

PURCHASE OF SERVICE AGREEMENT

THIS AGREEMENT ("Agreement") is made this 25th day of June 2013, by and between the Adams County Board of County Commissioners, located at 4430 South Adams County Parkway, Brighton, Colorado 80601, hereinafter referred to as the "County," and Populus LLC, located at 1722 14th Street, Suite 210, Boulder, CO 80302, hereinafter referred to as the "Contractor." The County and the Contractor may be collectively referred to herein as the "Parties".

The County and the Contractor, for the consideration herein set forth, agree as follows:

1. SERVICES OF THE CONTRACTOR:

1.1. All work shall be in accordance with the attached Exhibit A and the Contractor's response to Exhibit A, incorporated herein by reference. Should there be any discrepancy between Exhibit A and this Agreement, the terms and conditions of this Agreement shall prevail.

1.2. Emergency Services: In the event the Adams County Board of County Commissioners declares an emergency, the County may request additional services (of the type described in this Agreement or otherwise within the expertise of Contractor) to be performed by Contractor. If County requests such additional services, Contractor shall provide such services in a timely fashion given the nature of the emergency, pursuant to the terms of this Agreement. Unless otherwise agreed to in writing by the parties, Contractor shall bill for such services at the rates provided for in this Agreement.

2. RESPONSIBILITIES OF THE COUNTY: The County shall provide information as necessary or requested by the Contractor to enable the Contractor's performance under this Agreement.

3. TERM:

3.1. Term of Agreement: The term of this Agreement shall be July 1, 2013 through December 31, 2013.

3.2. Extension Option: The County, at its sole option, may offer to extend this Agreement as necessary for up to two, one year extensions providing satisfactory service is given and all terms and conditions of this Agreement have been fulfilled. Such extensions must be mutually agreed upon in writing by the County and the Contractor, and approved by the Adams County Board of County Commissioners.

4. PAYMENT AND FEE SCHEDULE: The County shall pay the Contractor for services furnished under this Agreement, and the Contractor shall accept as full payment for those services, the sum of: \$4,000 per month #

4.1. Payment pursuant to this Agreement, whether in full or in part, is subject to and contingent upon the continuing availability of County funds for the purposes hereof. In the event that funds become unavailable, as determined by the County, the County may immediately terminate this Agreement or amend it accordingly.

5. **INDEPENDENT CONTRACTOR:** In providing services under this Agreement, the Contractor acts as an independent contractor and not as an employee of the County. The Contractor shall be solely and entirely responsible for his/her acts, and the acts of his/her employees, agents, servants, and subcontractors during the term and performance of this Agreement. No employee, agent, servant, or subcontractor of the Contractor shall be deemed to be an employee, agent, or servant of the County because of the performance of any services or work under this Agreement. The Contractor, at its expense, shall procure and maintain workers' compensation insurance as required by law. **Pursuant to the Workers' Compensation Act § 8-40-202(2)(b)(IV), C.R.S., as amended, the Contractor understands that it and its employees and servants are not entitled to workers' compensation benefits from the County. The Contractor further understands that it is solely obligated for the payment of federal and state income tax on any moneys earned pursuant to this Agreement.**

6. **NONDISCRIMINATION:**

6.1. **The Contractor shall not discriminate against any employee or qualified applicant for employment because of age, race, color, religion, marital status, disability, sex, or national origin. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices provided by the local public agency setting forth the provisions of this nondiscrimination clause. Adams County is an equal opportunity employer.**

6.1.1. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

7. **INDEMNIFICATION:** The Contractor agrees to indemnify and hold harmless the County, its officers, agents, and employees for, from, and against any and all claims, suits, expenses, damages, or other liabilities, including reasonable attorney fees and court costs, arising out of damage or injury to persons, entities, or property, caused or sustained by any person(s) as a result of the Contractor's performance or failure to perform pursuant to the terms of this Agreement or as a result of any subcontractors' performance or failure to perform pursuant to the terms of this Agreement.

8. **INSURANCE:** The Contractor agrees to maintain insurance of the following types and amounts:

8.1. **Commercial General Liability Insurance:** to include products liability, completed operations, contractual, broad form property damage and personal injury.

8.1.1. Each Occurrence: \$1,000,000

8.1.2. General Aggregate: \$2,000,000

8.2. **Comprehensive Automobile Liability Insurance:** to include all motor vehicles owned, hired, leased, or borrowed.

8.2.1. Bodily Injury/Property Damage: \$1,000,000 (each accident)

8.2.2. Personal Injury Protection: Per Colorado Statutes

8.3. Workers' Compensation Insurance: Per Colorado Statutes

8.4. Professional Liability Insurance: to include coverage for damages or claims for damages arising out of the rendering, or failure to render, any professional services, as applicable.

8.4.1. Each Occurrence: \$1,000,000

8.4.2. This insurance requirement applies only to Contractors who are performing services under this Agreement as professionals licensed under the laws of the State of Colorado, such as physicians, lawyers, engineers, nurses, mental health providers, and any other licensed professionals.

8.5. Adams County as "Additional Insured": The Contractor's commercial general liability, comprehensive automobile liability, and professional liability insurance policies and/or certificates of insurance shall be issued to include Adams County as an "additional insured" and shall include the following provisions:

8.5.1. Underwriters shall have no right of recovery or subrogation against the County, it being the intent of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses resulting from the actions or negligence of the Contractor.

8.5.2. The insurance companies issuing the policy or policies shall have no recourse against the County for payment of any premiums due or for any assessments under any form of any policy.

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

8.6. Licensed Insurers: All insurers of the Contractor must be licensed or approved to do business in the State of Colorado. Upon failure of the Contractor to furnish, deliver and/or maintain such insurance as provided herein, this Agreement, at the election of the County, may be immediately declared suspended, discontinued, or terminated. Failure of the Contractor in obtaining and/or maintaining any required insurance shall not relieve the Contractor from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the Contractor concerning indemnification.

8.7. Endorsement: Each insurance policy herein required shall be endorsed to state that coverage shall not be suspended, voided, or canceled without thirty (30) days prior written notice by certified mail, return receipt requested, to the County.

8.8. Proof of Insurance: At any time during the term of this Agreement, the County may require the Contractor to provide proof of the insurance coverages or policies required under this Agreement.

9. TERMINATION:

9.1. For Cause: If, through any cause, the Contractor fails to fulfill its obligations under this Agreement in a timely and proper manner, or if the Contractor violates any of the covenants, conditions, or stipulations of this Agreement, the County shall thereupon have the right to immediately terminate this Agreement, upon giving written notice to the Contractor of such termination and specifying the effective date thereof.

9.2. For Convenience: The County may terminate this Agreement at any time by giving written notice as specified herein to the other party, which notice shall be given at least thirty (30) days prior to the effective date of the termination. If this Agreement is terminated by the County, the Contractor will be paid an amount that bears the same ratio to the total compensation as the services actually performed bear to the total services the Contractor was to perform under this Agreement, less payments previously made to the Contractor under this Agreement.

10. MUTUAL UNDERSTANDINGS:

10.1. Jurisdiction and Venue: The laws of the State of Colorado shall govern as to the interpretation, validity, and effect of this Agreement. The parties agree that jurisdiction and venue for any disputes arising under this Agreement shall be with Adams County, Colorado.

10.2. Compliance with Laws: During the performance of this Agreement, the Contractor agrees to strictly adhere to all applicable federal, state, and local laws, rules and regulations, including all licensing and permit requirements. The parties hereto aver that they are familiar with § 18-8-301, et seq., C.R.S. (Bribery and Corrupt Influences), as amended, and § 18-8-401, et seq., C.R.S. (Abuse of Public Office), as amended, and that no violation of such provisions are present. Contractor warrants that it is in compliance with the residency requirements in §§ 8-17.5-101, et seq., C.R.S. Without limiting the generality of the foregoing, the Contractor expressly agrees to comply with the privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

10.3. OSHA: Contractor shall comply with the requirements of the Occupational Safety and Health Act (OSHA) and shall review and comply with the County's safety regulations while on any County property. Failure to comply with any applicable federal, state or local law, rule, or regulation shall give the County the right to terminate this agreement for cause.

10.4. Record Retention: The Contractor shall maintain records and documentation of the services provided under this Agreement, including fiscal records, and shall retain the records for a period of three (3) years from the date this Agreement is terminated. Said records and documents shall be subject at all reasonable times to inspection, review, or audit by authorized Federal, State, or County personnel.

10.5. Assign ability: Neither this Agreement, nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable by the Contractor without the prior written consent of the County.

10.6. Waiver: Waiver of strict performance or the breach of any provision of this Agreement shall not be deemed a waiver, nor shall it prejudice the waiving party's right to require strict performance of the same provision, or any other provision in the future, unless such waiver has rendered future performance commercially impossible.

10.7. Force Majeure: Neither party shall be liable for any delay or failure to perform its

obligations hereunder to the extent that such delay or failure is caused by a force or event beyond the control of such party including, without limitation, war, embargoes, strikes, governmental restrictions, riots, fires, floods, earthquakes, or other acts of God.

- 10.8. Notice: Any notices given under this Agreement are deemed to have been received and to be effective: (1) Three (3) days after the same shall have been mailed by certified mail, return receipt requested; (2) Immediately upon hand delivery; or (3) Immediately upon receipt of confirmation that an E-mail was received. For the purposes of this Agreement, any and all notices shall be addressed to the contacts listed below:

Department: Adams County Government
Contact: Adrienne Dorsey, Sustainability Coordinator
Address: 4430 South Adams County Parkway
City, State, Zip: Brighton, CO 80601
Phone: 720.523.6287
E-mail: adorsey@adcogov.org

Department: Adams County Purchasing
Contact: Renee Petersen, Purchasing Agent I
Address: 4430 South Adams County Parkway
City, State, Zip: Brighton, Colorado 80601
Phone: 720.523.6043
E-mail: rpetersen@adcogov.org

Department: Adams County Attorney's Office
Address: 4430 South Adams County Parkway
City, State, Zip: Brighton, Colorado 80601
Phone: 720.523.6116
E-mail:

Contractor: Populus LLC
Contact: Laura Hutchings
Address: 1722 14th Street, Suite 210
City, State, Zip: Boulder, CO 80302
Phone: 303.325.7650
E-mail: laura@populusllc.com

- 10.9. Integration of Understanding: This Agreement contains the entire understanding of the parties hereto and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is signed by the parties hereto.
- 10.10. Severability: If any provision of this Agreement is determined to be unenforceable or invalid for any reason, the remainder of this Agreement shall remain in effect, unless otherwise terminated in accordance with the terms contained herein.
- 10.11. Authorization: Each party represents and warrants that it has the power and ability to enter into this Agreement, to grant the rights granted herein, and to perform the duties and obligations herein described.

11. CHANGE ORDERS OR EXTENSIONS:

- 11.1. Change Orders: The County may, from time to time, require changes in the scope of the services of the Contractor to be performed herein including, but not limited to, additional instructions, additional work, and the omission of work previously ordered. The Contractor shall be compensated for all authorized changes in services, pursuant to the applicable provision in the Invitation to Bid, or, if no provision exists, pursuant to the terms of the Change Order.
- 11.2. Extensions: The County may, upon mutual written agreement by the parties, extend the time of completion of services to be performed by the Contractor.

12. COMPLIANCE WITH C.R.S. § 8-17.5-101, ET. SEQ. AS AMENDED 5/13/08: Pursuant to Colorado Revised Statute (C.R.S.), § 8-17.5-101, *et. seq.*, as amended May 13, 2008, the Contractor shall meet the following requirements prior to signing this Agreement (public contract for service) and for the duration thereof:

- 12.1. The Contractor shall certify participation in the E-Verify Program (the electronic employment verification program that is authorized in 8 U.S.C. § 1324a and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program) or the Department Program (the employment verification program established by the Colorado Department of Labor and Employment pursuant to C.R.S. § 8-17.5-102(5)) on the attached certification.
- 12.2. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.
- 12.3. The Contractor 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 public contract for services.
- 12.4. At the time of signing this public contract for services, the Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program or the Department Program.
- 12.5. The Contractor shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.
- 12.6. If Contractor obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall: notify the subcontractor and the County within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to the previous paragraph, the subcontractor does not stop employing or contracting with the illegal alien; except that

the 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.

- 12.7. Contractor shall comply with any reasonable requests by the Department of Labor and Employment (the Department) made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).
- 12.8. If Contractor violates this Section, of this Agreement, the County may terminate this Agreement for breach of contract. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the County.

IN WITNESS WHEREOF, the Parties have caused their names to be affixed hereto:

Adams County Purchasing Manager

[Signature] Date 6/25/13
Chair

Populus LLC

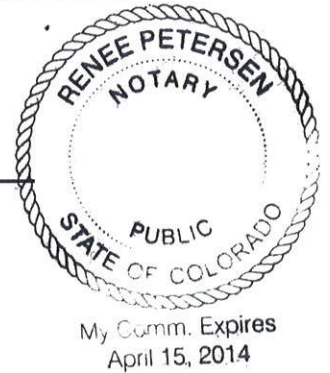
[Signature] July 3, 2013
Signature Date

LAURA A HUTCHINGS, CEO
Printed Name Title

Attest:

Karen Long, Clerk and Recorder
Deputy Clerk

[Signature]



Approved as to Form: [Signature]
Adams County Attorney's Office

NOTARIZATION:

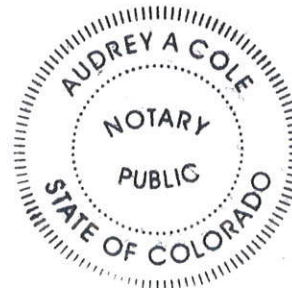
COUNTY OF Boulder)

STATE OF Colorado)SS.

Signed and sworn to before me this 3rd day of July, 2013,

by Laura A. Hutchings,

[Signature]
Notary Public



My commission expires on: 9/5/2014

CONTRACTOR'S CERTIFICATION OF COMPLIANCE

Pursuant to Colorado Revised Statute, § 8-17.5-101, *et.seq.*, as amended 5/13/08, as a prerequisite to entering into a contract for services with Adams County, Colorado, the undersigned Contractor hereby certifies that at the time of this certification, Contractor does not knowingly employ or contract with an illegal alien who will perform work under the attached contract for services and that the Contractor will participate in the E-Verify Program or Department program, as those terms are defined in C.R.S. § 8-17.5-101, *et. seq.* in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the attached contract for services.

CONTRACTOR:

POPULUS, LLC
Company Name

7/3/13
Date

Laura A Hutchings
Signature

LAURA A HUTCHINGS
Name (Print or Type)

CEO
Title

Note: Registration for the E-Verify Program can be completed at: <https://www.vis-dhs.com/employerregistration>. It is recommended that employers review the sample "memorandum of understanding" available at the website prior to registering

EXHIBIT A

Scope of Work

Residential Energy Efficiency Program Support Services for Adams County

1. Customer Support

Contractor shall operate and staff a professionally-staffed customer support center. The customer support center will take customer calls from Adams County residents, answer program questions and facilitate the customer intake process, coordinate with Adams County staff and other energy efficiency program partners and contractors; track all program data and manage data exchange; and, facilitate ongoing customer engagement. Each of these functions includes interacting or overlapping service needs and will require close coordination, both internally and externally. Specific functions/subtasks are discussed in greater detail below.

1.1 Call Center

A program dedicated telephone number will be set up to direct customers to a program call center staffed with knowledgeable professionals. The primary goals of the call center are to explain the program process and expectations and answer customers' questions; guide customers into the most appropriate program track given their personal and/or housing characteristics; and schedule initial customer audit. Call center staff must also be able to respond to all customer questions at all stages of the program and help guide customers to appropriate support.

The call center's primary responsibilities are customer intake and phone only energy advising (energy advisor hotline) for homeowners. Call center staff will walk each potential customer through a series of pre-screening questions to help establish the correct program track for that customer, based on the likely potential for energy and greenhouse gas savings, and gather key data for the energy audit. The call center will also be equipped to do phone only energy advising (energy advisor hotline) for homeowners.

The call center shall have capacity for 200 annual new residential enrollments as well as energy advisor hotline services, including data and form collection, for up to 100 households annually. Renters wishing to participate in the program must have signed approval from the property owner. Participation in the 2013 program will be limited to 25 households from four different neighborhoods (100 households total) located within unincorporated Adams County. Each neighborhood will be color-coded for tracking purposes. The call center shall track the color code from all customers during the initial enrollment and limit access by color code to 25 homes (e.g. Blue=25 homes, Red=25 homes, Green=25 homes, Yellow=25 homes). The call center shall also keep a waiting list from over-subscribed neighborhoods. In the event that 25 responses are not received from a given area, the waiting list will be used to fill in capacity in over-subscribed neighborhoods.

The Contractor shall develop a decision tree to guide customer pre-screening questions. Thus, customers' responses to initial questions may lead to follow-on questions to help identify more detailed assistance needed. For example, a condo tenant may be asked for details about heating equipment or restrictions in an HOA contract.

Contractor shall request a utility waiver from customers for the program to access their utility bills from Xcel Energy.

As part of the call center sub-task, the Contractor shall:

1. Operate the center with call center representatives and supervisors available from 8 AM – 6 PM, Monday through Friday.
2. Employ trained call center representatives to respond to customers at a minimum in both English and Spanish. The call center may choose to use a language line to respond to customers in other languages.
3. Respond to every call with personal interaction with no customer on hold for more than three minutes.
4. Train call center representatives to provide detailed information on the program and participant expectations, to be able to discern, through screening questions, whether the caller's home is likely to offer significant greenhouse gas emission reductions, answer a wide variety of customer questions and provide a level of support and facilitation as needed and desired by each customer.
5. Input customer data, completely and accurately, into the Salesforce database owned and managed by Contractor.
6. Obtain customer utility waivers.
7. Respond to customer questions and handle customer complaints.
8. Coordinate with energy advisors to respond to customer questions and provide support as needed.
9. Coordinate with Adams County staff, Xcel Energy, and other energy efficiency program partners and contractors to ensure customers' participation in the program moves seamlessly from intake to audit and/or advising to action to ongoing engagement, with consistent support and in a timely manner. Adams County will provide Contractor with a list of contractors registered with the county for customer referral.
10. Review audit reports to ensure customers fully understand the results and recommendations.
11. Follow-up and be available after the audit to answer customer questions via phone and/or email.
12. Design an ongoing action plan for interested customers wishing to install comprehensive upgrades over time.
13. Coordinate with third party entities to follow up with customers interested in their programs (e.g. GroundWork Denver)

1.2 Data Management, Tracking, Reporting, and Customer Management System

The Contractor shall use Salesforce to:

- Facilitate collection, tracking and reporting of detailed customer, building and program activity data, including incentives and measure adoption.
- Provide a platform for both telephone and on-line customer intake.
- Support residential buildings.
- Provide a robust but simple-to-use customer relations management function.
- Generate regular reports to facilitate customer follow up actions (e.g., all customers whose furnace is expected to reach the end of its useful life during a specific period).
- Allow for data uploads and downloads using standard file formats such as Microsoft Excel, and Adobe Acrobat PDF. Contractor shall capture and track data that includes, but is not necessarily limited to, customer data (e.g., address, contact info), building information (e.g., type of home, square footage), energy usage data (e.g., type of heating

and cooling systems), electric and natural gas utilities and account numbers, energy usage, participation phase and activities, appliance portfolio, number of occupants, contractors assigned to jobs, each customer interaction, equipment specifications, audit report/results and recommendations, follow-up activities, rebate eligibility and application progress, financing expectations, schedule and completion dates, and activity and performance of direct installation, equipment and retrofit measures installed.

- Contractor shall provide reports reflecting this data to the Adams County Sustainability Coordinator on a monthly basis.