



## 2023 Grant Agreement Terms and Conditions

Larimer County, Colorado, Board of County Commissioners, ("Grantor"), for the Larimer County Department of Behavioral Health Services is awarding this Grant to the above named organization ("Grantee"). This Grant has been approved based upon the following terms and conditions and Grantee agrees to, the following:

1. Tax Status - Grantee represents that:
  - a. Tax-Exempt Status: The organization is a nonprofit recognized by the Internal Revenue Service as a public charity as described in Sections 501(c)(3) and 509(a)(1) of the Internal Revenue Code as amended (the "Code") or a governmental agency organized under the laws of the State of Colorado, such as school, museum, library or government agency or department, which will, upon request, provide current and appropriate documentation; or
  - b. Absence of Tax-Exempt Status: The organization is an entity duly organized or formed, qualified to do business, is in good standing under the laws of the jurisdiction in which the organization is organized or formed; agree to comply with these terms and that no part of the grant shall be used for purposes other than the purpose described in this agreement.
  - c. It will provide Larimer County, Behavioral Health Services with immediate written notification of any changes in the organization's tax status.

2. Expenditure of Funds

This Grant (together with any income earned upon investment of Grant funds) is made for the purpose outlined herein and may not be expended for any other purpose without Larimer County Behavioral Health Service's prior written approval. Grant funds are considered restricted funds and should be accounted for and tracked separately in the organization's financial statements. Expenditures of Grant funds must adhere to the specific line items in the attached Grant Budget. Changes to individual line items (increases and decreases) that are greater than 25% of that line item and greater than \$1,000 must be requested in writing to Larimer County Behavioral Health Services Grants Manager and approved in writing in advance of expenditure. Requests should be submitted in writing, using the form and instructions provided by Larimer County Behavioral Health Services staff upon Grantee's request.

If the Grant is intended to support a specific project or for a specific period, any portion of the Grant unexpended at the completion of the project or the end of the period specified above on Page 1 (the "Grant Period") shall be returned immediately to Larimer County Behavioral Health Services. With prior written approval from Larimer County Behavioral Health Services the Grant Period may be extended in order to reach the anticipated

**Commented [JDP1]:** Our eligibility requirements have expanded to incorporate entities that may not be tax exempt. See our eligibility criteria here: [https://www.larimer.org/sites/default/files/impact\\_fund\\_grant\\_program\\_eligibility\\_criteria.pdf](https://www.larimer.org/sites/default/files/impact_fund_grant_program_eligibility_criteria.pdf)

If we receive applications from a sole proprietor or a sole-owner entity, how would you suggest handling this section? As well as any other safeguards required for those entities.

**Commented [JDP2]:** Need to add information regarding "Accounting for Restricted Funds" and that they "These funds must be recorded separately in the organization's financial statements."

outcomes. Requests should be submitted in writing, using the form and instructions provided by Larimer County Behavioral Health Services staff upon Grantee's request.

3. Prohibited Use of Funds

Grantee will not permit any Grant funds or income derived from such funds to be used for "political expenditures" as defined in Section 4955 of the Code, including but not limited to participation or intervention in a political campaign for a public office.

This Grant is not in any way earmarked to support or carry on any lobbying or voter registration drive. Grantee hereby reaffirms that the project's current budget, attached to this grant agreement, accurately reflects Grantee's present intention to expend at least the amount of this grant on project non-lobbying and non-voter registration activities in Grantee's current fiscal year.

Grantee represents that it is knowledgeable about Executive Order 13224 and the USA Patriot Act of 2001 and Grantee will not permit any Grant funds or income derived from such funds to be expended or re-granted so as to benefit any person or organization with ties to terrorists.

4. Anti-Discrimination Expectations

Grantee will not willfully discriminate against a particular class of individuals and will abide by all applicable local, state, and federal anti-discrimination laws in hiring, employment practices and when providing services.

5. No Assignment or Delegation

Grantee may not assign or otherwise transfer its rights or delegate any of its obligations under this Agreement without the prior written approval of Larimer County Behavioral Health Services.

6. Records and Reports

Grantee must keep a record of all receipts and expenditures relating to this Agreement and to provide Larimer County Behavioral Health Services with a written report summarizing the project promptly following the end of the Grant Period. Larimer County Behavioral Health Services may also require interim reports. Grantee reports should describe progress achieving the Grant Purposes (including progress toward measurable results and/or any intermediate milestones outlined in the Payment and Requirement Schedule) and include a detailed accounting of the uses or expenditure of all Grant funds. Grantee also agrees to provide any other information reasonably requested by Larimer County Behavioral Health Services. If Grantee obtains any audited financial statements covering any part of the period of this Agreement, copies of such statements shall be provided to Larimer County Behavioral Health Services promptly after receipt. Grantee must keep the financial records with respect to the Grant and this Agreement, along with copies of any reports submitted to Larimer County Behavioral Health Services, for at least four years following the year in which all Grant funds are fully expended.

Grantee shall keep confidential, and cause all Subcontractors to keep confidential, all County Records, unless those County Records are publicly available. Grantee shall not, without the prior written approval of the County, use, publish, copy, disclose to any third party, or permit the use by any third party of any County Records, except as otherwise stated in this Agreement, permitted by law or approved in Writing by the County Grantee

shall immediately forward any request or demand for County Records to the County's principal representative.

7. Required Notification

Grantee must provide Larimer County Behavioral Health Services with immediate written notification of: (1) any change in your organization's tax status; (2) any inquiry or audit by the Internal Revenue Service; (3) its inability to expend the Grant funds for the Grant Purposes; (4) any expenditure of Grant funds for any purpose other than the Grant Purposes; (5) any changes to Grantee Contacts (Primary/Director/Signatory) and, (6) any other breach by Grantee of this Agreement.

**Commented [JDP3]:** I would like to add any changes to the Grantee Contacts (Primary/Director/Signatory) listed in the grant agreement

8. Reasonable Access for Evaluation and Oversight

Larimer County Behavioral Health Services incorporates evaluation into its grant-making so that it and the Grantee can understand the impact of the Grant and how to improve the impact of grant-making moving forward, and for the benefit of other Grantees and for Larimer County and its residents. As a condition to the receipt of this Grant, Grantee agrees to comply with and to participate in any requests from Larimer County Behavioral Health Services to conduct an evaluation of the effectiveness of this grant (the "Evaluation") either individually with the Grantee or with multiple grantees as part of a broader strategy of Larimer County Behavioral Health Services, including but not limited to follow-up reporting and/or additional activities above and beyond those listed in the Payment and Requirements Schedule of this Agreement.

Grantee will permit Larimer County Behavioral Health Services and its representatives, at its request, to have reasonable access during regular business hours to its files, records, accounts, personnel and clients, or other beneficiaries for the purpose of making such financial audits, verifications, or program evaluations as Larimer County Behavioral Health Services deems necessary or appropriate concerning the Grant and to discuss Grantee's programs, procedures and operations with Grantee's personnel.

9. Research Involving Human Subjects

If the Grant is to be used in whole or in part for research involving human subjects, Grantee hereby certifies that Grantee, applying the ethical standards and the criteria for approval of grants set forth in its Internal Review Boards and professional oaths, has determined that the human subjects involved in this Grant will not experience risk over and above that involved in the normal process of care and are likely to benefit from the proposed research program.

10. Publicity

Larimer County Behavioral Health Services encourages Grantee to publicize information concerning the Grant in the Grantee's newsletters, annual reports, press releases, website and other relevant media. Grantee will obtain written approval by Larimer County Behavioral Health Services of any content promoting information related to the Grant, the organization or Larimer County staff/representatives prior to releasing or publicizing such information including, but not limited to press releases, advertisements, signage, and event collateral. Larimer County Behavioral Health Services expects to be acknowledged as a sponsor for major events by the inclusion of Larimer County Behavioral Health Service's logo in the event promotion materials and print collateral.

Larimer County Behavioral Health Services welcomes any photographs relevant to the Grant for Larimer County Behavioral Health Service's use. Photos must have prior client releases (if applicable) for publication purposes.

Without further notice to or consent from Grantee, Larimer County Behavioral Health Services may include information regarding this Agreement and/or Grant, the amount and purpose of the Grant and photographs, logo or trademark, and other published/printed information or materials (provided by Grantee) and its activities, in Larimer County Behavioral Health Service's periodic public reports, newsletters, website and news releases.

11. Colorado Charitable Solicitations Act

Grantee represents that it is aware of and in compliance with the Colorado Charitable Solicitations Act governing fundraising in Colorado.

12. Right to Modify or Revoke

This Grant is conditioned upon Grantee's acceptance of terms set forth herein and Larimer County Behavioral Health Services reserves the right to discontinue, modify or withhold any payments to be made under this Agreement or to require a total or partial refund of any Grant funds if, in Larimer County Behavioral Health Services' sole judgment, such action is necessary or prudent: (1) because Grantee has not fully complied with the terms and conditions of this Agreement; (2) to protect the purpose and objectives of this Agreement or any other interest of Larimer County Behavioral Health Services; or (3) to comply with the requirements of any law or regulation applicable to Grantee, Larimer County Behavioral Health Services, or this Grant.

Notwithstanding any other remedial action by the County, Grantee shall remain liable to the County for any damages sustained by the County in connection with any breach by Grantee, and the County may withhold payment to Grantee for the purpose of mitigating the County's damages until such time as the exact amount of damages due to the County from Grantee is determined. The County may withhold any amount that may be due Grantee as the County deems necessary to protect the County against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the County in procuring from third parties replacement Work as cover.

13. Termination

Larimer County Behavioral Health Services' obligations under this Agreement shall automatically terminate in the event of the insolvency, receivership, bankruptcy filing, or dissolution of Grantee. Larimer County Behavioral Services' may also immediately terminate this Agreement upon breach and withhold any further payment.

In addition to its right of revocation under Paragraph 12 above, Larimer County Behavioral Health Services may terminate this Agreement at any time by giving Grantee at least 30 days of written notice. Upon termination of this agreement for any reason, all payments by Larimer County Behavioral Health Services to Grantee shall cease at such time as may be determined by Larimer County Behavioral Health Services.

Termination or revocation of this Agreement by Larimer County Behavioral Health Services will not terminate Grantee's obligations under this Agreement with respect to Grant funds expended or otherwise not returned to Larimer County Behavioral Health Services.

Grantee's obligations under Paragraphs 6, 8, 10 and 16 shall also survive termination of this Agreement.

14. Special Conditions and Reporting

Grantee will submit reports to Larimer County Behavioral Health Services according to the reporting schedule set forth in this Agreement.

15. Amendment

This Agreement may be amended, supplemented or extended only by written communication signed by Larimer County Behavioral Health Services. Grantee may not make any changes to grant activities without prior written approval from Larimer County Behavioral Health Services. The request must explain in detail the nature and scope of the modification and how it will enable the organization to meet the overall objectives of the program. Any amendment must be requested at least 60 days prior to the end of the grant period. Larimer County Behavioral Health Services will provide written approval if the proposed modifications are accepted.

16. No Partnership Agency or Third Party Beneficiaries

Nothing contained in this Agreement shall create or be deemed to create a partnership or agency between Larimer County Behavioral Health Services and Grantee and nothing contained in this Agreement shall be deemed to give rise to any rights or benefits to third parties not a party to this Agreement.

17. Intellectual Property

- (a) Grantee represents and warrants that it owns or has the right to use all intellectual property that will be employed by Grantee or its agents in the performance of this Agreement, including without limitation, Grantee's obligations under subsection (c) below.
- (b) All works and matters created or discovered through the performance of this Agreement, including but not limited to, implementation methodologies, best practices guides and training curricula (the "Work"), are owned by Grantee provided, however, that the Work may be used by Grantee only in furtherance of charitable purposes (i.e., activities recognized by the IRS as charitable and not resulting in "unrelated business taxable income" as defined in Section 512 of the Code), unless otherwise agreed in writing by Larimer County Behavioral Health Services.
- (c) Grantee hereby grants to Larimer County Behavioral Health Services a nonexclusive, irrevocable, perpetual, worldwide, fully transferable, royalty-free license to (i) the Work, to make, use, sell, license to others, reproduce, create derivative works of, publish, republish, distribute, perform and display the Work in any current or future form and for any purpose in furtherance of charitable purposes, and (ii) any other intellectual property incorporated into or used in connection with the Work to the extent reasonably necessary to enable Larimer County Behavioral Health Services to use and practice the licensed Work. The license herein granted to Larimer County Behavioral Health Services shall vest without any further action on the part of Grantee. Without the prior written consent of Larimer County Behavioral Health Services, Grantee will not enter into any agreement with a third party that would restrict Grantee's ability to perform its obligations under this subsection (c).

18. Disclaimer

Nothing contained herein, including the required reporting and review procedures, shall be construed as a warranty, representation, or approval by Larimer County Behavioral Health Services that the services rendered by Grantee are adequately or properly rendered on either an individual or program-wide basis. Grantee shall have sole responsibility for all damages, costs, fines, attorneys' fees, or liabilities of any kind or nature arising from any claims, demands or suits resulting from the Grantee's performance or failure to perform under this Agreement.

19. Controlling Document

The terms and conditions of this Agreement shall be the controlling document between Larimer County Behavioral Health Services and Grantee. All verbal communication, notes, minutes or other documentation of Larimer County Behavioral Health Services shall be deemed merged into this Agreement. In making this Grant, Larimer County Behavioral Health Services has relied on the information and representations submitted to Larimer County Behavioral Health Services by Grantee and Grantee represents that all such information and representations are true and complete.

20. Future Funding

Grantee acknowledges that, except as expressly provided in this Agreement, Larimer County Behavioral Health Services has no obligation to Grantee with respect to any additional or future funding.

21. Counterparts; Electronic Signature

This Agreement may be signed in multiple counterparts, which may be signed by the parties separately, but together shall constitute a single agreement. The counterparts of this Agreement may be executed and delivered by facsimile, email, other means of electronic transmission, or other electronic signature and shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement.

The undersigned certify that they are duly authorized officers of Grantee and, as such, are authorized to accept this Agreement on behalf of Grantee, to obligate the Grantee to observe all of the terms and conditions placed on this Agreement, and in connection with this Agreement to make, execute, and deliver on behalf of the Grantee all agreements, representations, receipts, reports, and other instruments of every kind.

22. Conflicts of Interest

Grantee shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Agreement. Such a conflict of interest would arise when a Grantee or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the County, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement.

Grantee acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the County's interests. Absent the County's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Agreement.

If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the County a

disclosure statement setting forth the relevant details for the County's consideration. Failure to promptly submit a disclosure statement or to follow the County's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

23. Insurance

Grantee shall obtain, and maintain at all times during the duration of this Agreement, insurance as described in the Appendix A, and shall provide proof of such insurance.

24. Fund Availability

Financial obligations of the County payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. If funds are not appropriated, budgeted or made available, this Contract shall immediately terminate without further obligation on the part of the County. *See also* C.R.S. 30-25-103

25. Governmental Immunity

No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, notice requirements or other provisions, of the Colorado Governmental Immunity Act, C.R.S. 24-10-101 *et seq.* as applicable now or hereafter amended. There is no intent to waive or restrict governmental immunity.

26. Independent Contractor

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any employee of Contractor shall be deemed to be an employee or agent of the County. Contractor and its employees are not entitled to unemployment insurance or workers compensation benefits through the County and the County shall not pay for or otherwise provide such coverage. Contractor shall be responsible for all employment taxes, income taxes or other taxes incurred in performing this Contract. Contractor shall provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, and provide proof thereof when requested, and to be solely responsible for its acts and those of its employees and agents.

27. Prohibition of Pledging Credit And No Aid To Corporations

Pursuant to Colorado Constitution Article XI, Sections 1 and 2 and Article X, section 20, the County shall not indemnify or hold harmless Contractor or any party related or operating under this Contract. No provision in this Agreement shall limit or set the amount of damages available to the County to any amount other than the actual direct and indirect damages to the County, regardless of the theory or basis for such damages. Any provision included or incorporated herein by reference which purports to negate this provision in whole or in part shall not be valid or enforceable or available in any action at law or equity, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by this provision shall not invalidate the remainder of this Agreement.

28. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

**Commented [JDP4]:** We are looking to implement multi-year funding in 2022. Does this section need to be amended at all to acknowledge that?

Grantee understands that BHS funds derive from sales tax revenues, which fluctuate. The BHS funding commitment to Impact Fund Grants, including this Grant, is subject to these fluctuations, which may impact multi-year funding availability for this Grant.

**Commented [FNH5R4]:** I would leave this in, if anything I'd add language that says "Funding is contingent upon receipt of sufficient funds"

29. Interruptions

Neither party to this Agreement shall be liable to the other for delays in delivery or failure to deliver or otherwise to perform any obligation under this Agreement, where such failure is due to any cause beyond its reasonable control, including but not limited to Acts of God, fires, strikes, war, flood, earthquakes or Governmental actions.



Appendix A

**INSURANCE REQUIREMENTS**

Prior to commencement of any work, grantee shall forward Certificates of Insurance to Larimer County c/o Behavioral Health Services, bhsgrants@larimer.org. The insurance required shall be procured and maintained in full force and effect for the duration of the Contract and shall be written for not less than the following amounts, or greater if required by law. Certificate Holder should be Larimer County at 200 West Oak St, 5<sup>th</sup> Floor Fort Collins, CO 80521.

- I. Workers' Compensation and Employers' Liability (waived if there are no employees)
  - A. State of Colorado: Statutory
  - B. Applicable Federal: Statutory
  - C. Employer's Liability: \$100,000 Each Accident  
\$500,000 Disease-Policy Limit  
\$100,000 Disease-Each
  - Employee
  - D. Waiver of Subrogation

**A signed Workers' Compensation waiver must be provided if the grantee is not required to carry Workers' Compensation coverage per Colorado Workers' Compensation Act (8-40-202(2)(b)).**

- II. Commercial General Liability on an Occurrence Form including the following coverages: Premises Operations; Products and Completed Operations; Personal and Advertising Injury; Liability Assumed under an Insured Contract; Independent Contractors. Coverage provided should be at least as broad as found in Insurance Services Office (ISO) form CG0001. Minimum limits to be as follows:
  - A. General Aggregate Limit \$2,000,000
  - B. Products & Completed Operations Aggregate Limit \$2,000,000
  - C. Personal & Advertising Injury Limit \$1,000,000
  - D. Bodily Injury & Property Damage Each Occurrence Limit \$1,000,000

Other General Liability Conditions:

- 1. Products and Completed Operations to be maintained for one year after final payment. Grantee shall continue to provide evidence of such coverage to the County on an annual basis during the aforementioned period (as appropriate).
- 2. **Grantee agrees that the insurance afforded the County is primary.**
- 3. If coverage is to be provided on Claims Made forms, grantee must refer policy to Risk Management Department for approval and additional requirements.

- III. Automobile Liability insurance including coverage for all owned, non-owned, & hired autos. **(ONLY required if grantee will be using an auto to provide services or goods)**

Limits to be as follows:

- A. Bodily Injury & Property Damage Combined Single Limit \$1,000,000
  - IV. Professional Liability/Medical Malpractice \$1,000,000
  - V. Network Security and Privacy Liability (Cyber Liability) \$2,000,000
- (ONLY required if grantee will be downloading, hosting, or transferring Personal Identifiable Information (PII), and/or Protected Health Information (PHI) and/or Payment Card Information (PCI) as part of the contracted service)**

- VI. Minimum required limits set forth herein may be met by utilizing a combination of excess/umbrella policies in conjunction with primary insurance policies if necessary.
- VII. **All Insurance policies** (except Auto, Workers Compensation and Professional Liability) **shall include Larimer County and its elected and appointed officials and employees as additional insureds as their interests may appear.** The additional insured endorsement should be at least as broad as ISO form CG2010 for General Liability coverage and similar forms for Umbrella Liability. Additional Insured endorsement(s) shall be attached to the certificate of insurance that is provided to the county.
- VIII. The County reserves the right to reject any insurer it deems not financially acceptable by insurance industry standards. Property and Liability Insurance Companies shall be licenses to do business in Colorado and shall have an AM Best rating of not less than A- VII.
- IX. **Notice of Cancellation:** Each insurance policy required by the insurance provision of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the County, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to Larimer County c/o Behavioral Health Services, 200 W. Oak St., 5<sup>th</sup> Floor, Ft. Collins, CO 80521 or bhsgrants@larimer.org. If the insurance company refuses to provide the required notice, the grantee or its insurance broker shall notify the County of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.
- X. **Subcontractors:** If subcontractors are used by grantee in the performance of contracted services, all subcontractors are required to carry insurance coverage consistent with the limits as listed in this document and the subcontractor must include Larimer County an additional insured as described in section VI.

**ANY DEVIATIONS FROM THE STANDARDS GIVEN ABOVE MUST BE APPROVED BY THE LARIMER COUNTY RISK MANAGEMENT DEPARTMENT.**