

STATE OF COLORADO
History Colorado, the Colorado Historical Society
Grant Agreement

with **The Ute Mountain Ute Tribe**
 The Southern Ute Indian Tribe

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1. PARTIES

This Grant Agreement (hereinafter called “Grant”) is entered into by and between:

- The Ute Mountain Ute Tribe
- The Southern Ute Indian Tribe

(hereinafter called “Grantee”), and the **STATE OF COLORADO** acting by and through History Colorado, the Colorado Historical Society (hereinafter called the “State” or “HC”).

2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY.

This Grant shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the “Effective Date”). The State shall not be liable to pay or reimburse Grantee for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3. RECITALS

A. Authority, Appropriation, and Approval

Authority to enter into this Grant exists in Subsection (5)(b)(III) of Section 9 of Article XVIII of the State Constitution (“State Historical Fund”) and funds have been budgeted, appropriated and otherwise made available pursuant to Section 44-30-1201 of the Colorado Revised Statutes and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

B. Grantee is an Indian Tribe

Ute Mountain Ute Tribe: The Grantee is a federally recognized Indian tribe that is organized under a constitution, approved by the Secretary of the Interior pursuant to the Indian Reorganization Act of 1934, ch. 576, 48 Stat. 984 (codified as amended at 25 U.S.C. §§ 461, et seq.). The Tribal Council (as defined below) is authorized to act for the Grantee by the Tribe’s constitution, as amended, adopted by the members of the Ute Mountain Ute Tribe on May 8, 1940, and approved by the Secretary of the Interior on June 4, 1940.

Southern Ute Indian Tribe: The Grantee is a federally recognized Indian tribe, organized under a constitution, approved by the Secretary of the Interior on November 4, 1936, pursuant to the Indian Reorganization Act of 1934, ch. 576, 48 Stat. 984 (codified as amended at 25 U.S.C. §§ 461, et seq.), and approved as amended on October 1, 1975 and August 27, 1991. The Tribal Council (as defined below) is authorized to act for the Grantee by the Tribe’s constitution.

C. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Grant.

D. Purpose

The project is one phase of a long-term effort to document and preserve large, threatened sites on the Ute Mountain Ute Reservation. This phase will entail mapping a large prehistoric site, 5MTUMR 2803 (Moqui Springs), analyzing a sample of surface pottery, assessing the condition of this site, and generating an updated site card and a preservation plan for the site.

E. Funding

~~This Grant is funded, in whole or in part, with Federal funds awarded to the State by Insert Federal Awarding Agency.~~

F. References

All references in this Grant to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

A. Budget

“Budget” means the budget for the Work described in **Exhibit A**.

B. Evaluation

“Evaluation” means the process of examining Grantee’s Work and rating it based on criteria established in §6 and **Exhibits A, B, and C**.

C. Exhibits and other Attachments

The following are attached hereto and incorporated by reference herein: **Exhibit A** (Scope of Work), **Exhibit B** (Budget), **Exhibit C** (Submittals and Deliverables), **Exhibit D** (State Historical Fund Provisions), and **Attachment 1** (SHF Payment Request & Financial Report Form).

D. Goods

“Goods” means tangible material acquired, produced, or delivered by Grantee either separately or in conjunction with the Services Grantee renders hereunder.

E. Grant

“Grant” means this Grant, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Grant, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Federal and Colorado State law, Fiscal Rules, and State Controller Policies.

F. Grant Funds

“Grant Funds” means available funds payable by the State to Grantee pursuant to this Grant.

G. Matching Funds

“Matching Funds” means the funds provided Grantee as a match required to receive the Grant Funds.

H. Party or Parties

“Party” means the State or Grantee and “Parties” means both the State and Grantee.

I. Program

“Program” means the History Colorado State Historical Fund grant program that provides the funding for this Grant.

J. Reservation

“Reservation” means the Grantee’s reservation.

K. Review

“Review” means examining Grantee’s Work to ensure that it is adequate, accurate, correct and in accordance with the criteria established in §6 and Exhibits A, B, and C

L. Services

“Services” means the required services to be performed by Grantee pursuant to this Grant.

M. Subgrantee

“Subgrantee” means third-parties, if any, engaged by Grantee to aid in performance of its obligations.

N. Tribe and Tribal

“Tribe” means the Grantee, and “Tribal” means of the Grantee or the Grantee’s.

O. Tribal Council

“Tribal Council” means the Grantee’s governing body or authority.

P. Work

“Work” means the tasks and activities Grantee is required to perform to fulfill its obligations under this Grant and Exhibits A, B, and C, including the performance of the Services and delivery of the Goods and/or Work Product.

Q. Work Product

“Work Product” means the tangible or intangible results of Grantee’s Work in accordance with Exhibit C, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

5. TERM

A. Initial Term-Work Commencement

The Parties respective performances under this Grant shall commence on

the Effective Date

the later of either the Effective Date or _____, _____.

This Grant shall terminate **24** months from the Effective Date on _____ unless sooner terminated or further extended as specified elsewhere herein.

B. State’s Option to Extend

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for a maximum of three successive periods, of one year or less at the same rates and under the same terms specified in this Agreement (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Grantee in a form substantially equivalent to Sample Option Letter attached to this Agreement.

6. STATEMENT OF WORK

A. Completion

Grantee shall complete the Work and its other obligations as described herein and in **Exhibit A, B, and C** on or before _____. The State shall not be liable to compensate Grantee for any Work performed prior to the Effective Date or after the termination of this Grant.

B. Goods and Services

Grantee shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Grant Funds and shall not increase the maximum amount payable hereunder by the State.

C. Employees

All persons employed by Grantee or Subgrantees shall be considered Grantee's or Subgrantees' employee(s) for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Grant.

7. PAYMENTS TO GRANTEE

The State shall, in accordance with the provisions of this §7, pay Grantee in the following amounts and using the methods set forth below:

A. Maximum Amount

The maximum amount payable under this Grant to Grantee by the State is **\$48,750**, as determined by the State from available funds. Grantee agrees to provide any additional funds required for the successful completion of the Work. Payments to Grantee are limited to the unpaid obligated balance of this Grant as set forth in Exhibits B and C.

B. Payment

i. Advance, Interim and Final Payments.

The State shall pay the Grantee in accordance with

Exhibit C. Grantee shall initiate payment requests by submitting invoices and program financial forms to the State in the form and manner set forth and approved by the State.

Payments are subject to completion and State approval of Deliverables contained in the List of Submittals set forth in **Exhibit C**. Any advance payment allowed under this Grant or in Exhibit C shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or such Exhibit. .

ii. Interest

The State shall fully pay each invoice within 45 days of receipt thereof if the amount invoiced represents performance by Grantee previously accepted by the State. Uncontested amounts not paid by the State within 45 days may, if Grantee so requests, bear interest on the unpaid balance beginning on the 46th day at a rate not to exceed one percent per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are subject to a good faith dispute. Grantee shall invoice the State separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Available Funds-Contingency-Termination

The State is prohibited by law from making fiscal commitments beyond the term of the State's current fiscal year. Therefore, Grantee's compensation is contingent upon the continuing availability of State appropriations as provided in the Special Provisions, set forth below. If federal funds are used with this Grant in whole or in part, the State's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Grant shall be made only from available funds encumbered for this Grant and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not appropriated, or otherwise become unavailable to fund this Grant, the State may

immediately terminate this Grant in whole or in part without further liability in accordance with the provisions herein.

iv. Erroneous Payments

At the State's sole discretion, payments made to Grantee in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by Grantee, may be recovered from Grantee by deduction from subsequent payments under this Grant or other grants or agreements between the State and Grantee or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any person or entity other than the State.

C. Reimbursement of Grantee Costs.

- i. The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in Exhibit B and §7 for all allowable costs described in this Grant and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget up to ten percent (10%) without formal modification to this Agreement, the change does not modify the total maximum amount of this Agreement or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. Grantee's costs for Work performed after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable.
- ii. Adjusting the amounts between each line item of the budget over ten percent (10%+) shall be in accordance with the procedures developed and prescribed by the State.

The State shall only reimburse allowable costs described in this Agreement and shown in the Budget if those costs are:

- a. Reasonable and necessary to accomplish the Work and for the Goods and Services provided; and
- b. Equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

D. Matching Funds

Grantee shall provide matching funds as provided in Exhibit B. Grantee shall have raised the full amount of matching funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request.

8. REPORTING - NOTIFICATION

Reports, Evaluations, and Reviews required under this §8 shall be in accordance with the procedures of and in such form as prescribed by the State and in accordance with §18, if applicable.

A. Performance, Progress, Personnel, and Funds

State shall submit a report to the Grantee upon expiration or sooner termination of this Grant, containing an Evaluation and Review of Grantee's performance and the final status of Grantee's obligations hereunder. In addition, Grantee shall comply with all reporting requirements, if any, set forth in **Exhibit C**.

B. Litigation Reporting

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Grant or which may affect Grantee's ability to perform its obligations hereunder, Grantee shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State's principal representative is not then serving, such notice and copies shall be delivered to the Executive Director of HC.

C. Performance Outside the State of Colorado and/or the United States

[Not applicable if Grant Funds include any federal funds] Following the Effective Date, Grantee shall provide written notice to the State, in accordance with §15.E (**Notices and Representatives**), within 20 days of the earlier to occur of Grantee's decision to perform, or its execution of an agreement with a Subgrantee to perform, Services outside the State of Colorado and/or the United States. Such notice

shall specify the type of Services to be performed outside the State of Colorado and/or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations. All notices received by the State pursuant to this §8.C shall be posted on the Colorado Department of Personnel & Administration's website. Knowing failure by Grantee to provide notice to the State under this §8.C shall constitute a material breach of this Grant.

D. Noncompliance

Grantee's failure to provide reports and notify the State in a timely manner in accordance with this §8 may result in the delay of payment of funds and/or termination as provided under this Grant.

E. Subgrants

Copies of any and all subgrants entered into by Grantee to perform its obligations hereunder shall be submitted to the State or its principal representative upon request by the State. Any and all subgrants entered into by Grantee related to its performance hereunder shall comply with all applicable tribal, federal and state laws and shall provide that such subgrants be governed by the laws of the State of Colorado.

9. COMPLIANCE

In order to ensure that Grant funds are used in accordance with any and all applicable State and Federal statutes and regulations as well as the terms and conditions of any controlling Federal grant:

A. Maintenance

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, financial statements, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records (the Record Retention Period) until the last to occur of the following: (i) a period of three years after the date this Grant is completed or terminated, or (ii) final payment is made hereunder, whichever is later, or (iii) for such further period as may be necessary to resolve any pending matters, or (iv) if an audit is occurring, or Grantee has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Grantee shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Grantee's records related to this Grant during the Record Retention Period for a period of three years following termination of this Grant or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate Grantee's performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Grant, including any extension. If the Work fails to conform to the requirements of this Grant, the State may require Grantee promptly to bring the Work into conformity with Grant requirements, at Grantee's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Grantee to take necessary action to ensure that future performance conforms to Grant requirements and exercise the remedies available under this Grant, at law or inequity in lieu of or in conjunction with such corrective measures.

C. Monitoring

Grantee shall permit the State, the federal government, and other governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Grantee pursuant to the terms of this Grant using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Grantee's performance hereunder.

D. Final Audit Report

Upon request by the State or as required by the funding source(s) for this Grant, the Grantee shall provide Tribal audit reports relevant to its performance under this Grant for the period commencing on

the Effective Date and ending upon the later to occur of three (3) years or the number of years required by the funding source(s) for this Grant after the date final payment is made under this Grant.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

Grantee shall comply with the provisions of this §10 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, state records, personnel records, and information concerning individuals.

A. Confidentiality

Grantee shall keep all State records and information confidential at all times and shall comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of Grantee shall be immediately forwarded to the State's principal representative.

B. Notification

Grantee shall notify its agent, employees, Subgrantees, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

C. Use, Security, and Retention

Confidential information of any kind shall not be distributed or sold to any third party or used by Grantee or its agents in any way, except as authorized by this Grant or approved in writing by the State. Grantee shall provide and maintain a secure environment that ensures confidentiality of all State records and other confidential information wherever located. Confidential information shall not be retained in any files or otherwise by Grantee or its agents, except as permitted in this Grant or approved in writing by the State.

D. Disclosure-Liability

Disclosure of State records or other confidential information by Grantee for any reason may be cause for legal action by third parties against Grantee, the State or their respective agents. Grantee shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to this §10.

11. CONFLICTS OF INTEREST

Grantee shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Grantee's obligations hereunder. Grantee acknowledges that with respect to this Grant, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State'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 to the State hereunder. If a conflict or appearance exists, or if Grantee is uncertain whether a conflict or the appearance of a conflict of interest exists, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Grant.

12. REPRESENTATIONS AND WARRANTIES

Grantee makes the following specific representations and warranties, each of which was relied on by the State in entering into this Grant.

A. Standard and Manner of Performance

Grantee shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

B. Legal Authority – Grantee and Grantee's Signatory

Grantee warrants that it possesses the legal authority to enter into this Grant and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to

lawfully authorize its undersigned signatory to execute this Grant, or any part thereof, and to bind Grantee to its terms. If requested by the State, Grantee shall provide the State with proof of Grantee's authority to enter into this Grant within 15 days of receiving such request.

C. Licenses, Permits, Etc.

Grantee represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder. Grantee warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Grant, without reimbursement by the State or other adjustment in Grant Funds. Additionally, all employees and agents of Grantee performing Services under this Grant shall hold all required licenses or certifications, if any, to perform their responsibilities. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Grantee to properly perform the terms of this Grant shall be deemed to be a material breach by Grantee and constitute grounds for termination of this Grant.

13. INSURANCE

Grantee and its Subgrantees shall obtain and maintain insurance as specified in this section at all times during the term of this Grant. All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Grantee and the State.

A. Grantee

The Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under this Grant. If the Grantee elects to self-insure, the Grantee's obligations under such self-insurance with respect to incidents occurring during the term of this Grant shall survive the expiration or earlier termination of this Grant to the extent required under this Grant or by any federal or other funding source(s) for this Grant. The Grantee shall show proof of such insurance satisfactory to the State, if requested by the State.

B. Subgrantees

Grantee shall require each Grant with a Subgrantee that is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101 *et seq.*, as amended ("GIA"), to include the insurance requirements necessary to meet such Subgrantee's liabilities under the GIA. Grantee shall require each Grant with Subgrantees, other than those that are public entities that are providing Goods or Services in connection with this Grant, to include insurance requirements substantially similar to the following:

i. Worker's Compensation

Worker's Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Grantee and Subgrantee employees acting within the course and scope of their employment.

ii. General Liability

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: **(a)** \$1,000,000 each occurrence; **(b)** \$1,000,000 general aggregate; **(c)** \$1,000,000 products and completed operations aggregate; and **(d)** \$50,000 any one fire. If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, Subgrantee shall immediately obtain additional insurance to restore the full aggregate limit and furnish to Grantee a certificate or other document satisfactory to Grantee showing compliance with this provision.

iii. Automobile Liability

Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Additional Insured

Grantee and the State shall be named as additional insured on the Commercial General Liability and Automobile Liability Insurance policies (leases and construction Grants require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent).

v. Primacy of Coverage

Coverage required of Grantee and Subgrantees shall be primary over any insurance or self-insurance program carried by Grantee or the State.

vi. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the Grantee and the Grantee shall forward such notice to the State in accordance with §15 (Notices and Representatives) within seven days of Grantee's receipt of such notice.

vii. Subrogation Waiver

All insurance policies in any way related to this Grant and secured and maintained by Grantee or its Subgrantees as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

C. Certificates

Grantee and all Subgrantees shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Grant. No later than 15 days prior to the expiration date of any such coverage, Grantee and each Subgrantee shall deliver to the State or Grantee certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Grant or any subgrant, Grantee and each Subgrantee shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

14. BREACH

A. Defined

In addition to any breaches specified in other sections of this Grant, the failure of either Party to perform any of its material obligations hereunder, in whole or in part or in a timely or satisfactory manner, constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §15.E. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §15.E.

Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

15. REMEDIES

If Grantee is in breach under any provision of this Grant, the State shall have all of the remedies listed in this §15 in addition to all other remedies set forth in other sections of this Grant following the notice and cure period set forth in §14.B. The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Cause and/or Breach

If Grantee fails to perform any of its obligations under this Grant, the State may notify Grantee of such failure in accordance with the provisions herein. If Grantee thereafter fails to promptly cure such non-performance within the cure period, the State, at its option, may suspend or terminate this entire Grant or such part of this Grant as to which there has been delay or a failure to properly perform or may disallow all or part of the cost of the activity not in compliance. Exercise by the State of this right shall not be deemed a breach of its obligations hereunder. Grantee shall continue performance of this Grant to the extent not terminated, if any.

i. Obligations and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, if the State specifically requires in writing at the time of the termination notice, Grantee shall complete and deliver to the State all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Grant's terms. At the sole discretion of the State, Grantee shall assign to the State all of Grantee's right, title, and interest under such terminated orders or subcontracts. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee in which the State has an interest. All materials owned by the State in the possession of Grantee shall be immediately returned to the State. All Work Product, at the option of the State, shall be delivered by Grantee to the State and shall become the State's property.

ii. Payments

The State shall reimburse Grantee only for accepted performance up to the date of termination. If, after termination by the State, it is determined that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Grant had been terminated in the public interest, as described herein.

iii. Damages and Withholding

- b. Notwithstanding any other remedial action by the State, Grantee also shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Grant by Grantee and the State may withhold any payment to Grantee for the purpose of mitigating the State's damages, until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due to Grantee as the State deems necessary to protect the State, including loss as a result of outstanding liens or claims of former lien holders, or to reimburse the State for the excess costs incurred in procuring similar goods or services. Grantee shall be liable for excess costs incurred by the State in procuring from third parties replacement Work, Services or substitute Goods as cover.

B. Early Termination in the Public Interest

The State is entering into this Grant for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or Courts. If this Grant ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Grant in whole or in part. Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder. This subsection shall not apply to a termination of this Grant by the State for cause or breach by Grantee, which shall be governed by §15.A or as otherwise specifically provided for herein.

i. Method and Content

The State shall notify Grantee of such termination in accordance with §15.E. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

ii. Obligations and Rights

Upon receipt of a termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15.A.i.

iii. Payments

If this Grant is terminated by the State pursuant to this §15.B, Grantee shall be paid an amount which bears the same ratio to the total reimbursement under this Grant as the Services satisfactorily performed bear to the total Services covered by this Grant, less payments

previously made, and accounting for any matching funds or requirements for matching funds. Additionally, if this Grant is less than 60% completed, the State may reimburse Grantee for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Grant) incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

C. Remedies Not Involving Termination

The State, in its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Suspend Performance

Suspend Grantee's performance with respect to all or any portion of this Grant pending necessary corrective action as specified by the State without entitling Grantee to an adjustment in price/cost or performance schedule. Grantee shall promptly cease performance and incurring costs in accordance with the State's directive and the State shall not be liable for costs incurred by Grantee after the suspension of performance under this provision.

ii. Withhold Payment

Withhold payment to Grantee until corrections in Grantee's performance are satisfactorily made and completed.

iii. Deny Payment

Deny payment for those obligations not performed that due to Grantee's actions or inactions, cannot be performed; provided, that any denial of payment shall be reasonably related to the value of the obligations not performed.

iv. Removal

Demand removal from any functions performed in connection with this Grant of any of Grantee's employees, agents, or Subgrantees whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Grant is deemed to be contrary to the public interest or not in the State's best interest.

v. Intellectual Property

If Grantee infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Grant, Grantee shall, at the State's option **(a)** obtain for the State or Grantee the right to use such products and services; **(b)** replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, **(c)** if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the State.

D. Mediation

All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Grant including but not limited to claims regarding breach, shall be referred to nonbinding mediation by such mediator as is agreed upon between the Parties. In the event of a dispute, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in **Section 15.E**, below. In the event that the Parties fail to agree on a mediator within fifteen days of delivery of notice of the dispute, this mediation provision shall no longer apply. Nothing in this mediation provision shall be interpreted as limiting the State's right, under **Section 14.B.**, to terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crises.

E. Notices and Representatives

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

(i) State:

Steve W. Turner, AIA, Executive Director
History Colorado State Historical Fund
1200 Broadway
Denver, Colorado, 80203
dianne.brown@state.co.us

(ii) Grantee:

Terry Knight
Ute Mountain Ute Tribe
PO Box 468
Towaoc, Colorado 81334
lhartman@utemountain.org

16. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Grantee in the performance of its obligations under this Grant shall be the nonexclusive property of the State and, all Work Product shall be delivered to the State by Grantee upon completion or termination hereof. The State's exclusive rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. If this Grant is funded, in whole or in part, with Federal funds, the Federal awarding agency reserves the royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

17. GOVERNMENTAL IMMUNITY

A. State Immunity

Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the Governmental Immunity Act and the risk management statutes, CRS §24-30-1501, et seq., as amended.

B. Sovereign Immunity of Tribe

The Parties acknowledge and agree that, despite any language in this Grant which may suggest otherwise, the Tribe specifically does not by this Grant waive its immunity from suit or consent to the jurisdiction of any court or tribunal to adjudicate or decide the merits of any claim that is brought against the Tribe, the THPO, their enterprises, committees, boards, officials, employees, agents, assigns, or any other person or entity enjoying the sovereign immunity of the Tribe. State acknowledges that only the Ute Mountain Ute Tribal Council, acting by official resolution, can provide consent to be sued.

18. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Grantee under this Grant is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §18 applies.

Grantee agrees to comply with the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of performance on state Grants and inclusion of Grant performance information in a statewide contract management system.

The State is required to conduct Evaluation and Review of Grantee's performance in accordance with the terms and conditions of this Grant, State law, including CRS §24-103.5-101, and State Fiscal Rules,

Policies and Guidance. Evaluation and Review of Grantee's performance shall be part of the normal Grant administration process and Grantee's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Grantee's obligations under this Grant shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Grantee's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and rating shall be rendered within 30 days of the end of the Grant term. Grantee shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Grantee demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel & Administration (Executive Director), upon request by HC, and showing of good cause, may debar Grantee and prohibit Grantee from bidding on future Grants. Grantee may contest the final Evaluation, Review and rating by: **(a)** filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or **(b)** under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Grantee, by the Executive Director, upon a showing of good cause.

19. GENERAL PROVISIONS

A. Assignment and Subgrants

Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or subgranted without the prior, written consent of the State. Any attempt at assignment, transfer, or subgranting without such consent shall be void. All assignments, subgrants, or Subgrantees approved by Grantee or the State are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of subgranting arrangements and performance.

B. Binding Effect

Except as otherwise provided in §20(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

C. Captions

The captions and headings in this Grant are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

D. Counterparts

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

E. Entire Understanding

This Grant represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

F. Modification

i. By the Parties

Except as specifically provided in this Grant, modifications of this Grant shall not be effective unless agreed to in writing by the Parties in an amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATIONS OF CONTRACTS - TOOLS AND FORMS.

ii. Changes in Law

In the event of a change in law affecting this Grant: **(a)** the Parties may modify this Grant in accordance with §19.F.i above, or, in the alternative, **(b)** each Party shall have the right to terminate this Grant.

G. Order of Precedence

The provisions of this Grant shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Grant and its exhibits and attachments including, but not limited to, those provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. **Special Provisions,**
- ii. **The provisions of the main body of this Grant,**
- iii. **Exhibit A,**
- iv. **Exhibit B,**
- v. **Exhibit C,**
- vi. **Exhibit D,**

H. Severability

Provided this Grant can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

I. Survival of Certain Grant Terms

Notwithstanding anything herein to the contrary, provisions of this Grant requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Grantee fails to perform or comply as required.

J. Taxes

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Grantee shall be solely liable for paying applicable taxes as the State is prohibited from paying for or reimbursing Grantee for them.

K. Conditions for Entry Onto the Reservation

State employees may enter the Reservation to monitor activities under this Grant, participate in activities funded under this Grant, or to otherwise comply with the State's rights and obligations under this Grant. The State's employees, agents, and subcontractors performing work under this Grant shall be subject to the Tribe's jurisdiction while on the Reservation and shall comply with Tribal law and applicable federal law (including, without limitation, criminal laws and prohibitions on possession of drugs and alcohol). The State shall advise all such employees, agents, contractors, and subcontractors of the requirements set forth in this section.

L. Third Party Beneficiaries

Enforcement of this Grant and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Grant are incidental to this Grant, and do not create any rights for such third parties.

M. Waiver

Waiver of any breach of a term, provision, or requirement of this Grant, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

N. CORA Disclosure

To the extent not prohibited by federal law, this Grant and the performance measures and standards negotiated by the State and Grantee under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-200.1, et seq. ("CORA"), except as other provided under CORA.

O. Additional Federal Award Conditions

--Intentionally Omitted--

P. Mandatory Disclosures

Grantee shall disclose, in a timely manner, in writing to the State, all violations of Federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Grant. Penalties for noncompliance may include suspension or debarment (2 CFR Part 180 and 31 U.S.C. 3321).

Q. Noncompliance

If Grantee fails to comply with Federal statutes, regulations or the terms and conditions of this Grant, the State may impose additional conditions, as described in section 200.207, Specific Conditions, of the OMB Circular. If the State determines that noncompliance cannot be remedied by imposing additional conditions, the State may exercise any or all of the remedies set forth in **Section 15** above.

20. SPECIAL PROVISIONS

These Special Provisions apply to all Tribal Grants except where noted in italics.

A. CONTROLLER'S APPROVAL. CRS §24-30-202 (1).

This Grant shall not be deemed valid until it has been approved by the Colorado State Controller or designee.

B. FUND AVAILABILITY. CRS §24-30-202(5.5).

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY

Neither the making of this Grant nor any term or condition of this Grant shall be construed or interpreted as a waiver, express or implied, of either Party's sovereign immunity including, without limitation, any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

D. INDEPENDENT CONTRACTOR

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits will be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. If required by law, Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Grant. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. If required by law, Grantee shall **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the State, and **(c)** be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

Grantee shall strictly comply with all applicable laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW.

This Grant Agreement shall be interpreted in accordance with laws of the State of Colorado.

G. BINDING ARBITRATION PROHIBITED.

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Grant or incorporated herein by reference shall be null and void.

H. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.

State or other public funds payable under this Grant shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Grant and any extensions,

Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Grant, including, without limitation, immediate termination of this Grant and any remedy consistent with federal copyright laws or applicable licensing restrictions.

- I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Grant. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

SAMPLE

21. SIGNATURE PAGE

Grant Routing Number

THE PARTIES HERETO HAVE EXECUTED THIS GRANT

*** Persons signing for Grantee hereby swear and affirm that they are authorized to act on Grantee’s behalf and acknowledge that the State is relying on their representations to that effect.**

<p style="text-align: center;">GRANTEE</p> <p>By: <input checked="" type="checkbox"/> The Ute Mountain Ute Tribe <input type="checkbox"/> The Southern Ute Indian Tribe</p> <p>Title: INSERT-Official Title of Authorized Individual</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor History Colorado Steve W. Turner, Executive Director</p> <hr/> <p>By: Steve W. Turner, Executive Director Signatory avers to the State Controller or delegate that Grantee has not begun performance or that a Statutory Violation waiver has been requested under Fiscal Rules</p> <p>Date: _____</p>
<p>2nd Grantee Signature if Needed</p> <p>By: <input type="checkbox"/> The Ute Mountain Ute Tribe <input type="checkbox"/> The Southern Ute Indian Tribe</p> <p>Title: INSERT-Official Title of Authorized Individual</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;">LEGAL REVIEW Philip J. Weiser, Attorney General</p> <p>By: _____</p> <p>Signature - Assistant Attorney General</p> <p>Date: _____</p>

ALL GRANTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Grants. This Grant is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____

History Colorado

Date: _____



STATE HISTORICAL FUND

EXHIBIT A – SCOPE OF WORK

I. Project Purpose: The project is one phase of a long-term effort to document and preserve large, threatened sites on the Ute Mountain Ute Reservation. This phase will entail mapping a large prehistoric site, 5MTUMR 2803 (Moqui Springs), analyzing a sample of surface pottery, assessing the condition of this site, and generating an updated site card and a preservation plan for the site.

II. Scope of Work is as follows:

- A. Conduct Fieldwork
 - 1. Mapping
 - 2. Artifact Tallies
 - 3. Preservation Threat Analysis
- B. Create Map and Site Form
 - 1. Site Map
 - 2. Site Forms
- C. Provide Final Reports
 - 1. Site Survey
 - 2. Site Management and Preservation

SAMPLE

EXHIBIT B - BUDGET

TASK	BUDGET	AMOUNT
A. Fieldwork		\$45,000
B. Map and Site Form		\$7,500
C. Final Report		\$10,000
D. Direct Costs		\$500
E. Grant Administration*		\$2,000
<hr/>		
PROJECT TOTAL**		\$65,000
Grant Award (75.00%)		\$48,750
Cash Match (25.00%)		\$16,250

* Grant Administration cannot exceed 15% of *Project Total* amount

Grant payments will be based off **Project Total amount. Total payments will be Grant Award percentage of **Project Total** up to a maximum of the Grant Award Amount should contingency be requested and approved.

EXHIBIT C – SUBMITTALS AND DELIVERABLES

Project Reports	<u>Due Date</u>	Society Response
a. Payment Request Form (Attachment 1). Deliverables #1 below must be reviewed and approved before Advance payment is made.	N/A	Advance payment of grant award \$14,625.
b. Progress Report # 1	July 1, 2021	Review*
c. Progress Report # 2	September 1, 2021	Review*
d. Progress Report # 3	November 1, 2021	Review*
e. 1 st Interim Financial Report (Attachment 1). Deliverables #2 - 4 below must be reviewed and approved before 1 st Interim payment is made.	November 15, 2021	Review & Approve. 1 st Interim payment of grant award \$14,625
f. Progress Report # 4	January 1, 2022	Review*
g. Progress Report # 5	March 1, 2022	Review*
h. Progress Report # 6	May 1, 2022	Review*
i. 2 nd Interim Financial Report (Attachment 1). Deliverables #5 - 6 below must be reviewed and approved before 2 nd Interim payment is made.	May 15, 2022 **	Review & Approve. 2 nd Interim payment of grant award \$14,625
j. Progress Report # 7	July 1, 2022	Review*
k. Progress Report # 8	September 1, 2022	Review*
l. Progress Report # 9	November 1, 2022	Review*
m. Progress Report # 10	Januray 1, 2023	Review*
n. Progress Report # 11	March 1, 2023	Review*
o. Final Financial Report (Attachment 1)	March 15, 2023	Review & Approve. Final payment of grant award \$4,875***

* At the discretion of the SHF technical staff, progress reports may not receive a response.

** Interim Financial Report due date is a guideline. Please submit Interim Financial Report when 40% or more of Advance is expended and you are ready for the next payment.

*** Final Payment is a reimbursement ONLY after all contractors are paid in full.

All deliverables and submittals must be received 30 days prior to the Grant End Date.

PROJECT DELIVERABLES

Submit the following Project Deliverables:

Project Deliverables

1. Consultation with SHF Historic Preservation Specialist
2. Consultant resume for: Archaeologist(s)
3. Subcontract Certification for: Consulting Archaeologists
4. Written documentation of owner(s) permission
5. Representative Sample OAHP Site/Archaeological Forms
6. Draft Survey Report and Draft Forms
7. Draft Archaeological Report
8. Final Survey Report and all Final Forms
9. Final Archaeological Report
10. Documentation of professional/public outreach
11. Project Summary Report

Society Response

Review/Comment and or Approve
Review/Comment and or Approve
Review/Comment and or Approve
Review/Comment and or Approve
Review/Comment and or Approve
Review/Comment and or Approve
Review/Comment and or Approve
Review/Comment and or Approve
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Review/Comment and or Approve

SAMPLE

EXHIBIT D – STATE HISTORICAL FUND PROVISIONS

1. STANDARDS OF WORK

The Property Owner and Grant Recipient agree that they will perform the activities listed in Exhibit A and produce the deliverables listed in Exhibit C in accordance with the pertinent sections of the applicable Secretary of the Interior's Standards for Archaeology and Historic Preservation. The Property Owner and Grant Recipient shall perform any and all survey activities and submittals in accordance with the Survey Manual and How to Complete Colorado Cultural Resource Inventory Forms, Volumes I and II, June 1998 (Revised December 2001) for any and all survey activities and projects (copies of which are available through History Colorado).

2. DISSEMINATION OF ARCHAEOLOGICAL SITE LOCATIONS

The Grant Recipient and Property Owner agree to provide History Colorado with copies of any archaeological surveys developed during the course of, or under a project financed either wholly or in part by History Colorado. The Grant Recipient and Property Owner agree to otherwise restrict access to such archaeological surveys, as well as access to any other information concerning the nature and location of archaeological resources, in strict accordance with the provisions of History Colorado-Office of Archaeology and Historic Preservation, Policy on Dissemination of Information, adopted October 1991, a copy of which is available from History Colorado.

3. PUBLIC ACKNOWLEDGEMENT OF FUNDING SOURCE

In all publications and similar materials funded under this Agreement, a credit line shall be included that reads: "This project is/was paid for in part by a History Colorado – State Historical Fund grant." In addition, History Colorado reserves the right to require that the following sentence be included in any publication or similar material funded through this program: "The contents and opinions contained herein do not necessarily reflect the views or policies of History Colorado".

4. MATCHING FUNDS

In the event that said matching funds, as provided in Cover Page & Exhibit B, become unavailable, the State may, in its sole discretion, reduce its total funding commitment to the Project in proportion to the reduction in matching funds. If the total funding set forth in the Project Budget is not expended on completion of the Project, the State may reduce its pro-rata share of the unexpended budget.

5. QUALIFYING EXPENDITURES

Expenditures incurred by the Grantee or Property Owner prior to execution of this Agreement are not eligible expenditures for State reimbursement. If the Project involves matching funds the State may allow prior expenditures in furtherance of the Scope of Work to be counted as part of such matching funds.

6. BUDGET REVISIONS

In the event budget line items need to be increased/decreased over 10% for any budget line item, Grantee shall provide a written request, in advance, with a detailed explanation and information for the revision(s) in a form and manner approved by the State.

7. INTEREST EARNED

Interest earned on funds advanced by the State shall be applied to eligible project expenditures, and will be deducted from the final payment.

8. RECAPTURE

The following recapture provision shall apply only to a private/for-profit Property Owner: In the event that the property, as a whole, is sold within a five-year period after completion of the grant, the following recapture provision shall apply: If the property is sold within the first year after completion, one-hundred percent (100%) of the funds awarded shall be returned to the State, with a twenty percent (20%) reduction per year thereafter.

