



**Impact Development Fund**  
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## Colorado Community Revitalization Grant Contract

<b>Grantee Name</b>	City of Fort Collins – Cultural Resources
<b>Grantee Mailing Address</b>	215 N. Mason Fort Collins, CO 80524
<b>Grantee Contact Name</b>	Jim McDonald
<b>Grantee Phone</b>	970-416-2935
<b>Grantee Email</b>	<a href="mailto:jmcdonald@fcgov.com">jmcdonald@fcgov.com</a>
<b>Project Name</b>	Carnegie Center for Creativity
<b>Project Location</b>	200 Mathews St, Fort Collins, CO 80524
<b>Grant Amount</b>	\$2,400,000
<b>Repayment Obligations</b>	None
<b>Funding Date</b>	November 25, 2022
<b>Community Revitalization Grant Application #</b>	CCR21-9868602917

## **Colorado Community Revitalization Grant Terms**

**IDF has received authority to administration of payments and application review/grant underwriting for Community Revitalization Colorado grant program from the Colorado Office of Economic Development and International Trade through the authority of SB21-252. All provisions of the Colorado Special Provisions (Colorado Fiscal Rule 3-3) stated in “*Exhibit A*” apply IDF and to this Grant.**

To assist IDF in administering the Grant to you, you agree to provide upon request all information reasonably deemed necessary by IDF to successfully complete administration of the Grant to you. You authorize IDF to commence Grant administration efforts immediately and agree to actively assist IDF in administering the Grant to you. IDF reserves the right (in consultation with you) to allocate the commitments offered by Community Revitalization Colorado Grant Program.

You hereby agree that IDF shall have the exclusive right to structure, arrange and administer the Grant to you and that no other Grant administrators will be engaged without IDF’s prior written consent.

You will make yourself available for meetings with IDF, Community Revitalization Colorado Grant Program and/or their affiliates during the Grant administration process. IDF and Community Revitalization Colorado Grant Program shall be expressly permitted to distribute any and all documents and information relating to the transactions contemplated hereby and received from you or any other source to any potential lender, grant administrator, participant, or assignee on a confidential basis.

In addition to the conditions to funding or closing set forth herein, the Grant award is subject to, among other conditions, (a) IDF and Community Revitalization Colorado Grant Program’s satisfactory completion of its final due diligence with respect to your application and Program materials, including the representations made within, (b) the negotiation and execution of any documentation necessary to fulfill this Grant award, (c) there being no material adverse change in your eligibility for the Program (d) there not having occurred a material disruption or material adverse change in the financial, banking or capital markets which, in IDF or Community Revitalization Colorado Grant Program’s reasonable judgment, could reasonably be expected to materially impair administration of the Grant.

In the event of a material disruption or material adverse change in the financial, banking or capital markets that could reasonably be expected to materially impair administration of the Grant, you hereby agree to enter into such modifications to the terms of the Grant award as IDF or Community Revitalization Colorado Grant Program may reasonably request as necessary for administering the Grant and, in the event that administration of the Grant shall prove to be impracticable in IDF or Community Revitalization Colorado Grant Program’s reasonable determination, such modifications to the Grant award as IDF or Community Revitalization Colorado Grant Program may reasonably request as necessary to make administration of the Grant reasonably practicable.

You hereby represent and covenant that (a) all written information (the “Information”) that has been or will be made available to IDF or Community Revitalization Colorado Grant Program by you or any of your representatives (in each case, with respect to Information furnished to IDF or

## EXHIBIT A

Community Revitalization Colorado Grant Program prior to the date of commencement of administration of the Grant, as supplemented from time to time prior to such date) is or will be complete and correct in all material respects and does not or will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made and (b) all financial projections (“Projections”) that have been or will be made available to IDF or Community Revitalization Colorado Grant Program by you or any of your representatives have been or will be prepared in good faith based upon assumptions you believe to be reasonable (it being understood that the Projections are subject to significant uncertainties and contingencies, many of which are beyond your control, and that no assurance can be given that such Projections will be realized). You understand that in administering the Grant, IDF or Community Revitalization Colorado Grant Program may use and rely on the Information and Projections without independent verification thereof.

In consideration of the execution and delivery of this Grant Contract by IDF and the Grant awarded hereunder, you hereby agree to indemnify, exonerate and hold IDF and Community Revitalization Colorado Grant Program, and each of its officers, directors, employees, affiliates and agents (each an “Indemnified Party”) free and harmless from and against any and all actions, causes of action, suits, losses, liabilities, damages and expenses, including attorneys’ fees and expenses (including the allocated fees and disbursements of internal legal services) (collectively, the “Indemnified Liabilities”), incurred by the Indemnified Parties or any of them as a result of, or arising out of, or relating to the Grant or other similar transactions financed or proposed to be financed in whole or in part, directly or indirectly, with the proceeds of any of the Grant, or the execution, delivery, performance or enforcement of this Grant Contract, or administering the Grant, by any of the Indemnified Parties, except for any such Indemnified Liabilities arising on account of the applicable Indemnified Party’s gross negligence or willful misconduct as determined by a final, non-appealable judgment by a court of competent jurisdiction. If and to the extent that the foregoing undertaking may be unenforceable for any reason, you hereby agree to make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable law. No Indemnified Party shall be liable for any damages arising from the use by others of any information or other materials obtained in connection with this Grant Contract, the Grant or administering the Grant, nor shall any Indemnified Party have any liability with respect to, and you hereby waive, release and agree not to sue for, any special, indirect or consequential damages relating to this Grant Contract or arising out of its activities in connection herewith or therewith (whether before or after administration of the Grant). Your obligations under this paragraph will survive administration of the Grant to you.

Each party acknowledges that this Grant Contract supersedes any and all discussions and understandings, written or oral, between or among you and IDF or Community Revitalization Colorado Grant Program, and any other person as to the subject matter hereof. This Grant Contract may only be amended, waived, or modified in writing and executed by the parties hereto.

The terms contained in this Grant Contract are confidential and, except for disclosure to professional advisors retained by you or as may be required by law or court order, may not be disclosed in whole or in part to any other person or entity without IDF and Community Revitalization Colorado Grant Program’s prior written consent; provided that any information with respect to the “tax treatment” or “tax structure” (in each case, within the meaning of Treasury Regulation Section 1.6011-4) of the

EXHIBIT A

transactions contemplated herein shall not be confidential and each party hereto may disclose without limitation of any kind any information with respect to the “tax treatment” or “tax structure” (in each case, within the meaning of Treasury Regulation Section 1.6011-4). No disclosure permitted above shall create any third-party beneficiary as to the Grant. This paragraph shall survive any termination of this Grant Contract.

You will provide any and all reporting and metrics as required by the Community Revitalization Colorado Grant Program including but not limited to additional sources of capital for project including public and or private, progress reports on project, number of jobs created by project, number of affordable housing units, efficiency upgrades including renewable or clean energy.

This Grant Contract shall be a contract made and governed by the internal laws of the State of Colorado applicable to contracts made and to be performed entirely within such state, without regard to conflict of laws principles.

Each of the parties hereto hereby waives any right to a trial by jury in any action or proceeding to enforce or defend any rights under this grant Contract and agrees that any such action or proceeding shall be tried before a court and not by a jury.

Any litigation based hereon, or arising out of, under, or in connection with this grant Contract, shall be brought and maintained exclusively in the courts of the State of Colorado or in the United States District Court for the 10<sup>th</sup> Circuit District of Colorado, provided that nothing in this grant Contract shall be deemed or operate to preclude IDF or Community Revitalization Colorado Grant program from bringing suite or taking other legal action in any other jurisdiction. Each party hereto expressly and irrevocably submits to the jurisdiction of the courts of the State of Colorado and of the United States District Court for the 10<sup>th</sup> Circuit District Court of Colorado for the purpose of any such litigation as set forth above. Each party hereto expressly and irrevocably waives, to the fullest extent permitted by law, any objection which may be now or hereafter have to the laying of venue of any such litigation brought in such court referred to above and any claim that any such litigation has been brought in an inconvenient forum.

Community Revitalization Colorado Grant Program and Impact Development Fund are pleased to have this opportunity and look forward to working with you!

Sincerely,



Connie Ealey  
Director of Programs

Impact Development Fund  
P: 970-494-2021 | F: 970-494-2022  
Email: [connie@impactdf.org](mailto:connie@impactdf.org)

**We, the undersigned Grantee, hereby accept all terms of this Grant Contract with the Colorado Community Revitalization Grant Program, including all terms set forth herein.**

**GRANTEE:**

City of Fort Collins – Cultural Resources,  
a Colorado body politic

By: Kelly DiMartino  
Kelly DiMartino  
Title: City Manager

**EXHIBIT A**

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

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

**A. STATUTORY 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. If this Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Agreement shall not be valid until it has been approved by the State's Chief Information Officer 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.**

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 Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; 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. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

**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 shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Grantee shall (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 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, JURISDICTION, AND VENUE.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

**G. PROHIBITED TERMS.**

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

**H. SOFTWARE PIRACY PROHIBITION.**

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 AND ERRONEOUS PAYMENTS. §§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. The State may also 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 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.

**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 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 the program procedures of the Colorado Department of Labor and Employment (“Department Program”) to undertake pre-employment screening of job applicants while this Agreement is being performed, **(ii)** shall notify the Subcontractor and the contracting State agency or institution of higher education within three 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 three 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 Department 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 Department 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 Grantee **(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.