructors, counselors and other staff involved in administrative training or service activities.

**SEC. 709. Prohibited Political Activity and Political Patronage** None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

Without limiting the foregoing, the Contractor agrees that political activities are prohibited under this Agreement, and agrees that no funds paid to it by the City hereunder will be used to provide transportation for any persons to polling places or to provide any other services in connection with elections.

A. No program under the Act may involve political activities.

B. No participant may engage in partisan or non-partisan political activities during work hours.

C. No participant may be employed or out-stationed in the office of a member of Congress or a state or local legislator or on any staff of a legislative committee.

D. No participant may be employed or out-stationed in the immediate office of any chief elected executive official (such as the Mayor).

E. No participant may be employed or out-stationed in positions involving political activities in the offices of other elected executive officials (such as a City Council Officer).

F. Contractor staff and participants must comply with the provisions of the Hatch Act.

G. A Contractor may not select or promote a participant based on that individual's political affiliation or belief.

H. A Contractor may not select or advance an employee as a reward for political services or as a form of political patronage whether or not the political services or patronage is partisan in nature.

