

April 23, 2018

Heart J. Center for Experiential Learning
At Sylvan Dale Ranch
Attn: Laura Armstrong, Executive Director
2939 N. County Road 31D
Loveland, CO 80538

Dear Grantee:

We are pleased to inform you that the Colorado Department of Natural Resources, Colorado Water Conservation Board (CWCB) has approved your application for funding pursuant to the ATM Grant Program ("Program") in the amount of \$197,250.00. This letter authorizes you to proceed with the Sylvan Dale Ranch Agricultural Water Conservation & ATM Project ("Project") in accordance with the terms of this Grant Award Letter.

Attached to this letter are the terms and conditions of your Grant. Please review these terms and conditions, as they are requirements of this Grant to which you, Heart J Center for Experiential Learning at Sylvan Dale Ranch agree by accepting the Grant Funds.

The ATM Criteria & Guidelines can be located on our website for additional information.

If you have any questions or concerns regarding the project, please contact Craig Godbout, Project Manager at 303-866-3441 ext. 3210 or at Craig.Godbout@state.co.us. Please send the 6-month progress reports and invoices directly to the Project Manager and cc me at Dori.vigil@state.co.us.

Thank you.

Sincerely,

//s//

Doriann Vigil
Program Assistant II
O 303-866-3441 ext. 3250
1313 Sherman Street, Rm. 719, Denver, CO 80203
Dori.vigil@state.co.us / cwc.state.co.us

Attachments

STATE OF COLORADO GRANT AGREEMENT

SIGNATURE AND COVER PAGE

State Agency (PDAA) Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	Agreement Number CMS 108569 CTGG1 2018-1760
Grantee Name & Address Heart J. Center for Experiential Learning at Sylvan Dale Ranch 2939 N. County Road 31D Loveland, CO 80538 Entity Type Non-governmental	Agreement Performance Beginning Date June 20, 2018 Initial Agreement Expiration Date June 20, 2023
Agreement Maximum Amount Entire contract term for all applicable fiscal years: \$197,250	Agreement Description Implementation of agricultural water irrigation efficiency measures and an ATM agreement with a local municipal/industrial water provider.

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

Each person signing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and to bind the Party authorizing his or her signature.

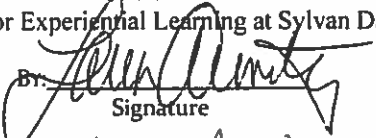

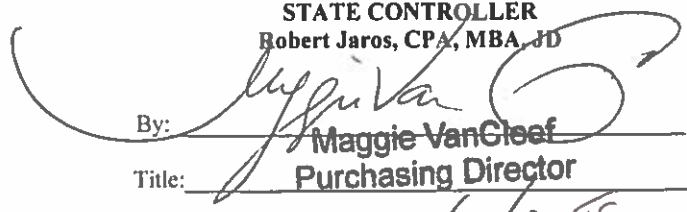
GRANTEE Heart J. Center for Experiential Learning at Sylvan Dale Ranch By:  Signature NAME: <u>Laurie Armstrong</u> TITLE: <u>Executive Director</u> DATE: <u>March 26, 2018</u>	STATE OF COLORADO John W. Hickenlooper, Governor Department of Natural Resources Colorado Water Conservation Board By:  Name: <u>Greg Johnson, Chief</u> DATE: <u>3/29/18</u>
ATTEST By: _____ Signature NAME: _____ TITLE: _____ DATE: _____	
<p>In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By:  Title: <u>Maggie VanGleef</u> <u>Purchasing Director</u> Effective Date: <u>4/20/2018</u></p>	

TABLE OF CONTENTS

	SIGNATURE AND COVER PAGE	1
1.	PARTIES	2
2.	TERM AND EFFECTIVE DATE	2
3.	AUTHORITY	4
4.	PURPOSE	4
5.	DEFINITIONS	4
6.	STATEMENT OF WORK	6
7.	PAYMENTS TO GRANTEE	6
8.	REPORTING - NOTIFICATION	8
9.	GRANTEE RECORDS	8
10.	CONFLICTS OF INTEREST	9
11.	INSURANCE	10
12.	BREACH	11
13.	REMEDIES	11
14.	DISPUTE RESOLUTION	13
15.	NOTICES AND REPRESENTATIVES	14
16.	RIGHTS IN WORK PRODUCT AND OTHER INFORMATION	14
17.	GOVERNMENTAL IMMUNITY	15
18.	STATEWIDE CONTRACT MANAGEMENT SYSTEM	16
19.	GENERAL PROVISIONS	16
20.	COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-1)	19
	EXHIBIT A, STATEMENT OF WORK	1
	EXHIBIT B, BUDGET AND SCHEDULE	1
	EXHIBIT C, SAMPLE OPTION LETTER	1
	EXHIBIT D, PERFORMANCE EVALUATION	1

1. PARTIES

This Agreement is entered into by and between Grantee named on the Signature and Cover Page for this Agreement (the “Grantee”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the “State” or “CWCB”). Grantee and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Agreement Expiration Date shown on the Signature and Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Grantee for any Work performed or expense incurred before the Effective Date or after the Agreement Expiration Date.

B. Initial Term

The Parties’ respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Signature and Cover Page for this Agreement and shall terminate on the Agreement Expiration Date shown on the Signature and Cover Page for this Agreement (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Extension Terms - State's Option

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of 1 year or less at the same rates and under the same terms specified in this Agreement (each such period an "Extension Term"). In order to exercise this option, the State shall provide written notice to Grantee in a form substantially equivalent to Exhibit C.

D. End of Term Extension

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Grantee as provided in §15, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an "End of Term Extension"), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of this Agreement.

E. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. This subsection shall not apply to a termination of this Agreement by the State for breach by Grantee, which shall be governed by §13.A.i.

i. Method and Content

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

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Grantee shall be subject to the rights and obligations set forth in §13.A.i.a.

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Grantee an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Grantee for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

3. AUTHORITY

Authority to enter into this Agreement exists in the law as follows:

- A. Authority for the agency entering into this Contract arises from Colorado Revised Statutes (CRS) 37-60-106 and 37-60-121, and Senate Bill 09-125 adopted by the 2009 General Assembly, and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

4. PURPOSE

At the January 23, 2018 board meeting, CWCB approved a grant request for the Implementation of Agricultural Water Irrigation Efficiency Measures and an ATM agreement with a local municipal/industrial water provider in the South Platte River Basin.

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **“Agreement”** means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **“Award”** means an award by the State to a Grantee.
- C. **“Budget”** means the budget for the Work described in Exhibit B
- D. **“Business Day”** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.
- E. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- F. **“Effective Date”** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.
- G. **“End of Term Extension”** means the time period defined in **§2.D**
- H. **“Exhibits”** means the following exhibits attached to this Agreement:
 - i. **Exhibit A**, Statement of Work.
 - ii. **Exhibit B**, Budget.
 - iii. **Exhibit C**, Sample Option Letter.
 - iv. **Exhibit D**, Performance Evaluation.
- I. **“Extension Term”** means the time period defined in **§2.C**
- J. **“Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- K. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- L. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of

any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401 et. seq. C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State's knowledge, instruction, or consent.

- M. **"Initial Term"** means the time period defined in **§2.B**
- N. **"Matching Funds"** means the funds provided Grantee as a match required to receive the Grant Funds.
- O. **"Party"** means the State or Grantee, and **"Parties"** means both the State and Grantee.
- P. **"Services"** means the services to be performed by Grantee as set forth in this Agreement, and shall include any services to be rendered by Grantee in connection with the Goods.
- Q. **"State Confidential Information"** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to the CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure by Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- R. **"State Fiscal Rules"** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- S. **"State Fiscal Year"** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- T. **"State Records"** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- U. **"Subcontractor"** means third-parties, if any, engaged by Grantee to aid in performance of the Work. "Subcontractor" also includes sub-grantees of grant funds.
- V. **"Work"** means the Goods delivered and Services performed pursuant to this Agreement.
- W. **"Work Product"** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work. "Work Product" does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

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

6. STATEMENT OF WORK

Grantee shall complete the Work as described in this Agreement and in accordance with the provisions of **Exhibit A**. The State shall have no liability to compensate Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

7. PAYMENTS TO GRANTEE

A. Maximum Amount

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Agreement that exceeds the Agreement Maximum shown on the Signature and Cover Page of this Agreement.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Grantee in the amounts and in accordance with the schedule and other conditions set forth in Exhibit B.
- b. Grantee shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Grantee and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Grantee shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under this Agreement.

ii. Interest

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Grantee shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Payment Disputes

If Grantee disputes any calculation, determination or amount of any payment, Grantee shall notify the State in writing of its dispute within 30 days following the earlier to occur of Grantee's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Grantee and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Grantee beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Grantee shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §2.E.

v. Erroneous Payments

The State may recover, at the State's discretion, payments made to Grantee in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Grantee. The State may recover such payments by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Grantee, or by any other appropriate method for collecting debts owed to the State.

D. Reimbursement of Grantee Costs.

The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in Exhibit A and §7 for all allowable costs described in this Grant and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to the State of the change, the change does not modify the total maximum amount of this Agreement or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. However, any costs incurred by Grantee prior to the Effective Date shall not be reimbursed. Grantee's costs for Work performed after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. The State shall only reimburse allowable costs described in this Contract and shown in the Budget if those costs are:

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

E. Close-Out.

Grantee shall close out this Award within 45 days after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement. To complete close-out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Agreement and Grantee's final reimbursement request or invoice. The State will pay the last 10% of the entire water activity budget upon receipt of the Final Report to which must be completed to the satisfaction of CWCB staff.

8. REPORTING - NOTIFICATION

A. Quarterly Reports.

In addition to any reports required pursuant to §18 or pursuant to any other Exhibit, for any Agreement having a term longer than 3 months, Grantee shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than 5 Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Grantee is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Grantee's ability to perform its obligations under this Agreement, Grantee shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §15.

C. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

D. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of State criminal law involving fraud, bribery, or gratuity violations. The State may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

9. GRANTEE RECORDS

A. Maintenance

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records for a period (the "Record Retention Period") of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall

extend until all litigation, claims, or audit findings have been resolved and final action taken by the State. The State may notify Grantee in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

B. Inspection

Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe Grantee Records during the Record Retention Period. Grantee shall make Grantee Records available during normal business hours at Grantee's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Grantee's performance of its obligations under this Agreement using procedures as determined by the State. The federal government and any other duly authorized agent of a governmental agency, in its discretion, may monitor Contractor's performance of its obligations under this Contract using procedures as determined by that governmental entity. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work.

D. Final Audit Report

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

10. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

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

B. Apparent Conflicts of Interest

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

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

11. INSURANCE

Grantee shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Grantee or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$2,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

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

D. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Grantee and Subcontractors.

E. Primacy of Coverage

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

F. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Grantee and Grantee shall forward such notice to the State in accordance with **§15** within 7 days of Grantee's receipt of such notice.

G. Subrogation Waiver

All commercial insurance policies secured or maintained by Grantee or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

H. Public Entities

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Grantee shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Grantee shall ensure that the Subcontractor maintain at all times during the terms of this Grantee, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

I. Certificates

For each commercial insurance plan provided by Grantee under this Agreement, Grantee shall provide to the State certificates evidencing Grantee's insurance coverage required in this Agreement within 7 Business Days following the Effective Date. Grantee shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within 7 Business Days following the Effective Date, except that, if Grantee's subcontract is not in effect as of the Effective Date, Grantee shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within 7 Business Days following Grantee's execution of the subcontract. No later than 15 days before the expiration date of Grantee's or any Subcontractor's coverage, Grantee shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Grantee shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this **§11**.

12. BREACH

A. Defined

The failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in **§13** for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State.

13. REMEDIES

A. State's Remedies

If Grantee is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in **§12.B.**, shall have all of the remedies listed in this **§13.A.** in addition to all other remedies set forth in this Agreement or

at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

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

a. Obligations and Rights

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

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Grantee for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under **§2.E**.

c. Damages and Withholding

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

ii. Remedies Not Involving Termination

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

a. Suspend Performance

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

b. Withhold Payment

Withhold payment to Grantee until Grantee corrects its Work.

c. Deny Payment

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

d. Removal

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

e. Intellectual Property

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

B. Grantee's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Grantee, following the notice and cure period in §12.B and the dispute resolution process in §14 shall have all remedies available at law and equity.

14. DISPUTE RESOLUTION

A. Initial Resolution

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

B. Resolution of Controversies

If the initial resolution described in §14.A fails to resolve the dispute within 10 Business Days, Grantee shall submit any alleged breach of this Agreement by the State to the Procurement Official of the Department of Natural Resources as described in §24-101-301(30), C.R.S. for resolution following the same resolution of controversies process as

described in §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the “Resolution Statutes”), except that if Grantee wishes to challenge any decision rendered by the Procurement Official, Grantee’s challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Grantee pursues any further action. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

15. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered **(A)** by hand with receipt required, **(B)** by certified or registered mail to such Party’s principal representative at the address set forth below or **(C)** as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party’s principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §15 without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

For the State:

Craig Godbout, Project Manager
Colorado Water Conservation Board

1313 Sherman Street, Room 718
Denver, CO 80203
Craig.Godbout@state.co.us
303-866-3441 x3210

For Grantee:

Laura Armstrong, Executive Director
Heart J. Center for Experiential
Learning @ Sylvan Dale Ranch
2939 N. County 31 Rd.
Loveland, CO 80538
Laura@heartjcenter.org
970-690-4221 (cell/text)

16. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Grantee hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Grantee cannot make any of the assignments required by this section, Grantee hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating

the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Grantee grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Grantee that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not Grantee is under contract with the State at the time, Grantee shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Grantee assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, "State Materials"). Grantee shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Grantee's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Grantee shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Grantee

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

17. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI,

Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.*, C.R.S.

18. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Grantee under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this **§18** shall apply. Grantee agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-601, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of Agreement performance information in the State's Agreement management system ("Contract Management System" or "CMS"). Grantee's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

19. GENERAL PROVISIONS

A. Assignment

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

B. Subcontracts

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

C. Binding Effect

Except as otherwise provided in **§19.A.**, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

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

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

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

G. Entire Understanding

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

H. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

I. Modification

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

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

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

K. Order of Precedence

In the event of a conflict or inconsistency between this Agreement and any Exhibits or attachment such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. Colorado Special Provisions in **§20** of the main body of this Agreement.
- ii. The provisions of the other sections of the main body of this Agreement.
- iii. Exhibit A, Statement of Work.
- iv. Exhibit B, Budget.
- v. Exhibit C, Sample Option Letter.
- vi. Exhibit D, Performance Evaluation

L. Severability

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

M. Survival of Certain Agreement Terms

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

N. Taxes

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

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §19.A., this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

P. Waiver

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

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-103.5-101, C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

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

S. Licenses, Permits, and Other Authorizations.

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

T. Indemnification

i. General Indemnification

Grantee shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims,

damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Grantee, or its employees, agents, Subcontractors, or assignees in connection with this Agreement.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Grantee in violation of §20 may be cause for legal action by third parties against Grantee, the State, or their respective agents. Grantee shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation to any act or omission by Grantee, or its employees, agents, assigns, or Subcontractors in violation of §20.

iii. Intellectual Property Indemnification

Grantee shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

20. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-1)

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

A. CONTROLLER'S APPROVAL. §24-30-202(1), C.R.S.

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

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

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

C. GOVERNMENTAL IMMUNITY.

No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).

D. INDEPENDENT CONTRACTOR

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits will be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth

herein. Grantee shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

Grantee 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.

F. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. 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 Agreement, to the extent capable of execution.

G. BINDING ARBITRATION PROHIBITED.

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

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

State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Agreement and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

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 Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

J. VENDOR OFFSET. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et*

seq., C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, *et seq.*, C.R.S.

[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] Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program established under Pub. L. 104-208 or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a Subcontractor that fails to certify to Grantee that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Grantee (i) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed, (ii) shall notify the Subcontractor and the contracting State agency within 3 days if Grantee has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Agreement, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or §§8-17.5-101 *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Grantee shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq.*, C.R.S.

Grantee, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that he or she (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of §§24-76.5-101 *et seq.*, C.R.S., and (iii) has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Agreement.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

EXHIBIT C, SAMPLE OPTION LETTER

State Agency Colorado Water Conservation Board (CWCB)	Option Letter Number
Grantee Heart J Center for Experiential Learning at Sylvan Dale Ranch	Original Agreement Number CMS 108569 CTGG1 2018-1760
Current Agreement Maximum Amount (Initial Term)	Option Agreement Number
	Agreement Performance Beginning Date
	Current Agreement Expiration Date

1. **OPTIONS:**
 - A. Option to extend for an Extension Term
2. **REQUIRED PROVISIONS:**
 - A. **For use with Option 1(A):** In accordance with Section 2.C., of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning _____ and ending on the current Agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
3. **OPTION EFFECTIVE DATE:**
 - A. The effective date of this Option Letter is upon approval of the State Controller or _____, whichever is later.

<p>STATE OF COLORADO John W. Hickenlooper, Governor GRANTEE Heart J Center for Experiential Learning at Sylvan Dale Ranch</p> <p>By: _____ Signature</p> <p>NAME: _____</p> <p>TITLE: _____</p> <p>DATE: _____</p>	<p>In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p>STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____ Signature</p> <p>Name: _____</p> <p>Title: _____</p> <p>Option Effective Date: _____</p>
--	---

Exhibit A
Date Prepared 12/26/17
Statement of Work

WATER ACTIVITY NAME - Sylvan Dale Ranch Agricultural Water Conservation and ATM Project

GRANT RECIPIENT – Heart J Center for Experiential Learning at Sylvan Dale Ranch

FUNDING SOURCE - The Alternative Agricultural Water Transfer Methods Competitive Grant Program

INTRODUCTION AND BACKGROUND

The project team will work with the owners of the historic Sylvan Dale Ranch (SDR), a 3,200-acre working guest ranch located at the mouth of the Big Thompson Canyon west of Loveland, Colorado, to implement agricultural water efficiency measures and an Alternative Agricultural Water Transfer Methods Competitive Grant Program (ATM) water agreement with a local municipal/industrial water provider. The ranch has a total of 259 Colorado-Big Thompson (C-BT) units and 2.5 Handy Ditch shares to irrigate approximately 206 acres of pasture grass and alfalfa and raise 100% grass-fed and grass-finished cattle for local consumption.

Considering the high value of C-BT (upward of \$30,000/unit) and that they are exempt from return flow obligations that native ditch water is subject to, this project seeks to maximize the agricultural efficiencies, thereby capitalizing on this asset while maintaining a productive agricultural operation and protecting the agricultural heritage and community of Sylvan Dale Ranch. The two efficiency measures being contemplated for this project include subsurface drip and/or precision mobile drip irrigation. Without return flow obligations with C-BT, water savings due to efficiency measures can be used to increase yields on existing acreage, expand the overall irrigated acreage and/or market to others.

The project team will perform a feasibility analysis of the SDRs water needs and provide recommendations on the most appropriate type of water sharing agreement to explore with potential municipal partners. The agreement could include an interruptible water supply (i.e. 3 out of 10 years), partial year irrigation, and/or deficit irrigation.

In addition, the project team will be looking for strategies that improve flows in the Big Thompson River (i.e. downstream deliveries to a municipal partner) as well as opportunities for public education through the Heart J Center for Experiential Learning (a non-profit organization that offers place-based educational programming at the SDR) and/or the Big Thompson Watershed Coalition.

OBJECTIVES

List the objectives of the project

The objectives of this project consist of 2 primary components:

- 1) Implement agricultural water efficiency measures (e.g. subsurface drip irrigation), and
- 2) Implement an agricultural-municipal water agreement (i.e. ATM) involving some or all the C-BT units.

TASKS

TASK 1 – Farmland Viability Analysis

Description of Task

Western Water Partnerships and team will analyze the baseline conditions on the ranch and examine opportunities for water efficiency improvements and for a water sharing agreement with a municipal partner involving various strategies including interruptible water supply agreements, deficit irrigation, and/or partial season irrigation. This analysis will also include an analysis of the existing conservation easements and/or deed restrictions to ensure each water management option is accordance with the terms. The project team will provide finding and recommendations for both agricultural water efficiency measures and ATM strategies to pursue.

Deliverable

Write-up on the Final Farmland Viability Analysis

TASK 2 – Agricultural Water Efficiency Measures

Description of Task

Building off the findings and recommendations in the Land and Water Analysis in Task 1, the team will determine the most appropriate agricultural water efficiency measure(s) for each irrigated parcel and implement the improvements. SDR has approximately 206 acres of farm land irrigated either through a lateral moved sprinkler system or center pivot sprinklers.

Considering the high value of C-BT and that they are exempt from return flow obligations that native ditch water is subject to, this project seeks to maximize the agricultural efficiencies to capitalize on this asset while maintaining a productive agricultural operation and protecting the agricultural heritage and community of Sylvan Dale Ranch. The two efficiency measures being contemplated for this project include subsurface drip and/or precision mobile drip irrigation. Without return flow obligations with C-BT, water savings due to efficiency measures can be used to increase yields on existing acreage, expand the overall irrigated acreage, and/or market to others.

It is understood that the irrigated lands located on the upper bench (to the west of SDR's main lodge and river) is irrigated with a labor intensive, lateral moved sprinkler system, which will offer the largest water savings due to the inefficiencies inherent with this type of irrigation. While less water savings may be realized with the 'Big Valley' water as these lands are currently irrigated with two center pivot sprinklers, opportunities do exist (i.e. Precision Mobile Drip Irrigation) and estimated savings could be in the 10%-20% range. WWP proposes the following tasks related to agricultural water efficiency measures.

1. Analyze existing irrigation systems, crops and water rights portfolio, and recommend agricultural water efficiency measures;
2. Choose appropriate efficiency measures (e.g. subsurface irrigation, precision mobile drip irrigation) and implement;
3. Recommend changes in crop types and/or scheduling as appropriate (e.g. pasture grass to alfalfa);
4. Monitor water use after efficiency measures have been implemented (including associated crop yields); and
5. Determine options for SDR use of the 'saved water.' Options may include selling or leasing saved water to municipalities or to increase agricultural production on SDR.

The costs associated with the purchase and installation of the irrigation improvements (approximately \$200,000) will be financed primarily through an impact investor(s). This public-private partnership will help demonstrate opportunities for private impact investors seeking to make a positive impact by investing in agricultural water infrastructure and ATM projects while achieving a modest return on their investment.

Deliverable

Write-up on the recommendations for efficiency measures and documentation of installation of systems/equipment.

TASK 3 – Installation of SWIIM System and Monitoring for a 3-Year Term

Description of Task

The team will oversee the installation of the SWIIM System (Sustainable Water and Innovative Irrigation Management) and associated monitoring and reporting of water deliveries and use. SWIIM System is a full turn-key system for crop planning, optimization, water management, monitoring and reporting toolset. SWIIM System allows users to optimize water use and tracks savings within all elements of the crop water budget on an aggregated (system-wide) basis. SWIIM enables agricultural water rights owners to capture the economic benefits of managing water application with peak efficiency.

By installing this system, SDR will be able to precisely determine the water use and savings to make the most informed water management decisions for agricultural operations (i.e. maximizing/optimizing yields) and determining how much water is available for an interruptible water supply agreement with a municipal partner.

Deliverable:

In this task, the following will be installed and/or performed:

1. Installation of two (2) telemetry sites for two (2) existing McCrometer water meters: one at each center pivot location.
2. Installation of one (1) telemetry site for an existing Seametrics meter for the 42-acre parcel irrigated with Aluminum Handset Sprinkler pipe (Possible Drip Irrigation Conversion).
3. Installation of one (1) Campbell Scientific Climate sensor station near or between the three (3) irrigated field sites.
4. Monitoring and reporting of a complete water balance and Crop Consumptive water use for three (3) irrigated fields for the term of 36 months.

TASK 4 – Exploration of Municipal and Industrial Partners

Description of Task

Building off the findings and recommendations in the Land and Water Analysis in Task 1, the team will determine the most appropriate water agreement for SDR. The team will meet with potential municipal partners with the objective of developing a water agreement with SDR. As part of these discussions, the feasibility and potential costs for implementing an alternative transfer mechanism will be investigated and gauged. Legal services, including the review of the term sheet and development of a Letter of Intent, will also be part of this task.

1. Determine the type(s) of water agreement to be pursued (e.g. interruptible water supply agreement, rotational fallowing, and/or partial supply).
2. Explore interest from municipal and/or industrial partners in the water rights associated with the property. As part of these discussions, the feasibility and potential costs for implementing an alternative transfer mechanism will be investigated and gauged.
3. Ensure that the water agreement is compatible with the conservation easement and deed restrictions.
4. Develop the general terms of the water agreement including each party's costs, purchase/lease price, and other responsibilities for each party.

Deliverable

Letter of Intent from municipal or industrial partner expressing interest in negotiating a water sharing agreement with the farmer.

TASK 5 – Execute Water Sharing Agreement

Description of Task

The purpose of this task is to work with the parties to develop a mutually acceptable water supply agreement or contract between the owner of the land and the M&I water provider. In this task, the project team will negotiate with the participating M&I water provider to determine the specific terms of the water supply contract. This will include:

1. Develop a contractual agreement between Sylvan Dale Ranch and the municipal partner describing in detail the terms agreed upon in the Letter of Intent (Task 3).
2. Request approval from Northern Water on the agricultural-municipal water agreement.
3. Close and execute the water agreement.

Deliverable

Fully Executed Water Sharing Agreement

TASK 6 – Farm & Water Operations Plan

Description of Task

A Farm and Water Operations Plan will be developed to inform strategies for maintaining the viability of the farm into the future. It will provide operational recommendations from a water supply and irrigation perspective so that combined farming sales revenues and water lease/sales revenues will sustain the operational costs of the farm in the long term. The plan will also provide recommendations for operations for multiple water supply scenarios, including years with a full water supply and years that the municipality uses some of the water for off-farm uses pursuant to the ATM. The plan should be used as a guide for the management of the water and land with the ATM water agreement. The intent of the plan is to provide guidance on how to maximize the use and management of the water and land in such a way that benefits all parties and fulfills the multiple purposes for which the land and water were conserved.

Deliverable

Farm and Water Operations Plan

Task 7 – Education and Public Outreach

Description of Task

Heart J Center will offer field trips and research days to spread the word about the agricultural water conservation solutions implemented at the Sylvan Dale Ranch, to inform community members, organizations, local schools, and faculty and students from relevant university departments about the importance of water conservation and to monitor and share results from the project. Audiences for the workshops and research include high school agriculture students, university faculty and students, landowners and agency representatives.

Deliverable

Heart J Center will host a symposium for landowners, practitioners, stakeholders, and researchers from across Colorado. Participants at the symposium will explore the Sylvan Dale Ranch project as a tangible example of agricultural water efficiency solutions in action and explore the conservation savings from both environmental and economic perspectives.

Heart J Center will also conduct at least five (5) field trips and research days exploring different facets of the efficiency systems, including the design, application, and monitoring the results. Data, photos and technical information from the project, including the results of discussions and analysis from the symposium, will be compiled online and shared broadly.

Task 8- Project Management

Description of Task

This task involves the management of the project, including conducting team meetings, calls and grant management responsibilities including submitting regular progress reports and invoicing. This task also includes directing sub-contractor efforts to complete the deliverables of the project.

Deliverable

Regular progress reports and invoicing.

Task 9: Final report to the CWCB

Description of Task:

The purpose of this task is to compose a final report to the CWCB describing the implementation of an ATM project, including any legal, political, financial, or other obstacles that we encounter along the way, lessons learned, and also templates for agreements and road maps that other communities or conservation organizations could use to implement ATMs and accomplish irrigated farmland conservation.

Final Deliverable

A final report (electronic and hardcopies) describing the ATM project.

REPORTING AND FINAL DELIVERABLE

Reporting: The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract. The progress report shall describe the completion or partial completion of the tasks identified in the statement of work including a description of any major issues that occur and any corrective actions taken to address them.

Final Deliverable: At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents how the project was completed. This report may contain photographs, summaries of meetings and engineering reports/designs.

Reporting Requirements

Progress Reports: The grantee shall provide the CWCB a progress report every 6 months, beginning from the date of issuance of a purchase order, or the execution of a contract. The progress report shall describe the status of the tasks identified in the statement of work, including a description of any major issues that have occurred and any corrective action taken to address these issues. The CWCB may withhold reimbursement until satisfactory progress reports have been submitted.

Final Report: At completion of the project, the grantee shall provide the CWCB a Final Report on the grantee's letterhead that:

- Summarizes the project and how the project was completed.
- Describes any obstacles encountered, and how these obstacles were overcome.
- Confirms that all matching commitments have been fulfilled.
- Includes photographs, summaries of meetings and engineering reports/designs.

Payments

Payment will be made based on actual expenditures, must include invoices for all work completed and must be on grantee's letterhead. The request for payment must include a description of the work accomplished by task, an estimate of the percent completion for individual tasks and the entire Project in relation to the percentage of budget spent, identification of any major issues, and proposed or implemented corrective actions.

The CWCB will pay the last 10% of the entire water activity budget when the Final Report is completed to the satisfaction of CWCB staff. Once the Final Report has been accepted, and final payment has been issued, the water activity and purchase order or contract will be closed without any further payment. Any entity that fails to complete a satisfactory Final Report and submit to CWCB within 90 days of the expiration of a purchase order or contract may be denied consideration for future funding of any type from CWCB.

Performance Requirements

Performance measures for this contract shall include the following:

(a) Performance standards and evaluation: Grantee will produce detailed deliverables for each task as specified. Grantee shall maintain receipts for all project expenses and documentation of the minimum in-kind contributions (if applicable) per the budget in Exhibit B. Per Grant Guidelines, the CWCB will pay out the last 10% of the budget when the final deliverable is completed to the satisfaction of CWCB staff. Once the final deliverable has been accepted, and final payment has been issued, the purchase order or grant will be closed without any further payment.

(b) Accountability: Per the Grant Guidelines full documentation of project progress must be submitted with each invoice for reimbursement. Grantee must confirm that all grant conditions have been complied with on each invoice. In addition, per the Grant Guidelines, Progress Reports must be submitted at least once every 6 months. A Final Report must be submitted and approved before final project payment.

(c) Monitoring Requirements: Grantee is responsible for ongoing monitoring of project progress per Exhibit A. Progress shall be detailed in each invoice and in each Progress Report, as detailed above. Additional inspections or field consultations will be arranged as may be necessary.

(d) Noncompliance Resolution: Payment will be withheld if grantee is not current on all grant conditions. Flagrant disregard for grant conditions will result in a stop work order and cancellation of the Grant Agreement.



COLORADO
Colorado Water
Conservation Board
Department of Natural Resources

Last Updated: July 5, 2017

EXHIBIT B BUDGET AND SCHEDULE

Colorado Water Conservation Board

Alternative Agricultural Water Transfer Methods Competitive Grant Program

Budget and Schedule

Date: December 5, 2017

Name of Applicant: Heart J Center for Experiential Learning

Name of Water Project: Sylvan Dale Ranch Water Agricultural Water Conservation and ATM Project

Task No.	Task Description	Project Cost by Task	Matching Funds	CWCB Grant Request
TASK 1 – Farmland Viability Analysis	Analyze the ATM and develop scenarios on how the farm would operate during normal years, ATM years and recovery years. Provide recommendations on farm/watermanagement with ATM. Determination of the type of ATM to be pursued (e.g. Interruptible water supply agreement, rotational fallowing, partial supply). The task will explore ag water efficiency improvements and provide recommendations.	\$ 23,500.00	\$ 15,000.00	\$ 8,500.00
TASK 2 – Agricultural Water Efficiency Measures	Analyze existing irrigation systems, crops and water rights portfolio, and recommend agricultural water efficiency measures to implement.	\$ 215,000.00	\$ 180,000.00	\$ 35,000.00
TASK 3 – Installation of SWIIM System and Monitoring for a 3-Year Term	Monitoring and reporting of a complete water balance and Crop Consumptive water via the installation of SWIIM System.	\$ 39,000.00	\$ -	\$ 39,000.00
TASK 4 – Exploration of Municipal and Industrial Partners	Meet with potential Municipal & Industrial end users. Develop a draft report outlining the options.	\$ 24,000.00	\$ 15,000.00	\$ 9,000.00
TASK 5 – Execute Water Sharing Agreement	Develop a termsheet between farmer & municipal or industrial user. Draft and execute water sharing agreement between SDR and municipal partner.	\$ 32,000.00	\$ -	\$ 32,000.00
TASK 6 – Farm & Water Operations Plan	Develop document to provide guidance for the farmer on operational options during ATM years and recovery years. Guidance may include water rights operations strategies, recommendations for specific farm improvements and cropping options for certain years.	\$ 21,000.00	\$ -	\$ 21,000.00
TASK 7 – Education and Public Outreach	Heart J Center to provide public education on agricultural water conservation solutions implemented at the Sylvan Dale Ranch and the water sharing agreement with a municipal partner. Coordinate and facilitate conference at SDR on the project.	\$ 11,000.00	\$ -	\$ 11,000.00
TASK 8- Project Management	Coordinate team efforts including meetings, calls and ensuring that project is on-task and on-schedule.	\$ 5,000.00	\$ -	\$ 5,000.00
TASK 9: Final report to the CWCB	Develop electronic and hardcopy versions of a final report detailing the process of developing the ATM project and ag water conservation measures, lessons learned and recommendations for improvement.	\$ 15,750.00	\$ -	\$ 15,750.00
Indirect Costs	Mileage, Copies and administration costs	\$ 21,000.00	\$ -	\$ 21,000.00
Total		\$ 407,250.00	\$ 210,000.00	\$ 197,250.00

Project Personnel:	Project Manager (WWP)	Engineering	Agronomist	Economist/ Financial Analyst	Legal	Heart J Center	Total Labor Costs	CWCB Grant Request	Matching Funds
Hourly Rate:	\$150	\$175	\$125	\$225	\$250	\$150	\$150		
TASK 1 – Farmland Viability Analysis	\$7,000	\$11,000	\$1,000	\$2,500	\$2,000	\$0	\$23,500	\$8,500	\$15,000
TASK 2 – Agricultural Water Efficiency Measures	\$7,000	\$4,000	\$1,000	\$1,000	\$2,000	\$0	\$15,000	\$15,000	
TASK 3 – Installation of SWIIM System and Monitoring for a 3-Year Term	\$2,500	\$2,000	\$1,000	\$0	\$500	\$0	\$6,000	\$6,000	
TASK 4 – Exploration of Municipal and Industrial Partners	\$10,000	\$5,000	\$500	\$2,000	\$6,500	\$0	\$24,000	\$9,000	\$15,000
TASK 5 – Execute Water Sharing Agreement	\$5,000	\$3,000	\$500	\$1,000	\$22,500	\$0	\$32,000	\$32,000	
TASK 6 – Farm & Water Operations Plan	\$5,500	\$10,000	\$1,500	\$1,500	\$2,500	\$0	\$21,000	\$21,000	
TASK 7 – Education and Public Outreach	\$1,000	\$0	\$0	\$0	\$0	\$5,250	\$6,250	\$6,250	
TASK 8- Project Management	\$5,000	\$0	\$0	\$0	\$0	\$0	\$5,000	\$5,000	
TASK 9: Final report to the CWCB	\$6,500	\$5,000	\$500	\$1,000	\$1,500	\$1,250	\$15,750	\$15,750	
Total Hours:	330	229	48	40	150	43			
Total Labor Costs:	\$49,500	\$40,000	\$6,000	\$9,000	\$37,500	\$6,500	\$148,500		
Direct Costs:									
SWIIM Systems							\$ 33,000	\$33,000	
Irrigation Improvements							\$ 200,000	\$20,000	\$180,000
Mileage							\$ 2,500	\$2,500	
Copies (including final report)							\$ 1,000	\$1,000	
Conference at SDR							\$ 4,750	\$4,750	
Subtotal								\$ 179,750	
10% Administration								\$ 17,500	
Total CWCB Grant Request							\$ 407,250	\$ 197,250	\$210,000
							Total project costs	CWCB grant request	Matching Funds

[illegible]

Exhibit D
Heart J. Center for Experiential Learning at Sylvan Dale Ranch
Alternative Agricultural Transfer Account Grant
Performance Monitoring Provisions

Statutory Requirements

For each personal services contract with a value over \$100,000, the individual selected by the state agency or institution of higher education (IHE), pursuant to CRS§ 24-103.5-101(3), shall monitor the contractor's work under the contract and shall certify as to whether the contractor is complying with the terms of the contract pursuant to CRS§ 24-103.5-101(5).

- (a) Performance measures and standards developed specifically for the contract by the governmental body administering the contract. The performance measures and standards shall be negotiated by the governmental body and the vendor prior to execution of the contract and shall be incorporated into the contract. The measures and standards shall be used by the governmental body to evaluate the performance of the governmental body and the vendor under the contract.
- (b) An accountability section that requires the vendor to report regularly on achievement of the performance measures and standards specified in the contract and that allows the governmental body to withhold payment until successful completion of all or part of the contract and the achievement of established performance standards. The accountability section shall include a requirement that payment by the governmental body to the vendor shall be made without delay upon successful completion of all or any part of the contract in accordance with the payment schedule specified in the contract or as otherwise agreed upon by the parties.
- (c) Monitoring requirements that specify how the governmental body and the vendor will evaluate each others' performance, including progress reports, site visits, inspections, and reviews of performance data. The governmental body shall use one or more monitoring processes to ensure that the results, objectives, and obligations of the contract are met.
- (d) Methods and mechanisms to resolve any situation in which the governmental body's monitoring assessment determines noncompliance, including termination of the contract.

Performance Monitoring Standards

Performance monitoring for this contract shall include the following:

- (a) Performance measures and standards: Grantee shall maintain receipts for all projects expenses and documentation of the minimum in-kind contributions per the budget in Exhibit A tasks. Per the Criteria and Guidelines, The CWCB will pay the last 10% of the entire water activity budget when the Final Report is completed to the satisfaction of CWCB staff.
General Reporting: The applicant shall provide the CWCB a progress report every 6 months, beginning from the date of the executed contract until the construction begins. The progress report shall describe the completion or partial completion of the statement of work leading up to the advertisement for bid and including a description of any major issues that have occurred and any corrective action taken to address these issues.
Final Deliverable: At completion of the project, the applicant shall provide the CWCB a final report that summarizes the project and documents the project. This report may contain photographs, summaries of meetings and reports/studies. Grantee shall maintain receipts for all project expenses and documentation of the minimum in-kind contributions per the budget in Exhibit A. Per the Criteria and Guidelines, 10% of the entire water activity budget will be released upon receipt of the final report and all other deliverables.
- (b) Accountability: Per the Criteria and Guidelines full documentation of project progress must be submitted with each invoice for reimbursement. Grantee must certify that all grant conditions have been complied with on each invoice. In addition, per the Criteria and Guidelines progress reports must be submitted at least once every 6 months. A final project report must be submitted and approved before final project payment and release of remaining funds is made.

(c) Monitoring Requirements: Grantee is responsible for ongoing monitoring of project progress per Exhibit A and Paragraphs 9 & 19 of the contract. Progress shall be detailed in the required invoice documentation and progress reports as detailed above. Additional inspections or field consultations will be arranged as may be necessary.

(d) Noncompliance Resolution: Per paragraphs 9, 14, 15, and 19 of the contract: payment will be withheld until grantee is current on all grant conditions. Flagrant disregard for grant conditions will result in a stop work order and cancellation of the purchase order or contract.