

**STATE OF COLORADO  
Colorado General Assembly  
Contract  
With  
Colorado Preservation, Incorporated**

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## **1. PARTIES**

This Contract (“Contract”) is entered into by and between Colorado Preservation, Incorporated (“Contractor”), and the STATE OF COLORADO acting by and through and for the use and benefit of the Colorado General Assembly ( the “State”). Contractor and the State hereby agree to the following terms and conditions.

## **2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY**

Pursuant to CRS §2-2-320 this Contract shall not be effective or enforceable until it is approved by the Director of the Office of Legislative Legal Services or the Director’s designee (the “Effective Date”). The State shall not be liable to pay or reimburse Contractor for any performance hereunder including, but not limited to, costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

## **3. RECITALS**

### **A. Authority and Approval**

Authority to enter into this Contract exists in CRS §§2-2-320, 2-3-1304.3, 2-3-1304.5, 12-47.1-1201 (5), and 24-82-108 (3), and any amendments to such provisions, and required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

### **B. Consideration**

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract. The Parties recognize and affirm that Colorado’s gold-plated Capitol dome is at the center of Colorado state government and is an iconic symbol of unparalleled historical significance in this state. The Parties recognize the commercial advertising value of support for repairs to the superstructure of the Colorado Capitol dome for businesses desiring to associate publicly with the effort to repair the superstructure of the dome. The Parties further recognize a monetary value in a private nonprofit enterprise having an exclusive right to market sponsorships to raise money through private donations for Colorado Capitol dome superstructure repairs. The Parties agree that this monetary value as a percentage of the total gross revenue generated in donations constitutes good and valuable consideration on the part of the State sufficient and adequate to support this Contract.

### **C. Purpose**

The State desires to engage Contractor to conduct cause-related marketing to obtain donations to raise money to go towards the costs of repairs to the superstructure of the dome of the Colorado Capitol Building.

### **D. References**

All references in this Contract 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.

## **4. DEFINITIONS**

The following terms as used herein shall be construed and interpreted as follows:

### **A. Contract**

“Contract” means this Contract, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Contract, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law.

### **B. Contract Funds**

“Contract Funds” means funds available for payment to Contractor pursuant to this Contract as set forth in §7(A) (Maximum Amount).

**C. Exhibits and other Attachments**

The following are attached hereto and incorporated by reference herein: **Exhibit A** (Statement of Work) and **Exhibit B** (MOU Regarding Transfer of Donated funds).

**D. Party or Parties**

“Party” means the State or Contractor and “Parties” means both the State and Contractor.

**E. Services**

“Services” means the required services to be performed by Contractor pursuant to this Contract.

**F. Subcontractor**

“Subcontractor” means a third-party, if any, engaged by Contractor to aid in performance of its obligations.

**G. Work**

“Work” means the tasks and activities Contractor is required to perform to fulfill its obligations under this Contract and the **Exhibits**, including the performance of the Services and delivery of the Work Product.

**H. Work Product**

“Work Product” means the tangible or intangible results of Contractor’s Work.

**5. TERM and EARLY TERMINATION**

**A. Term-Work Commencement**

The Parties’ respective performances under this Contract shall commence on the Effective Date. This Contract shall terminate January 1, 2013.

**B. Early Termination**

The parties recognize that they are entering into this contract pursuant to several provisions of Colorado law including, but not limited to CRS §§2-3-1304.3 and 24-82-108, and any amendments to such provisions. The parties agree that if subsequent amendments to such provisions necessitate early termination of this Contract, such termination shall be governed as provided in **§13.B.** Upon early termination, which shall be preceded by thirty (30) days prior written notice to Contractor, Contractor shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding subcontracts with third parties. Contractor shall complete and deliver to the State all Work, Services and Work Product. Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest. All materials owned by the State in the possession of Contractor shall be immediately returned to the State. The State shall reimburse Contractor for accepted performance up to the date of termination.

**6. STATEMENT OF WORK**

**A. Administration of Contract**

As specified in CRS §§2-3-1304.3 (2) through (6) and 24-82-108 and any amendments to such provisions, the Contractor shall make reports to the Capital Development Committee and the Capitol Building Advisory Committee as required. The Capital Development Committee shall appoint three persons, the approval of at least two of whom shall be required, for the approval of all sponsorship recognitions as necessary, with consideration for how such sponsorships promote public support for the Capitol dome restoration project and recognize major sponsors in a tasteful and appropriate manner consistent with the importance and historic nature of the Colorado Capitol Building. The Capital Development Committee shall provide periodic reports as necessary on the Contractor’s activities to the Executive Committee of the Legislative Council. The Contractor shall make reports and

transfer funds as required under this Contract to the State Department of Personnel and Administration.

**B. Completion**

Contractor shall complete the Work and its other obligations as described herein and in the **Exhibits** on or before July 2, 2012.

**C. Services and Work Product**

Contractor shall provide the Services and deliver the Work Product necessary to complete the Work. Such procurement shall be accomplished using the Contract Funds and shall not increase the maximum amount payable hereunder by the State.

**D. Employees**

All persons employed by Contractor or Subcontractors to perform Work under this Contract shall not be employees of the State for any purpose as a result of this Contract.

**7. PAYMENTS TO CONTRACTOR**

In accordance with the provisions of this **§7**, the Contractor shall be compensated in the amounts and using the methods set forth below:

**A. Maximum Amount**

The maximum amount payable under this Contract to the Contractor by the State is an administrative fee consisting of fifteen percent of the gross revenues generated by the separate components of the marketing campaign conducted by the Contractor. Under this Contract, the Contractor shall only be entitled to compensation as specified in this **§7**, and the Parties hereby agree that no state moneys shall otherwise be appropriated for purposes of paying the Contractor under this Contract.

**B. Payment and Reporting by Contractor**

Contractor shall obtain payment by retaining from the gross revenue, not including and any interest earned thereon, generated by certain components of the marketing campaign an administrative fee of fifteen percent of the revenue collected by the Contractor at such time as those funds are paid over to the State as specified in CRS § 2-3-1304.3 and any amendments to such provisions. If any grant is made by the State Historical Society from the State Historical Fund for the Capitol dome restoration project, the fifteen-percent administrative fee retained by the Contractor shall not apply to the amount of any such grant. The Contractor shall not earn an administrative fee for the children's campaign or the public gift campaign components of the marketing campaign.

**C. Use of Funds**

Contract Funds shall be used only for costs identified herein and/or in the **Exhibits**.

**8. REPORTING - NOTIFICATION**

Reports required under this **§8** shall be in accordance with the procedures of and in such form as prescribed by the State.

**A. Performance, Progress, Personnel, and Funds**

Contractor shall comply with all reporting requirements, if any, set forth in the **Exhibits**. On or before December 31, 2010, and by the end of each quarter thereafter, Contractor shall report to the Capitol Development Committee, the Capitol Building Advisory Committee, and the Department of Personnel on the status of its fund-raising efforts, the amount of money raised, including any interest earned on the money, and the amount and type of in-kind gifts and donations. Such reports shall include, at a minimum, a complete list of donors and the amount of donations from each donor or the specific type of in-kind gift donated. No later than June 1, 2011, June 1, 2012, and July 2, 2012, the Contractor shall transfer, as specified in **Exhibit B**, all funds and interest raised, less the allowed fifteen percent administrative fee under **§7**, to the State as specified in CRS § 2-3-1304.3 and any amendments to such provisions. Funds transferred to the state under this **§8** and **Exhibit B**

shall be transmitted to the State Treasurer for deposit into the Capitol Dome Restoration Trust Fund created in CRS § 2-3-1304.3 (6) and any amendments to such provisions.

#### **B. Litigation Reporting**

Within ten (10) days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Contract or which may affect Contractor's ability to perform its obligations hereunder, Contractor shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State's principal representative is not then serving, such notice and copies shall be delivered to the State Auditor.

#### **C. Noncompliance**

Contractor's failure to provide reports, notify the State, and/or transfer funds in a timely manner in accordance with this §8 may result in termination as provided under this Contract.

#### **D. Subcontracts**

Copies of any and all subcontracts entered into by Contractor to perform its obligations hereunder shall be submitted to the State or its principal representative upon request by the State. Any and all subcontracts entered into by Contractor related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subcontracts be governed by the laws of the State of Colorado.

### **9. CONTRACTOR RECORDS**

#### **A. Maintenance**

Contractor shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all work papers and reports pertaining in any manner to the Work or the delivery of Services or Work Product hereunder. Unless Contractor receives written notice of an extension from the State, the federal government or another duly authorized agent of a governmental agency, Contractor shall maintain such records for a period of five (5) years after (i) the date the Contractor's work is accepted by the State or (ii) the sooner expiration or termination of this Contract (collectively, the "Record Retention Period").

#### **B. Inspection**

Contractor, at no additional charge, shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Contractor's work papers and reports related to this Contract during the Record Retention Period to assure compliance with the terms hereof or to evaluate performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Contract, including any extensions or renewals.

#### **C. Monitoring**

Contractor shall permit the State, in their sole discretion, to monitor all activities conducted by Contractor pursuant to the terms of this Contract using any reasonable procedure.

### **10. REPRESENTATIONS AND WARRANTIES**

Each Party has relied on the representations and warranties of the other Party set forth below in entering into this Contract.

#### **A. Qualifications, Standards and Manner of Performance**

Contractor warrants that it is qualified to perform the Services and the Work Product.

#### **B. Legal Authority – Contractor Signatory**

Contractor warrants that it possesses the legal authority to enter into this Contract and that it has taken all actions required by its procedures, and by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Contract, or any part thereof, and to bind Contractor to its terms. If requested by the State,

Contractor shall provide the State with proof of Contractor's authority to enter into this Contract within fifteen (15) days of receiving such request.

**C. Licenses, Permits, Etc.**

Contractor represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have and maintain, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorizations required by law to perform its obligations hereunder. Contractor warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Contract, without reimbursement by the State or other adjustment in Contract Funds. Additionally, all employees, agents, and Subcontractors of Contractor performing Services under this Contract shall hold all required licenses or certifications, if any, to perform their responsibilities. Contractor, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Contractor to properly perform the terms of this Contract is a material breach by Contractor and constitutes grounds for termination of this Contract.

**D. Disclaimer**

Except for the representations and warranties expressly stated in this Contract, the Parties disclaim all representations and warranties, written or oral, express or implied.

**11. INSURANCE**

Contractor and its Subcontractors shall obtain and maintain, at all times during the term of this Contract, insurance policies issued by insurance companies satisfactory to Contractor and the State, in form and amount reasonably acceptable to the State, providing coverage for Worker's Compensation Insurance as required by State statute, Employer's Liability Insurance covering all of Contractor or Subcontractor employees acting within the course and scope of their employment, Commercial General Liability Insurance, and Professional Liability/Errors & Omissions. Upon request of the State, Contractor and all Subcontractors shall provide to the State certificates showing insurance coverage required hereunder.

**12. BREACH**

**A. Defined**

In addition to any breaches specified in other sections of this Contract, the following shall constitute a breach of this Contract:

**i. Material Obligations**

The failure of Contractor to perform any of its material obligations hereunder, to the satisfaction of the State, in whole or in part or in a timely or satisfactory manner; or

**ii. Satisfactory Performance**

The State, in its reasonable discretion, determines that satisfactory performance of Contractor's obligations under this Contract is substantially endangered; or

**iii. Bankruptcy**

The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within twenty (20) days after the institution or occurrence thereof; or

**iv. Material Misrepresentation**

Any statement, representation, or certification furnished by Contractor in connection with the Contractor's Proposal, Modifications to Contractor's Proposal or this Contract is false, deceptive, incorrect or incomplete in any material respects; or

**v. Failure to Timely Deliver Reports**

Failure by Contractor to complete and deliver reports by the dates specified in §8.

**B. Notice and Cure Period**

In the event of a breach, notice specifying the nature of such breach shall be given in writing by the aggrieved Party to the other Party in the manner provided in §14 (Notices and Representatives). If such breach is not cured within twenty (20) days of receipt of written notice, or if a cure cannot be completed within twenty (20) days and such cure has not begun within twenty (20) days and pursued with due diligence, the State may exercise any of the remedies set forth in §13 (Remedies).

**13. REMEDIES**

If Contractor fails to cure a breach under any provision of this Contract in accordance with §12(B) (Breach), the State, through the Chair of the Executive Committee of the Legislative Council, may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

**A. Termination for Breach**

The State may terminate this Contract upon written notice to Contractor. Exercise by the State of this right shall not be a breach of its obligations hereunder.

**B. Liquidated Damages**

Failure by Contractor to complete and deliver any segment of its marketing campaign by the dates specified in this Contract and **Exhibit A** (Statement of Work) shall result in liquidated damages determined to be all amounts raised by the Contractor and held for the benefit of the State, less the fifteen percent administrative fee. The Parties agree that the damages from Contractor's failure to timely deliver the money from the marketing campaign is difficult to provide or estimate, and the amount of liquidated damages specified herein represents a reasonable estimation of damages that will be suffered by the State from late performance. Assessment of liquidated damages shall not be exclusive or in any way limit the remedies available to the State, at law or in equity, for other breaches by Contractor under this Contract.

**14. NOTICES and REPRESENTATIVES**

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

**A. State:**

President of the Colorado Senate
Speaker of the Colorado House of Representatives
c/o Office of Legislative Legal Services
091 Colorado State Capitol

200 East Colfax Avenue
Denver, Colorado 80203

**B. Contractor:**

James K. Hare, Executive Director
Colorado Preservation, Inc.
333 West Colfax Avenue, Suite 300
Denver, Colorado 80204
jhare@coloradopreservation.org

**15. GOVERNMENTAL IMMUNITY**

Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the Governmental Immunity Act §24-10-101, et seq., and the risk management statutes, CRS §24-30-1501, et seq., as amended.

**16. GENERAL PROVISIONS**

**A. Assignment and Subcontracts**

Contractor's rights and obligations hereunder are personal and may not be transferred, assigned or subcontracted without the prior, written consent of the State. Any subcontract entered into subsequent to the Effective Date must be approved by the State in writing before it is reimbursable. Any attempt at assignment, transfer, subcontracting without such consent shall be void. All assignments, subcontracts, or subcontractors approved by Contractor or the State are subject to all of the provisions hereof. Contractor shall be solely responsible for all aspects of subcontracting arrangements and performance, including compliance with all applicable federal and state laws.

**B. Binding Effect**

Except as otherwise provided in **§16(A)** (Assignment and Subcontracts), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

**C. Captions**

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

**D. Counterparts**

This Contract may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

**E. Entire Understanding**

This Contract represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or affect whatsoever, unless embodied herein.

**F. Jurisdiction and Venue**

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

**G. Modification**

**i. By the Parties**

Except as specifically provided in this Contract, modifications of this Contract shall not be effective unless agreed to in writing by both Parties in an amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law.

**ii. By Operation of Law**

This Contract is subject to such modifications as may be required by changes in federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Contract on the effective date of such change, as if fully set forth herein.

**H. Order of Precedence**

The provisions of this Contract shall govern the relationship of the State and Contractor. In the event of conflicts or inconsistencies between this Contract and its exhibits and attachments, including, but not limited to, those provided by Contractor, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Colorado Special Provisions,**
- ii. The remaining provisions of the main body of this Contract,**
- iii. Exhibit A (Statement of Work),**
- iv. Exhibit B (MOU Regarding Transfer of Donated Funds),**

**I. Severability**

Provided this Contract can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this Contract in accordance with its intent.

**J. Survival of Certain Contract Terms**

Notwithstanding anything herein to the contrary, provisions of this Contract requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Contractor fails to perform or comply as required.

**K. Taxes**

- i. The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services are rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Contractor shall be solely liable for paying such taxes as the State is prohibited from paying or reimbursing Contractor for such taxes.**
- ii. Contractor shall be responsible for all withholding taxes, social security, unemployment, workers' compensation, or other taxes incidental to its employees, and shall hold the State harmless for any claims for the same.**

**L. Third Party Beneficiaries**

Enforcement of this Contract 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 Contract are incidental to the Contract, and do not create any rights for such third parties.

**M. Waiver**

Waiver of any breach under a term, provision, or requirement of this Contract, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

## **17. COLORADO SPECIAL PROVISIONS**

**The Special Provisions apply to all Contracts except where noted in italics.**

### **1. APPROVAL BY DIRECTOR OF OFFICE OF LEGISLATIVE LEGAL SERVICES.**

#### **CRS §2-2-320.**

This Contract shall not be valid until it has been approved by the Director of the Office of Legislative Legal Services or the Director's designee.

### **2. FUND AVAILABILITY. CRS §24-30-202(5.5).**

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

### **3. GOVERNMENTAL IMMUNITY.**

No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1336(b) and 2671 et seq., as applicable now or hereafter amended.

### **4. INDEPENDENT CONTRACTOR**

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits shall be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall not have authorization, express or implied, to bind the State to any contract, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

### **5. COMPLIANCE WITH LAW.**

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

### **6. CHOICE OF LAW.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Contract, to the extent capable of execution.

### **7. BINDING ARBITRATION PROHIBITED.**

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

### **8. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.**

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or

applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**9. EMPLOYEE FINANCIAL INTEREST. CRS §§24-18-201 and 24-50-507.**

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

**10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4.**

*[Not Applicable to intergovernmental agreements.]* Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

**11. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101.**

*[Not Applicable to Agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental Agreements, or information technology services or products and services.]* Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who shall perform work under this Contract and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this Contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the State program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

**12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.**

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Contract.

SPs Effective 1/1/09

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Draft Confidential 9/1/2010

**18. SIGNATURE PAGE**

MAA-11-\_\_\_\_\_

**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

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

<p><b>CONTRACTOR</b> COLORADO PRESERVATION, INCORPORATED</p> <p>By: James K. Hare Title: Executive Director</p> <p>_____ *Signature</p> <p>Date: _____</p>	<p><b>STATE OF COLORADO</b> <b>COLORADO GENERAL ASSEMBLY</b></p> <p>By: Brandon C. Shaffer Title: President, Colorado Senate</p> <p>_____ Signature</p> <p>By: Terrance D. Carroll Title: Speaker, Colorado House of Representatives</p> <p>_____ Signature</p> <p><b>LEGAL REVIEW</b> <b>OFFICE OF LEGISLATIVE LEGAL SERVICES</b> <b>APPROVAL</b></p> <p>By: _____ Charles W. Pike, Director</p> <p>Date: _____</p>
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## 19. EXHIBIT A – STATEMENT OF WORK



### Overview and Timeline

Colorado Preservation, Inc. (CPI) agrees to conduct a cause-related marketing campaign to raise \$8 million to be distributed to the State for the exclusive purpose of restoring the Colorado Statehouse Capitol Dome as authorized by SB-10-192 and HB-10-1402, codified as CRS §§ 2-3-1304.3, 2-3-1304.5, 12-47.1-1201 (5), and 24-82-108 (3) (b.5) (hereinafter referred to as “the statutes”).

The 3 segments of funding are defined as follows:

- A. Part 1 = \$4,000,000 derived from the State Historical Fund, July 2010
- B. Part 2 = \$4,000,000 Share in the Care Colorado’s funding goal for September 2010 to June 30, 2011.
- C. Part 3 = \$4,000,000 Share in the Care Colorado’s funding goal for July 1, 2011 to June 30, 2012.

*Share in the Care Colorado*, Colorado Preservation, Inc.’s two year, statewide campaign (the Campaign) has four separate components:

1. Public Awareness Campaign,
2. Corporate Partners’ Campaign,
3. Children’s Campaign and
4. Public Gift Campaign.

In **Part Two** (September 1, 2010 to June 30, 2011), Colorado Preservation, Inc. will continue the **Public Awareness Campaign** (which has been underway since receiving initial Capital Development Committee approval in 2009), and will initiate the **Corporate Partners Campaign** (*the marketing campaigns*).

Colorado Preservation, Inc. will earn an administrative fee of 15% of the gross revenue generated by the marketing campaigns. From the administrative fee revenue earned by Colorado Preservation, Inc., CPI will develop, conduct and pay for the expenses of the proposed **Children’s Campaign** and the **Public Gift Campaign** (*the gift campaigns*). CPI will not earn an administrative fee for the gift campaign portions of the Campaign.

In **Part Three** (July 1, 2011 to campaign termination on July 1, 2012), Colorado Preservation, Inc. will initiate the proposed **Children’s Campaign** and the **Public Gift Campaign**. The cost to Colorado Preservation, Inc. of the gift campaigns will not be less than 7% of CPI’s gross administrative fee. The revenue generated by the marketing campaigns in **Part Two** will determine the scope of the gift campaigns; e.g. if we raise \$4 million during **Part Two**, we will be able to launch the gift campaigns based on a “not less than budget” of \$42,000. In this regard, a proposal outlining the scope and details of the gift campaigns will be presented to Capitol Building Advisory Committee/Capital Development Committee for approval on or before May 1, 2011.

### **Reporting**

As required by the statutes, Colorado Preservation, Inc. “*shall submit quarterly reports to the Capital Development Committee and the Department of Personnel on the status of the fund-raising efforts and the amount of moneys raised, including any interest earned on the moneys and the amount and type of in-kind gifts and donations.*”. The first such report will be delivered at the end of the 2010 calendar fiscal year fourth quarter; i.e. by December 30, 2010.

Colorado Preservation, Inc. will request that it be included on the agenda of each CBAC meeting beginning in September 2010 so that it may report on interim progress for the Campaign. In addition, Colorado Preservation, Inc., will report to Capitol Building Advisory Committee/Capital Development Committee, the office of the State Architect, the Department of Personnel, upon reasonable request, and/or any Task Force created by these entities.

### **Transfer of Funds**

As required by the statutes, Colorado Preservation, Inc., has already coordinated a plan for the transfer of funds raised to the Department of Personnel and Administration. By mutual agreement included in this contract as **Exhibit B**, CPI shall transfer funds and interest, less the fifteen percent administrative fee, raised by certain portions of the Campaign to the State on June 1, 2011, June 1, 2012, and July 2, 2012.

### **Campaign Percentage Goals**

In order to reduce or eliminate the need for additional transfers of monies from the statewide grant program of the State Historical Fund, it is the goal of Colorado Preservation, Inc. to raise 100% of the second \$4 million required for the capitol dome restoration via the marketing campaigns prior to June 1, 2011.

In **Part Three**, Colorado Preservation, Inc.’s goal will be to raise 90% of the final \$4 million (or \$3.6 million) via the ***marketing campaigns***. The goal for the ***gift campaigns***, therefore, has been set at \$400,000, or five percent of the \$8 million target.

As required by the statutes, the Campaign must terminate on July 1, 2012. A final transfer of any additional revenue generated by the components of the campaign will be made to the Department of Personnel on July 2, 2012, to be credited to the Capitol Dome Restoration Trust Fund as required by law.

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## **20. EXHIBIT B – MOU REGARDING TRANSFER OF DONATED FUNDS**

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
COLORADO PRESERVATION, INC.  
AND  
COLORADO DEPARTMENT OF PERSONNEL AND ADMINISTRATION  
REGARDING TRANSFER OF DONATIONS FROM SHARE IN THE CARE COLORADO CAMPAIGN**

Whereas, Colorado Preservation, Inc., and the Colorado Department of Personnel and Administration desire for the parties' responsibilities to be clearly defined with respect to the transfer of funds from Colorado Preservation, Inc., to the Colorado Department of Personnel and Administration from the Share in the Care Campaign;

Therefore, Colorado Preservation, Inc., and the Colorado Department of Personnel and Administration, hereby agree that:

1. On June 1, 2011, June 1, 2012, and July 2, 2012, Colorado Preservation Inc., shall pay all funds raised by the Share in the Care Colorado Campaign during the period prior to such dates and any interest earned on such funds, less a fifteen percent administrative fee, to the Department of Personnel and Administration. With each such payment, Colorado Preservation, Inc., shall report the names of each donor, the amount donated, the total amount of funds raised during such period, and the amount of interest earned on the funds donated.

2. Funds received by the Department of Personnel and Administration pursuant to this Memorandum of Understanding shall be transmitted to the State Treasurer for deposit into the Capitol Dome Restoration Trust Fund created in CRS §2-3-1304.3.

The parties hereto have executed this Memorandum of Understanding:

**COLORADO PRESERVATION, INCORPORATED**

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By: James K. Hare

Title: Executive Director

**COLORADO DEPARTMENT OF PERSONNEL AND ADMINISTRATION**

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By: Tanya Olsen

Title: Controller

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