

SMALL DOLLAR GRANT AWARD

COVER PAGE

State Agency Department of Higher Education, History Colorado, the Colorado Historical Society		SHF Grant Number 2024-M1-209
Grantee Regent Historical Society		Award Start Date 9/1/2023
Agreement Maximum Amount \$37,500.00	Maximum Grant Funds Percentage 75.00%	Award End Date 9/1/2025
Cash Match Amount \$12,500.00	Cash Match Percentage 25.00%	Encumbrance: POGG1 2024*8874
Award Authority Authority exists under the State Constitution article XVIII, §9(5)(b)(III) and CRS §44-30-1201 for the annual distribution of monies from the State Historical Fund (SHF).		
Award Purpose The purpose of this project is to produce construction documents for the Gold Ranch House in Regent, CO.		
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Agreement: <ol style="list-style-type: none">1. Exhibit A, Statement of Work2. Exhibit B, Budget3. Exhibit C, Submittals & Deliverables4. Exhibit D, SHF Provisions5. Small Dollar Grant Award Terms & Conditions6. Attachment 1, SHF Payment Request & Financial Report form In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: <ol style="list-style-type: none">1. Small Dollar Grant Award Terms & Conditions2. The provisions of the other sections of the main body of this Agreement.3. Exhibit A, Statement of Work4. Exhibit B, Budget5. Exhibit C, Submittals & Deliverables6. Exhibit D, SHF Provisions		
Principal Representatives For the State: Dawn DiPrince Executive Director History Colorado 1200 Broadway Denver, Colorado 80203 For Grantee: Larry Crowne Grant Administrator 123 Hill St Regent, CO 81232		
Modifications:		

SCOPE OF WORK

I. Purpose: The purpose of this project is for the creation of Construction Documents for the Gold Ranch House in Regent, Colorado.

II. Scope of Work is as follows:

- A. Architectural Services
 - 1. Provide architectural investigation and construction detailing for repairs of findings of HSA.
 - 2. Create Construction Documents incorporating all findings.
- B. Structural and Engineering Consulting
 - 1. Provide engineering for repairs of structure and foundation.
- C. Materials/Geotechnical/Archeological Consulting
 - 1. Provide technical analysis of mortar mixes and specification for mixes to be used in repairs.
 - 2. Provide geotechnical services as required for foundation repairs and engineering and/or permitting.
 - 3. Provide archaeological monitoring/consulting as necessary to protect artifacts during excavation.
- D. Hazardous Materials Survey
 - 1. Conduct asbestos, lead, and other hazardous materials testing as required.

BUDGET

TASK	AMOUNT
A. Architectural & Engineering Fees	\$ 25,500
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PROJECT SUBTOTAL	\$ 25,500
<i>Contingency</i> †	\$ 2,550
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PROJECT TOTAL	\$ 28,050
Grant Award (75.00%)	\$21,038
Cash Match (25.00%)	\$ 7,012

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

† Contingency - Must receive written approval from SHF Staff prior to use.

LIST OF SUBMITTALS

<u>Project Reports</u>	<u>Due Date</u>	<u>Society Response</u>
a. Payment Request Form (Attachment 1). Deliverables 1-5 below must be reviewed and approved before Advance Payment is made.	N/A	Advance Payment of Grant Award \$ 7,650.
b. Progress Report # 1	May 1, 2024	Review *
c. Progress Report # 2	August 1, 2024	Review *
d. Progress Report # 3	November 1, 2024	Review *
e. Interim Financial Report (Attachment 1). Deliverables 6-11 below must be reviewed and approved before Interim Payment is made.	November 15, 2024 **	Review & Approve. Interim Payment of Grant Award \$ 9,563†.
f. Progress Report # 4	February 1, 2025	Review *
g. Progress Report # 5	May 1, 2025	Review *
h. Progress Report # 6	August 1, 2025	Review *
i. Progress Report # 7	November 1, 2025	Review *
j. Final Financial Report (Attachment 1).	November 15, 2025 ***	Review & Approve. Final Payment of Grant Award \$ 1,912†.

* 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 has been expended and you are ready for the next payment.

*** Final Payment is a reimbursement ONLY after all contractors have been paid.

† Payment may increase due to approval of contingency funds.

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

PROJECT DELIVERABLES

All deliverables must be submitted digitally to your assigned Resource Specialist unless a Hard Copy (HC) is specified, then a digital *and* hard copy must be submitted.

Project Deliverables

SHF Response

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|--------------------------------------------------------------------------------|-------------------------------|
| 1. Initial Consultation with SHF Preservation Specialist | Review Comment and/or Approve |
| 2. Existing condition photos of Scope of Work (HC) | Review Comment and/or Approve |
| 3. Historical photos/documentation of areas to be treated | Review Comment and/or Approve |
| 4. Subcontract Certification for: Architect | Review Comment and/or Approve |
| 5. Consultant Resume for: Architect | Review Comment and/or Approve |
| 6. Copy of Federal or State Archaeological Permit | Review Comment and/or Approve |
| 7. Subcontract Certification for: Archaeologist | Review Comment and/or Approve |
| 8. Consultation with SHF Archaeological Specialist prior to ground disturbance | Review Comment and/or Approve |
| 9. Draft Construction Documents | Review Comment and/or Approve |
| 10. Materials Testing Analysis & Results | Review Comment and/or Approve |
| 11. Interim meeting with SHF Preservation Specialist | Review Comment and/or Approve |
| 12. Final Construction Documents (HC) | Review Comment and/or Approve |
| 13. OAHP Site/Archaeological Forms, if necessary | Review Comment and/or Approve |
| 14. Draft Archaeological Report | Review Comment and/or Approve |
| 15. Final Archaeological Report | Review Comment and/or Approve |
| 16. Artifact Catalog, if necessary | Review Comment and/or Approve |
| 17. Documentation of professional/public outreach | Review Comment and/or Approve |

STATE HISTORICAL FUND PROVISIONS

1. STANDARDS OF WORK

The Property Owner and Grantee 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 Grantee 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 Grantee 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 Grantee 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 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. ACCOUNTING

At all times from the effective date of this Contract until completion of this Project, the Grant Recipient and Property Owner shall maintain properly segregated books of State funds, matching funds, and other funds associated with this Project. All receipts and expenditures associated with said Project shall be documented in a detailed and specific manner, and shall accord with the Budget set forth in Exhibit B. Interest earned on funds advanced by the State shall be applied to eligible project expenditures, and will be deducted from the final payment.

6. 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.

7. BUDGET REVISIONS

In the event budget line(s) need to be increased/decreased by 25% or more 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.

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 or ownership transferred within a five-year period after completion of the grant, the following recapture provision shall apply: if the property is sold or ownership transferred 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.

9. ACQUISITIONS

For acquisition projects, upon receipt by the State of documentation for the execution of a recorded deed of real property between Property Owner and Grantee, the State, Grantee, and Property Owner agree the Property Owner will cease to be a party to the Agreement.

10. PROPERTY INSURANCE

For projects with physical work, Property insurance covering the building, including the premises, its equipment, and owner's interest in improvements and betterments on an "all risk" basis, including where appropriate the perils of fire, flood, and earthquake. Coverage shall be written with a replacement cost valuation and include an agreed value provision. Coverage shall also include restoration back to the original state. The deductible amount shall not exceed \$25,000.

State of Colorado Small Dollar Grant Award Terms and Conditions

1. Offer/Acceptance. This Small Dollar Grant Award, together with these terms and conditions (including, if applicable, Addendum 1: Additional Terms and Conditions for Information Technology below), and any other attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference (collectively the "Agreement") shall represent the entire and exclusive agreement between the State of Colorado, by and through the agency identified on the face of the Small Dollar Grant Award ("State") and the Subrecipient identified on the face of the Small Dollar Grant Award ("Grantee"). If this Agreement refers to Grantee's bid or proposal, this Agreement is an ACCEPTANCE of Grantee's OFFER TO PERFORM in accordance with the terms and conditions of this Agreement. If a bid or proposal is not referenced, this Agreement is an OFFER TO ENTER INTO AGREEMENT, subject to Grantee's acceptance, demonstrated by Grantee's beginning performance or written acceptance of this Agreement. Any COUNTER-OFFER automatically CANCELS this Agreement, unless a change order is issued by the State accepting a counter-offer. Except as provided herein, the State shall not be responsible or liable for any Work performed prior to issuance of this Agreement. The State's financial obligations to the Grantee are limited by the amount of Grant Funds awarded as reflected on the face of the Small Dollar Grant Award.

2. Order of Precedence. In the event of a conflict or inconsistency within this Agreement, such conflict or inconsistency shall be resolved by giving preference to the documents in the following order of priority: **(1)** the Small dollar Grant Award document; **(2)** these terms and conditions (including, if applicable, Addendum 1 below); and **(3)** any attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference. Notwithstanding the above, if this Agreement has been funded, in whole or in part, with a Federal Award, in the event of a conflict between the Federal Grant and this Agreement, the provisions of the Federal Grant shall control. Grantee shall comply with all applicable Federal provisions at all times during the term of this Agreement. Any terms and conditions included on Grantee's forms or invoices not included in this Agreement are void.

3. Changes. Once accepted in accordance with §1, this Agreement shall not be modified, superseded or otherwise altered, except in writing by the State and accepted by Grantee.

4. Definitions. The following terms shall be construed and interpreted as follows: **(a) "Award"** means an award by a Recipient to a Subrecipient; **(b) "Budget"** means the budget for the Work described in this Agreement; **(c) "Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in CRS §24-11-101(1); **(d) "UCC"** means the Uniform Commercial Code in CRS Title 4; **(e) "Effective Date"** means the date on which this Agreement is issued as shown on the face of the Small Dollar Grant Award; **(f) "Federal Award"** means an award of federal financial assistance or a cost-reimbursement contract, by a Federal Awarding Agency to the Recipient. "Federal Award" also means an agreement setting forth the terms and conditions of the Federal Award, which terms and conditions shall flow down to the Award unless such terms and conditions specifically indicate otherwise. The term does not include payments to a vendor or payments to an individual that is a beneficiary of a Federal program; **(g) "Federal Awarding Agency"** means a Federal agency providing a Federal Award to a Recipient; **(h) "Grant Funds"** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement; **(i) "Matching Funds"** mean the funds provided by the Grantee to meet cost sharing requirements described in this Agreement; **(j) "Recipient"** means the State agency identified on the face of the Small Dollar Grant Award; **(k) "Subcontractor"** means third parties, if any, engaged by Grantee to aid in performance of the Work; **(l) "Subrecipient"** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a program, but does not include an individual that is a beneficiary of such program; **(m) "Uniform Guidance"** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, identified as the 2 C.F.R. (Code of Federal Regulations) Part 200, commonly known as the "Super Circular," which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular a-50 on Single Audit Act follow-up; and **(n) "Work"** means the goods delivered or services, or both, performed pursuant to this Agreement and identified as Line Items on the face of the Small Dollar Grant Award.

5. Delivery. Grantee shall furnish the Work in strict accordance with the specifications and price set forth in this Agreement. The State shall have no liability to compensate Grantee for the performance of any Work not specifically set forth in the Agreement.

6. Rights to Materials. *[Not Applicable to Agreements issued either in whole in part for Information Technology, as defined in CRS § 24-37.5-102(2); in which case Addendum 1 §2 applies in lieu of this section.]* Unless specifically stated otherwise in this Agreement, all materials, including without limitation supplies, equipment, documents, content, information, or other material of any type, whether tangible or intangible (collectively "Materials"), furnished by the State to Grantee or delivered by Grantee to the State in performance of its obligations under this Agreement shall be the exclusive property the State. Grantee shall return or deliver all Materials to the State upon completion or termination of this Agreement.

7. Grantee Records. Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work (including, but not limited to the operation of programs) performed under this Agreement (collectively "Grantee Records"). Unless otherwise specified by the State, the Grantee shall retain Grantee Records for a period (the "Record Retention Period") of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims or audit finding have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight, or indirect costs, and the State, may notify Grantee in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property. Grantee shall permit the State, the

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federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe Grantee Records during the Record Retention Period. Grantee shall make Grantee Records available during normal business hours at Grantee's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State. The State, in its discretion, may monitor Grantee's performance of its obligations under this Agreement using procedures as determined by the State. The federal government and any other duly authorized agent of a governmental agency, in its discretion, Grantee shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Grantee and this Agreement, and the State shall have the right, in its discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State will monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work. Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee Records that relates to or affects this Agreement or the Work, whether the audit is conducted by Grantee, a State agency or the State's authorized representative, or a third party. If applicable, the Grantee may be required to perform a single audit under 2 CFR 200.501, *et seq.* Grantee shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

8. Reporting. If Grantee is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Grantee's ability to perform its obligations under this Agreement, Grantee shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State. Grantee shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

9. Conflicts of Interest. Grantee acknowledges that with respect to this Agreement, 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 may appear to be in conflict with the full performance of Grantee's obligations to the State under this Agreement. If a conflict or appearance of a conflict of interest exists, or if Grantee is uncertain as to such, 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 actual or apparent conflict constitutes a breach of this Agreement. Grantee certifies that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. 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. Grantee acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Grantee further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Grant.

10. Taxes. The State is exempt from federal excise taxes and from State and local sales and use taxes. The State shall not be liable for the payment of any excise, sales, or use taxes imposed on Grantee. A tax exemption certificate will be made available upon Grantee's request. Grantee shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Grantee may wish to have in place in connection with this Agreement.

11. Payment. Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Agreement that exceeds the Document Total shown on the face of the Small Dollar Grant Award. The State shall pay Grantee in the amounts and in accordance with the schedule and other conditions set forth in this Agreement. Grantee shall initiate payment requests by invoice to the State, in a form and manner approved by the State. The State shall pay Grantee for all amounts due within 45 days after receipt of an Awarding Agency's approved invoicing request, or in instances of reimbursement grant programs a request for reimbursement, compliant with Generally Accepted Accounting Principles (GAAP) and, if applicable Government Accounting Standards Board (GASB) of amount requested. Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate set forth in CRS §24-30-202(24) until paid in full. Interest shall not accrue if a good faith dispute exists as to the State's obligation to pay all or a portion of the amount due. Grantee shall invoice the State separately for interest on delinquent amounts due, referencing the delinquent payment, number of day's interest to be paid, and applicable interest rate. The acceptance of an invoice shall not constitute acceptance of any Work performed under this Agreement. Except as specifically agreed in this Agreement, Grantee shall be solely responsible for all costs, expenses, and other charges it incurs in connection with its performance under this Grantee.

12. Term. The parties' respective performances under this Agreement shall commence on the "Service From" date identified on the face of the Small Dollar Grant Award, unless otherwise specified, and shall terminate on the "Service To" date identified on the face of the Small Dollar Grant Award unless sooner terminated in accordance with the terms of this Agreement.

13. Payment Disputes. If Grantee disputes any calculation, determination or amount of any payment, Grantee shall notify the State in writing of its dispute within 30 days following the earlier to occur of Grantee's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Grantee and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this

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subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

14. Matching Funds. Grantee shall provide Matching Funds, if required by this Agreement. If permitted under the terms of the grant and per this Agreement, Grantee may be permitted to provide Matching Funds prior to or during the course of the project or the match will be an in-kind match. Grantee shall report to the State regarding the status of such funds upon request. Grantee's obligation to pay all or any part of any Matching Funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Grantee and paid into Grantee's treasury or bank account. Grantee represents to the State that the amount designated "Grantee's Matching Funds" pursuant to this Agreement, has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Grantee does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

15. Reimbursement of Grantee Costs. If applicable, the State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Agreement for all allowable costs described in the grant except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to, and received approval from the State of the change, the change does not modify the total maximum amount of this Agreement, and the change does not modify any requirements of the Work. If applicable, the State shall reimburse Grantee for the properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of this Agreement. However, any costs incurred by Grantee prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs. Grantee's costs for Work performed after the "Service To" date identified on the face of the Small Dollar Grant Award, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. 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 (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 costs actually incurred).

16. Close-Out. Grantee shall close out this Award within 45 days after the "Service To" date identified on the face of the Small Dollar Grant Award, including any modifications. To complete close-out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Agreement and Grantee's final reimbursement request or invoice. In accordance with the Agreement, the State may withhold a percentage of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

17. Assignment. Grantee's rights and obligations under this Agreement may not be transferred or assigned without the prior, written consent of the State and execution of a new agreement. Any attempt at assignment or transfer without such consent and new agreement shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

18. Subcontracts. Grantee shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Grantee shall submit to the State a copy of each subcontract upon request by the State. All subcontracts entered into by Grantee in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

19. 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 in accordance with the intent of the Agreement.

20. Survival of Certain Agreement Terms. Any provision of this Agreement that imposes an obligation on a party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other party.

21. Third Party Beneficiaries. Except for the parties' respective successors and assigns, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

22. Waiver. A party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

23. Indemnification. [Not Applicable to Inter-governmental agreements] Grantee shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Grantee, or its employees, agents, Subcontractors, or assignees in connection with this Agreement. This shall include, without limitation, any and all costs, expenses, claims, damages, liabilities, court awards and other amounts incurred by the Indemnified Parties in relation to any claim that any work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right or any claim for loss or improper disclosure of any confidential information or

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personally identifiable information. If Grantee is a public agency prohibited by applicable law from indemnifying any party, then this section shall not apply.

24. Notice. All notices given under this Agreement shall be in writing, and shall be delivered to the contacts for each party listed on the face of the Small Dollar Grant Award. Either party may change its contact or contact information by notice submitted in accordance with this section without a formal modification to this Agreement.

25. Insurance. Except as otherwise specifically stated in this Agreement or any attachment or exhibit to this Agreement, Grantee shall obtain and maintain insurance as specified in this section at all times during the term of the Agreement: (a) workers' compensation insurance as required by state statute, and employers' liability insurance covering all Grantee employees acting within the course and scope of their employment, (b) Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent vendors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: \$1,000,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed operations aggregate; and \$50,000 any one fire, and (c) 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. If Grantee will or may have access to any protected information, then Grantee shall also obtain and maintain insurance covering loss and disclosure of protected information and claims based on alleged violations of privacy right through improper use and disclosure of protected information with limits of \$1,000,000 each occurrence and \$1,000,000 general aggregate at all times during the term of the Small Dollar Grant Award. Additional insurance may be required as provided elsewhere in this Agreement or any attachment or exhibit to this Agreement. All insurance policies required by this Agreement shall be issued by insurance companies with an AM Best rating of A-VIII or better. If Grantee is a public agency within the meaning of the Colorado Governmental Immunity Act, then this section shall not apply and Grantee shall instead comply with the Colorado Governmental Immunity Act.

26. Termination Prior to Grantee Acceptance. If Grantee has not begun performance under this Agreement, the State may cancel this Agreement by providing written notice to the Grantee.

27. Termination for Cause. If Grantee refuses or fails to timely and properly perform any of its obligations under this Agreement with such diligence as will ensure its completion within the time specified in this Agreement, the State may notify Grantee in writing of non-performance and, if not corrected by Grantee within the time specified in the notice, terminate Grantee's right to proceed with the Agreement or such part thereof as to which there has been delay or a failure. Grantee shall continue performance of this Agreement to the extent not terminated. Grantee shall be liable for excess costs incurred by the State in procuring similar Work and the State may withhold such amounts, as the State deems necessary. If after rejection, revocation, or other termination of Grantee's right to proceed under the Colorado Uniform Commercial Code (CUCC) or this clause, the State determines for any reason that Grantee was not in default or the delay was excusable, the rights and obligations of the State and Grantee shall be the same as if the notice of termination had been issued pursuant to termination under **§28**.

28. Termination in Public Interest. The State is entering into this Agreement for the purpose of carrying out the public interest of the State, as determined by its Governor, General Assembly, Courts, or Federal Awarding Agency. If this Agreement ceases to further the public interest of the State as determined by its Governor, General Assembly, Courts, or Federal Awarding Agency, the State, in its sole discretion, may terminate this Agreement in whole or in part and such termination shall not be deemed to be a breach of the State's obligations hereunder. This section shall not apply to a termination for cause, which shall be governed by **§27**. A determination that this Small Dollar Grant Award should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. The State shall give written notice of termination to Grantee specifying the part of the Agreement terminated and when termination becomes effective. Upon receipt of notice of termination, Grantee shall not incur further obligations except as necessary to mitigate costs of performance. The State shall pay the Agreement price or rate for Work performed and accepted by State prior to the effective date of the notice of termination. The State's termination liability under this section shall not exceed the total Agreement price.

29. Termination for Funds Availability. The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Grantee beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Grantee shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Work performed and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§28**.

30. Grantee's Termination Under Federal Requirements. If the Grant Funds include any federal funds, then Grantee may request termination of this Grant by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Grant is terminated in this manner, then Grantee shall return any advanced payments made for Work that will not be performed prior to the effective date of the termination.

31. Governmental Immunity. Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the

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provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, *et seq.*, the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, CRS §§24-30-1501, *et seq.* 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, or other provisions, contained in these statutes.

32. Grant Recipient. Grantee shall perform its duties hereunder as a grant recipient 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 shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **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. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. 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.**

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

34. Choice of Law, Jurisdiction and Venue. *[Not Applicable to Inter-governmental agreements]* Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver. Any provision incorporated herein by reference which purports to negate this or any other provision in this Agreement in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision or for any other reason shall not invalidate the remainder of this Agreement, to the extent capable of execution. Grantee shall exhaust administrative remedies in CRS §24-109-106, prior to commencing any judicial action against the State regardless of whether the Colorado Procurement Code applies to this Agreement.

35. Prohibited Terms. Nothing in this Agreement shall be construed as a waiver of any provision of CRS §24-106-109. Any term included in this Agreement that requires the State to indemnify or hold Grantee harmless; requires the State to agree to binding arbitration; limits Grantee's liability for damages resulting from death, bodily injury, or damage to tangible property, or that conflicts with that statute in any way shall be void ab initio.

