

Colorado Department of Natural Resources

DATE

CMS XXXXXX, CTGG1 2023*XXXX

City of Pueblo Fire Department

Dear XXXXXXXX:

We are pleased to inform you that the Department of Natural Resources, **Division Name** has approved your application for Crew Time pursuant to the Colorado Strategic Wildfire Action Program (“Program”). This letter authorizes you to proceed with the City of Pueblo Mitigation (“Project”) in accordance with the terms of this Grant Award Letter.

Attached to this letter are the terms and conditions of your Grant. Please review these terms and conditions as they are requirements of this Grant to which you Grantee agree by accepting the Grant Funds.

If you have questions regarding this Grant, please contact: Courtney Young, Courtney.young@state.co.us, and Alison Lerch, Alison.lerch@state.co.us.

**GRANT AWARD AGREEMENT
SUMMARY OF GRANT AWARD TERMS AND CONDITIONS**

State Agency Department of Natural Resources 1313 Sherman Street Denver, Colorado 80203	Agreement Number CMS XXXXXX
Grantee City of Pueblo Fire Department	Agreement Performance Beginning Date The Effective Date
	Initial Agreement Expiration Date 12/31/2023
	State In-Kind Contribution Agreement CMS CMS XXXXXX
	State In-Kind Contribution Agreement CORE ID PAAA CTGG1 2023*XXXX
Agreement Amount Crew Time Grant (Weeks)	Fund Expenditure/Crew Time End Date 12/31/2023 or upon Project Completion, whichever occurs earlier
	Agreement Authority This grant is authorized by section 24-33-117, C.R.S..
Agreement Purpose The purpose of this Grant Agreement is to provide a grant of either cash or service in the form of crew time to implement wildfire mitigation projects or complete wildfire mitigation workforce training	
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 Work. <p>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:</p> <ol style="list-style-type: none"> 1. The provisions of the main body of this Agreement. 2. Exhibit A, Statement of Work 	
Principal Representatives For the State: <p>Angela Boag Department of Natural Resources 1313 Sherman Street Suite 719 Denver, CO 80203 angela.boag@state.co.us</p> For Grantee: <p>Name Organization Address Address 2 City, State, Zip Email</p>	

SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature

Grantee City of Pueblo Fire Department	STATE OF COLORADO Jared S. Polis, Governor Department of Natural Resources Dan Gibbs
Signature: _____	Signature: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

Signature: _____

Printed Name: _____

Title: _____

Effective Date: _____

1. GRANT

As of the Grant Issuance Date, the State Agency shown on the first page of this Grant Award Letter (the “State”) hereby obligates and awards to Grantee shown on the first page of this Grant Award Letter (the “Grantee”) an award of Grant Funds in the amounts shown on the first page of this Grant Award Letter. By accepting the Grant Funds provided under this Grant Award Letter, Grantee agrees to comply with the terms and conditions of this Grant Award Letter and requirements and provisions of all Exhibits to this Grant Award Letter.

2. TERM

A. Initial Grant Term and Extension

The Parties’ respective performances under this Grant Award Letter shall commence on the Grant Issuance Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Grant Award Letter. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Grant Award Letter by providing Grantee with an updated Grant Award Letter showing the new Grant Expiration Date.

B. Early Termination in the Public Interest

The State is entering into this Grant Award Letter to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Grant Award Letter ceases to further the public interest of the State or if State, or other funds used for this Grant Award Letter are not appropriated, or otherwise become unavailable to fund this Grant Award Letter, the State, in its discretion, may terminate this Grant Award Letter in whole or in part by providing written notice to Grantee that includes, to the extent practicable, the public interest justification for the termination. If the State terminates this Grant Award Letter in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Grant Award Letter that corresponds to the percentage of Work satisfactorily completed, as determined by the State, less payments previously made. Additionally, the State, in its discretion, may reimburse Grantee for a portion of actual, out-of-pocket expenses not otherwise reimbursed under this Grant Award Letter that are incurred by Grantee and are directly attributable to the uncompleted portion of Grantee’s obligations, provided that the sum of any and all reimbursements shall not exceed the maximum amount payable to Grantee hereunder. If this Agreement is a Crew Time grant and the State terminates this Agreement in the public interest, the State shall provide crew time for the remainder of the Crew Week in the week that termination notice is given pursuant to this section 2.B. Grantee will not be entitled to any additional crew time provided by the State. Crew Time grants shall have no cash value to Grantees.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “**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 §24-11-101(1), C.R.S.
- B. “**CORA**” means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.

- C. "**Crew Week**" means the time increments for Crew Time grants. A Crew Week for grants of time from a conservation corps constitutes five (5) consecutive days. A Crew Week for grants of time from a SWIFT crew constitutes four (4) consecutive days.
- D. "**Grant Award Letter**" means this letter which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.
- E. "**Grant Funds**" means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Grant Award Letter.
- F. "**Grant Expiration Date**" means the Grant Expiration Date shown on the first page of this Grant Award Letter.
- G. "**Grant Issuance Date**" means the Grant Issuance Date shown on the first page of this Grant Award Letter".
- H. "**Exhibits**" exhibits and attachments included with this Grant as shown on the first page of this Grant
- I. "**Extension Term**" means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Grant Award Letter
- J. "**Goods**" means any movable material acquired, produced, or delivered by Grantee as set forth in this Grant Award Letter and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- K. "**Incident**" means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- L. "**Initial Term**" means the time period between the Grant Issuance Date and the Grant Expiration Date.
- M. "**Matching Funds**" means the funds provided Grantee as a match required to receive the Grant Funds.
- N. "**Party**" means the State or Grantee, and "**Parties**" means both the State and Grantee.
- O. "**PII**" means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally
- P. "**Services**" means the services to be performed by Grantee as set forth in this Grant Award Letter, and shall include any services to be rendered by Grantee in connection with the Goods.
- Q. "**State Confidential Information**" means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Grantee which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Grantee without restrictions at the time of its disclosure to Grantee; (iii) is or subsequently

becomes publicly available without breach of any obligation owed by Grantee to the State; (iv) is disclosed to Grantee, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

- R. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- S. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- T. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- U. **“SubGrantee”** means third-parties, if any, engaged by Grantee to aid in performance of
- V. **“Work”** means the delivery of the Goods and performance of the Services described in this Grant Award Letter.
- W. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Grant Issuance Date that is used, without modification, in the performance of the Work.

Any other term used in this Grant Award Letter that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. STATEMENT OF WORK

Grantee shall complete the Work as described in this Grant Award Letter and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Grant Award Letter. The State does not guarantee that crew time awards will be sufficient to complete the entire statement of work.

5. PAYMENTS TO GRANTEE

A. Maximum Amount

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Grant that exceeds the Grant Amount for each State Fiscal Year shown on the first page of this Grant Award Letter. Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Grant Issuance Date or after the Grant Expiration Date. Crew Time grantees receive no cash value equivalent for crew time awards.

B. Crew Time Awards

Grantees receiving Crew Time grant awards are not entitled to any cash payment equivalents of the grant award. The State will pay the Conservation Youth Corps Association (CYCA) or the Colorado Department of Corrections, State Wildland Inmate Fire Teams (SWIFT) for Crew Weeks dedicated to the project described in Exhibit A in accordance with the terms of the respective agreement between the State and CYCA and SWIFT. The State will provide the Crew Weeks provided in the Cover Sheet of this Agreement to Grantee to be scheduled in accordance with Exhibit A and in coordination with Grantee and CYCA or SWIFT.

i. Available Crew Time

This Agreement confirms that CYCA or SWIFT has agreed that the Crew Weeks granted are available for the Work described in Exhibit A. Any enlargement of Crew Weeks that become necessary during implementation of the Work described in Exhibit A must be approved by amendment of this Agreement in writing in advance of any additional Crew Weeks.

ii. Emergency Crew Duties

SWIFT crews have duties to provide firefighting services in the event of a wildfire. If a wildfire occurs during a grantee Crew Week will supersede the State's obligation to provide the Crew Weeks in consecutive time. Any Crew Week interrupted due to wildfire emergencies will be completed by the SWIFT crew at the earliest possible date following completion of the SWIFT crew's firefighting duties. If a SWIFT crew's firefighting duties result in an inability of Grantee to complete the Work by the Fund Expenditure/Crew Time End Date, the State may extend the Term of this Agreement by amendment or may terminate this Agreement in the public interest as provided in **§2.B.**

iii. Crew Time - Failure to Perform

Timing and availability of Crew Weeks will be scheduled after Grantee and the State enter into this Agreement in accordance with Exhibit A. In the event that a conservation crew or SWIFT crew are unable to perform or performance of a Crew Week is interrupted due to unforeseen circumstances, including but not limited to crew illnesses, the Crew Week(s) will be completed by the crew at the earliest possible date following performance interruption. If the crew performance interruption results in an inability of Grantee to complete the Work by the Fund Expenditure/Crew Time End Date, the State may extend the Term of this Agreement by amendment or may terminate this Agreement in the public interest as provided in **§2.B.** Nothing in this Agreement guarantees that the crew time award if fully satisfied will complete all Work described in Exhibit A. This Agreement provides crew for an allotted period of time, not the guarantee of a completed Work.

iv. Available Funds - Contingency - Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment 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 provide Crew Time 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 Crew Time that was delivered 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 §2.B.

C. Close-Out.

Grantee shall close out this Grant within 30 days upon Project Completion or after the Grant Expiration Date, whichever occurs first. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Grant Award Letter and Grantee's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

6. REPORTING AND NOTIFICATION

A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out described in §5.C, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

B. Violations Reporting

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. The State may impose any penalties for noncompliance which may include, without limitation, suspension or debarment.

7. GRANTEE RECORDS

A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

B. Monitoring

The State will monitor Grantee's performance of its obligations under this Grant Award Letter using procedures as determined by the State. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

C. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Grant or the Work, whether the audit is conducted by Grantee or a third party.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Grantee shall hold and maintain, and cause all SubGrantees to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Grant Award Letter. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and SubGrantees as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and SubGrantees who require access to perform their obligations under this Grant Award Letter. Grantee shall ensure all such agents, employees, assigns, and SubGrantees sign nondisclosure agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign or SubGrantee has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

C. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding PII

If Grantee or any of its SubGrantees will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a “Third-Party Service Provider” as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State’s interests and 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 under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State’s consideration.

10. INSURANCE

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 the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the “GIA”). Grantee shall ensure that any SubGrantees maintain all insurance customary for the completion of the Work done by that SubGrantee and as required by the State or the GIA.

11. BREACH OF Agreement

In the event of a Breach of Agreement, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Agreement, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State; or if Grantee is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect. Failure of a crew to complete the Work described in Exhibit A in the crew time award allotted or as a result of termination in the public interest shall not constitute breach of this Agreement.

12. REMEDIES

A. State's Remedies

If Grantee is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Grantee's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Grantee shall continue performance of this Agreement to the extent not terminated, if any

a. Obligations and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Grantee shall complete and deliver to the State all Work not canceled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Grantee shall assign to the State all of Grantee's rights, title, and interest in and to 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 but in which the State has an interest. At the State's request, Grantee shall return materials owned by the State in Grantee's possession at the time of any termination. Grantee shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Grantee for accepted Work received as of the date of termination. If, after termination by the State, the State agrees 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 as if this Agreement had been terminated in the public interest under §2.B.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee shall remain liable to the State for any damages sustained by the State in connection with any breach by Grantee, and the State may withhold 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 Grantee as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Grantee's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Grantee to an adjustment in price or cost or an adjustment in the performance schedule. Grantee shall promptly cease performing Work 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.

b. Withhold Payment

Withhold payment to Grantee until Grantee corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Grantee's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal of any of Grantee's employees, agents, or SubGrantees from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Grantee shall, as approved by the State (i) secure that right to use such Work for the State and Grantee; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State

B. Grantee's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Grantee, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity. Failure of a crew to complete the entire scope of Work described in Exhibit A in the crew time allotted by this Agreement shall not constitute a breach of this Agreement by the State.

13. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Grantee for resolution.

B. Resolution of Controversies

If the initial resolution described in §13.A fails to resolve the dispute within 10 Business Days, Grantee shall submit any alleged breach of this Agreement by the State to the Procurement Official of the State Agency named on the Cover Page of this Agreement as described in §24-102-202(3), C.R.S. for resolution in accordance with the provisions of §§24-106-109, and 24-109-101.1 through 24-109-505, C.R.S., (the “Resolution Statutes”), except that if Grantee wishes to challenge any decision rendered by the Procurement Official, Grantee’s challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Grantee pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

14. NOTICES AND REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Agreement shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party’s principal representative at the address set forth below or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party’s principal representative at the address set forth on the Cover Page for this Agreement. Either Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative by notice submitted in accordance with this section without a formal amendment to this Agreement

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Grantee assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Grantee is under Agreement with the State at the time, Grantee shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. To the extent that Work Product would fall under the definition of “works made for hire” under 17 U.S.C.S. §101, the Parties intend the Work Product to be a work made for hire

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, “State Materials”). Grantee shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Grantee’s obligations in this Agreement without the prior written consent of the State.

Upon termination of this Agreement for any reason, Grantee shall provide all Work Product and State Materials to the State in a form and manner as directed by the State

C. Exclusive Property of the Grantee

Grantee retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Grantee including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Grantee under the Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Grantee Property"). Grantee Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: **(i)** entered into as exhibits to this Agreement; **(ii)** obtained by the State from the applicable third-party vendor; or **(iii)** in the case of open source software, the license terms set forth in the applicable open source license agreement

16. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Grantee under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this **§16** shall apply. Grantee agrees to be governed by and comply with the provisions of §24-106-103, §24-102-206, §24-106-106, and §24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of Agreement performance information in the State's Agreement management system ("Contract Management System" or "CMS"). Grantee's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

17. GENERAL PROVISIONS

A. Assignment

Grantee's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent 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

B. 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 such 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

C. Binding Effect

Except as otherwise provided in **§17.A**, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized

E. Captions and References

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

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

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

H. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Agreement, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference

I. Modifications

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the Colorado State Controller

J. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement

K. Severability

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

L. 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 this Agreement and shall be enforceable by the other Party

M. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Grantee. 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

N. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §17.A, 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 this Agreement, and do not create any rights for such third parties

O. 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

P. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

Q. Standard Manner of Performance

Grantee shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Grantee's industry, trade, or profession

R. Licenses, Permits, and Other Authorizations

Grantee shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and SubGrantees secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.