

RESOLUTION NO. 1967

**A RESOLUTION OF THE GOLDEN CITY COUNCIL
AUTHORIZING THE CONTRACT WITH THE COLORADO
HISTORICAL SOCIETY FOR REPAIRS TO THE GOLDEN
ARMORY BUILDING AT 1301 ARAPAHOE STREET**

WHEREAS, the Golden Armory Building at 1301 Arapahoe Street is listed on the National Register of Historic Places, and is one of the most historic structures in the City of Golden; and

WHEREAS, the City of Golden on behalf of The Armory Colorado, LLC, owner of the Golden Armory Building, applied for and was awarded a grant from the Colorado Historical Society for repairs to the Golden Armory Building; and

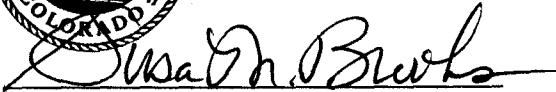
WHEREAS, the owner is willing to assume responsibility for the grant project including compliance with all requirements of the State Historical Society.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

City Council hereby approves the contract with the State of Colorado, substantially in the form attached hereto, upon the condition that the Owner, The Armory Colorado, LLC enters into a sub-contract with the City that requires the Owner to fulfill all substantive requirement and responsibilities of the contract with the States of Colorado . The Mayor is authorized to execute the contract on behalf of the City upon satisfaction of the condition.

Adopted this 23rd day of April, 2009.



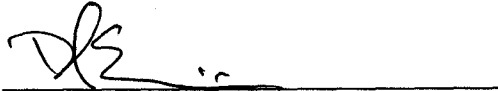


Susan M. Brooks, MMC
City Clerk



Jacob Smith
Mayor

APPROVED AS TO FORM:



David S. Williamson
City Attorney

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I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a rescheduled regular business meeting thereof held on the 23rd day of April, A.D., 2009.



ATTEST:

A handwritten signature in cursive script, reading "Susan M. Brooks", written over a horizontal line.

Susan M. Brooks, City Clerk of the City of Golden, Colorado

Department/Agency Name
Colorado Historical Society
Department/Agency Number
GCA
Contract Name
APPROVED WAIVER FORM #37-A/ESMT

CONTRACT #2009-01-014

THIS CONTRACT, Made this _____ day of _____, by and between the State of Colorado for the use and benefit of the Department of Higher Education, Colorado Historical Society, 1300 Broadway, Denver, Colorado 80203, hereinafter referred to as the State and/or the Society, and the City of Golden, Historic Preservation Board, 911 10th Street, Golden, Colorado 80401, hereinafter referred to as the Grant Recipient, hereinafter referred to as the "Contractor", and The Armory Colorado LLC, Yoshie Feaster, Member Manager, Owner of Property, 1188 Bishop Street, Suite 1209, Honolulu, HI 96813, hereinafter referred to as the Property Owner,

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for encumbering and subsequent payment of this Contract under Encumbrance Number _____ in Fund Number 401, Appropriation Account 401 and Organization SHPG; and

WHEREAS, required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, Article 12-47.1-1201 of the Colorado Revised Statutes and Subsection (5) (b) (III) of Section 9 of Article XVIII of the state constitution, provide for the annual distribution of monies from the State Historical Fund; and

WHEREAS, the Grant Recipient is eligible in accordance with law to receive a State Historical Fund preservation grant award for acquisition and development projects with cumulative grant awards over \$50,000; and

WHEREAS, this Contract (hereinafter "Contract" or "Agreement") sets forth the Scope of Work, Budget and List of Submittals, hereinafter referred to as the "Project",

WHEREAS, the Property Owner is a for-profit organization and the owner in fee simple of certain real property in Jefferson County, Colorado, which property has been listed in the the National Register of Historic Places, as the Colorado National Guard Armory located at 1301 Arapahoe Street, Golden, CO , hereinafter referred to as the "Property," and which Property is more particularly described as follows:

 Lots 10, 11 and 12, block 32, South Golden, County of Jefferson, State of Colorado

NOW THEREFORE, it is hereby agreed that:

1. The Property Owner and Grant Recipient shall use funds subject to this Contract in support of Project #2009-01-014, "Exterior Restoration" in accordance with the *Scope of Work* attached hereto as Exhibit A, including all applicable plans and specifications developed prior to or during the contract period, which are hereby made a part of this Contract by reference.
2. APPLICABLE STANDARDS: The Property Owner and Grant Recipient agree that they will perform the activities 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 the Society).
3. RIGHT OF USE: All copyrightable materials and/or submittals developed or produced under this contract are subject to a royalty-free, nonexclusive, and irrevocable license to the Society to reproduce, publish, display, perform, prepare derivative works or otherwise use, and authorize others to reproduce, publish, display, perform, prepare derivative works, or otherwise use, the work or works for Society and/or State Historical Fund purposes.
4. CONTRACT EFFECTIVE DATE: The term of this Contract shall be from May 15, 2009 through May 15, 2011.

The performance of the work must be commenced within sixty (60) days of the Contract beginning date unless a longer period is approved in writing by the State Historical Fund Administrator. The performance of the work must be completed no later than thirty (30) days prior to the Contract ending date.

5. **COMPENSATION AND METHOD OF PAYMENT:** In consideration of the project described in Exhibit A and subject to on time delivery of completion of the milestones contained in the *List of Submittals* set forth in Exhibit C, the State shall pay to the Grant Recipient a grant not to exceed one hundred twenty-nine thousand, two hundred five dollars (\$129,205.00).

Unless otherwise specified in Exhibit C, the State shall advance forty-percent (40%) of the total grant amount, less Easement costs if applicable, upon proper execution of this contract and upon submission of a SHF Payment Request, fifty-percent (50%) will be paid to the Grant Recipient upon submission and approval of the *Interim SHF Financial Report*. The remaining ten-percent (10%) of the grant amount shall be paid following Grant Recipient's submission and the State's approval of the *Final SHF Financial Report* and *SHF Payment Request Form (Attachments 1 and 2)*. All payments are subject to the satisfactory completion of milestones described in Exhibit C and submission by Grant Recipient of either documented proof or certification of expenditures with each financial report.

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

6. **EASEMENT:** If required, in the sole discretion of the State, the provisions in the following paragraph are hereby incorporated into this agreement:

Easement Required: X Yes No

Initials/State

Initials/Grantee

WF Initials/Property Owner

- a. Grantee shall place or cause to be placed on the property title a perpetual easement, which easement shall be transferred to an organization qualified to hold easements of this kind under Section 170(b)(3) of the Internal Revenue Code and Internal Revenue Service Regulations, Section 1.170A-14(c).
- b. The easement shall, at a minimum, prohibit any alteration of the premises, which would affect the exterior appearance of the property unless first authorized by the easement holding organization with appropriate exceptions to permit routine maintenance. Other necessary language shall protect the interests of the easement holding organization in the event of damage to the property, and shall further require that the easement be transferred to a similar organization in the event that the selected organization becomes unable for any reason to perform its obligations pursuant to the easement agreement.
- c. Grantee agrees that the easement form and any associated costs shall be subject to the approval of the State.
- d. Subsequent to its transfer, this easement shall remain in place in accordance with the terms of the easement agreement, and no action taken by the State to recapture all or any portion of the grant award pursuant to paragraph 19 shall affect the status of the easement.
7. **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. Grant Recipient may adjust budgeted expenditure amounts up to ten percent (10%) within said Budget without approval of the State and document the adjustments in the next financial report. Adjustments of budget expenditure amounts in excess of ten percent (10%) must be authorized by the State. In no event shall the State's total financial obligation exceed the amount shown in Paragraph 5 above. Interest earned on funds advanced by the State shall be applied to eligible project expenditures, and will be deducted from the final payment.
8. **AUDIT:** The State or its authorized representative shall have the right to inspect, examine, and audit Grant Recipient's and Property Owner's records, books, and accounts, including the right to hire an independent Certified Public Accountant of the State's choosing and at the State's expense to do so. Such discretionary audit may be called for at any time and for any reason from the effective date of this Contract until three (3) years after the date final payment for this Project is received by the Grant Recipient or Property Owner provided that the audit is performed at a time convenient to the Grant Recipient and/or Property Owner and during regular business hours.
9. **PARTIES RELATIONSHIP:** THE GRANT RECIPIENT AND THE PROPERTY OWNER ARE NOT EMPLOYEES OR AGENTS OF THE STATE. THE GRANT RECIPIENT AND/OR PROPERTY OWNER SHALL HAVE NO AUTHORITY, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS OR UNDERSTANDINGS WITHOUT THE EXPRESS WRITTEN CONSENT OF THE STATE. THE GRANT RECIPIENT AND PROPERTY OWNER REPRESENT THAT THEY HAVE OR SHALL SECURE AT THEIR OWN EXPENSE ALL PERSONNEL EMPLOYED OR UTILIZED BY THE GRANT RECIPIENT/PROPERTY OWNER UNDER THIS CONTRACT. THE GRANT RECIPIENT AND/OR PROPERTY OWNER SHALL BE RESPONSIBLE FOR PROVIDING WORKMEN'S COMPENSATION COVERAGE AND UNEMPLOYMENT COMPENSATION COVERAGE FOR ALL OF THEIR EMPLOYEES TO THE EXTENT REQUIRED BY LAW, AND FOR ENSURING THAT ALL SUBCONTRACTORS MAINTAIN SUCH INSURANCE. THE GRANT RECIPIENT AND/OR PROPERTY OWNER SHALL PAY WHEN

DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX WITHHOLDING. ALL OF THE SERVICES REQUIRED HEREUNDER SHALL BE PERFORMED BY THE GRANT RECIPIENT AND/OR PROPERTY OWNER OR UNDER THEIR SUPERVISION.

10. REPRESENTATIVES AND NOTICES: All notices required to be given by the parties hereunder shall be given by certified or registered mail to the individuals at the addresses set forth below, who are also the designated representatives for the project. Any party may from time to time designate in writing substitute addresses or persons to whom such notices shall be sent.

To the State: Steven W. Turner
Director
Colorado Historical Society
State Historical Fund
225 East 16th Avenue, Suite 950
Denver, Colorado 80203-1620

To the Grant Recipient: Mr. Steve Glueck
Director of Planning & Development
City of Golden-Planning and Development
911 10th Street
Golden, Colorado 80401

To the Property Owner: The Armory Colorado LLC, Yoshie Feaster, Member Manager
1188 Bishop Street, Suite 1209
Honolulu, HI 96813

11. ADA COMPLIANCE: The Grant Recipient and Property Owner assure the State that at all times during the performance of this contract no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or denied benefits of the service, programs, or activities performed by the Grant Recipient and Property Owner, or be subjected to any discrimination by the Grant Recipient or Property Owner upon which assurance the State relies. Further, all real property improvements shall conform to applicable ADA requirements.
12. DISSEMINATION OF ARCHAEOLOGICAL SITE LOCATIONS: The Grant Recipient and Property Owner agree to provide the Society with copies of any archaeological surveys developed during the course of, or under a project financed either wholly or in part by the Society. 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 the Colorado Historical Society, Office of Archaeology and Historic Preservation, Policy on Dissemination of Information, adopted October 1991, a copy of which is available from the Society.
13. REPORTS: The Grant Recipient and/or Property Owner shall deliver project progress reports to the State every six (6) months during the project which document the progress of the Project, and *SHF Financial Reports* (Attachment 1) as described and at the times in the *List of Submittals* (Exhibit C).
14. MATCHING FUNDS: The Grant Recipient and Property Owner agree to make available the necessary funds to complete the Project and provide matching funds, if applicable, in accordance with the Project Budget as set forth in Exhibit B. In the event that said matching funds 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.
15. CONSULTANTS/SITE VISITS: The State may:
- Review any project planning documents and methods for conformity with the applicable standards, manuals, and guidelines;
 - Make site visits as determined necessary by the State before, during and/or at the conclusion of the Project to provide on-site technical advice and to monitor progress.
- Any exercise of the State's rights under this Paragraph 15 shall not relieve the Grant Recipient or Property Owner of any of its Contract obligations.
16. PUBLIC ACKNOWLEDGMENT OF FUNDING SOURCE: In all publications and similar materials funded under this Contract, a credit line shall be included that reads: "This project is/was paid for in part by a State Historical Fund grant from the Colorado Historical Society." In addition, the Society 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 the Colorado Historical Society".
17. PRESERVATION OF PROPERTY: The Property Owner hereby agrees to the following for a period of ten (10) years commencing on the date of this Agreement.

- a. Without the express written permission of the Society, no construction, alteration, movement, relocation or remodeling or any other activity shall be undertaken or permitted to be undertaken on the Property which would alter the architectural appearance of the Property, adversely affect the structural soundness of the Property, encroach on the open land area of the Property, or adversely affect such prominent landscape features as trees, hedges, fences, walls or paths. Such work, when permitted shall be performed according to the Secretary of the Interior's *Standards for the Treatment of Historic Properties and the Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings*, issued and as may from time to time be amended by the U.S. Secretary of the Interior, hereinafter collectively referred to as the "Standards". In all events, the Property Owner further agrees at all times to maintain the Property in a good and sound state of repair and to maintain the Property according to the *Standards* so as to prevent deterioration of the Property.
 - b. In the event of severe damage or total destruction to the Property (defined, for the purpose of this Agreement, as sudden damage or loss caused by fire, earthquake, inclement weather, acts of the public enemy, riot or other similar casualty) not due to the fault of the Property Owner this Agreement shall terminate as of the date of such damage or destruction.
 - c. The Society, or a duly appointed representative of the Society, shall be permitted to inspect the Property at all reasonable times in order to ascertain if the above conditions are being observed.
 - d. Within sixty (60) days prior to completion of this Contract, Property Owner covenants and agrees that the Society will record this Contract with the county clerk and recorder for the county in which the property is located. Property Owner further covenants and agrees that this Contract will constitute a binding covenant that will run with the land.
 - e. To the extent authorized by law, the Property Owner 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 attorneys fees incurred as a result of any act or omission by the property owner, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.
 - f. The provisions of this Paragraph 17 will cease to be effective upon the conveyance of an approved easement if such is required pursuant to Paragraph 6 above.
18. **REMEDIES:** In addition to any other remedies provided for in this contract, and without limiting its remedies otherwise available at law, the State may exercise the following remedial actions if the Grant Recipient substantially fails to satisfy or perform the duties and obligation in this Contract. Substantial failure to satisfy the duties and obligations shall be defined to mean significant, insufficient, incorrect, or improper performance, activities, or inaction by the Property Owner or Grant Recipient. These remedial actions are as follows:
- a. Suspend the Grant Recipient's performance pending necessary corrective action as specified by the State without Grant Recipient's entitlement to adjustment in price/cost or schedule; and/or
 - b. Withhold payment to Grant Recipient until the necessary services or corrections in performance are satisfactorily completed in accordance with the *Standards*, the SHF Grants Manual and/or the terms and conditions of this Contract; and/or
 - c. Request the removal from work on the contract of employees or agents of the Property Owner or Grant Recipient whom the State justifies as being incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued employment on the contract the State deems to be contrary to the public interest or not in the best interest of the State; and/or
 - d. Deny payment for those services or obligations which have not been performed and which due to circumstances caused by the Property Owner or Grant Recipient cannot be performed, or if performed would be of no value to the State. Denial of the amount of payment must be reasonably related to the value of work or performance lost to the State; and/or
 - e. Declare all or part of the work ineligible for reimbursement; and/or
 - f. In the event of a violation of this Agreement, and in addition to any remedy now or hereafter provided by law, the Society may, following reasonable notice to the Grant Recipient institute suit to enjoin said violation or to require the restoration of the Property to its condition at the time of this Agreement or condition at the time of the most recent satisfactory inspection by the Society. The Society shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorney's fees.
 - g. Terminate the contract for default.
19. **RECAPTURE AND OTHER REMEDIES AGAINST PROPERTY OWNER:** The following recapture provision shall apply only to the Property Owner: In the event that the property, as a whole, is sold within a five-year period after completion of the project, 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.
- a. In the event of a violation of this Agreement, and in addition to any remedy now or hereafter provided by law, the Society may, following reasonable notice to the Property Owner, institute suit to enjoin said violation or to require the restoration of the Property to its condition at the time of this Agreement or condition at the time of the most recent satisfactory inspection by the Society. The Society shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorney's fees.

- b. The failure of the Society to exercise any right or remedy granted under this Agreement shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.
20. **CUMULATIVE EFFECT:** The above remedies are cumulative and the State, in its sole discretion, may exercise any or all of them individually or simultaneously.
21. **TERMINATION OF CONTRACT FOR DEFAULT:** If, through any cause, the Grant recipient or the Property Owner shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the Grant Recipient or Property Owner shall violate any of the covenants, agreements, or stipulations of this Contract, the State shall, in addition to other remedies, thereupon have the right to terminate this Contract for default by giving written notice to the Grant Recipient and Property Owner of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, products, submittals, and reports or other material prepared by the Grant Recipient or Property Owner under this Contract shall, at the option of the State, become its property, and the Grant Recipient and/or Property Owner shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.
- Notwithstanding the above, the Grant Recipient and the Property Owner shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the Contract by the Grant Recipient or the Property Owner, and the State may withhold any payments to the Grant Recipient or Property Owner for the purpose of setoff until such time as the exact amount of damages due the State from the Grant Recipient and/or Property Owner are determined.
22. **TERMINATION BY STATE:** The State may terminate this Contract at any time the State determines that the purposes of the distribution of State monies under the Contract would no longer be served by completion of the Project. The State shall effect such termination by giving written notice of termination to the Grant Recipient and the Property Owner and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials paid for with State funds shall, at the option of the State, become its property. If the Contract is terminated by the State as provided herein, the Grant Recipient and/or Property Owner will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grant Recipient and/or Property Owner covered by this Contract, less payments of compensation previously made. Provided, however, that if less than sixty percent (60%) of the project covered by this Contract has been completed upon the effective date of such termination, the Grant Recipient and/or Property Owner shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by the Grant Recipient and/or Property Owner during the Contract period which are directly attributable to the uncompleted portion of the project covered by this Contract. If this Contract is terminated due to the fault of the Grant Recipient and/or Property Owner, Paragraph 21 hereof relative to termination shall apply.
23. **CHANGES:** This Contract is intended as the complete integration of all understandings between the parties, at this time, and no prior or contemporaneous addition, deletion, or other amendment hereto, including an increase or decrease in the amount of monies to be paid to the Grant Recipient and/or Property Owner, shall have any force or effect whatsoever, unless embodied in a written contract amendment incorporating such changes executed and approved pursuant to the State's Fiscal Rules. Notwithstanding this provision, modifications to Exhibit A (Scope of Work) and/or to Exhibit C (List of Submittals) may be approved by letter of agreement, agreed to in writing by all parties, providing that no such letter of agreement may alter either the total amount of funds payable under the contract, as set forth in Paragraph 5, or the contract period, as set forth in Paragraph 4, unless such changes are embodied in a written contract amendment executed and approved pursuant to the State's Fiscal Rules.
24. **CONFLICT OF INTEREST:** The Grant Recipient or Property Owner agree not to engage in any conduct, activity, or transaction related to this contract which would constitute a conflict of interest under any applicable State or Federal law.
25. **COMPLIANCE WITH APPLICABLE LAWS:** At all times during the performance of this Contract, the Grant Recipient and Property Owner shall strictly adhere to all applicable Federal and State laws that have been or may hereafter be established.
26. **SEVERABILITY:** To the extent that this Contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the Contract, the terms of this Contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as waiver of any other term.
27. **BINDING ON SUCCESSORS:** Except as herein otherwise provided, this Contract shall inure to the benefit of and be binding upon the parties, or any subcontractors hereto, and their respective successors and assigns.
28. **ASSIGNMENT:** No party, nor any subcontractors hereto, may assign its rights or duties under this Contract without the prior written consent of the other parties.
29. **SURVIVAL OF CERTAIN CONTRACT TERMS:** Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this contract and the exhibits and attachments hereto which may require continued performance of compliance beyond the termination date of the contract shall survive such termination date and shall be

enforceable by the State as provided herein in the event of such failure to perform or comply by the Grant Recipient and/or the Property Owner or their subcontractors.

30. **BOND REQUIREMENT:** If this contract involves the payment of more than fifty thousand dollars for the construction, crection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public work for this State, the Contractor shall, before entering upon the performance of any such work included in this contract, duly execute and deliver to the State official who will sign the contract, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety conditioned upon the faithful performance of the contract and in addition, shall provide that if the Contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provender or other supplies used or consumed by such Contractor or his subcontractor in performance of the work contracted to be done or fails to pay any person who supplies rental machinery, tools, or equipment in the prosscution of the work the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond is executed, delivered and filed, no claim in favor of the Contractor arising under such contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond. This provision is in compliance with CRS 38-26-106.

SPECIAL PROVISIONS

(The Special Provisions apply to all contracts except where noted in italics.)

1. **CONTROLLER'S APPROVAL.** CRS 24-30-202 (1).
This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **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.
3. **GOVERNMENTAL IMMUNITY.**
No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of 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.
4. **INDEPENDENT CONTRACTOR.**
Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor 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 Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor 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.
5. **COMPLIANCE WITH LAW.**
Contractor shall strictly 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.
6. **CHOICE OF LAW.**
Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision 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 shall not invalidate the remainder of this contract, to the extent capable of execution.
7. **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 contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION.** Governor's Executive Order D 002 00.
State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
9. **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 contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.
10. **VENDOR OFFSET.** CRS 24-30-202 (1) and 24-30-202.4. *[Not Applicable to Intergovernmental contracts]*
Subject to CRS 24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS 39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.
11. **PUBLIC CONTRACTS FOR SERVICES.** CRS 8-17.5-101. *[Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]*
Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS 8-17.5-102(5)(c). Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS 8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS 8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.
12. **PUBLIC CONTRACTS WITH NATURAL PERSONS.** CRS 24-76.5-101. Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS 24-76.5-101 et seq., and (c) has produced one form of identification required by CRS 24-76.5-103 prior to the effective date of this contract.

Revised January 1, 2009
2nd Revision March 10, 2009

CONTRACT SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

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

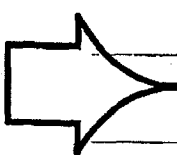
CONTRACTOR:
(Grant Recipient)

STATE OF COLORADO
Bill Ritter, Jr., GOVERNOR

City of Golden

Legal Name of Contracting Entity

BY: _____
Executive Director or Designee
Edward C. Nichols, President



Jacob Smith

*Signature of Authorized Officer

Colorado Historical Society

4/23/09

Date

Date: _____

Jacob Smith

Print Name of Authorized Officer

Department of Higher Education

Mayor

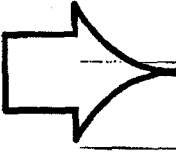
Print Title of Authorized Officer

STATE HISTORICAL FUND

The Armory Colorado LLC, Yoshie Feaster,
Member Manager

Legal Owner

BY: _____
Steven W. Turner, Director



Yoshie Feaster

Signature of Legal Owner

Date: _____

May 6, 2009

Date

WAIVER CONTRACT REVIEWER

THE ARMORY COLORADO LLC,

Print Name of Legal Owner

By: _____
Contracts Officer or Designee
Janette Vigil, State Historical Fund

YOSHIE FEASTER
MEMBER MANAGER

Print Title of Legal Owner

Date: _____

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

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

STATE CONTROLLER
David J. McDermott, CPA

BY: _____
Susan S. Riehl
CHS, Chief Financial Officer

Date: _____

Revised, June 10, 2008
X:\Document\13154756.doc
Approval/Easement: Contract A

SCOPE OF WORK

- I. **Project Purpose:** The purpose of this project is the exterior rehabilitation of the Colorado National Guard Armory.
- II. **Scope of Work is as follows:**
- A. **Site Work**
 - 1. Regrade site as needed
 - B. **Area Well Work**
 - 1. Install piped discharge for downspouts and area wells.
 - 2. Install drainage and gravel in area wells.
 - 3. Misc. demolition and hauling.
 - 4. French drain system for area wells and downspout discharge
 - 5. Excavate and backfill for drain and piping
 - 6. Install concrete splashblocks at non-piped downspouts
 - C. **Masonry Work**
 - 1. Seal the perimeter of the concrete beam
 - 2. Repair concrete beam cracks with cementitious repair mortar
 - D. **Structural Work**
 - 1. Over-point mortar joints as needed using appropriate mortar mix and repoint cracks
 - 2. Repair failing lintel including temporary shoring
 - E. **Window Sealing**
 - 1. Seal perimeters of windows using appropriate sealant and backer rod.
 - F. **Roof Drainage**
 - 1. Replace non-original gutters and downspouts and extensions.
 - 2. Replace severely deteriorated conductor heads.
 - G. **Sheet Metal Work**
 - 1. Repair, re-secure letters and prime/ paint original sheet metal cornice at entry

In accordance with Section 12-47.1-12-1 C.R.S. (1999) The Limited Gaming Act which authorizes the Colorado Historical Society to administer the State Historical Fund as a statewide grants program.

PROJECT BUDGET

TASK	GRANT REQUEST	CASH MATCH	PROJECT TOTAL
A. Site Work (SF @ \$250 x 120)	\$15,000	\$15,000	\$30,000
B. Area Well Work (EA @ \$2,500 x 8)	\$10,000	\$10,000	\$20,000
C. Masonry Work (SF @ \$5 x 11,000)	\$27,500	\$27,500	\$55,000
D. Structural Work (LF @ \$29 x 250)	\$3,625	\$3,625	\$7,250
E. Window Sealing (EA @ \$10 x 100)	\$500	\$500	\$1,000
F. Roof Drainage Work (LF @ \$25 x 650)	\$8,125	\$8,125	\$16,250
G. Sheet Metal Work (SF @ \$10 x 350)	\$1,675	\$1,675	\$3,350
Subtotal (A-G)	\$66,425	\$66,425	\$132,850
H. General Conditions (@15% of A-G)	\$9,963	\$9,962	\$19,925
I. Contractor O & P (@ 15% of A-G)	\$9,962	\$9,963	\$19,925
J. Civil Engineer Fee (Hourly @ \$100/hr x 60 hrs)	\$3,000	\$3,000	\$6,000
K. Architects Fees Hourly @ \$95/hr x 205 hrs)	\$9,737	\$9,738	\$19,475
L. Archeological monitoring (Hourly @ \$115/hr x 26)	\$1,495	\$1,495	\$2,990
M. Materials analysis for mortar (Set of 3)	\$210	\$210	\$420
N. Reimbursable expenses (courier, photography, printing - estimate of actual costs)	\$263	\$262	\$525
Subtotal (H-N)	\$34,630	\$34,620	\$69,260
Project Subtotal (A-N)	\$101,055	\$101,055	\$202,110
Contingency (@ 15% of Project Subtotal)*	\$15,150	\$15,150	\$30,300
PROJECT TOTALS	\$116,205	\$116,205	\$232,410

City of Golden
Exterior Restoration
Project #2009-01-014

Exhibit B

** Easement Negotiation Fee	\$3,000	\$0	\$3,000
** Easement Acceptance Fee	\$10,000	\$0	\$10,000
Total Easement Fees	\$13,000	\$0	\$13,000
PROJECT TOTAL WITH EASEMENT	\$129,205	\$116,205	\$245,410
Grant/Cash Match Ratio	53%	47%	

*Contingency -- Cannot be used without prior written approval by SHF staff.

** Easement Fees -- This item may not be used on other tasks and may not exceed budgeted amount.

LIST OF SUBMITTALS

Project Reports		
<u>Project Reports</u>	<u>Due Date</u>	<u>Society Response</u>
a. Payment Request Form (Attachment 2). Deliverables #1-4, #17 below must be reviewed and approved before Advance payment is made.	N/A	Advance payment of grant award \$30,317.
b. Progress Report # 1	August 1, 2009	Review*
c. Progress Report # 2	October 1, 2009	Review*
d. Payment Request Form (Attachment 2). Easement Negotiation Fee Invoice.	December 1, 2009	Review & Approve. Easement Negotiation Fee payment of \$3,000.
e. Progress Report # 3	December 1, 2009	Review*
f. 1 st Interim Financial Report (Attachment 1). Deliverables #5-7 below must be reviewed and approved before Interim payment is made.	December 1, 2009 **	Review & Approve. Interim payment of grant award \$30,317 plus any approved contingency ****
g. Progress Report # 4	February 1, 2010	Review*
h. Progress Report # 5	April 1, 2010	Review*
i. Progress Report # 6	June 1, 2010	Review*
j. 2 nd Interim Financial Report (Attachment 1). Deliverables #8-12 below must be reviewed and approved before Interim payment is made.	June 1, 2010 **	Review & Approve. Interim payment of grant award \$30,317 plus any approved contingency ****
k. Progress Report # 7	August 1, 2010	Review*
l. Progress Report # 8	October 1, 2010	Review*
m. Payment Request Form (Attachment 2). Easement Acceptance Fee Invoice. Deliverable #18 below must be reviewed and approved before Easement Acceptance Fee is paid.	October 1, 2010	Review & Approve. Easement Acceptance Fee payment of \$10,000.

- | | | |
|--|---------------------|--|
| n. Progress Report # 9 | December 1, 2010 | Review* |
| o. Final Financial Report (Attachment 1) | December 1, 2010*** | Review & Approve.
Final Reimbursement of
grant award \$10,104 plus
any approved contingency
**** |

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

*** Project period ends. All Deliverables due on or before this date.

****Payment breakout does not include contingency. If contingency is approved, it could be added to Interim Payment/Final Reimbursement.

PROJECT DELIVERABLES

Project Deliverables 1-12 are due before commencement of treatment (construction):

<u>Project Deliverables</u>	<u>Society Response</u>
1. Consultant Resume - Architect	Review/Comment and or Approve
2. Subcontract copy - Architect	Review/Comment and or Approve
3. Historical photos/documentation of areas to be treated	Review/Comment and or Approve
4. Initial Consultation with SHF Historic Preservation Specialist (within 60 days of contract start date)	Review/Comment and or Approve
5. Before/Existing condition photos of areas affected by Scope of Work	Review/Comment and or Approve
6. Materials Testing Analysis & Results	Review/Comment and or Approve
7. Construction Documents / Plans and Specifications	Review/Comment and or Approve
8. Consultant Resume - Archaeologist	Review/Comment and or Approve
9. Subcontract copy - Archaeologist	Review/Comment and or Approve
10. Consultant Resume -- General Contractor	Review/Comment and or Approve
11. Subcontract copy -- General Contractor	Review/Comment and or Approve
12. Pre Construction meeting with SHF Historic Preservation Specialist	Review/Comment and or Approve
13. Copies of Change Orders, if necessary	Review/Comment and or Approve
14. After photos of areas affected by Scope of Work	Review/Comment and or Approve
15. Report on Archaeological Monitoring	Review/Comment and or Approve
16. Project Summary Report	Review/Comment and or Approve
17. Letter of Agreement/Memoranda of Understanding (LOA/MOU) between Grant Recipient and Property Owner	Review/Comment and or Approve
18. Signed, Recorded Perpetual Easement	Review/Comment and or Approve

STATE HISTORICAL FUND
PAYMENT REQUEST

Attachment 2

Grant Recipient: _____

Date: _____

Project Title: _____

Project Number: _____

Total Amount Awarded: \$ _____

Contract Period: _____

As the authorized representative of the _____

Grant Recipient

I hereby state that the above project is presently under contract with the Colorado Historical Society, State Historical Fund, and request (complete only one section).

ADVANCE PAYMENT REQUEST

_____ An Advance Payment of no more than forty percent (40%) of the total grant award. I further state that work has begun or will begin within the next two weeks on the project; and that an advance payment is necessary to proceed with the Scope of Work.

INTERIM PAYMENT REQUEST (Initial one or both lines, as applicable)

_____ An Interim Payment of no more than fifty percent (50%) of the total grant award. I further state that any advance payment received to date has been fully expended, and that an interim payment is necessary to continue with the Scope of Work.

AND

_____ Enclosed is a SHF Interim Financial Report as required by contract, Exhibit C, and the required documentation or certification of expenditures (payment will **NOT** be considered without a financial report).

EASEMENT FEE PAYMENT REQUEST (Initial one or both lines, as applicable)

_____ Enclosed is an Invoice for the Easement Negotiation fee. I further state that we will negotiate in good faith and make every effort to fully execute an easement with the property owner.

AND/OR

_____ Enclosed is an Invoice for the Easement fee. I further state that the easement has been fully executed, recorded, and submitted to the State Historical Fund.

FINAL PAYMENT REQUEST (Must initial both lines)

_____ A Final Payment of the remaining balance of award, minus interest earned.

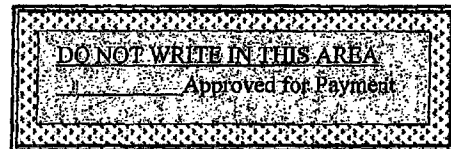
AND

_____ Enclosed is a SHF Final Financial Report and required documentation or certification of expenditures (payment will **NOT** be considered without a financial report)

I understand that the FINAL PAYMENT is a reimbursement, and further state that all invoices and bills reported on the Final Financial report have been PAID IN FULL.

Signature of Grant Recipient / Project Director

Date



Colorado Historical Society

GCA

APPROVED WAIVER FORM #37-A/ESMT

CONTRACT #2009-01-014

THIS CONTRACT, Made this 24th day of June, 2009, by and between the State of Colorado for the use and benefit of the Department of Higher Education, Colorado Historical Society, 1300 Broadway, Denver, Colorado 80203, hereinafter referred to as the State and/or the Society, and the **City of Golden**, 911 10th Street, Golden, Colorado 80401, hereinafter referred to as the Grant Recipient, hereinafter referred to as the "Contractor", and **The Armory Colorado LLC, Yoshie Feaster, Member Manager**, Owner of Property, 1188 Bishop Street, Suite 1209, Honolulu, HI 96813, hereinafter referred to as the Property Owner,

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for encumbering and subsequent payment of this Contract under Encumbrance Number 0901014 in Fund Number 401, Appropriation Account 401 and Organization SHFG; and

WHEREAS, required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, Article 12-47.1-1201 of the Colorado Revised Statutes and Subsection (5) (b) (III) of Section 9 of Article XVIII of the state constitution, provide for the annual distribution of monies from the State Historical Fund; and

WHEREAS, the Grant Recipient is eligible in accordance with law to receive a State Historical Fund preservation grant award for acquisition and development projects with cumulative grant awards over \$50,000; and

WHEREAS, this Contract (hereinafter "Contract" or "Agreement") sets forth the Scope of Work, Budget and List of Submittals, hereinafter referred to as the "Project",

WHEREAS, the Property Owner is a for-profit organization and the owner in fee simple of certain real property in Jefferson County, Colorado, which property has been listed in the the National Register of Historic Places, as the Colorado National Guard Armory located at 1301 Arapahoe Street, Golden, CO , hereinafter referred to as the "Property," and which Property is more particularly described as follows:

Lots 10, 11 and 12, block 32, South Golden, County of Jefferson, State of Colorado

NOW THEREFORE, it is hereby agreed that:

1. The Property Owner and Grant Recipient shall use funds subject to this Contract in support of **Project #2009-01-014, "Exterior Restoration"** in accordance with the *Scope of Work* attached hereto as Exhibit A, including all applicable plans and specifications developed prior to or during the contract period, which are hereby made a part of this Contract by reference.
2. **APPLICABLE STANDARDS:** The Property Owner and Grant Recipient agree that they will perform the activities 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 the Society).
3. **RIGHT OF USE:** All copyrightable materials and/or submittals developed or produced under this contract are subject to a royalty-free, nonexclusive, and irrevocable license to the Society to reproduce, publish, display, perform, prepare derivative works or otherwise use, and authorize others to reproduce, publish, display, perform, prepare derivative works, or otherwise use, the work or works for Society and/or State Historical Fund purposes.
4. **CONTRACT EFFECTIVE DATE:** The term of this Contract shall be from **July 1, 2009 through July 1, 2011.**

The performance of the work must be commenced within sixty (60) days of the Contract beginning date unless a longer period is approved in writing by the State Historical Fund Administrator. The performance of the work must be completed no later than **thirty (30) days prior to the Contract ending date.**

5. **COMPENSATION AND METHOD OF PAYMENT:** In consideration of the project described in Exhibit A and subject to on time delivery of completion of the milestones contained in the *List of Submittals* set forth in Exhibit C, the **State shall pay to the Grant Recipient a grant not to exceed one hundred twenty-nine thousand, two hundred five dollars (\$129,205.00).**

5. **COMPENSATION AND METHOD OF PAYMENT:** In consideration of the project described in Exhibit A and subject to on time delivery of completion of the milestones contained in the *List of Submittals* set forth in Exhibit C, the State shall pay to the Grant Recipient a grant not to exceed one hundred twenty-nine thousand, two hundred five dollars (\$129,205.00).

Unless otherwise specified in Exhibit C, the State shall advance forty-percent (40%) of the total grant amount, less Easement costs if applicable, upon proper execution of this contract and upon submission of a SHF Payment Request, fifty-percent (50%) will be paid to the Grant Recipient upon submission and approval of the Interim *SHF Financial Report*. The remaining ten-percent (10%) of the grant amount shall be paid following Grant Recipient's submission and the State's approval of the *Final SHF Financial Report* and *SHF Payment Request Form (Attachments 1 and 2)*. All payments are subject to the satisfactory completion of milestones described in Exhibit C and submission by Grant Recipient of either documented proof or certification of expenditures with each financial report.

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

6. **EASEMENT:** If required, in the sole discretion of the State, the provisions in the following paragraph are hereby incorporated into this agreement:

Easement Required: Yes No

Initials/State

Initials/Grantee

Initials/Property Owner

- a. Grantee shall place or cause to be placed on the property title a perpetual easement, which easement shall be transferred to an organization qualified to hold easements of this kind under Section 170(h)(3) of the Internal Revenue Code and Internal Revenue Service Regulations, Section 1.170A-14(c).
- b. The easement shall, at a minimum, prohibit any alteration of the premises, which would affect the exterior appearance of the property unless first authorized by the easement holding organization with appropriate exceptions to permit routine maintenance. Other necessary language shall protect the interests of the easement holding organization in the event of damage to the property, and shall further require that the easement be transferred to a similar organization in the event that the selected organization becomes unable for any reason to perform its obligations pursuant to the easement agreement.
- c. Grantee agrees that the easement form and any associated costs shall be subject to the approval of the State.
- d. Subsequent to its transfer, this easement shall remain in place in accordance with the terms of the easement agreement, and no action taken by the State to recapture all or any portion of the grant award pursuant to paragraph 19 shall affect the status of the easement.
7. **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. Grant Recipient may adjust budgeted expenditure amounts up to ten percent (10%) within said Budget without approval of the State and document the adjustments in the next financial report. Adjustments of budget expenditure amounts in excess of ten percent (10%) must be authorized by the State. In no event shall the State's total financial obligation exceed the amount shown in Paragraph 5 above. Interest earned on funds advanced by the State shall be applied to eligible project expenditures, and will be deducted from the final payment.
8. **AUDIT:** The State or its authorized representative shall have the right to inspect, examine, and audit Grant Recipient's and Property Owner's records, books, and accounts, including the right to hire an independent Certified Public Accountant of the State's choosing and at the State's expense to do so. Such discretionary audit may be called for at any time and for any reason from the effective date of this Contract until three (3) years after the date final payment for this Project is received by the Grant Recipient or Property Owner provided that the audit is performed at a time convenient to the Grant Recipient and/or Property Owner and during regular business hours.
9. **PARTIES RELATIONSHIP:** THE GRANT RECIPIENT AND THE PROPERTY OWNER ARE NOT EMPLOYEES OR AGENTS OF THE STATE. THE GRANT RECIPIENT AND/OR PROPERTY OWNER SHALL HAVE NO AUTHORITY, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS OR UNDERSTANDINGS WITHOUT THE EXPRESS WRITTEN CONSENT OF THE STATE. THE GRANT RECIPIENT AND PROPERTY OWNER REPRESENT THAT THEY HAVE OR SHALL SECURE AT THEIR OWN EXPENSE ALL PERSONNEL EMPLOYED OR UTILIZED BY THE GRANT RECIPIENT/PROPERTY OWNER UNDER THIS CONTRACT. THE GRANT RECIPIENT AND/OR PROPERTY OWNER SHALL BE RESPONSIBLE FOR PROVIDING WORKMEN'S COMPENSATION COVERAGE AND UNEMPLOYMENT COMPENSATION COVERAGE FOR ALL OF THEIR EMPLOYEES TO THE EXTENT REQUIRED BY LAW, AND FOR ENSURING THAT ALL SUBCONTRACTORS MAINTAIN SUCH INSURANCE. THE GRANT RECIPIENT AND/OR PROPERTY OWNER SHALL PAY WHEN

DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX WITHHOLDING. ALL OF THE SERVICES REQUIRED HEREUNDER SHALL BE PERFORMED BY THE GRANT RECIPIENT AND/OR PROPERTY OWNER OR UNDER THEIR SUPERVISION.

10. REPRESENTATIVES AND NOTICES: All notices required to be given by the parties hereunder shall be given by certified or registered mail to the individuals at the addresses set forth below, who are also the designated representatives for the project. Any party may from time to time designate in writing substitute addresses or persons to whom such notices shall be sent.

To the State: Steven W. Turner
Director
Colorado Historical Society
State Historical Fund
225 East 16th Avenue, Suite 950
Denver, Colorado 80203-1620

To the Grant Recipient: Mr. Steve Glueck
Director of Planning & Development
City of Golden-Planning and Development
911 10th Street
Golden, Colorado 80401

To the Property Owner: The Armory Colorado LLC, Yoshie Feaster, Member Manager
1188 Bishop Street, Suite 1209
Honolulu, HI 96813

11. ADA COMPLIANCE: The Grant Recipient and Property Owner assure the State that at all times during the performance of this contract no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or denied benefits of the service, programs, or activities performed by the Grant Recipient and Property Owner, or be subjected to any discrimination by the Grant Recipient or Property Owner upon which assurance the State relies. Further, all real property improvements shall conform to applicable ADA requirements.
12. DISSEMINATION OF ARCHAEOLOGICAL SITE LOCATIONS: The Grant Recipient and Property Owner agree to provide the Society with copies of any archaeological surveys developed during the course of, or under a project financed either wholly or in part by the Society. 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 the Colorado Historical Society, Office of Archaeology and Historic Preservation, Policy on Dissemination of Information, adopted October 1991, a copy of which is available from the Society.
13. REPORTS: The Grant Recipient and/or Property Owner shall deliver project progress reports to the State every six (6) months during the project which document the progress of the Project, and *JHF Financial Reports* (Attachment 1) as described and at the times in the *List of Submittals* (Exhibit C).
14. MATCHING FUNDS: The Grant Recipient and Property Owner agree to make available the necessary funds to complete the Project and provide matching funds, if applicable, in accordance with the Project Budget as set forth in Exhibit B. In the event that said matching funds 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.
15. CONSULTANTS/SITE VISITS: The State may:
- Review any project planning documents and methods for conformity with the applicable standards, manuals, and guidelines;
 - Make site visits as determined necessary by the State before, during and/or at the conclusion of the Project to provide on-site technical advice and to monitor progress.
- Any exercise of the State's rights under this Paragraph 15 shall not relieve the Grant Recipient or Property Owner of any of its Contract obligations.
16. PUBLIC ACKNOWLEDGMENT OF FUNDING SOURCE: In all publications and similar materials funded under this Contract, a credit line shall be included that reads: "This project is/was paid for in part by a State Historical Fund grant from the Colorado Historical Society." In addition, the Society 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 the Colorado Historical Society".
17. PRESERVATION OF PROPERTY: The Property Owner hereby agrees to the following for a period of ten (10) years commencing on the date of this Agreement.

- a. Without the express written permission of the Society, no construction, alteration, movement, relocation or remodeling or any other activity shall be undertaken or permitted to be undertaken on the Property which would alter the architectural appearance of the Property, adversely affect the structural soundness of the Property, encroach on the open land area of the Property, or adversely affect such prominent landscape features as trees, hedges, fences, walls or paths. Such work, when permitted shall be performed according to the Secretary of the Interior's *Standards for the Treatment of Historic Properties and the Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings*, issued and as may from time to time be amended by the U.S. Secretary of the Interior, hereinafter collectively referred to as the "*Standards*". In all events, the Property Owner further agrees at all times to maintain the Property in a good and sound state of repair and to maintain the Property according to the *Standards* so as to prevent deterioration of the Property.
 - b. In the event of severe damage or total destruction to the Property (defined, for the purpose of this Agreement, as sudden damage or loss caused by fire, earthquake, inclement weather, acts of the public enemy, riot or other similar casualty) not due to the fault of the Property Owner this Agreement shall terminate as of the date of such damage or destruction.
 - c. The Society, or a duly appointed representative of the Society, shall be permitted to inspect the Property at all reasonable times in order to ascertain if the above conditions are being observed.
 - d. Within sixty (60) days prior to completion of this Contract, Property Owner covenants and agrees that the Society will record this Contract with the county clerk and recorder for the county in which the property is located. Property Owner further covenants and agrees that this Contract will constitute a binding covenant that will run with the land.
 - e. To the extent authorized by law, the Property Owner 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 attorneys fees incurred as a result of any act or omission by the property owner, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.
 - f. The provisions of this Paragraph 17 will cease to be effective upon the conveyance of an approved easement if such is required pursuant to Paragraph 6 above.
18. REMEDIES: In addition to any other remedies provided for in this contract, and without limiting its remedies otherwise available at law, the State may exercise the following remedial actions if the Grant Recipient substantially fails to satisfy or perform the duties and obligation in this Contract. Substantial failure to satisfy the duties and obligations shall be defined to mean significant, insufficient, incorrect, or improper performance, activities, or inaction by the Property Owner or Grant Recipient. These remedial actions are as follows:
- a. Suspend the Grant Recipient's performance pending necessary corrective action as specified by the State without Grant Recipient's entitlement to adjustment in price/cost or schedule; and/or
 - b. Withhold payment to Grant Recipient until the necessary services or corrections in performance are satisfactorily completed in accordance with the *Standards*, the SHF Grants Manual and/or the terms and conditions of this Contract; and/or
 - c. Request the removal from work on the contract of employees or agents of the Property Owner or Grant Recipient whom the State justifies as being incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued employment on the contract the State deems to be contrary to the public interest or not in the best interest of the State; and/or
 - d. Deny payment for those services or obligations which have not been performed and which due to circumstances caused by the Property Owner or Grant Recipient cannot be performed, or if performed would be of no value to the State. Denial of the amount of payment must be reasonably related to the value of work or performance lost to the State; and/or
 - e. Declare all or part of the work ineligible for reimbursement; and/or
 - f. In the event of a violation of this Agreement, and in addition to any remedy now or hereafter provided by law, the Society may, following reasonable notice to the Grant Recipient institute suit to enjoin said violation or to require the restoration of the Property to its condition at the time of this Agreement or condition at the time of the most recent satisfactory inspection by the Society. The Society shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorney's fees.
 - g. Terminate the contract for default.
19. RECAPTURE AND OTHER REMEDIES AGAINST PROPERTY OWNER: The following recapture provision shall apply only to the Property Owner: In the event that the property, as a whole, is sold within a five-year period after completion of the project, 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.
- a. In the event of a violation of this Agreement, and in addition to any remedy now or hereafter provided by law, the Society may, following reasonable notice to the Property Owner, institute suit to enjoin said violation or to require the restoration of the Property to its condition at the time of this Agreement or condition at the time of the most recent satisfactory inspection by the Society. The Society shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorney's fees.

- b. The failure of the Society to exercise any right or remedy granted under this Agreement shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.
20. CUMULATIVE EFFECT: The above remedies are cumulative and the State, in its sole discretion, may exercise any or all of them individually or simultaneously.
21. TERMINATION OF CONTRACT FOR DEFAULT: If, through any cause, the Grant recipient or the Property Owner shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the Grant Recipient or Property Owner shall violate any of the covenants, agreements, or stipulations of this Contract, the State shall, in addition to other remedies, thereupon have the right to terminate this Contract for default by giving written notice to the Grant Recipient and Property Owner of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, products, submittals, and reports or other material prepared by the Grant Recipient or Property Owner under this Contract shall, at the option of the State, become its property, and the Grant Recipient and/or Property Owner shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.
- Notwithstanding the above, the Grant Recipient and the Property Owner shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the Contract by the Grant Recipient or the Property Owner, and the State may withhold any payments to the Grant Recipient or Property Owner for the purpose of setoff until such time as the exact amount of damages due the State from the Grant Recipient and/or Property Owner are determined.
22. TERMINATION BY STATE: The State may terminate this Contract at any time the State determines that the purposes of the distribution of State monies under the Contract would no longer be served by completion of the Project. The State shall effect such termination by giving written notice of termination to the Grant Recipient and the Property Owner and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials paid for with State funds shall, at the option of the State, become its property. If the Contract is terminated by the State as provided herein, the Grant Recipient and/or Property Owner will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grant Recipient and/or Property Owner covered by this Contract, less payments of compensation previously made. Provided, however, that if less than sixty percent (60%) of the project covered by this Contract has been completed upon the effective date of such termination, the Grant Recipient and/or Property Owner shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by the Grant Recipient and/or Property Owner during the Contract period which are directly attributable to the uncompleted portion of the project covered by this Contract. If this Contract is terminated due to the fault of the Grant Recipient and/or Property Owner, Paragraph 21 hereof relative to termination shall apply.
23. CHANGES: This Contract is intended as the complete integration of all understandings between the parties, at this time, and no prior or contemporaneous addition, deletion, or other amendment hereto, including an increase or decrease in the amount of monies to be paid to the Grant Recipient and/or Property Owner, shall have any force or effect whatsoever, unless embodied in a written contract amendment incorporating such changes executed and approved pursuant to the State's Fiscal Rules. Notwithstanding this provision, modifications to Exhibit A (Scope of Work) and/or to Exhibit C (List of Submittals) may be approved by letter of agreement, agreed to in writing by all parties, providing that no such letter of agreement may alter either the total amount of funds payable under the contract, as set forth in Paragraph 5, or the contract period, as set forth in Paragraph 4, unless such changes are embodied in a written contract amendment executed and approved pursuant to the State's Fiscal Rules.
24. CONFLICT OF INTEREST: The Grant Recipient or Property Owner agree not to engage in any conduct, activity, or transaction related to this contract which would constitute a conflict of interest under any applicable State or Federal law.
25. COMPLIANCE WITH APPLICABLE LAWS: At all times during the performance of this Contract, the Grant Recipient and Property Owner shall strictly adhere to all applicable Federal and State laws that have been or may hereafter be established.
26. SEVERABILITY: To the extent that this Contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the Contract, the terms of this Contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as waiver of any other term.
27. BINDING ON SUCCESSORS: Except as herein otherwise provided, this Contract shall inure to the benefit of and be binding upon the parties, or any subcontractors hereto, and their respective successors and assigns.
28. ASSIGNMENT: No party, nor any subcontractors hereto, may assign its rights or duties under this Contract without the prior written consent of the other parties.
29. SURVIVAL OF CERTAIN CONTRACT TERMS: Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this contract and the exhibits and attachments hereto which may require continued performance of compliance beyond the termination date of the contract shall survive such termination date and shall be

enforceable by the State as provided herein in the event of such failure to perform or comply by the Grant Recipient and/or the Property Owner or their subcontractors.

30. BOND REQUIREMENT: If this contract involves the payment of more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public work for this State, the Contractor shall, before entering upon the performance of any such work included in this contract, duly execute and deliver to the State official who will sign the contract, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety conditioned upon the faithful performance of the contract and in addition, shall provide that if the Contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provender or other supplies used or consumed by such Contractor or his subcontractor in performance of the work contracted to be done or fails to pay any person who supplies rental machinery, tools, or equipment in the prosecution of the work the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond is executed, delivered and filed, no claim in favor of the Contractor arising under such contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond. This provision is in compliance with CRS 38-26-106.

(The Special Provisions apply to all contracts except where noted in italics.)

1. **CONTROLLER'S APPROVAL. CRS 24-30-202 (1).**
This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **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.
3. **GOVERNMENTAL IMMUNITY.**
No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of 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.
4. **INDEPENDENT CONTRACTOR.**
Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor 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 Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor 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.
5. **COMPLIANCE WITH LAW.**
Contractor shall strictly 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.
6. **CHOICE OF LAW.**
Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision 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 shall not invalidate the remainder of this contract, to the extent capable of execution.
7. **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 contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.**
State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
9. **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 contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.
10. **VENDOR OFFSET. CRS 24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental contracts]**
Subject to CRS 24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS 39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.
11. **PUBLIC CONTRACTS FOR SERVICES. CRS 8-17.5-101. [Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]**
Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract, and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS 8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS 8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS 8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.
12. **PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS 24-76.5-101.** Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS 24-76.5-101 et seq., and (c) has produced one form of identification required by CRS 24-76.5-103 prior to the effective date of this contract.

CONTRACT SIGNATURE PAGE
THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

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

CONTRACTOR:
(Grant Recipient)

STATE OF COLORADO
Bill Ritter, Jr., GOVERNOR

City of Golden
Legal Name of Contracting Entity

BY: Edward C. Nichols
Executive Director or Designee
Edward C. Nichols, President

Jacob Smith
*Signature of Authorized Officer

Colorado Historical Society
Date: 4/19/09

5/7/09
Date

Jacob Smith
Print Name of Authorized Officer

Department of Higher Education

Mayor
Print Title of Authorized Officer

STATE HISTORICAL FUND

The Armory Colorado LLC, Yoshie Feaster,
Member Manager
Legal Owner

BY: Steven W. Turner
Steven W. Turner, Director

Yoshie Feaster
Signature of Legal Owner

Date: 6/16/09

June 2, 2009
Date

WAIVER CONTRACT REVIEWER

THE ARMORY COLORADO LLC,
Print Name of Legal Owner
YOSHIE FEASTER
MEMBER MANAGER
Print Title of Legal Owner

By: Janette Vigil
Contracts Officer or Designee
Janette Vigil, State Historical Fund

Date: 6-16-09

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

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

STATE CONTROLLER
David J. McDermott, CPA

BY: Susan S. Riehl
Susan S. Riehl
CHS, Chief Financial Officer
Date: JUN 24 2009

Revised, June 10, 2008
X:\Document\13154756.doc
Approval/Easement: Contract A

SCOPE OF WORK

- I. **Project Purpose:** The purpose of this project is the exterior rehabilitation of the Colorado National Guard Armory.
- II. **Scope of Work is as follows:**
- A. Site Work
 - 1. Regrade site as needed
 - B. Area Well Work
 - 1. Install piped discharge for downspouts and area wells.
 - 2. Install drainage and gravel in area wells.
 - 3. Misc. demolition and hauling.
 - 4. French drain system for area wells and downspout discharge
 - 5. Excavate and backfill for drain and piping
 - 6. Install concrete splashblocks at non-piped downspouts
 - C. Masonry Work
 - 1. Seal the perimeter of the concrete beam
 - 2. Repair concrete beam cracks with cementitious repair mortar
 - D. Structural Work
 - 1. Over-point mortar joints as needed using appropriate mortar mix and repoint cracks
 - 2. Repair failing lintel including temporary shoring
 - E. Window Sealing
 - 1. Seal perimeters of windows using appropriate sealant and backer rod.
 - F. Roof Drainage
 - 1. Replace non-original gutters and downspouts and extensions.
 - 2. Replace severely deteriorated conductor heads.
 - G. Sheet Metal Work
 - 1. Repair, re-secure letters and prime/ paint original sheet metal cornice at entry

In accordance with Section 12-47.1-12-1 C.R.S. (1999) The Limited Gaming Act which authorizes the Colorado Historical Society to administer the State Historical Fund as a statewide grants program.

PROJECT BUDGET

TASK	GRANT REQUEST	CASH MATCH	PROJECT TOTAL
A. Site Work (SF @ \$250 x 120)	\$15,000	\$15,000	\$30,000
B. Area Well Work (EA @ \$2,500 x 8)	\$10,000	\$10,000	\$20,000
C. Masonry Work (SF @ \$5 x 11,000)	\$27,500	\$27,500	\$55,000
D. Structural Work (LF @ \$29 x 250)	\$3,625	\$3,625	\$7,250
E. Window Sealing (EA @ \$10 x 100)	\$500	\$500	\$1,000
F. Roof Drainage Work (LF @ \$25 x 650)	\$8,125	\$8,125	\$16,250
<u>G. Sheet Metal Work (SF @ \$10 x 350)</u>	<u>\$1,675</u>	<u>\$1,675</u>	<u>\$3,350</u>
Subtotal (A-G)	\$66,425	\$66,425	\$132,850
H. General Conditions (@15% of A-G)	\$9,963	\$9,962	\$19,925
I. Contractor O & P (@ 15% of A-G)	\$9,962	\$9,963	\$19,925
J. Civil Engineer Fee (Hourly @ \$100/hr x 60 hrs)	\$3,000	\$3,000	\$6,000
K. Architects Fees Hourly @ \$95/hr x 205 hrs)	\$9,737	\$9,738	\$19,475
L. Archeological monitoring (Hourly @ \$115/hr x 26)	\$1,495	\$1,495	\$2,990
M. Materials analysis for mortar (Set of 3)	\$210	\$210	\$420
N. Reimbursable expenses (courier, photography, printing - estimate of actual costs)	\$263	\$262	\$525
Subtotal (H-N)	\$34,630	\$34,620	\$69,260
Project Subtotal (A-N)	\$101,055	\$101,055	\$202,110
<u>Contingency (@ 15% of Project Subtotal)*</u>	<u>\$15,150</u>	<u>\$15,150</u>	<u>\$30,300</u>
PROJECT TOTALS	\$116,205	\$116,205	\$232,410

**City of Golden
Exterior Restoration
Project #2009-01-014**

Exhibit B

** Easement Negotiation Fee	\$3,000	\$0	\$3,000
** Easement Acceptance Fee	\$10,000	\$0	\$10,000
Total Easement Fees	\$13,000	\$0	\$13,000
PROJECT TOTAL WITH EASEMENT	\$129,205	\$116,205	\$245,410
Grant/Cash Match Ratio	53%	47%	

*Contingency – Cannot be used without prior written approval by SHF staff.

** Easement Fees – This item may not be used on other tasks and may not exceed budgeted amount.

LIST OF SUBMITTALS

<u>Project Reports</u>		
<u>Project Reports</u>	<u>Due Date</u>	<u>Society Response</u>
a. Payment Request Form (Attachment 2). Deliverables #1-4, #17 below must be reviewed and approved before Advance payment is made.	N/A	Advance payment of grant award \$30,317.
b. Progress Report # 1	August 1, 2009	Review*
c. Progress Report # 2	October 1, 2009	Review*
d. Payment Request Form (Attachment 2). Easement Negotiation Fee Invoice.	December 1, 2009	Review & Approve. Easement Negotiation Fee payment of \$3,000.
e. Progress Report # 3	December 1, 2009	Review*
f. 1 st Interim Financial Report (Attachment 1). Deliverables #5-7 below must be reviewed and approved before Interim payment is made.	December 1, 2009 **	Review & Approve. Interim payment of grant award \$30,317 plus any approved contingency ****
g. Progress Report # 4	February 1, 2010	Review*
h. Progress Report # 5	April 1, 2010	Review*
i. Progress Report # 6	June 1, 2010	Review*
j. 2 nd Interim Financial Report (Attachment 1). Deliverables #8-12 below must be reviewed and approved before Interim payment is made.	June 1, 2010 **	Review & Approve. Interim payment of grant award \$30,317 plus any approved contingency ****
k. Progress Report # 7	August 1, 2010	Review*
l. Progress Report # 8	October 1, 2010	Review*
m. Payment Request Form (Attachment 2). Easement Acceptance Fee Invoice. Deliverable #18 below must be reviewed and approved before Easement Acceptance Fee is paid.	October 1, 2010	Review & Approve. Easement Acceptance Fee payment of \$10,000.

- | | | |
|--|---------------------|--|
| n. Progress Report # 9 | December 1, 2010 | Review* |
| o. Final Financial Report (Attachment 1) | December 1, 2010*** | Review & Approve.
Final Reimbursement of
grant award \$10,104 plus
any approved contingency
**** |

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

*** Project period ends. All Deliverables due on or before this date.

****Payment breakout does not include contingency. If contingency is approved, it could be added to Interim Payment/Final Reimbursement.

PROJECT DELIVERABLES

Project Deliverables 1-12 are due before commencement of treatment (construction):

<u>Project Deliverables</u>	<u>Society Response</u>
1. Consultant Resume - Architect	Review/Comment and or Approve
2. Subcontract copy - Architect	Review/Comment and or Approve
3. Historical photos/documentation of areas to be treated	Review/Comment and or Approve
4. Initial Consultation with SHF Historic Preservation Specialist (within 60 days of contract start date)	Review/Comment and or Approve
5. Before/Existing condition photos of areas affected by Scope of Work	Review/Comment and or Approve
6. Materials Testing Analysis & Results	Review/Comment and or Approve
7. Construction Documents / Plans and Specifications	Review/Comment and or Approve
8. Consultant Resume - Archaeologist	Review/Comment and or Approve
9. Subcontract copy - Archaeologist	Review/Comment and or Approve
10. Consultant Resume – General Contractor	Review/Comment and or Approve
11. Subcontract copy – General Contractor	Review/Comment and or Approve
12. Pre Construction meeting with SHF Historic Preservation Specialist	Review/Comment and or Approve
13. Copies of Change Orders, if necessary	Review/Comment and or Approve
14. After photos of areas affected by Scope of Work	Review/Comment and or Approve
15. Report on Archaeological Monitoring	Review/Comment and or Approve
16. Project Summary Report	Review/Comment and or Approve
17. Letter of Agreement/Memoranda of Understanding (LOA/MOU) between Grant Recipient and Property Owner	Review/Comment and or Approve
18. Signed, Recorded Perpetual Easement	Review/Comment and or Approve

STATE HISTORICAL FUND
PAYMENT REQUEST

Attachment 2

Grant Recipient: _____

Date: _____

Project Title: _____

Project Number: _____

Total Amount Awarded: \$ _____

Contract Period: _____

As the authorized representative of the _____

Grant Recipient

I hereby state that the above project is presently under contract with the Colorado Historical Society, State Historical Fund, and request (complete only one section).

ADVANCE PAYMENT REQUEST

_____ An Advance Payment of no more than forty percent (40%) of the total grant award. I further state that work has begun or will begin within the next two weeks on the project; and that an advance payment is necessary to proceed with the Scope of Work.

INTERIM PAYMENT REQUEST (Initial one or both lines, as applicable)

_____ An Interim Payment of no more than fifty percent (50%) of the total grant award. I further state that any advance payment received to date has been fully expended, and that an interim payment is necessary to continue with the Scope of Work.

AND

_____ Enclosed is a SHF Interim Financial Report as required by contract, Exhibit C, and the required documentation or certification of expenditures (payment will **NOT** be considered without a financial report).

EASEMENT FEE PAYMENT REQUEST (Initial one or both lines, as applicable)

_____ Enclosed is an Invoice for the Easement Negotiation fee. I further state that we will negotiate in good faith and make every effort to fully execute an easement with the property owner.

AND/OR

_____ Enclosed is an Invoice for the Easement fee. I further state that the easement has been fully executed, recorded, and submitted to the State Historical Fund.

FINAL PAYMENT REQUEST (Must initial both lines)

_____ A Final Payment of the remaining balance of award, minus interest earned.

AND

_____ Enclosed is a SHF Final Financial Report and required documentation or certification of expenditures (payment will **NOT** be considered without a financial report)

I understand that the FINAL PAYMENT is a reimbursement, and further state that all invoices and bills reported on the Final Financial report have been PAID IN FULL.

Signature of Grant Recipient / Project Director

Date

