

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (“Agreement”) is made and entered by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City"), and **HISTORICORPS** ®, a nonprofit corporation authorized to do business in the State of Colorado, whose address as registered with the Secretary of State is 1420 N Ogden St #103, Denver, CO 80218 (“HistoriCorps”).

WITNESSETH:

WHEREAS, the City owns and operates, through its Department of Parks and Recreation, (Department) the Morrison Civilian Conservation Corps Camp (“CCC Camp”) situated within Red Rocks Park located at 300 Union Avenue, Morrison, Colorado 80465, which includes office space, storage building and vehicle parking; and

WHEREAS, the City desires to restore and activate the CCC Camp for compatible park uses; and

WHEREAS, HistoriCorps is a Denver-based 501(c)(3) non-profit organization that provides volunteers, students and veterans of all skill levels with hands-on experience preserving and rehabilitating historic structures on public lands through partnerships that foster community involvement, volunteer student and youth engagement and public education and training; and

WHEREAS, HistoriCorps desires new and additional storage lot space and office space as well as a new location for its administrative and operational headquarters; and

WHEREAS, the City desires to provide office space, storage, and parking as shown in **Exhibit 1** (“Premises”), to be used by HistoriCorps exclusively for nonprofit purposes within the mission of the organization, in consideration of certain volunteer preservation and educational training projects HistoriCorps will provide the Department; and

WHEREAS, HistoriCorps is suited and capable of satisfactorily performing the obligations set forth in this agreement; and

WHEREAS, it is in the best interest of the City to allow HistoriCorps to assist in the rehabilitation and activation of the CCC Camp through this partnership with HistoriCorps, which will be one of numerous benefits to the residents of the City of Denver and the general public provided under this agreement.

NOW, THEREFORE, for and in consideration of the mutual benefits and agreements hereinafter contained, the City and HistoriCorps hereby agree as follows:

1. AUTHORITY; PURPOSE; COOPERATIVE STATEMENT:

A. In accordance with the Charter of the City and County of Denver, Article VI, Section 2.4.4(F)(i), and subject to approval by the City Council, the Department is vested with

the power to enter into cooperative agreements with private agencies for the development of park and recreational facilities, and for programs, activities and maintenance of facilities.

B. HistoriCorps and the City acknowledge that HistoriCorps, Inc., in accordance with its mission statement and among other purposes, is established as a nonprofit corporation under the Colorado Nonprofit Corporation Act, as amended, and is subject to the *parens patriae* power of the State of Colorado acting through the Colorado Attorney General; and for the people of the City and County of Denver and the general public in cooperation with the City's Department of Parks and Recreation. HistoriCorps is hereby retained as an agent of the City to operate and maintain the premises as set forth herein.

C. The public purpose of this Agreement is to provide for the rehabilitation of historic structures in the Denver Mountain Park System and activation of the CCC Camp and programming and activities related to the CCC Camp and the Denver Mountain Park System, for the benefit of the people of the City and general public.

2. COORDINATION AND LIASON: HistoriCorps shall fully coordinate all obligations and activities under this Agreement with the Executive Director of the Department of Parks and Recreation ("Director"), or the Director's Designee.

3. PREMISES: Subject to the terms of this Agreement (hereinafter referred to as "Agreement"), the City agrees to provide office space, storage, common space and parking to HistoriCorps in exchange for certain volunteer historic preservation and educational training sessions and other historic preservation-related programming and activities (hereinafter referred to as "Projects") consistent with the purposes of this cooperative agreement, Article VI, §2.4.4 of the City Charter and HistoriCorps' mission statement.

4. TERM and TERMINATION:

A. Term: The term of this Agreement shall begin on the date of execution of this Agreement as signed by the Mayor of Denver, and shall terminate on that same month and day in the year 2022 ("Term"), unless sooner terminated pursuant to the terms of this agreement.

B. Termination:

1) The City and HistoriCorps may mutually agree to terminate this agreement.

2) The City may, upon good cause, terminate the Agreement for a material breach or default by HistoriCorps. If HistoriCorps fails to substantially cure or rectify the breach or default within the specified period of time (in no event less than 10 days following written notice of such default from the City, unless such shorter period of time is necessary to protect the health and safety of the public), the City shall have a right to re-enter the Premises and assume control and full use of the Premises as provided in Section 9.

3) The Agreement shall be deemed abandoned if HistoriCorps fails to occupy and use the Premises for a continuous period of six (6) months or assigns or subleases the Premises in violation of Section 20.

4) The Agreement shall be deemed abandoned if HistoriCorps does not provide project and volunteer services as described in Section 3 for a two-year period.

5) If both parties concur, the Agreement may be extended through additional amendments.

5. IN-KIND CONSIDERATION:

A. In-Kind Consideration: Programming and Activities: In exchange for the use of the Premises, HistoriCorps agrees to provide the Department two (2) week-long (10-days) Projects annually for the benefit of the City and the Department. Prior to November 1, 2018, the City will provide HistoriCorps with information regarding desired Projects. The City and HistoriCorps will cooperate in selecting projects. HistoriCorps will provide the City with its proposed schedule to complete the Projects, which will be approved by the City prior to implementation.

B. Annual Work Plan: HistoriCorps will submit an Annual Work Plan to the Contract Administrator on an annual basis by November 30th of each calendar year. The Annual Work Plan will identify DMP projects that will be completed within the next project season for the purpose of meeting consideration identified in Section A. The City and HistoriCorps must agree upon the projects and schedule for the coming year. HistoriCorps shall be responsible for the volunteer management and construction of the work necessary to complete the Improvements identified in the Annual Work Plan.

6. HISTORICORPS' OBLIGATIONS; MAINTENANCE AND CARE OF THE PREMISES:

A. Except as otherwise expressly provided in this Agreement, HistoriCorps shall maintain the Premises in safe condition and good repair. HistoriCorps shall provide janitorial and other general maintenance services, whether provided by its staff or by contract with a professional janitorial service company, at HistoriCorps' sole expense, for the entire Premises, and in doing so, to assure that the Premises are maintained in a clean, safe and sanitary condition readily usable by the public and any other users under this Agreement. Unless specific waiver is granted in writing by the City, any contract with a third-party vendor to provide services under this Section 6(A) shall be subject to each and every provision of this Agreement that would apply to such work or service had it been performed by HistoriCorps. Any such service or work contract shall also be subject to Applicable Law (as defined herein), including Prevailing Wages and the provision of bond or other surety, to the extent applicable. Compliance with the terms and restrictions of this Section 6(A) is the responsibility of HistoriCorps. HistoriCorps shall cooperate with the City Auditor's Office with respect to enforcement of the Prevailing Wage Ordinance, Chapter 20, §20-76. HistoriCorps shall, upon request, provide the City a copy of any written contract or agreement for work or services provided for the Premises.

B. Janitorial and general maintenance services shall include, among other things, the daily removal of trash and waste and providing for, as needed, sweeping, vacuuming, dusting, bathroom and kitchen cleaning, stain removal, graffiti removal and other general services to maintain the interior and exterior of the Premises.

C. No improvements to the Premises shall be undertaken, nor any of the costs pertaining to such improvements incurred, without prior written approval by the Director. All improvements shall be governed and controlled by such limitations and provisions as may be required as conditions to the Director's approval and all applicable laws. All improvements, including permanently attached fixtures, to the Premises are the property of the City and shall not be removed or replaced without the prior written approval by the Director.

7. USE:

A. The City does hereby authorize HistoriCorps to use and occupy the Premises subject to the terms and conditions of this Agreement, and solely for the purpose of operating a non-profit organization to provide and coordinate services within the stated mission of the organization, a non-profit corporation. Nothing in this Agreement is intended, nor shall it be construed, to create or grant a lease or any other property interest in the Premises or other land. Furthermore, nothing in this Agreement grants a concession license under section 2.4.4(C) of the City Charter. The use and occupancy of the Premises is strictly contingent upon HistoriCorps faithfully and consistently providing programming and services as set forth in this Agreement, any amendments to this Agreement, or any other Assignment Agreements or related agreements. HistoriCorps agrees not to use the Building, or permit the use of the Building, for any purpose prohibited by or contrary to the laws of the United States, the State of Colorado, the City's Charter or ordinances, or the rules and regulations of the Department of Parks and Recreation (the "Department"). HistoriCorps shall not use the Premises, or permit the use of the Premises, in any manner that results in waste of or damage to the Premises or that causes a nuisance.

B. Access: Upon occupancy of the Premises, HistoriCorps and employees, agents, guests, visitors, volunteers and HistoriCorps program participants shall have right of access through the CCC Camp to and from the Premises.

C. Office Space: HistoriCorps shall have the right to occupy Building 1 for administrative and operational use.

D. Parking: HistoriCorps shall have the right to park vehicles in designated areas identified in **Exhibit 1**. This may include HistoriCorps' vehicles or trailers, staff, visitors or volunteer vehicles.

E. Storage: HistoriCorps has the right to store supplies, materials, equipment or tools subject to certain limitations in this Agreement in the areas identified in **Exhibit 1**.

F. Common Space: HistoriCorps has the right to use outdoor areas adjacent to the office or parking areas for programing. Use of the Common Space must be temporary and

identified on the Annual Work Plan. Uses longer than 8-hours shall have written consent of the Director. Common space is identified in **Exhibit 1**.

G. Other CCC Camp Buildings or Facilities: Use of other CCC Camp Facilities or park facilities may be granted on a temporary basis for programing purposes by the Director or their representative. All appropriate elements of the Agreement remain in force for HistoriCorps for use of these areas.

H. General: HistoriCorps shall use the premises in a careful, safe, and proper manner, and shall not use or permit the Premises to be used for any purpose prohibited by the laws of the United States of America, the State of Colorado, or the Charter or ordinances of the City and County of Denver. HistoriCorps shall not commit or suffer to be committed any waste or damage upon the Premises or any nuisance to be created or maintained thereon. HistoriCorps shall also keep the Premises free and clear from all erosion, trash, debris, and waste resulting from its use or the use by its employees, officers, agents, invitees and visitors.

I. Meeting room(s) located on the Premise will be made available to the City free of charge for official meetings or events. City staff shall endeavor to schedule events at least a week ahead of time or as soon as reasonable to coordinate the use of the meeting room with HistoriCorps.

J. Security: HistoriCorps shall be responsible for locking and unlocking the doors to the Office Space, as needed and at such times as the Premises are not in use. HistoriCorps will assist the Department in securing and protecting the CCC Camp against theft, arson, vandalism or other illegal activity. HistoriCorps will promptly communicate with the City Contact whenever HistoriCorps staff is aware of any inappropriate, dangerous, destructive or illegal activity occurring in or around the Premises. HistoriCorps shall be entitled to securely store its vehicles, trailers and equipment in the areas designated as “office”, “parking” and “storage” in Sections 7C, 7D and 7E, respectively.

8. SCHEDULE OF USE: HistoriCorps will begin using the Premises based on the following schedule:

- A. Parking Areas: available upon the execution of this Agreement.
- B. Office Space (Building 1): available for use on April 1, 2018.
- C. Storage (Building 2): 50% of building available upon execution of this agreement, remaining 50% available for use on April 1, 2018.
- D. Common Space: available upon the execution of this Agreement.

9. “AS IS” CONDITION: Upon occupancy and use of the Premises (based on Section 5) HistoriCorps accepts the condition of the Premises in an “AS IS, WHERE IS” condition, with all faults and defects. The City does not make, and disclaims, any warranty or representation whatsoever, express or implied, and shall have no obligation or liability whatsoever, express or

implied, as to the condition of or any other matter or circumstance affecting the Premises. HistoriCorps also accepts the Premises acknowledging and accepting the current environmental conditions, including any asbestos and lead-based paint, and without any expectation that the City will remove or remediate the environmental conditions unless conditions become such that the City is compelled by federal or state law to do so. HistoriCorps agrees to comply with any operations and maintenance plan prepared by or on behalf of the City for maintaining asbestos-containing material or areas containing lead-based paint after a copy of said plan is provided to HistoriCorps. HistoriCorps shall not be obligated to remove or remediate any Hazardous Substances (hereinafter defined) currently located on, under, over, about or adjacent to the Premises through no fault, act, neglect or omission of HistoriCorps, its contractors, subcontractors, agents or employees.

10. REPAIRS:

A. By City: Unless otherwise expressly stipulated herein, the City shall not be required to make any improvements to or repairs of any kind or character on the Premises during the term of this Agreement, except repairs as may be deemed necessary by the City for normal maintenance operations of the Premises, including mechanical systems and exterior of the building. The City may, during the term of the Agreement, at the City's discretion and its own expense, repair or replace portions of the Premises and appurtenances located on the building or grounds which is accessible only through the Premises. HistoriCorps agrees to cooperate with the City in such repair or replacement work by taking such reasonable measures and precautions as may reasonably be requested by the City to allow for the work to proceed. These measures may include those necessary and appropriate to address any asbestos or lead-based paint that may be disturbed during the course of the work, including the short-term relocation of HistoriCorps' operations to another portion of the Premises or another location mutually acceptable by the parties. The City will use its best faith efforts to minimize any inconvenience to HistoriCorps.

B. By HistoriCorps: HistoriCorps shall make, as needed, at its own expense and without prior consent of the Executive Director of Parks and Recreation all repairs to the Premises costing one hundred dollars (\$100.00) or less. HistoriCorps shall make no alterations, additions, or repairs costing in excess of \$100.00, change any locks in, nor post any signage on the Premises without first obtaining the express written consent of the Director. The Director reserves the right to reject any alterations, additions, repairs over \$100.00, lock changes, or signage that the Director deems inconsistent with the appropriate operation of the Premises. HistoriCorps shall, after obtaining the Director's written consent, repair any damage resulting from HistoriCorps' occupancy of the Premises, and shall indemnify and hold the City harmless against any liability, loss, damage, costs or expenses, including attorneys' fees, on account of any claims of any nature whatsoever, including but not limited to claims of liens by laborers, material suppliers, or others for work performed, or materials or supplies furnished to HistoriCorps or persons claiming under HistoriCorps.

C. Notwithstanding the foregoing, the City is authorized to enter into separate agreements with HistoriCorps for repairs to the Premises as the City deems necessary and in the best interest of the City. As circumstances warrant, such agreements may assign certain obligations and responsibilities to HistoriCorps for repairs and improvements, whether or not

funded by the City. HistoriCorps is otherwise prohibited from entering into any contracts or agreements unless it obtains the City's express written consent.

11. ENTRY BY CITY: HistoriCorps acknowledges and agrees that the City shall have a right of entry on and in the Premises for any purpose necessary, incidental to or in connection with the City's rights and obligations under this Agreement, or in the exercise of the City's governmental functions, or for the purpose of making any inspection the City deems necessary for health and safety purposes and for the protection of the City's asset. The City will make a reasonable effort to notify HistoriCorps of any impending entry and to coordinate such entry so as to minimize any disruption to HistoriCorps' operations. HistoriCorps agrees not to take any action to prevent or hinder authorized City employees or agents from entering at any time, with or without advance notice, upon the Premises for inspection or other valid purposes. Furthermore, the City shall have the right to enter the Premises, with advance notice, to evaluate and plan for future uses of the Premises. HistoriCorps shall permit representatives and contractors of the City to enter into and upon the Premises at all reasonable hours to inspect the same, and make any repairs deemed necessary by the City, and HistoriCorps shall not be entitled to any abatement or reduction of rent by reason thereof.

12. CARE AND SURRENDER OF THE PREMISES: At the expiration or termination of this Agreement, HistoriCorps shall deliver the Premises to the City in the same condition as the Premises were in at the beginning of this Agreement Term, notwithstanding any improvements made during the term of the Agreement and ordinary wear and tear excepted; and HistoriCorps shall remove all of HistoriCorps' personal property which it owns.

13. UTILITIES AND SERVICES: Starting with the first day of occupancy of the Premises by HistoriCorps, HistoriCorps shall pay \$150 per month for use of water, sewer, gas, heat, light, and power ("Utilities") incurred and/or used on and in operation of the Premises. HistoriCorps shall limit its uses of said Utilities to those as may be reasonable and necessary for normal uses as allowed under this Agreement. Payments shall be payable to the Denver Executive Director of Finance, paid on or before the last day of the month, and shall be delivered to the Finance and Administration Director for the Department at 201 West Colfax Avenue, Department 602, Denver, Colorado 80202 or to such other address as the City may designate by written notice. A payment shall be deemed past due if not paid by the fifth day of the following month, and all past due installments shall bear interest at the rate of 12% per annum until paid. With the City's prior approval only, HistoriCorps may arrange for the provision of cable, internet and telephone service. HistoriCorps shall be solely responsible for directly paying providers for any cable, internet and telephone service utilized by HistoriCorps on the Premises.

14. FEES: HistoriCorps shall not charge any fees for any services, programs or events conducted under this Agreement except as first approved by City Council and the Department of Parks and Recreation.

15. CITY LOGO: Subject to express prior written approval, HistoriCorps may use the City logo on its marketing and promotional materials in a manner consistent with the City's logo design guidelines. HistoriCorps shall immediately cease any City logo use that has not been

reviewed and approved by the City. The City may use the HistoriCorps logo on its marking and promotional materials subject to the prior written approval of HistoriCorps.

16. DEFENSE & INDEMNIFICATION:

A. HistoriCorps hereby agrees to defend, indemnify, and hold harmless the City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of HistoriCorps or its sub-consultants or subcontractors either passive or active, irrespective of fault, including the City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City.

B. HistoriCorps’ duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether an action has been filed in court on the Claim. HistoriCorps’ duty to defend and indemnify the City shall arise even if the City is the only party sued and/or it is alleged that the City’s negligence or willful misconduct was the sole cause of the alleged damages.

C. HistoriCorps’ will defend any and all Claims which may be brought or threatened against the City and will pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of the City shall be in addition to any other legal remedies available to City and shall not be considered the City’s exclusive remedy.

D. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of HistoriCorps under the terms of this indemnification obligation. HistoriCorps shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

E. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

17. CLAIMS; COOPERATION: In the event that any claim, demand, suit or other action is made or brought in writing by any person, firm, corporation or other entity against HistoriCorps related in any way to this Agreement or the operation of the Premises, HistoriCorps shall give written notice thereof to the City within five (5) working days after being notified of such claim, demand, suit or other action. Such notice shall state the date and hour of notification and shall include a copy of any such claim, demand, suit, or other action received by HistoriCorps. Such written notice shall be submitted, as provided in this Agreement, to the Director and the City Attorney, 1437 Bannock Street, Room 353, Denver, Colorado 80202.

18. TAXES, DEBTS, LIENS AND LICENSES:

A. HistoriCorps shall be responsible for any tax obligations required by law (local, state or federal) it may incur in connection with its occupancy and operation of the Premises, and shall promptly pay all such taxes and fees, and shall not permit any such taxes and fees to become delinquent.

B. HistoriCorps shall not permit any mechanic's or materialman's liens or any other liens to be imposed and remain for more than ninety (90) days upon the property of the City, or any part or parcel thereof, by reason of any work or labor performed or materials furnished by any person, partnership, association, company, corporation, or other entity to or for HistoriCorps, either pursuant to C.R.S. §38-26-107, as amended, or by other authority.

C. HistoriCorps shall promptly pay, when due, all bills, debts, and obligations incurred in connection with its occupancy and operation of the Premises and shall not permit the same to become delinquent.

19. LOSS OR DAMAGE; FORCE MAJEURE: The City shall not be liable or responsible to HistoriCorps for any loss or damage, and no party shall be liable for delay or failure to perform hereunder, despite best efforts to perform, if such loss, damage, delay or failure is the result of *force majeure*. Notices of the occurrence and the end of such delay shall be provided by the party asserting *force majeure* to the other party. "*Force majeure*" shall mean causes beyond the reasonable control of a Party such as, but not limited to, extreme weather conditions, acts of God or the public enemy, strikes, work stoppages, unavailability of or delay in receiving labor or materials, faults by contractors, subcontractors, utility companies or third parties, fire or other casualty, or action of government authorities. In the event of a fire or other casualty in or to the Premises, HistoriCorps shall immediately give notice thereof to City. If the Premises, through no fault or neglect of HistoriCorps, its agents, employees, invitees, or visitors shall be partially destroyed by fire or other casualty so as to render the Premises unusable as intended under this Agreement, and the City elects to repair the same, the Rent herein shall abate until such time as the Premises are made useable by City. In the event such repairs cannot be made within ninety (90) days, HistoriCorps may elect to terminate this Agreement. If the Premises are damaged as the result of fault or neglect, in part or whole, of HistoriCorps, its agents, employees, invitees, or visitors, HistoriCorps agrees to promptly pay to the City, upon request, an amount equivalent to the deductible on any property insurance the City may carry for the Premises.

20. HAZARDOUS SUBSTANCES:

A. Subject to the terms and conditions of this Section 20, HistoriCorps shall not cause or permit any Hazardous Substance to be used, stored, generated, or disposed of on or in the Premises by HistoriCorps, HistoriCorps' agents, employees, contractors, or invitees. If Hazardous Substances are used, stored, generated, or disposed of by HistoriCorps on or in the Premises, or if the Premises become contaminated by HistoriCorps in any manner due to the actions or inactions of HistoriCorps, HistoriCorps shall indemnify and hold harmless the City from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, a decrease in value of the premises, damages caused by loss or restriction of rentable or usable space, or any damages caused by adverse impact on marketing of

the space, and any and all sums paid for settlement of claims, attorneys' fees, consultant, and expert fees) arising during or after the term of the Agreement and arising as a result of those actions or inactions by HistoriCorps. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision. Without limitation of the foregoing, if HistoriCorps causes or permits the presence of any Hazardous Substance on the Premises and that results in contamination or an imminent health or safety hazard, HistoriCorps shall promptly, at its sole expense, take any and all necessary actions to return the Premises to the condition existing prior to the presence of any such Hazardous Substance on the premises. HistoriCorps shall first obtain City's approval for any such remedial action. The foregoing notwithstanding, (i) HistoriCorps shall not be obligated to remove or remediate any Hazardous Substances located on, under, over, about or adjacent to the Premises or otherwise introduced onto the Premises, in each case through no fault, neglect, act or omission of HistoriCorps, its contractors, subcontractors, agents or employees; and (ii) HistoriCorps may store and use gasoline, oil, paints, solvents, finishes, cleaning agents and other chemicals and products necessary for the operation of its business on the Premises, in each case in quantities and in a manner that complies with all applicable federal, state and local laws, statutes, rules, regulations, building codes and other legal requirements governing the use, storage, generation, treatment, handling, disposal and transportation of Hazardous Substances. HistoriCorps' rights under clause (ii) of this Section 20.A shall not negate or impair its obligation to indemnify the City in accordance with this Section 20.A. As used herein, "Hazardous Substance" means any substance that is toxic, ignitable, reactive, or corrosive and that is regulated by any local government, the State of Colorado, or the United States Government. "Hazardous Substance" includes any and all material or substances that are defined as "hazardous waste", "extremely hazardous waste", or a "hazardous substance" pursuant to state, federal, or local governmental law. "Hazardous Substance" includes but is not restricted to asbestos, polychlorobiphenyls ("PCBs"), and petroleum.

B. HistoriCorps must comply with all Federal, State, local laws, regulations and other requirements relating to occupational safety and health, the handling and storage of Hazardous Substances, and the proper generation, handling, accumulation, treatment, storage, disposal and transportation of Hazardous Substances on the Premises arising out of HistoriCorps' activities. HistoriCorps will not undertake any treatment, storage or disposal of hazardous waste at the Premises unless HistoriCorps is in possession of a valid permit issued by the Resource Conservation and Recovery Act, as amended.

C. HistoriCorps must maintain and make available to the City, at the City's request, all records, inspection logs and manifests that track the generation, handling, storage, treatment and disposal of hazardous waste at the Premises, as well as all other records required by applicable laws and requirements. The City reserves the right to inspect the records for compliance with Federal, State, local laws, regulations and other requirements relating to the generation, handling, storage, treatment and disposal of hazardous waste, as well as to the discharge or release of hazardous substances at the Premises.

D. HistoriCorps shall strictly comply with the Hazardous Substances permit requirements under the Resource Conservation and Recovery Act, or its State equivalent and any

other applicable laws, rules or regulations at the Premises. HistoriCorps must provide at its own expense such Hazardous Substances storage facilities which comply with all laws and regulations as it may need for such storage. So long as HistoriCorps complies with applicable laws governing the use, storage, generation, treatment, handling, disposal and transportation of Hazardous Substances, HistoriCorps shall be entitled to use and store the same at the Premises. Following the occurrence of any uncured default by HistoriCorps under this Agreement, neither HistoriCorps nor any of its contractors or subcontractors shall store or otherwise allow its Hazardous Substances to remain on the Premises in excess of ninety (90) days without the express written consent of the Director. Upon expiration or termination of this Agreement, HistoriCorps shall promptly remove all such Hazardous Substances.

21. ANNUAL REPORTS: Each year during the Term of this Agreement, HistoriCorps shall prepare and submit to the Director or the Director's designated representative, an annual report in a format reasonably satisfactory to the Director (the "Report"). Such Report shall be submitted on or before March 1st of each year for the preceding calendar year. At a minimum, the Report must provide its in-kind valuation, as well as demonstrate HistoriCorps' accomplishments and operations over the past year which are consistent with its stated goals and services and its continued mission. The Report should also include its planned programming for the upcoming year and how the City will be benefited by such proposed programs. The Director of Parks and Recreation may elect to present this Report to a committee of the City Council, or other City Officials and Staff, and may require the presence of a representative of HistoriCorps at the committee to help in the presentation and to answer the questions or concerns of Council members.

22. INSURANCE:

A. General Conditions: HistoriCorps covenants to secure, at its own expense, at or before the time of execution of this Agreement, the following insurance covering all operations, activities, occupancies uses and services associated with the Building under this Agreement. HistoriCorps shall keep the required insurance coverage in force at all times during the Term of this Agreement or any extension thereof. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. HistoriCorps shall provide written notice of cancellation, non-renewal and any reduction in coverage to Denver Risk Management, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202 by certified mail, return receipt requested. Such written notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If any policy is in excess of a deductible or self-insured retention, the City must be notified by HistoriCorps. HistoriCorps shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of HistoriCorps. HistoriCorps shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

B. Proof of Insurance: HistoriCorps shall provide a copy of this Agreement to its insurance agent or broker. HistoriCorps may not commence occupancy of the Premises prior to placement of coverage. HistoriCorps certifies that the certificate of insurance attached as **Exhibit 2**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of HistoriCorps' breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require, and HistoriCorps shall promptly provide, additional proof of insurance, including but not limited to policies and endorsements, at any time.

C. Additional Insureds: For Commercial General Liability and Business Auto Liability, HistoriCorps and HistoriCorps' subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

D. Waiver of Subrogation: For all coverages, HistoriCorps' insurer shall waive subrogation rights against the City.

E. Subcontractors and Subconsultants: All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services to HistoriCorps on the Premises) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of HistoriCorps. HistoriCorps shall require that all such subcontractors and subconsultants obtain and maintain such insurance in favor of the City (with the exception of Workers' Compensation). HistoriCorps agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

F. Workers' Compensation/Employer's Liability Insurance: HistoriCorps shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.

G. Commercial General Liability: HistoriCorps shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

H. Business Automobile Liability: HistoriCorps shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in association with this Agreement.

I. HistoriCorps shall carry All Risk/Special Cause of Loss Form Property Insurance on a replacement cost basis including coverage for HistoriCorps' improvements installed on the Premises and contents located thereon.

J. Additional Provisions:

(1) For Commercial General Liability, the policy must provide:

- (i) That this Agreement is an Insured Contract under the policy;
- (ii) Defense costs in excess of policy limits;
- (iii) A severability of interests, separation of insureds or cross liability provision;
- (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City; and
- (v) Any exclusion for sexual abuse, molestation or misconduct has been removed or deleted.

(2) For claims-made coverage, the retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier.

(3) HistoriCorps shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At HistoriCorps's own expense, where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, HistoriCorps shall procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

K. Other: The insurance requirements set forth in this Paragraph 18 shall survive the expiration or earlier termination of this Agreement. The Executive Director of Parks and Recreation shall have the right to suspend this Agreement, and deny HistoriCorps access to the Premises, if at any time the Director becomes aware that the HistoriCorps has failed to satisfy the insurance requirements, in whole or part, set forth in this Section 19 and may, at the Director's discretion, terminate this Agreement if HistoriCorps fails to rectify the deficiency on the insurance requirements within a reasonable time frame, as determined by the Director. Alternatively, if it should be determined by the Director that the Agreement should remain in effect, the City shall have the right to obtain any insurance coverage specified in this Section 19 as Denver Risk Management deems necessary to remedy the deficiency in the HistoriCorps' policies, and HistoriCorps agrees to promptly and fully reimburse the City for the costs of such insurance coverage upon being provided a bill for the costs.

23. NO DISCRIMINATION: In connection with the performance of this Agreement, HistoriCorps agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts hereunder.

24. DISPUTES: All disputes of whatsoever nature between the City and HistoriCorps regarding this Agreement shall be resolved by administrative hearings pursuant to the procedure established by Denver Revised Municipal Code, § 56-106(b), *et seq.* For the purposes of that procedure, the City official rendering a final determination shall be the Director.

25. VENUE, GOVERNING LAW: This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, without regard to the choice of law thereof, and the Charter and Revised Municipal Code of the City and County of Denver. Venue for any legal action relating to this Agreement shall lie in the State District Court in and for the City and County of Denver, Colorado.

26. ASSIGNMENT/SUBLET/SUBCONTRACT: HistoriCorps shall not assign or transfer its rights or obligations under this Agreement, nor sublet or otherwise permit occupancy of the Premises by any other party or entity. Assignment or sublease or other occupancy by another party by HistoriCorps shall constitute grounds for immediate termination of the Agreement.

27. NO SALE OR ADVERTISING OF TOBACCO PRODUCTS: HistoriCorps and its officers, agents, and employees shall cooperate and comply with the provisions of Executive Order No. 13, which prohibits the sale or advertisement of tobacco products on City owned property and in facilities owned or operated or controlled by the City and County of Denver. “Sale” includes promotional distribution, whether for consideration or not, as well as commercial transactions for consideration. “Advertising” includes the display of commercial and noncommercial promotion of the purchase or use of tobacco products through any medium whatsoever, but does not include any advertising and sponsoring which is a part of a performance or show or any event displayed or held in City facilities. Additionally, HistoriCorps and its officers, agents, and employees shall cooperate and comply with the provisions of Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City barring HistoriCorps from City facilities or participating in City operations.

28. EXAMINATION OF RECORDS: HistoriCorps agrees that any duly authorized representative of the City shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, and records of HistoriCorps involving matters directly related to this Agreement.

29. OPEN RECORDS: The parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act., § 24-72-201, *et seq.*, 7B C.R.S. (2003), and that in the event of a request to the City for disclosure of such information, the City shall advise HistoriCorps of such request in order to give HistoriCorps the opportunity to object to the disclosure of any of its proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the HistoriCorps agrees to intervene in such lawsuit to protect and assert its claims of privilege and against disclosure of such material or waive the same. HistoriCorps further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense,

loss or costs arising out of HistoriCorps' intervention to protect and assert its claim of privilege against disclosure under this Article including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

30. AMENDMENT: No alteration, amendment or modification of this Agreement shall be valid unless evidenced by a written instrument executed by the parties hereto with the same formality as this Agreement. The failure of either party hereto to insist in any one or more instances upon the strict compliance or performance of any of the covenants, agreements, terms, provisions or conditions of this Agreement, shall not be construed as a waiver or relinquishment for the future of such covenant, agreement, term, provision or condition, but the same shall remain in full force and effect.

31. SEVERABILITY: If any portion of this Agreement is determined by a court to be unenforceable for any reason, the remainder of the Agreement shall remain in full force and effect unless the invalidated provision results in a failure of consideration.

32. BINDING EFFECT: This Agreement when executed and, when effective, shall inure to the benefit of and be binding upon the successors in interest or the legal representatives of the respective parties hereto.

33. THIRD PARTIES: This Agreement does not, and shall not be deemed or construed to, confer upon or grant to and third party or parties any right to claim damages or to bring any suit, action or other proceeding against the parties hereto because of any breach hereof or because of any of the terms, covenants, agreements and conditions herein.

34. NOTICES:

All notices hereunder shall be given by courier service, registered mail, electronic mail or certified mail, return receipt requested as follows:

To the City: Executive Director of Parks & Recreation
 201 West Colfax Avenue, Dept. 601
 Denver, Colorado 80202

To HistoriCorps: Executive Director of HistoriCorps
 1420 N Ogden St #103
 Denver, CO 80218

Either party hereto may designate in writing from time to time the address of substitute or supplementary persons to receive such notices. The effective date of service of any notice under this Agreement shall be the date such notice is deposited in the mail or hand-delivered to the party.

35. ENTIRE AGREEMENT: The parties acknowledge and agree that the provisions contained herein constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect.

36. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event shall any performance hereunder constitute or be construed to be a waiver by any party or any breach of covenant or condition or of any default which may then exist. The rendering of any such performance when any breach or default exists shall in no way impair or prejudice any right or remedy available with respect to such breach or default. Further, no assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of the Agreement shall be deemed or taken to be a waiver of any other default or breach.

37. CONFLICT OF INTEREST BY CITY OFFICER: HistoriCorps represents that to the best of its information and belief, no officer or employee of the City is either directly or indirectly a party or in any manner interest in this Agreement, except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee.

38. APPROPRIATION: Notwithstanding any provision of this Agreement to the contrary, the financial obligation of the City, if any, under this Agreement is contingent upon all funds necessary for performance under this Agreement being budgeted, appropriated and otherwise made available, and any commitments by the City to provide services is contingent upon the necessary funds being budgeted, appropriated, and otherwise made available and the necessary discretionary actions being taken by the City Council and the Mayor. The parties acknowledge that this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

39. AUTHORITY TO EXECUTE: HistoriCorps represents that the persons who have affixed their signatures hereto have all necessary and sufficient authority to bind HistoriCorps.

40. PARAGRAPH HEADINGS: The paragraph headings are inserted only as a matter of convenience and for reference and in no way are intended to be a part of this Agreement or to define, limit or describe the scope or intent of this Agreement or the particular paragraphs to which they refer.

41. CITY'S EXECUTION OF THIS AGREEMENT: This Agreement is expressly subject to, and shall not be or become effective or binding on the City until approval by its City Council and full execution by all signatories set forth below.

42. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: HistoriCorps consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of

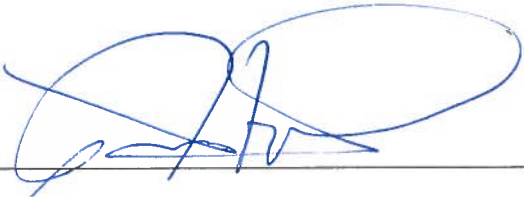
an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGES TO FOLLOW]

Contract Control Number: PARKS-201736487-00

Contractor Name: HistoriCorps

By:  _____

Name: Townsend H. Anderson
(please print)

Title: CEO / Executive Director
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

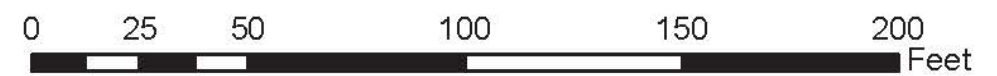
By _____

By _____





Exhibit 1: Premises

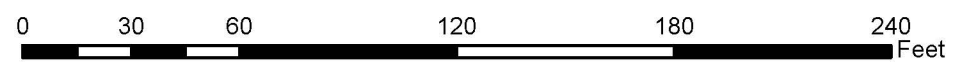




Bison Enclosure

Parking
on Loop Road
or as Identified by Park Staff

Exhibit 1: Premises Parking Option 2 Katherine Craig





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/13/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Conservation United PO Box 759 Higley AZ 85236	CONTACT NAME: Kelly Cassady PHONE (A/C. No. Ext): (844) 559-8336 FAX (A/C. No): (602) 388-8110 E-MAIL ADDRESS: kcassady@conservationinsurance.com
INSURER(S) AFFORDING COVERAGE	
INSURER A: Admiral Insurance Company NAIC # 24856	
INSURER B: Security National Insurance Co 19879	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

COVERAGES **CERTIFICATE NUMBER: CL176500479** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	X		CA000027160-01	5/1/2017	11/1/2018	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY	X		SPP1111568 02	5/1/2017	11/1/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR						EACH OCCURRENCE \$
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$
	DED RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 City and County of Denver, its elected and appointed officials, employees and volunteers are named as additional insureds as required by written contract.

CERTIFICATE HOLDER City and County of Denver Parks and Recreation C/O Renee Kennedy 201 W. Colfax Ave #602 Denver, CO 80202	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Robert Johnston/KCASS <i>Robert Johnston</i>
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Additional Named Insureds

Other Named Insureds

HistoriCorps Institute

Doing Business As