

# BHP SERVICES CONTRACT

<b>Details Summary</b> <i>(To be completed by BHP)</i>	
<b>This Details Summary is incorporated into the attached Services Contract.</b>	
<b>Boulder Housing Partners Contact Information</b>	
Name	Housing Authority of the City of Boulder, Colorado, a body corporate and politic, doing business as Boulder Housing Partners (“BHP”)
Mailing Address	4800 North Broadway, Boulder, CO 80304
Contract Contact	[Project Manager Name and Title] [Project Manager Email] [Insert general BHP contracts inbox if it exists]
Contact Email	[Project Manager Email]
Invoice Contact	[BHP Finance Email]
<b>Contractor Contact Information</b>	
Contractor Name	[Contractor Name] (“Contractor”)
Contractor Entity Type (obtain from Contractor)	[Contractor Entity Type]
Does the contractor identify as a Minority Business Enterprise (MBE), Woman Business Enterprise (WBE), Small Business Enterprise (SBE) or a Section 3 Business Registry	<input type="checkbox"/> Yes <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBE <input type="checkbox"/> Section 3 <input type="checkbox"/> No <input type="checkbox"/> Prefer not to answer
Contractor Mailing Address	[Contractor Mailing Address]
Contact Name and Title	[Contractor Contact and Title]
Contact Email	[Contractor Email]
Secondary Contact	[Secondary Contractor Contact, if applicable]
<b>Contract Term</b>	
Start Date	[Start Date]
Expiration Date	[End Date]
Final End Date	[End Date plus [4] years]
<b>Contract Amount; Payments</b>	
Contract Amount	[Contract Amount]
Type of Contract	<input type="checkbox"/> The Contract Amount is a fixed price; or <input type="checkbox"/> The Contract Amount is a not-to-exceed amount for the Contract Term; or <input type="checkbox"/> (Other) _____
Payment Terms	<input type="checkbox"/> On a time-and-materials basis, in accordance with the Fee Schedule/Budget; or <input type="checkbox"/> On a monthly basis, proportional to the completed percentage of the Work; or <input type="checkbox"/> Upon completion of the Work; or <input type="checkbox"/> (Other) _____

BHP Contracting Entity	<input type="checkbox"/> Boulder Housing Partners <input type="checkbox"/> Boulder Housing Partners, as General Partner of _____ LLLP <input type="checkbox"/> (Other) _____
<b>Brief Description of Work</b>	
<p>[Brief Description of Work - write out abbreviations]</p> <input type="checkbox"/> If this box is checked, this is a continuing services contract. Work shall be assigned on a project-by-project basis according to the terms of this Contract. The cost of services shall be established on a project-by-project basis consistent with the terms of this Contract. <u>See Contract Section 2b.</u>	
<b>Contract Documents</b>	
<p>Check all applicable boxes:</p> <p>a. <input type="checkbox"/> Formal Procurement (RFP/Bid/SOQ) No. [XXXX-XX] (the “<u>Bid Documents</u>”, attached as <u>Exhibit A</u>)</p> <p>b. <input type="checkbox"/> Contractor’s accepted proposal in response to the Bid Documents (the “<u>Accepted Proposal</u>”, attached as <u>Exhibit B</u>), including:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Project details, including project-specific terms and a Scope of Work (the “<u>Scope of Work</u>”)</li> <li><input type="checkbox"/> Plans and Specifications (or Proposal Specifications)</li> <li><input checked="" type="checkbox"/> Fee Schedule/Budget, (the “<u>Fee Schedule/Budget</u>”)</li> <li><input checked="" type="checkbox"/> Project Schedule, (the “<u>Schedule</u>”)</li> <li><input type="checkbox"/> [Add any additional documents]</li> </ul>	
<b>Insurance Requirements</b>	
<p>The following types of insurance are required  <i>(check all that apply and see <u>Exhibit C</u> for details of required insurance coverage):</i></p>	<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Commercial General Liability (required)</li> <li><input checked="" type="checkbox"/> Automobile Liability (required unless Contractor will never use a vehicle in performance of the Work)</li> <li><input checked="" type="checkbox"/> Workers’ Compensation and Employer’s Liability (required unless Contractor has no employees)</li> <li><input type="checkbox"/> Umbrella / Excess Liability Insurance, to provide additional liability coverage beyond the primary insurance limits (required for construction projects; higher limits apply to substantial new construction/rehabilitation projects)</li> <li><input type="checkbox"/> Professional Liability (Errors and Omissions), because Contractor is required to be professionally certified by the State of Colorado (e.g., architects, engineers, doctors, nurses), or Contractor is a consultant whose errors in judgment, planning, design, etc. could result in economic loss to BHP, or Contractor will manage or oversee construction</li> <li><input type="checkbox"/> Pollution Liability, because the Work involves the risk of environmental pollution (including asbestos, lead abatement, and any other hazardous material) that may arise from the operations of Contractor described in the Scope of Work</li> <li><input type="checkbox"/> Third Party Commercial Crime Insurance / Third Party Fidelity Bond, because Contractor will be handling money or collecting fees on behalf of BHP and/or Contractor has access to a BHP client’s personal property</li> </ul>

	<input type="checkbox"/> Builder's Risk (required if Contractor is providing coverage, not required if Owner is providing coverage) <input checked="" type="checkbox"/> Other Property Coverage (required for Contractor's Equipment) <input type="checkbox"/> Rigger's Liability Coverage (if cranes/hoisting equipment used)
<b>Contract Notes</b> <i>Add additional information not included above, such as the funding sources for the Work, along with any special requirements of the source(s) of funds used to pay for the Work, e.g., prevailing wage requirements.</i>	
<b>Purchasing Details - BHP Internal Use Only</b>	
Bid Process Used	<input type="checkbox"/> Three phone quotes obtained. <input type="checkbox"/> Three written quotes obtained. <input type="checkbox"/> Formal bid (number _____) approved by BHP on _____, 20__. <input type="checkbox"/> Bid process waived.
Purchasing Notes <i>(optional)</i>	[Summarize quotes obtained. Provide justification if lowest-priced vendor was not selected.]
<b>Colorado Public Employees' Retirement Association (PERA)</b>	
<input type="checkbox"/> Check this box if: <ol style="list-style-type: none"> <li>1. Contractor is a PERA Retiree, individually or as sole proprietor; OR</li> <li>2. A PERA Retiree has an ownership interest in the Contractor.</li> </ol>	

**VENDORS, PLEASE NOTE:**

BHP will make payments under this contract through, AvidPay, BHP's third-party payer. Avid Pay will contact you for payment instructions including your preference for electronic payments.

**SERVICES CONTRACT  
BHP AND AFFILIATED TAX CREDIT PARTNERSHIPS**

THIS BHP SERVICES CONTRACT ("Contract") is entered into by and between the Housing Authority of the City of Boulder, d/b/a Boulder Housing Partners, individually or as the General Partner of the Partnership identified in the Details Summary (hereinafter "BHP") and Contractor. BHP and Contractor are each a "Party," and collectively the "Parties."

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

1. Incorporation into Contract: The Details Summary is incorporated into this Contract by this reference. The Contract Documents are incorporated into this Contract by this reference, except to the extent that the Proposal, if any is incorporated, contains any obligations placed upon BHP that are not otherwise contained in this Contract. The Additional Requirements listed on Exhibit D are incorporated into this Contract by reference.
  
2. Work to be Performed:
  - a. Contractor will provide all labor and equipment and do all tasks necessary and incidental to performing the work as described in the Details Summary and Contract Documents (the "Work"). Contractor will perform the Work (a) in a good and workmanlike manner, (b) at its own cost and expense, (c) in accordance with recognized industry standards of care, skill and diligence for the type of work being performed, and (d) in strict accordance with the Contract. BHP shall be the sole judge of the quality of performance. All supplies, materials, and equipment used, and all services performed shall be subject to the inspection and approval of BHP, through its authorized agent, upon reasonable advance notice to Contractor.
  
  - b. *Continuing Services Contract*: If the Details Summary indicates this is a continuing services contract, this section 2(b) applies to this Contract. BHP will assign the Work on a project-by-project basis. BHP may enter into continuing services contracts with other contractors who will compete with Contractor to receive individual projects. Contractor will only be paid for projects awarded to Contractor through a bid process. The scope of the Work, cost, start date, and any other relevant project/Work details must be mutually agreed upon in writing prior to any Work commencing; such project-specific documents shall be incorporated into this Contract upon their acceptance by both Parties. Contractor acknowledges that a continuing service contract does not constitute a guarantee that Contractor will be awarded any projects or work of any kind. Upon receipt of an assignment, Contractor will provide all labor and equipment and do all tasks necessary and incidental to performing the work as described in the Details Summary, Contract Documents, and the project-specific documents mutually agreed upon in writing.
  
3. Term of Contract: The Contract Term begins on the Start Date and expires on the Expiration Date, unless terminated sooner. All the Work must be performed during the Contract Term.
  
4. Payment for Work Performed: In consideration of the Work performed by Contractor, and subject to conditions contained in this Contract, BHP will pay the Contract Amount listed in the Details Summary, in accordance with the Contract Documents. BHP will not pay for Work performed prior to the Start Date. BHP shall not be liable for payment for services or materials which do not conform to the Contract Documents. Whether a progress payment or a final

payment, BHP shall only make a payment after the following conditions are met: (a) work commensurate with the stage of the project is fully performed; (b) work is inspected and approved by BHP; and (c) invoices from Contractor are received and verified as to the cost of materials used and the time spent in performance of the services.

5. Invoicing: Contractor will promptly provide a copy of its Form W-9 and invoice template to BHP upon request. Invoices received by the end of the month will be paid by the tenth day of the following month. All invoices submitted require the following components: Contractor's name and address (submitted W-9 address must match remit address), detailed description of services, dates of services, itemization of labor and materials costs, "Bill to: Boulder Housing Partners" language, payment remittance address payer name and address if different than Contractor name or address, date of invoice, total amount due, and name of property where services were provided. Contractor must send all completed invoices to the Invoice Contact in the Details Summary. Email delivery is preferred by BHP; BHP may require delivery of invoices by email. Failure to submit invoices in a timely manner and in accordance with the terms of this Contract may cause a delay in payment. BHP may recoup any damages incurred because of Contractor's failure to submit invoices pursuant to the terms of this paragraph. BHP's acceptance or payment of an invoice will not constitute acceptance of any Work performed under this Contract.
6. Schedule of Work:
  - a. Contractor agrees to properly complete all the Work pursuant to the Schedule. No Notice to Proceed will be issued. The Contractor shall commence work on Start Date and shall continue diligently and continuously until the Work is completed. If Contractor fails to complete all the work by the End Date or pursuant to the Schedule, BHP may recover damages for its actual and consequential losses as well as attorney fees and other legal costs. Time is of the essence under this Contract. The Contractor shall not be entitled to damages for delays caused by BHP but may receive time extensions if justified and agreed to in writing.
  - b. BHP may designate the hours (on a daily or weekly basis) during which Contractor can perform the Work, strictly for the purposes of minimizing inconvenience to BHP and interference with BHP operations. If work is being done on or in a complex with units occupied by BHP tenants/residents, the Contractor shall only perform work during hours designated by BHP so as to avoid interference with BHP residents and BHP operations. Unless specifically authorized in writing by BHP, no work is to be performed on Sunday or any federally recognized holiday, and Contractor may not work more than 8 hours in any one day or 40 hours in one week. Generally, work shall not begin before 7:30 a.m. nor extend beyond 5:30 p.m. Contractor will otherwise set its own work schedule.
7. Extra Time to Complete the Work:
  - a. If Contractor cannot complete the Work by the Expiration Date, Contractor may request extra time to complete the Work. BHP, in its sole discretion, may grant Contractor additional time to complete the Work and, if so, will provide Contractor with written notice of the amount of extra time granted. BHP granting extra time to complete the Work will not entitle Contractor to additional compensation from BHP. This Contract will remain in full force and effect during my time period that Contractor is permitted to finish completing the Work.

- b. Any delays in or failure of performance by Contractor under this Contract shall be excused if such delays or failure are a result of major disruption caused by fire, flood or other natural disasters, or orders of civil or military authorities as long as such events are beyond the control of the Contractor.
8. Extension of Contract Term (Additional Work): Upon mutual agreement of the Parties, this Contract may be extended until the Final End Date. During any extended Contract Term, the terms of this Contract will remain in full force and effect, unless otherwise amended in writing by the Parties. Where Contractor will provide additional services for additional compensation beyond the initial Contract Amount, the Parties must execute a written amendment before the then-current Expiration Date. If necessary, the written amendment will incorporate an updated Scope of Work and updated Fee Schedule as exhibits. Contractor must provide a current Certificate of Insurance to BHP that complies with the Insurance Requirements of this Contract, if any, prior to any extended Contract Term.
9. Safety: Contractor shall supervise all Work. Contractor is responsible for the means, methods, and sequence of work and all safety aspects of the Work. For the safety of BHP residents and BHP staff, Contractor represents and warrants that none of its workers or subcontractors' workers who will work on-site have been convicted of an offense that demonstrates a propensity toward abuse, assault, or similar offenses against others as set forth in C.R.S. § 27-90-111(9).
10. Express Warranty of Quality. Contractor expressly warrants that all material, equipment, programs, systems and products furnished under this Contract will be new and of good quality, unless otherwise expressly required or permitted. Contractor also expressly warrants that all work will be free from defects and will conform to the requirements of this Contract. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Contractor's warranty excludes remedy for damage or defect caused by abuse, improper or insufficient maintenance, improper operation, or normal usage, except when otherwise expressly agreed to by BHP. After completion of work, should a problem with the materials or the work performed by the Contractor occur during the course of this Contract or thereafter, and should it be shown that the cause of this problem is faulty work, the Contractor shall fully repair or correct such problem at Contractor's own expense.
11. Indemnity: Contractor will be liable for any damages to persons or property caused by or arising out of the actions, obligations, or omissions of Contractor, its employees, agents, representatives or other persons acting under Contractor's direction or control in performing or failing to perform the Work under this Contract. Contractor will indemnify and hold harmless BHP, its elected and appointed officials, and its employees, agents and representatives (the "Indemnified Parties"), from any and all liability, claims, demands, actions, damages, losses, judgments, costs or expenses, including attorneys' fees, which may be made or brought or which may result against any of the Indemnified Parties as a result or on account of the actions or omissions of Contractor, its employees, agents or representatives, or other persons acting under Contractor's direction or control. This indemnification obligation will extend to claims based on Contractor's unauthorized use or disclosure of confidential information and intellectual property infringement. BHP will not be obligated to indemnify or defend Contractor under any circumstances. Contractor's obligations under this provision shall survive expiration or termination of this Contract.

12. Resolution of Disputes:

- a. All claims and disputes by the Contractor relating to the Contract shall be submitted in writing to the BHP Procurement Officer or designee within 15 days of the events giving rise to the claim, or else the claim is waived. Submitting a claim shall not excuse work from proceeding as scheduled. Contractor may request a conference on the claim. BHP will review the claim and issue a written decision within 30 calendar days of submission of the claim. The Procurement Officer's decision shall inform the Contractor of its right to appeal to a higher level in BHP, if any exists.
- b. If a conflict arises between BHP and Contractor regarding any aspect of this Contract, before resorting to litigation, the parties will make a good faith effort to resolve the conflict through negotiation. If negotiation does not resolve the conflict, the parties agree to make a good faith effort to resolve the conflict through mediation unless BHP has authorized the use of arbitration. In that case, arbitration will be used. BHP's authorization must be provided in writing and such authorization may be provided either before or after disputes and claims arise. Negotiation and mediation are defined as follows:
  1. Negotiation. The parties identify the issue(s) in dispute, educate each other about their needs and interests, generate settlement options, and bargain over final agreement terms.
  2. Mediation. A neutral party, the mediator, attempts to resolve the conflict between the parties. The result of mediation is non-binding.

13. Remedies for Non-Performance: If Contractor fails to perform any of its obligations under this Contract, BHP may, in its sole discretion, exercise one or more of the following remedies:

- a. Suspend Performance: BHP may require that Contractor suspend performance of all or any portion of the Work pending necessary corrective action specified by BHP and without entitling Contractor to an increase in compensation or extension of the performance schedule. Contractor must promptly stop performance and incurring costs upon delivery of a notice of suspension by BHP.
- b. Withhold Payment Pending Corrections: BHP may permit Contractor to correct any rejected Work. Upon BHP's request, Contractor must correct rejected work at Contractor's sole expense within the time frame established by BHP. Upon completion of the corrections satisfactory to BHP, BHP will remit payment to Contractor.
- c. Deny Payment: BHP may deny payment for any Work that does not comply with the requirements of the Contract or that Contractor otherwise fails to provide or complete, as determined by BHP in its sole discretion. Upon BHP request, Contractor will promptly refund any amounts prepaid by BHP with respect to such non-compliant Work.
- d. Removal: If BHP notifies Contractor in writing that it has deemed one or more of Contractor's employees or agents performing the Work to be incompetent, careless, unsuitable, or otherwise unacceptable to BHP in its sole discretion, Contractor will promptly remove such persons from performance of the Work.

14. Termination:
- a. Termination for Breach: Either Party's failure to perform any of its material obligations under this Contract, 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 Contractor, or the appointment of a receiver or similar party for Contractor or any of its property, which is not vacated or fully stayed within 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 notified Party does not cure the breach, at its sole expense, within 30 days after delivery of notice, the non-breaching Party may exercise any of its remedies provided under this Contract or at law, including immediate termination of this Contract.
  - b. Termination for Convenience: BHP may terminate this Contract, in whole or in part, for any reason, upon 30 days' advance written notice to Contractor. Contractor shall be entitled to payment for Work properly performed up until the date of termination.
  - c. Fees and Costs. In addition to any other legal or equitable remedy that a party may be entitled to, if the party terminates this Contract in whole or in part due to the other party's breach of any provision of this Contract, the breaching party shall be liable to the other party for damages and reasonable attorneys' fees and costs in enforcing the terms of the Contract, whether or not legal proceedings are instituted.
15. Notices: All notices in connection with the Work or provided under this Contract, including demands, requests, instructions, approvals, and claims, shall be in writing. All such notices shall be (a) hand-delivered, (b) sent by certified U.S. Mail, with postage prepaid and return receipt requested, to the addresses listed on the signature page of this Contract, or (c) sent by electronic mail with a hard copy to follow the following day as provided in subsection (b) above. 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.
16. Data Protection: To the extent BHP and Contractor share client information or personal identifying information as defined in CRS 6-1-713.5 et. seq. and 24-73-101, et. seq., the Colorado Act to Strengthen Protections for Consumer Data Privacy ("Data") during performance of the Work, the terms and provisions of Exhibit F appended hereto are incorporated into this Contract.
17. Assignment/Subcontractors: This Contract may not be assigned or subcontracted by Contractor without the prior written consent of BHP. If Contractor subcontracts any of its obligations under this Contract, Contractor will remain liable to BHP for those obligations and will also be responsible for subcontractor's performance under, and compliance with, this Contract.
18. Conflict of Provisions: If there is a conflict or inconsistencies between the terms of the main body of this Contract and the terms of any of the Contract Documents, such conflicts or inconsistencies shall be resolved by reference to the Contract Documents in the following order of priority:
- a. The main body of this Contract (including any Addenda and Exhibits D, E and F)
  - b. Scope of Work
  - c. Plans and Specifications (or Proposal Specifications), if applicable



- d. Fee Schedule/Budget
  - e. Project Schedule
  - f. Bid Documents
  - g. Contractor's Proposal
19. Representations and Warranties: Contractor represents and warrants the following:
- a. Execution of this Contract and performance thereof is within Contractor's duly authorized powers;
  - b. The individual executing this Contract is authorized to do so by Contractor;
  - c. Contractor is authorized to do business in the State of Colorado and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Work and Contractor; and
  - d. Contractor and its subcontractors, if any, are financially solvent, able to pay all debts as they mature, and have sufficient working capital to complete the Work and perform all obligations under the Contract.
20. Legal Compliance: Contractor assumes full responsibility for obtaining and maintaining any permits and licenses required to perform the Work. Contractor's performance under this Contract and the Work itself will comply with all applicable Federal, State, and local laws, regulations, ordinances and codes.
21. Litigation Reporting: Contractor is not currently involved in any action before a court or other administrative decision-making body that could affect Contractor's ability to perform the Work. Contractor will promptly notify BHP if Contractor is served with a pleading or other document in connection with any such action.
22. Insurance Requirements: Prior to commencing the Work, Contractor will demonstrate to BHP that it has adequate insurance coverage as required on the Details Summary and as provided on Exhibit C, and that its insurance carriers have provided endorsements naming BHP as an additional insured.
23. Tax Exemption: BHP is exempt from payment of Federal, State, and local government taxes. Contractor shall collect no tax from BHP, and BHP shall not be liable to pay any taxes imposed on Contractor. BHP will provide its tax exemption status information to Contractor upon request.
24. Ownership of Work Product: All work product, property, data, documentation, information or materials conceived, discovered, developed or created by Contractor pursuant to this Contract ("Work Product") will be owned exclusively by BHP. Work Product will be deemed to be a work made for hire Copyright Act of 1976 to the extent applicable. In addition, Contractor unconditionally and irrevocably transfers and assigns to BHP all right, title and interest in and to any Work Product.
25. Publicity Releases: Contractor will not refer to this Contract or BHP in commercial advertising without prior written consent of BHP. This provision shall survive expiration or termination of this Contract.

26. Sustainability: BHP encourages Contractor to consider the procurement and use of environmentally preferable products and services while performing services under this Contract. "Environmentally preferable purchasing" means making purchasing choices for products and services that have a lesser or reduced adverse effect on human health and the environment when compared with competing products and services that serve the same purpose. Environmentally preferable purchasing is consistent with BHP's commitment to protecting our air, water, soil, and climate for current and future generations. BHP encourages Contractor to incorporate the following actions into Contractor's performance of the Work: environmentally preferable supplies and services; conservation of water; efficient energy use; waste prevention; reuse and recycle construction and de-construction materials in a manner that maximizes reuse of materials; sustainable transportation choices, including consideration to business communication software such as Skype, alternatives to air travel, and public transit or carpooling for in-person meetings; pollution prevention; low toxicity for public health & safety; and reduced emissions to address climate change.
27. No Waiver: The failure of either Party to exercise any of its rights under this Contract will not be deemed to be a waiver of such rights or a waiver of any breach of the Contract.
28. Remedies Cumulative: All remedies available to a Party in this Contract are cumulative and in addition to every other remedy provided by law.
29. Severability: If any term of this Contract is to any extent illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability. All other terms hereof shall remain in full force and effect. To the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.
30. Third-Party Beneficiary: Enforcement of the terms and conditions and all rights and obligations of this Contract are reserved to the Parties. Any other party receiving services or benefits under this Contract is an incidental beneficiary only and has no rights under this Contract.
31. Entire Agreement/Binding Effect/Amendments: This Contract represents the complete agreement between the Parties and is fully binding upon them and their successors, heirs, and assigns, if any. This Contract terminates any prior agreements, whether written or oral in whole or in part, between the Parties relating to the Work. This Contract may be amended only by a written agreement signed by both Parties.

IN WITNESS WHEREOF, the Parties have executed and entered into this Contract as of the last date shown on the signature pages below.

CONTRACTOR: [Insert Contractor Name]

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

The Housing Authority of the City of Boulder d/b/a Boulder Housing Partners

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit A**

**RFP**

*(see attached)*

**Exhibit B**

**Accepted Proposal from Contractor including Scope of Work, Fee Schedule/Budget  
and Project Schedule**

*(see attached)*

## Exhibit C

### Insurance Requirements

Prior to commencing the Work, Contractor will provide one or more Certificates of Insurance to BHP demonstrating adequate insurance coverage as required on the Details Summary and as provided in this Exhibit C, including evidence that Contractor's insurance carriers have provided endorsements naming BHP as an additional insured, where indicated. Contractor shall require the same coverage (including Additional Insured and Waiver of Subrogation requirements) from any sub-contractors hired to work on the Project.

All policies evidencing coverage required by the Contract will be issued by insurance companies satisfactory to BHP. Contractor will forward Certificates of Insurance directly to the Contract Contact listed in the Details Summary.

For the entire duration of this Contract including any extended or renewed terms, and longer as may be required by this Contract, Contractor shall procure and maintain at its own expense, and without cost to BHP, the following kinds and minimum amounts of insurance to insure the liability risks that Contractor has assumed under this Contract:

#### 1. Commercial General Liability

This coverage should be provided on an Occurrence Form, ISO CG001 or equivalent, with Minimum limits of \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate, \$2,000,000 Products Completed Operations Aggregate and \$1,000,000 Personal & Advertising Injury.

If the Details Summary indicates this Contract involves construction services, the following paragraph applies:

Coverage should be provided on an Occurrence form, ISO CG0001 or equivalent. The policy shall be endorsed to include Additional Insured Owners, Lessees or Contractors endorsements CG 2038 (or equivalent), Designated Construction Project(s) General Aggregate Endorsement CG2503 (or equivalent) and Additional Insured Completed Operations for Owners, Lessees or Contractors CG 2037 (or equivalent). Minimum limits required of \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate and \$2,000,000 Products/Completed Operations Aggregate. The following exclusionary endorsements are prohibited: Subsidence or earth movement, exterior insulation finish systems, damage to Work performed by Contractor/vendor, residential or multi-family, perils of explosion, collapse & underground (XCU), specific operations exclusion applicable to Work Contractor has been hired to perform. BHP requires the Products/Completed Operations coverage to be provided 3 years after completion of construction. An endorsement must be included with the certificate.

#### 2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of the Contract. Minimum limits \$1,000,000 Each Accident.

The insurance shall include coverage for bodily injury, death and property damage arising out of ownership, maintenance or use of any motorized vehicle on or off the site of the Work. If hauling of hazardous waste is part of the Scope of Work, Automobile Liability Insurance with a \$1,000,000 combined single limit per occurrence for bodily injury and property damage applicable to all hazardous waste hauling vehicles, and include MCS 90 endorsement and the ISO Form CA 9948 (Pollution Liability Broadened Coverage for Business Automobile).

### 3. Workers' Compensation and Employer's Liability

Workers' Compensation must be maintained with the statutory limits. Employer's Liability is required for minimum limits of \$100,000 Each Accident/\$500,000 Disease-Policy Limit/\$100,000 Disease-Each Employee. Umbrella Liability limits may be used to satisfy this requirement.

### 4. Umbrella / Excess Insurance

If the Details Summary indicates this Contract requires Umbrella / Excess coverage, the following paragraph applies:

Umbrella/Excess Liability insurance in the amount of \$1,000,000 Each Occurrence / \$1,000,000 Aggregate; \$10,000,000 Each Occurrence/\$10,000,000 Aggregate for large construction projects

All coverages and terms required under the Commercial General Liability, Automobile Liability and Employer's Liability must be included on the Excess/Umbrella Liability policy.

### 5. Professional Liability (Errors and Omissions)

If the Details Summary indicates this Contract requires Professional Liability (Errors and Omissions) coverage, the following paragraph applies:

Professional liability coverage with minimum limits of \$1,000,000 Per Loss and \$1,000,000 Aggregate, with a maximum deductible of \$25,000 to be paid by Contractor. Professional Liability provisions indemnifying for loss and expense resulting from errors, omission, mistakes or malpractice is acceptable and may be written on a claims-made basis. The contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

### 6. Pollution Liability

If the Details Summary indicates this Contract requires Pollution Liability coverage, the following paragraph applies:

Coverage pay for those sums Contractor becomes legally obligated to pay as damages because of Bodily Injury, Property Damage or environmental Damage arising out of a pollution incident caused by Contractor's work including Completed Operations. Coverage shall include emergency response expenses, pollution liability during transportation (if applicable) and at Non-Owned Waste Disposal Site (if applicable). The Minimum limits required are \$1,000,000 Per Occurrence/Loss and \$1,000,000 Policy Aggregate, with a maximum deductible of \$25,000 to be paid by Contractor. If the coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning from the time that work under this contract is completed. BHP shall be named as an additional insured for ongoing operations and completed operations.

### 7. Third Party Commercial Crime Insurance / Third Party Fidelity Bond

If the Details Summary indicates this Contract requires Third Party Commercial Crime Insurance or a Third-Party Fidelity Bond, the following paragraph applies:

The Crime limit shall be \$1,000,000 Per Loss and include an endorsement for "Employee Theft of Client Property." To provide coverage to BHP during the course of this contract, Commercial Crime policies must be endorsed to cover Third Party Fidelity. Third party fidelity covers the vendor's

employees when engaged in work for a client. In addition, BHP will be listed as loss payee on the commercial crime coverage. This third-party coverage can also be provided by obtaining a third-party fidelity bond.

#### 8. Builder's Risk

If the Details Summary indicates this Contract requires Builder's Risk Insurance, the following paragraph applies:

Contractor shall provide property insurance written on a "all-risk" builders risk or installations floater covering the completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Property insurance shall be no less than the amount of the initial Contract Sum plus the value of the subsequent modifications and labor performed and material or equipment supplied by others. This insurance shall include the interest of the Owner Contractor, Subcontractors, and any sub-subcontractors. This coverage shall contain a waiver of subrogation as to the listed parties above."

#### 9. Other Property Coverage

If the Details Summary indicates this Contract requires Contractor's Equipment insurance, the following paragraph applies:

Contractor's Equipment: Contractor shall maintain at its sole cost and expense insurance to protect its own equipment, tools and materials against risk of loss with sufficient limits to cover the value of all of the equipment, tools and materials Contractor may use in performance of the Work. Contractor is solely responsible for any deductibles, self-insured retentions or uninsured losses for any reason arising out of Contractor's obligations of this Section. Coverage shall include equipment leased/borrowed/rented by Contractor.

If the Details Summary indicates this Contract requires Rigger's Liability insurance, the following paragraph applies:

Riggers Liability Required: If the scope of the work involves the rigging, hoisting, lowering, raising or moving of property or equipment belonging to others, Riggers Liability Insurance is required to insure against physical loss or damage to the property or equipment.

BHP as Additional Insured: BHP (and any affiliate entity specified by BHP which owns one or more properties relevant to the Work) shall be named as an additional insured for General Liability, Umbrella/Excess Liability, Automobile Liability, and Pollution Liability, as designated in this Contract. Additional insured shall be endorsed to the policy.

THE ADDITIONAL INSURED WORDING SHOULD BE AS FOLLOWS: *Housing Authority of the City of Boulder, Colorado, a body corporate and politic, doing business as Boulder Housing Partners, is named as Additional Insured.*

Notice of Cancellation: Each insurance policy required by this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after 30 days' prior written notice has been given to BHP, except when cancellation is for non-payment of premium, in which case 10 days' prior notice may be given. If any insurance company refuses to provide the required notice, Contractor or its insurance broker shall notify BHP any cancellation, suspension, or nonrenewal of any insurance policy within 7 days of receipt of insurers' notification to that effect.

Insurance Obligations of BHP: BHP is not required to maintain or procure any insurance coverage beyond the coverage maintained by BHP in its standard course of business. Any insurance obligations placed on BHP in any of the Contract Documents or mutually agreed upon project-specific documents shall be null and void.

Deductible: Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of Contractor.

Primacy of Coverage: Coverage required of Contractor and its subcontractors, if any, shall be primary over any insurance or self-insurance program carried by BHP.

Subrogation Waiver: All insurance policies in any way related to this Contract secured or maintained by Contractor as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against BHP, its organizations, officers, agents, employees, and volunteers.



## Exhibit D Additional Contract Requirements

- Anti-discrimination laws. Contractor guarantees that it and all of its subcontractors, if any, are in compliance with the letter and spirit of the Colorado Anti-Discrimination Act, C.R.S. §§ 24-34-401–406, as now or hereafter amended, and all applicable local, state and federal laws regarding discrimination and unfair employment practices. BHP prohibits unlawful discrimination on the basis of race, color, religion, gender, gender identity, national origin, age, disability, socio-economic status, sexual orientation, or any other status protected by applicable Federal, State or local law. Contractor must require that its subcontractors, if any, similarly comply with all applicable laws concerning discrimination and unfair employment practices.
- Information and Reports: Contractor will provide to authorized BHP, City of Boulder, State, and Federal government representatives all information and reports that may be required for any purpose authorized by law. Contractor will permit access to such representatives to Contractor's facilities, books, records, accounts, and any other relevant sources of information. Where information required by a representative is in the exclusive possession of a person or entity other than Contractor, Contractor must so certify to BHP and explain what efforts it has made to obtain the information.
- Independent Contractor: Contractor is an independent contractor for all purposes in performing the Work. Contractor is not an employee of BHP for any purpose, including the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the Colorado Workers' Compensation Act, the Colorado Unemployment Insurance Act, and the Public Employees Retirement Association. Accordingly, BHP will not withhold or pay any income tax, payroll tax, or retirement contribution of any kind on behalf of Contractor or Contractor's employees. As an independent contractor, Contractor is responsible for employing and directing such personnel and agents as it requires to perform the Work. Contractor will exercise complete authority over its personnel and agents and will be fully responsible for their actions. Contractor is obligated to pay any federal or state income tax owed on any monies earned pursuant to this Contract.
- Conflicts of Interest: Contractor will disclose to BHP if anyone working for the Contractor is related to an employee, officer, or agent of BHP prior to signing this contract. "Related" is defined to mean spouse/partner, father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.
- No mechanic's liens against BHP: Contractor agrees that it will not cause or permit any claims in the nature of mechanic's liens or verified statements of claim for materials or labor placed or used under the terms of this Contract to be filed or served upon BHP or recorded against title to property owned or controlled by BHP. Contractor hereby agrees to indemnify and save harmless BHP against any and all such claims for liens or verified statements of claim which may be filed or asserted against any of the Work done hereunder.
- Statutory Requirements: This Contract is subject to all statutory requirements that are or may become applicable to Colorado housing authorities, including but not limited to: C.R.S. § 38-26-107, which requires withholding funds where BHP receives a claim for payment from a supplier or subcontractor of Contractor upon notice of final settlement (required for public works contracts that exceed \$150,000); C.R.S. §§ 8-17-101 et seq., which establishes a preference in favor of employment of Colorado labor in contracts for public works financed in whole or in part by funds of the state, counties, or municipalities; and C.R.S. §§ 18-8-301, et seq., concerning bribery and corrupt influence.
- Public Contracts for Services (C.R.S. §§ 8-17.5-101, et seq.):
  - a. Contractor hereby certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and further certifies that it will confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract by participating in the E-Verify Program established under Pub. L. 104-28 or the department verification program established under C.R.S. § 8-17.5-102(5)(c).
  - b. Contractor (i) shall not knowingly employ or contract with an illegal alien to perform work under this Contract; (ii) shall not enter into a contract with a subcontractor that fails to certify to the contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract; (iii) has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in the E-Verify program or department program; (iv) is prohibited from using either the E-Verify program or department program procedures to undertake preemployment screening of job applicants while this Contract is being performed; and (v) shall comply with any reasonable request by the department made in the course of an investigation that the Colorado Department of Labor and Employment is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).
  - c. If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, Contractor shall (i) notify the subcontractor and BHP within three days that Contractor has actual knowledge that subcontractor is employing or contracting with an illegal alien; and (ii) terminate the subcontract if, within three days of receiving notice hereunder, subcontractor does not stop employing

or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

- d. Contractor's violation of this section will constitute a material breach of this Contract, entitling BHP to terminate the contract for breach. If this Contract is so terminated, Contractor shall be liable for actual and consequential damages to BHP.
- **Federal lobbying requirements.** Both parties to this Contract hereby affirm that no federally appropriated funds have been or will be paid by or on behalf of the parties 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 this agreement.
  - **Limitation on Public Statements and Lobbying Activity.** During the term of this Contract, Contractor may receive from BHP its confidential data, work product, or other privileged or confidential information that is protected by law. To maintain the fact and appearance of absolute objectivity, Contractor shall not, without the prior written consent of BHP, which shall not be unreasonably withheld, do any of the following: (a) disclose information obtained because of this contractual relationship to any third party; (b) lobby any State or Federal agency on any pending matter while this Contract is effective; or (c) make any public statements or appear at any time to give testimony at any public meeting on the subject matters regarding which Contractor is or was retained by BHP. BHP may set reasonable conditions on any disclosure authorized by BHP under this provision. Notwithstanding, Contractor may make disclosures as required by law, and to law enforcement officials in connection with any criminal justice investigation.
  - **State and local labor laws.** Contractor guarantees that it is in compliance with all labor laws of the City of Boulder and the State of Colorado.
  - **Colorado Open Records Act.** Contractor acknowledges that BHP is subject to the Colorado Open Records Act, C.R.S. § 24-72-101, *et seq.* and may disclose records related to this Contract to the extent required by law.
  - **Governmental Immunity.** Nothing in this Contract shall be construed in any way to be a waiver of BHP's immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended.
  - **Federal fair labor laws.** Where applicable, Contractor hereby affirms that it is in compliance with the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 327-334, as now or hereafter amended, as supplemented by Labor Department regulations (29 C.F.R. part 5), and all other Federal Labor Standards Provisions referenced in HUD Form 4010.
  - **Davis-Bacon Act.** Where applicable, Contractor hereby affirms that it is in compliance with prevailing wage law as specified in the Davis-Bacon Act, 40 U.S.C. §§ 3141-3148, as now or hereafter amended, as supplemented by Labor Department regulations (29 CFR Part 5).
  - **Residents of the project area.** Where applicable, and to the greatest extent feasible, Contractor will provide opportunities for training and employment for individuals or firms located in, or owned in substantial part, by persons residing in the area of this project pursuant to BHP Procurement Policy VIII(A)(1)(f) and 24 C.F.R. 135.
  - **Small and minority-owned businesses.** If subcontracting is anticipated, Contractor will award subcontracts for work to small and minority-owned businesses, women's business enterprises, and labor surplus area businesses when possible pursuant to BHP Procurement Policy VIII(A)(1), Presidential Executive Orders 11625, 12138, and 12432, and Section 3 of the HUD Act of 1968.
  - **Preference for Colorado labor.** Contractor guarantees that it will employ Colorado labor to the greatest extent feasible in the performance of the specified work pursuant to C.R.S. §§ 8-17-101-103, as now or hereafter amended.
  - **Environmental protection.** Where applicable, Contractor guarantees that the work it completes under the Contract will be in compliance with all local, state, and federal environmental protection laws, including but not limited to section 508 of the Clean Water Act, section 306 of the Clean Air Act, Environmental Protection Agency regulations (40 C.F.R. Part 15), and Executive Order 11738.
  - **Prohibition against contingent fees.** Contractor hereby affirms that neither it nor any of its subcontractors have retained a "person" to solicit or secure this Contract in exchange for a commission, percentage, brokerage, contingent fee, gratuities, favors, or anything of monetary value. Contractor and any of its subcontractors may retain a person for such purposes where such person is a bona fide Contractor employee or a bona fide established commercial or selling agency.
  - **Prohibition against kickbacks.** Where applicable, Contractor hereby affirms that it is in compliance with the Copeland Anti-Kickback Act, 40 U.S.C. § 276(c); 18 U.S.C. § 874, as supplemented in Labor Department regulations, 29 C.F.R. Part 3, as now or hereafter amended (applicable to all contractors and subcontractors performing on any federally funded or assisted contract for the construction, prosecution, completion or repair of any public building or public work).
  - **Energy efficiency.** Contractor warrants it will abide by mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy Act of 2005, P.L. 109-58, 119 Stat. 594.

- Governing Law/Venue: The laws of the State of Colorado govern the construction, interpretation, performance, and enforcement of this Contract. Any claim relating to this Contract 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.
- No Suspension or Debarment: Contractor certifies that neither it nor its Principals (as defined at 49 C.F.R. § 29.105) nor any of its subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any Federal or State of Colorado department or agency. If Contractor, or any of its subcontractors, employees, or authorized agents, is excluded from participation, or becomes otherwise ineligible to participate in any such program during the term of the Contract, Contractor will provide written notice to BHP within three days after such event.
- Incorporation of Funding Source Terms and Conditions: This Contract is subject to all regulatory and statutory requirements of the City of Boulder, the State of Colorado, or the United States generally that are applicable to BHP and/or the Contractor. This includes those requirements that arise either pursuant to law or BHP's contractual obligations to government agencies that fund and finance the services or goods that are being provided by the Contractor. Some of these additional legal requirements are included in this Exhibit D.
- Interpretation. The provisions of this Contract shall be construed as to their fair meaning, and not for or against any party based on any attribution as to the source of the language in question.
- Execution by Counterparts: This Contract may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute one agreement.
- Electronic Signatures: The Parties approve the use of electronic signatures, governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24-71.3-101 *et seq.* The Parties will not deny the legal effect or enforceability of this Contract 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 Contract 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.

## **Exhibit E**

### **Data Protection**

1. The Parties will share and maintain the Data in such a way as to protect against revealing the identity of clients and their personal identifying information, to unauthorized agencies, individuals or entities. Data will only be shared through encrypted methods.
2. Data will only be stored on encrypted secure servers with appropriate protections including passwords that are only available to designated staff on the assessment team.
3. Contractor will not share Data with any third party, except with prior written consent of BHP, which BHP may deny in its sole and absolute discretion.
4. The Parties will ensure that all staff with access to the Data are aware of all confidentiality provisions and adhere to the on-site data collection and data storage protocol.
5. All Data will be destroyed in accordance with the Parties' data storage and destruction policies.
6. The Parties will implement and maintain reasonable security procedures and practices appropriate to the nature of the personal identifying information, the nature of the program, and the size of the Parties' organizations, all in compliance with CRS 24-73-101, et seq.
7. The Parties affirm that they have developed written policies for the destruction and proper disposal of paper and electronic records that contain personal identifying information. The Parties will provide each other with copies of their policies upon request.
8. The Parties will have the right to audit each other's security procedures for protection of the Data.
9. In the event of a security breach of any of the Data, the Parties will conduct a prompt investigation and report the breach as required by CRS 24-83-101, et seq., notify each other of all steps taken to comply with the statute, and cooperate to limit the extent of the breach and to protect the Data.
10. Contractor shall be responsible for any costs incurred by BHP due to Contractor's failure, in whole or in part, to comply with the terms of this Addendum. Contractor shall indemnify, protect and hold BHP harmless from and against any liability, damage, cost or expense, including without limitation attorney fees, incurred by BHP related to a breach of Data confidentiality.