

TOWN OF SUPERIOR  
RESOLUTION NO. R-27  
SERIES 2022

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH BOULDER COUNTY FOR AN EMERGENCY RENTAL ASSISTANCE PROGRAM TO PAY FOR RENTERS IN ARREARS FOR UTILITY PAYMENTS

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. The Intergovernmental Agreement between the Town of Superior and Boulder County for an Emergency Rental Assistance Program is hereby approved in substantially the same form as attached hereto, subject to final approval by the Town Attorney.

ADOPTED this 9<sup>th</sup> day of May, 2022.



*Clint Folsom*  
\_\_\_\_\_  
Clint Folsom, Mayor

ATTEST:

*Patricia Leyva*  
\_\_\_\_\_  
Patricia Leyva, Town Clerk

## INTERGOVERNMENTAL AGREEMENT

<b>DETAILS SUMMARY</b>	
<b>Document Type</b>	New Contract
OFS Number-Version	<b>301994</b>
<b>County Contact Information</b>	
Boulder County Legal Entity	Boulder County
Department	Boulder County Department of Housing & Human Services
Mailing Address	PO Box 471, Boulder, CO 80306
IGA Contact – <i>Name, email</i>	Patrick Kelly, <a href="mailto:pkelly@bouldercounty.org">pkelly@bouldercounty.org</a>
<b>Municipality Contact Information</b>	
Name	Town of Superior, Colorado
Mailing Address	124 E Coal Creek Drive, 80027
Contact 1- <i>Name, title, email</i>	Paul Nilles, Finance Director, <a href="mailto:pauln@superiorcolorado.gov">pauln@superiorcolorado.gov</a>
<b>IGA Term</b>	
Start Date	May 9, 2022
Expiration Date	December 31, 2022
<b>IGA Amount</b>	
IGA Amount	\$15,000
Fixed Price or Not-to-Exceed?	Not-to-Exceed
COVID-19	YES
Project #	102493
<b>Brief Description of Program</b>	
BCDHHS, through its Emergency Rental Assistance Program, will use federal ERA2 funds to pay the municipal utility companies in Boulder County for qualifying arrears payments owed by qualifying County residents up to an amount not to exceed the IGA Amount.	
<b>IGA Documents</b>	
a. Program Details, including program-specific terms attached as Exhibit A (the "Program Details")	
b. Federal Award Requirements attached as Exhibit B	
<b>IGA Notes</b>	
<i>Additional information not included above</i>	
117-45009-72764-1027-102439-DR11	
SB	
Use of HS Fin org 45009 is consistent with City of Boulder ERA2 funding, as is using client utilities 72764 vs 74000	

THIS INTERGOVERNMENTAL AGREEMENT ("IGA") is entered into by and between the Board of County Commissioners on behalf of the County of Boulder, State of Colorado, a body corporate and politic, for the benefit of the Department of Housing and Human Services ("County") and the Town of Superior ("Town" or "Subrecipient"). County and Town are each a "Party," and collectively the "Parties."

In consideration of the mutual covenants contained in this IGA, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Incorporation into IGA: The **Details Summary** and the **IGA Documents** are incorporated into this IGA by reference.

2. Program: The County, through its Emergency Rental Assistance Program, will pay Town for arrears payments owed by qualifying County residents up to an amount not to exceed the IGA Amount in accordance with the Program Details (the "Program"). The Parties will (a) cooperate in good faith to complete the Program, (b) perform the obligations and (c) follow the processes, in each case as more specifically set forth in the Program Details.

3. Term of IGA: The **IGA Term** begins on the **Start Date** and expires on the **Expiration Date**, unless terminated sooner. The Program must be completed during the **IGA Term**.

4. Liability: Each Party agrees to be responsible for its own actions or omissions, and those of its officers, agents and employees in the performance or failure to perform its obligations under this IGA. By agreeing to this provision, neither Party waives or intends to waive, as to any person not a party to the IGA, the limitations on liability that are provided to the Parties under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

5. Information and Reports: Town will provide to authorized County, State, and Federal government representatives all information and reports that may be required for any purpose required by law in connection with the Program, including access to Town's facilities, books, records, accounts, and any other relevant sources of information.

6. Termination

a. Breach: Either Party's failure to perform any of its material obligations under this IGA, in whole or in part or in a timely or satisfactory manner, will be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Town, or the appointment of a receiver or similar officer for Town or any of its property, which is not vacated or fully stayed within thirty (30) days after the institution of such proceeding, will also constitute a breach. In the event of a breach, the non-breaching Party may provide written notice of the breach to the other Party. If the breaching Party does not cure the breach, at its sole expense, as reasonably determined by the non-breaching Party in its sole discretion, within thirty (30) days after delivery of notice, the non-breaching Party may exercise any of its remedies provided under this IGA or at law, including immediate termination of this IGA.

b. Non-Appropriation: The other provisions of this IGA notwithstanding, County is prohibited by law from making commitments beyond the current fiscal year. Payment to Town beyond the current fiscal year is contingent on the appropriation and continuing availability of funding in any subsequent year. County has reason to believe that sufficient funds will be available for the full **IGA Term**. Where, however, funds are not allocated for any fiscal period beyond the current fiscal year, County may terminate this IGA without penalty by providing seven (7) days' written notice to Town.

c. Convenience: In addition to any other right to terminate under this Section, County may terminate this IGA, in whole or in part, for any or no reason, upon seven (7) days' advance written notice to Town.

7. Binding Arbitration Prohibited: County does not agree to binding arbitration by any extra-judicial body or person.

8. Notices: All notices provided under this IGA must be in writing and sent by Certified U.S. Mail (Return Receipt Requested), electronic mail, or hand-delivery to the other Party's **Contact** at the address specified in the **Details Summary**. For certified mailings, notice periods will begin to run on the day after the postmarked date of mailing. For electronic mail or hand-delivery, notice periods will begin to run on the date of delivery.

9. Statutory Requirements: This IGA is subject to all statutory requirements that are or may become applicable to counties or political subdivisions of the State of Colorado generally, including but not limited to: C.R.S. § 38-26-107, which requires withholding funds where the County receives a claim for payment from a supplier or subcontractor of Town upon notice of final settlement (required for public works IGAs that exceed \$150,000); C.R.S. § 8-17-101 et seq.; C.R.S. § 18-8-301, et seq.; and C.R.S. § 18-8-401, et seq.
10. Entire Agreement/Binding Effect/Amendments: This IGA represents the complete agreement between the Parties and is fully binding upon them and their successors, heirs, and assigns, if any. This IGA terminates any prior agreements, whether written or oral in whole or in part, between the Parties relating to the Program. This IGA may be amended only by a written agreement signed by both Parties.
11. Assignment/Subcontractors: This IGA may not be assigned or subcontracted by Town without the prior written consent of the County.
12. Governing Law/Venue: The laws of the State of Colorado govern the construction, interpretation, performance, and enforcement of this IGA. Any claim relating to this IGA or breach thereof may only be brought exclusively in the Courts of the 20<sup>th</sup> Judicial District of the State of Colorado and the applicable Colorado Appellate Courts.
13. Breach: The failure of either Party to exercise any of its rights under this IGA will not be deemed to be a waiver of such rights or a waiver of any breach of the IGA. All remedies available to a Party in this IGA are cumulative and in addition to every other remedy provided by law.
14. Severability: If any provision of this IGA becomes inoperable for any reason but the fundamental terms and conditions continue to be legal and enforceable, then the remainder of the IGA will continue to be operative and binding on the Parties.
15. Third-Party Beneficiary: Enforcement of the terms and conditions and all rights and obligations of this IGA are reserved to the Parties. Any other person receiving services or benefits under this IGA is an incidental beneficiary only and has no rights under this IGA.
16. Colorado Open Records Act: County may disclose any records that are subject to public release under the Colorado Open Records Act, C.R.S. § 24-72-200.1, et seq.
17. Conflict of Provisions: If there is any conflict between the terms of the main body of this IGA and the terms of any of the **IGA Documents**, the terms of the main body of the IGA will control.
18. Delegation of Authority: The Parties acknowledge that the Board of County Commissioners has delegated authority to the Department Head or Elected Official that leads the beneficiary **Department** and their designees to act on behalf of the County under the terms of this IGA, including but not limited to the authority to terminate this IGA.
19. Publicity Releases: Town will not refer to this IGA or the County in commercial advertising without prior written consent of the County. This provision shall survive expiration or termination of this IGA.
20. Execution by Counterparts; Electronic Signatures: This IGA may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute one agreement. The Parties approve the use of electronic signatures, governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24 71.3 101 to 121. The Parties will not deny the legal effect or enforceability of this IGA solely because it is in electronic form or because an electronic record was used in its creation. The

Parties will not object to the admissibility of this IGA in the form of electronic record, or paper copy of an electronic document, or paper copy of a document bearing an electronic signature, because it is not in its original form or is not an original.

21. Limitation of Liability: NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES ARISING FROM OR RELATING TO THIS IGA, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

22. Legal Interpretation. Each Party recognizes that this IGA is legally binding and acknowledges that it has had the opportunity to consult with legal counsel of its choice about this IGA. The rule of construction providing that any ambiguities are resolved against the drafting Party will not apply in interpreting the terms of this IGA.

23. Insurance: Each Party is a “public entity” under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, and shall always during the terms of this IGA maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. This insurance shall have minimum limits, which shall match or exceed the maximum governmental liability limits set forth in C.R.S. § 24-10-114, as amended.

**[Signature Page to Follow]**

IN WITNESS WHEREOF, the Parties have executed and entered into this IGA as of the latter day and year indicated below.

<b>SIGNED for and on behalf of Boulder County</b>	<b>SIGNED for and on behalf of Town</b>
Signature: <i>Susan Caskey</i>	Signature: <i>Clint Folsom</i>
Name: Susan Caskey	Name: <i>Clint Folsom</i>
Title: Interim Director	Title: <i>Mayor</i>
Date: May 17, 2022	Date: <i>May 9, 2022</i>



## EXHIBIT A PROGRAM DETAILS

### Emergency Rental Assistance Program (ERAP) Municipal Utility Bulk Payment Program

#### Purpose of the Program

The goal of the program is to utilize U.S. Treasury Emergency Rental Assistance (ERA) dollars to pay utility arrears for those living in of Boulder County. These funds are designated to support housing stability during the COVID-19 pandemic for renters who have fallen behind in rent and/or utility payments.

To qualify for these funds, an applicant must:

- Have Boulder County residency; **and**
- Have experienced a reduction in household income, incurred significant costs, or experienced other financial hardship during or due, directly or indirectly, to the coronavirus pandemic: **and**
- Be at risk of housing instability (e.g., past-due rent or utility, eviction notice, etc.); **and**
- Have household monthly income at or below 80% of the area median income

#### Structure of the Program

Phase 1:

1. Utility mails out the opt-in letter to all account holders in arrears.
2. Opt-in letters are returned to Boulder County who will sort into categories based on how utility customers respond.
3. Those who meet the minimum requirements for renter, county resident, COVID-19 financial impact will be cross referenced for activity in the federal Supplemental Nutrition Assistance Program (SNAP). This program allows for categorical approval of eligibility based on the ERAP guidelines.
4. The list of those approved will be sent back to the utility to confirm the amount of arrears.
5. County will send a bulk payment to the utility for the total amount of arrears for those who qualify.

Phase 2: The opt-in letter contains the information the county needs to determine eligibility for the program. County ERAP staff will process the information in the opt-in letter and send an additional list of approved renters for confirmation of arrears and a bulk payment will be issued from the county to the utility.

For those who opt-in and don't qualify (homeowner, over income, etc.), the County will provide additional resources in the community may be able to assist with utility arrears. These may be warm referrals to Family Resource Centers (EFAA in Boulder, OUR Center in Longmont, Sr. Carmen in Louisville, Lafayette, and Superior, to the County's Personal Finance Team, to the state Homeowner Utility program, or to the Low-Income Energy Assistance Program (LEAP).

**EXHIBIT B  
FEDERAL AWARD REQUIREMENTS**

**ADDENDUM TO CONTRACT  
OFFICE OF MANAGEMENT AND BUDGET  
FEDERAL SUBAWARD REQUIREMENTS**

A Federal award, as defined in 2 C.F.R. § 200.1, is being used to fund the Contract. Accordingly, the parties acknowledge that the above-referenced contract is subject to applicable provisions of 2 C.F.R. § 200 et seq., Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and all other federal requirements identified in the award terms, assistance listing, and any other related federal guidance as any of these requirements may be amended. To the extent federal requirements are not included below or in the event of a conflict between federal guidance and the below, the terms of the federal requirements shall control.

This Addendum is hereby expressly incorporated into the contract between Boulder County and the Subrecipient. Regardless of any conflict of provisions language contained in the Contract, to the extent that the terms of the Contract and this Addendum conflict, the terms of this Addendum shall control.

**The applicability of the following contract provisions are described in brackets, below. As applicable, the following provisions are hereby added and incorporated into the above-referenced Contract:**

**2 C.F.R. § 200.113 Mandatory disclosures.**

*[All contracts]*

Subrecipient must disclose, in a timely manner, in writing to the County all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

**2 C.F.R. § 200.209 Certifications and representations.**

*[All contracts]*

Unless prohibited by the U.S. constitution, Federal statutes or regulations, the County is authorized to require Subrecipient to submit certifications and representations required by Federal statutes, or regulations on an annual basis. Submission may be required more frequently if Subrecipient fails to meet a requirement of a Federal award.



**2 C.F.R. § 200.303 Internal controls.**

[All contracts]

(a) Subrecipient agrees to utilize the funds received under the Contract in compliance with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal award.

(b) Subrecipient shall comply with the U.S. Constitution, Federal statutes, regulations, and terms and conditions of the Federal award.

(c) Subrecipient shall evaluate and monitor, on an ongoing basis, its compliance with statutes, regulations, and the terms and conditions of Federal awards.

(d) Subrecipient shall take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings.

(e) Subrecipient shall take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or County designates as sensitive or the County considers sensitive consistent with applicable Federal, state, local and tribal laws regarding privacy and obligations of confidentiality.

**2 C.F.R. § 200.331 Subrecipient determination.**

This subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the Subrecipient because under this Contract, Subrecipient may have the following responsibilities:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision-making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

**2 C.F.R. § 200.332 Requirements for pass-through entities.**

*[For subawards received by subrecipients as defined by 2 C.F.R. § 200.331(a)]*

**(a)(1)** Subrecipient certifies that it has received from County, as a pass-through entity, the best information available to describe the Federal award and subaward, including the Federal Award Identification information as set forth in 2 C.F.R. § 200.331(a)(1).

**(a)(2)** Subrecipient certifies that it has received and shall comply with all Federal award requirements imposed on County. Subrecipient shall use the Federal award in accordance with Federal statutes, regulations, and terms and conditions of the Federal award.

**(a)(3)** Subrecipient certifies that it has received and shall comply with all additional requirements that County imposes on Subrecipient in order for County, as the pass-through entity, to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports.

**(a)(4)** Subrecipient certifies that it has received an approved federally recognized indirect cost rate negotiated between Subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between County and Subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in § 200.414 Indirect (F&A) costs, paragraph (f).

**(a)(5)** Subrecipient shall permit County and auditors to have access to Subrecipient's records and financial statements as necessary for County to meet its requirements under federal regulations.

**(a)(6)** Subrecipient certifies that it has received and shall comply with the appropriate terms and conditions concerning closeout of the subaward that Subrecipient is receiving as a subrecipient.

**(b)** Subrecipient shall provide to County, upon request and in order for County to fulfill its obligations under 2 C.F.R. § 200.331(b), the following information:

**(1)** Subrecipient's prior experience with the same or similar subaward;

**(2)** Results of previous audits including whether or not Subrecipient receives a Single Audit in accordance with Subpart F – Audit Requirements of 2 C.F.R. Part 200, and the extent to which the same or similar subaward has been audited as a major program;

**(3)** Whether Subrecipient has new personnel or new or substantially changed systems; and

**(4)** The extent and results of Federal awarding agency monitoring (e.g., if Subrecipient also receives Federal awards directly from a Federal awarding agency).

**(c)** County reserves the right to impose specific subaward conditions upon Subrecipient if appropriate as described in 2 C.F.R. § 200.207.

**(d)(1)** Subrecipient shall provide financial and performance reports as requested by County for purposes of ensuring that the subaward is used for authorized purposes, including compliance with Federal statutes, regulations, the terms and conditions of the subaward, and achievement of subaward performance goals.

**(d)(2)** Subrecipients shall take timely and appropriate action on all deficiencies pertaining to the Federal award detected through audits, on-site reviews, and other means.

**(d)(3)** The Parties agree that the Contract is subject to 2 C.F.R. § 200.521.

**(e)** Subrecipient agrees to cooperate with County in **(1)** providing training and technical assistance on program-related matters, **(2)** performing on-site reviews of Subrecipient's program operations, and **(3)** arranging for agreed-upon-procedures engagements as described in 2 C.F.R. § 200.425, as deemed necessary by County to ensure compliance with program requirements and achievement of performance goals.

**(f)** Without limiting the intent of any other provision contained in the Contract or this Addendum, Subrecipient agrees to comply with any audit as required by Subpart F – Audit Requirements of 2 C.F.R. Part 200 when it is expected that Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 C.F.R. § 200.501.

**(h)** County reserves the right to take enforcement action against Subrecipient as set forth in 2 C.F.R. § 200.338 for noncompliance with 2 C.F.R. Part 200 and program regulations.

**2 C.F.R. Part 200 Appendix II: Contract Provisions for non-Federal Entity Contracts Under Federal Awards**

**(A)** *[For contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908]*

**Breach.** Any breach of the Contract by Subrecipient shall be governed by the termination and remedies provisions of the Contract. Additionally, in the event that the County incurs damages as a result of Subrecipient's breach, the County may pursue recovery of such damages from Subrecipient. The County further retains the right to seek specific performance of the Contract at any time as authorized by law. The County further retains the right to otherwise pursue any remedies available to the County as a result of the Subrecipient's breach, including but not limited to administrative, contractual, or legal remedies, as well as any applicable sanctions and penalties. Termination for cause and convenience are governed by the provisions of the Contract.

(B) *[All contracts in excess of \$10,000]*

**Termination.** Termination for cause and convenience are governed by the termination and remedies provisions of the Contract.

(C) *[Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3]*

**Equal Employment Opportunity.** Subrecipient agrees to comply with the Equal Opportunity Clause provided under 41 CFR 60-1.4(a) (Government Contracts) and 41 CFR 60-1.4(b) (Federal Assisted Construction Contracts), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” Subrecipient further agrees to include this provision, including the Equal Opportunity Clause or a reference thereto, in any subcontracts it enters into pursuant to the Contract.

(D) *[When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities]*

**Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).** Subrecipient must fully comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance therewith, Subrecipient must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Subrecipients must be required to pay wages not less than once a week.

**Copeland “Anti-Kickback” Act (40 U.S.C. 3145).** Subrecipient must fully comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Subrecipients and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). Pursuant to the Act, Subrecipient is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The County shall report all suspected or reported violations of the Copeland “Anti-Kickback” Act to the Federal awarding agency.

**(E)** [*Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers*]

**Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Subrecipient must fully comply with the Contract Work Hours and Safety Standard Act (40 U.S.C. 3701-3708), including 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contract is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**(F)** [*If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a)*]

**Rights to Inventions Made Under a Contract or Contract.** For contracts entered into by the Subrecipient or the County with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the parties must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts,” and any implementing regulations issued by the awarding agency.

**(G)** [*Contracts and subgrants of amounts in excess of \$150,000*]

**Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** All parties agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). All parties shall report violations to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**(H)** [*For contract awards (see 2 CFR 180.220)*]

**Debarment and Suspension (Executive Orders 12549 and 12689)**. Subrecipient attests that it is not listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**(I)** [*For contracts exceeding \$100,000*]

**Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**. Subrecipient attests that it has filed the required certification under the Byrd Anti-Lobbying Amendment. Subrecipient attests that it has certified that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Subrecipient further attests that it has disclosed, and will continue to disclose, any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

**(J)** [*All contracts*]

**Procurement of recovered materials (2 CFR §200.323)**. All parties agree to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(K) *[All contracts]*

**Prohibition on certain telecommunications and video surveillance services or equipment (2**

**CFR §200.216).** Subrecipient is prohibited from obligating or expending funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(L) *[All contracts]*

**2 C.F.R. Part 25 (Universal Identifier and System for Award Management) and 2 C.F.R. Part 170 (Reporting Subaward and Executive Compensation Information).**

Subrecipient must obtain and provide to County a unique entity identifier pursuant to 2 CFR Part 25. Subrecipient must comply with 2 C.F.R. Part 170 regarding reporting Federal awards to establish requirements for recipients' reporting of information on subawards and executive total compensation, as required by the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of Public Law 110-252, hereafter referred to as "the Transparency Act".

(M) *[All contracts]*

**2 C.F.R. § 200.322 Domestic preferences for procurements.** As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable, prefer the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but

not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(N) *[All contracts]*

### **Civil Rights Requirements**

Subrecipient shall comply with all statutes and regulations prohibiting discrimination applicable to this award, which include, without limitation, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

### **Assurances of Compliance with Civil Rights Requirements**

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted



programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.

3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.

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

(O) *[All contracts]*

### **Requirements for Drug-Free Workplace, 31 C.F.R. Part 20**

As a Subrecipient, you agree to comply with the requirements of the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq., as amended) that applies to grants. Specifically, Subrecipient agrees to:

- (a) First, make a good faith effort, on a continuing basis, to maintain a drug-free workplace. You must agree to do so as a condition for receiving any award covered by this part. The specific measures that you must take in this regard are described in more detail in subsequent sections of this subpart. Briefly, those measures are to -

(1) Publish a drug-free workplace statement and establish a drug-free awareness program for your employees (see §§ 20.205 through 20.220); and

(2) Take actions concerning employees who are convicted of violating drug statutes in the workplace (see § 20.225).

(b) Second, identify all known workplaces under your Federal awards (see § 20.230).

**(P)** [*All contracts*]

**New Restrictions on Lobbying, 31 C.F.R. Part 21**

Subrecipient certifies, to the best of its knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**(Q)** [*All contracts*]

**Increasing Seat Belt Use in the United States.** Pursuant to Executive Order 13043, 62 FR

19217 (Apr. 18, 1997), the County encourages its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

(R) *[All contracts]*

**Reducing Text Messaging While Driving**, Pursuant to Executive Order 13513, 74 FR 51225

(Oct. 6, 2009), the County encourages its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving.

(S) *[All contracts]*

**Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms (2 C.F.R. § 200.321).**

If subcontracts are to be let, Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. As set forth in 2 C.F.R. § 200.321(b)(1)-(5), such affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

(T) *[Construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold as defined in 2 C.F.R. § 200.88]*

**Bonding requirements (2 C.F.R. § 200.326).**

Except where the Federal awarding agency or pass-through entity has made a determination that alternative bonding policy and requirements adequately protect the Federal interest, Contractor agrees to comply with the following minimum bonding requirements:

- (a) Contractor must provide a bid guarantee equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond,

certified check, or other negotiable instrument accompanying a bid as assurance that the Contractor will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

- (b) Contractor must provide a performance bond on the part of the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the Contractor's obligations under such contract.
- (c) Contractor must provide a payment bond on the part of the Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.