

## **GRANT AGREEMENT**

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Project Name: My Outdoor Colorado  
Project Completion Date: December 31, 2024  
Great Outdoors Colorado  
Contract No.: 21880

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### **PARTIES TO AGREEMENT**

Board/GOCO: The State Board of the Great Outdoors Colorado Trust Fund  
Address: 1900 Grant St., Suite 725  
Denver, CO 80203

Telephone: (303) 226-4520  
Contact name: Matt Brady

Grantee: City and County of Denver, by, through and on behalf of the  
Department of Parks and Recreation  
Address: 201 W Colfax Ave, Dept. 601, Denver, CO 80202

Primary Contact: Cary Rhodes

Date: April 2, 2021

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### **EXHIBITS**

Exhibit A Grantee Resolution  
Exhibit B Project Applications  
Exhibit C Interim Planning Documents  
Exhibit D Approved Budget  
Exhibit E Governing Agreements between Grantee and Third-Party Beneficiaries

### **RECITALS**

A. The State Board of the Great Outdoors Colorado Trust Fund (“GOCO” or the “Board”) is a political subdivision of the State of Colorado, created by Article XXVII of the Colorado Constitution, adopted at the November 1992 General Election, which article appropriates a portion of the net proceeds of the Colorado Lottery to GOCO and directs GOCO to invest those proceeds in the state’s parks, wildlife, open space and recreational resources.

B. In 2015, GOCO created a statewide grant program, known as Generation Wild, pursuant to which eligible entities could apply for grants to connect communities to the outdoors. Grantee listed above (“Grantee”) submitted detailed applications that contemplated building parks and trails and executing outdoor programs for youth and families. GOCO approved

Grantee's application on December 8, 2016 and again on December 15, 2017. Both applications are incorporated as Exhibit B ("Project Applications").

C. Since then, the Board has prioritized continued Generation Wild support in the GOCO 2020 Strategic Plan to advance equitable access to the outdoors through local coalitions that provide program and pathway opportunities to youth and families. The Board has approved a five-year spending plan allocating \$22.8 million of local government and open space purpose funding to Generation Wild coalitions.

D. Grantee submitted Interim Planning Documents to GOCO that contemplate additional outdoor programs for youth and families. The Interim Planning Documents are attached as Exhibit C ("Interim Planning Documents"). The project described in the Interim Planning Documents, supplemented by the Project Applications is referred to as the "Project."

E. The Board approved additional funding for Grantee for the Project for fiscal year 2021 on December 10, 2020, and it has endorsed a funding strategy to provide further funding, conditioned upon annual approval and authorization, for fiscal year 2022 and beyond. This My Outdoor Colorado Grant will provide funding for the purposes stated herein, and will combine the funding with previously awarded Westwood Coalition funds and previously awarded Cole Coalition funds, as set forth in Section 1, below.

F. The parties intend this agreement to be the detailed grant agreement required by GOCO ("Agreement").

## **AGREEMENT**

### **SECTION 1 – PROJECT SCOPE**

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties wish to enter into the Agreement as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated into this Agreement.
2. Grant and Project. GOCO awards to Grantee a grant in the amount not to exceed \$1,435,700.04 for fiscal year 2021 ("Grant"); encompassing \$500,000.00 in new funding and \$150,778.99 in carryover funding from the original Westwood Coalition and \$784,921.05 in carryover from the original Cole Coalition agreements tied to the applications found in Exhibit B. Furthermore, GOCO has endorsed a funding strategy to provide further funding in the amount of \$560,000.00 for fiscal year 2022, \$834,291.00 for fiscal year 2023, and \$1,105,709.00 for fiscal year 2024. Funding for fiscal year 2022 and beyond are contingent upon formal Board approval of such funding during each respective fiscal year. Payments shall be made to Grantee on an annual basis and subject to the terms and conditions set forth in this Agreement.

The Grant shall be used by Grantee solely to complete the Project as approved by GOCO. Grantee has provided GOCO with a resolution adopted by Grantee's governing body authorizing Grantee's acceptance of the Grant, subject to this Agreement, and designating an

appropriate official to sign this Agreement on Grantee's behalf. The resolution is attached as Exhibit A. Grantee agrees to use its best efforts to complete the Project.

3. Project Scope. Grantee will not materially modify the Project as described and incorporated as Exhibit B and Exhibit C without the written approval of the Executive Director of GOCO ("Executive Director"). Any material change to the Project, whether or not such change is approved in writing by GOCO, may result in a reduction of GOCO's Grant or may require a refund to GOCO from Grantee, pursuant to Section 10 of this Agreement. In addition, any material change to the Project that is not approved in writing by GOCO may result in termination of the Grant.

4. Approved Budget. Grantee has completed a detailed budget that reflects all anticipated sources and uses of funds for the Project, including a detailed accounting of Grantee's anticipated direct costs associated with the Project, a copy of which is attached and incorporated as Exhibit D ("Budget").

5. Waiver. Prior to the disbursement of funds, the Executive Director in his or her discretion may waive certain conditions set forth in this Agreement. Anything else to the contrary notwithstanding, the exercise by GOCO staff ("Staff"), the Executive Director or GOCO of any right or discretion reserved to them under this Agreement shall not be deemed a waiver. Furthermore, no waiver by them under this Agreement shall constitute a waiver of any other requirements, actions or conditions, nor shall any waiver granted be deemed a continuing waiver. No waiver by the Staff, the Executive Director or GOCO shall be effective unless in writing executed by them. Additionally, any failure by the Staff, the Executive Director or GOCO to take any actions as set forth in this Agreement shall have no legal effect on the contractual duties of the Grantee. Further, no waiver with respect to this Project, Grant, or Agreement shall constitute a waiver in any other GOCO-funded project.

6. Future Funding. This Agreement and the Grant only apply to the Project specifically described in this Agreement. GOCO makes no representations regarding future funding for future phases of the Project, whether or not described in the Interim Planning Documents, Project Applications, or otherwise.

## **SECTION 2 – GRANT PAYMENT**

7. Payment of Grant. Payment of the Grant is subject to GOCO's determination in its sole discretion that it has received and has available sufficient net lottery proceeds to fund the Grant and that Grantee has complied with this Agreement, including Grantee's fulfillment of all conditions precedent to funding as set forth in Section 3. In determining the sufficiency of net lottery proceeds, GOCO may consider all facts and circumstances as it deems necessary or desirable, including but not limited to adequate reserves, funding requirements and/or commitments for other past, current and future grants, and past, current and future GOCO operating expenses and budgetary needs.

8. Payment Options. GOCO offers the following payment options for youth programming and capacity components. The Grantee may request either one advanced payment or one progress payment each fiscal year.

A. *Advanced Payments.* The Grantee may request one advanced payment prior to beginning work on the Project per fiscal year. The Grantee may request 100% of the grant amount tied to that given fiscal year's budget for the Project. Funds to be paid in advanced must be committed via executed contracts or other documentation.

B. *Progress/Final Payments.* Once work has started, the Grantee may request one progress payment on the Project per fiscal year. The Grantee may request up to 100% of the grant amount tied to that given fiscal year's budget upon Grantee's submission and GOCO's approval of a progress payment request. Any funds remaining at the Completion Date shall be payable upon Grantee's submission and GOCO's approval of a final payment request.

C. Annually, GOCO may conduct a review on a sampling basis of any billing statements, supporting documentation, or other materials relating to the receipt and use of GOCO Funds by Grantee or third-party beneficiaries. The Grantee agrees to provide GOCO materials requested as part of any such review. GOCO shall provide the parties written notification if such review indicates deficiencies, errors, or other issues with money previously advanced. The parties agree to confer in good faith within thirty (30) days of receipt of any notifications to achieve a resolution, as appropriate.

9. Payment Schedule. Grant payments will follow the Grantee's implementation schedule as set for in Exhibit D. Upon execution of this Agreement, the Grantee is authorized to request payments for the first year of implementation. The Grantee must expend or be under contract for at least 50% of the first year's budget to request payments for the next year of implementation.

10. Withdrawal of GOCO Funding; Termination of Agreement. Anything in this Agreement to the contrary notwithstanding, with prior notice to Grantee, GOCO reserves the right to withhold or withdraw all or a portion of the Grant, to require a full or partial refund of the Grant, and/or to terminate this Agreement if GOCO determines in its sole discretion that:

A. *Altered Expectations.* Facts have arisen or situations have occurred that fundamentally alter the expectations of the parties or make the purposes for the Project or the Grant as approved by GOCO infeasible or impractical;

B. *Material Project Changes.* Material changes in the scope or nature of the Project have occurred from how the Project was presented, approved by GOCO without prior written approval of the Executive Director;

C. *Inaccuracies.* Any statement or representation made or information provided by the Grantee in this Agreement is untrue, inaccurate or incomplete in any material respect; or

D. *Conditions Precedent Not Fulfilled or Unsatisfactory.* Any of the conditions precedent to funding listed in Section 3 below is not fulfilled by Grantee or is unsatisfactory to GOCO, in its sole discretion.

### **SECTION 3 – CONDITIONS PRECEDENT**

11. Completion Date. Grantee shall complete the Project no later than December 31, 2024. Grantee may request an extension of the Completion Date in compliance with GOCO’s Overdue Grants Policy, as may be amended from time to time by GOCO in its sole discretion. GOCO may elect to terminate this Agreement and deauthorize the Grant in the event this Completion Date is not met and/or Grantee fails to comply with the Overdue Grants Policy.

12. Grantee’s Inability to Complete Project. If Grantee determines with reasonable probability that the Project will not or cannot be completed as approved by GOCO, Grantee will promptly advise GOCO in writing.

13. Third-Party Beneficiaries. The Grantee is responsible for contracting with all third-party beneficiaries of the Grant to bind those beneficiaries to the terms and obligations set forth in this Agreement. Payments will not be released to any third-party beneficiary until a contract is in place. All contracts are to be attached as Exhibit C as executed.

14. Matching Funds. Matching funds in the minimum amount required by GOCO as set forth in Exhibit D, or as modified and approved in compliance with GOCO procedures, must have been received by Grantee, or the status of efforts to secure matching funding was disclosed and has been deemed satisfactory by Staff. Grantee shall provide evidence of matching funds as GOCO may require in its reasonable discretion.

### **SECTION 4 – OTHER PROVISIONS**

15. Publicity and Project Information. GOCO has the right and must be provided the opportunity to use information gained from the Project; therefore, subject to Grantee’s policy regarding publicity and branding, Grantee shall acknowledge GOCO funding in all news releases and other publicity issued by Grantee concerning the Project. If any events are planned in relationship to the Project, GOCO shall be acknowledged as a contributor in the invitation for the event. GOCO shall be notified of any such events thirty (30) days in advance. Grantee shall give timely notice of the Project, its inauguration, significance, or completion to the local members of the Colorado General Assembly, members of the board of county commissioners of the county or counties in which the Project is located, or any other appropriate public officials. Grantee shall cooperate with GOCO in preparing public information pieces, providing slides and photos of the Project (collectively, “Project Materials”) from time to time, and providing access to the Project for publicity purposes, subject to the Grantee’s privacy and confidentiality laws, rules and policies.

16. Reporting Data. Evaluation reporting must adhere to timelines, templates, and/or guidelines established by GOCO evaluator. Grantee will be required to plan and implement an evaluation of all programs, pathways and places activities, and report evaluation progress and

results quarterly through a web-based system, with technical assistance from the GOCO contract evaluator. Evaluation activities will include tracking program and pathway implementation (e.g., number of youth participating in each session), implementing youth surveys before and after select program and pathway opportunities, measuring activation of places, and tracking youth advisory council activities.

17. Liability.

A. *No CGIA Waiver.* No term or condition of this Agreement shall be construed or interpreted as a waiver, either express or implied, of any of the immunities, rights, benefits or protections provided to GOCO or Grantee under the Colorado Governmental Immunity Act as amended or as may be amended in the future (including without limitation any amendments to such statute, or under any similar statute that is subsequently enacted) (“CGIA”). GOCO and Grantee understand and agree that liability for claims for injuries to persons or property arising out of the negligence of GOCO, its members, officials, agents and employees may be controlled or limited by the provisions of the CGIA. The parties agree that no provision of this Agreement shall be construed in such a manner as to reduce the extent to which the CGIA limits the liability of GOCO, its members, officers, agents and employees.

B. *Compliance with Regulatory Requirements and Federal and State Mandates.* Grantee assumes responsibility for compliance with all regulatory requirements in all applicable areas, including but not limited to nondiscrimination, worker safety, local labor preferences, preferred vendor programs, equal employment opportunity, use of competitive bidding, and other similar requirements; and including Grantee’s laws, rules and regulations.

C. *Nondiscrimination.* During the performance of this Agreement, Grantee and its contractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex, and shall comply with any other applicable laws prohibiting discrimination. Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination.

18. Audits and Accounting Records. The Department of Parks and Recreation (“DPR”) shall maintain standard financial accounts, documents, and records relating to the acquisition, use, management, operation and maintenance of the Project. DPR shall retain the accounts, documents, and records related to the Project for five years following the date of disbursement by GOCO of the Grant Funds, and, subject to prior reasonable notice to DPR, they shall be subject to examination and audit by GOCO or its designated agent during this period. All accounts, documents, and records described in this section shall be kept in accordance with generally accepted accounting principles.

19. Breach. In addition to other remedies available at law or in equity, in the event that Grantee breaches any of the terms or conditions of this Agreement, GOCO shall have the following non-exclusive remedies:

A. *Prior to Payment of Grant.* GOCO reserves the right to withdraw funding and/or terminate this Agreement.

B. *After Payment of Grant.* GOCO reserves the right to seek equitable relief and/or all other remedies as available to it under applicable law, including but not limited to return of all or a portion of the Grant. Further, GOCO reserves the right to deem Grantee ineligible for participation in future GOCO grants, loans or projects.

20. GOCO Policies. With regard to all named GOCO policies referenced in this Agreement, Grantee acknowledges it has received a copy of the policies or otherwise has access to the documents in connection with this Agreement and is familiar with their requirements.

21. Grantee (City) Provisions.

A. *Subject to Grantee Appropriation.* It is understood and agreed that any payment obligation of the Grantee hereunder, if any, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Agreement, encumbered for the purpose of the Agreement, and paid into the Treasury of the City. The Grantor acknowledges that (i) Grantee does not by this Agreement, irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the Grantee.

B. *Grantee Non-Waiver.* Neither party shall be excused from complying with any provision of this Agreement by the failure of the other party to insist upon or to seek compliance. No assent, expressed or implied, to any failure by a party to comply with a provision of this Agreement shall be deemed or taken to be a waiver of any other failure to comply by said party.

C. *Conflict of Interest.* The Parties agree that no official, officer or employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein, and Art District further agrees not to hire or contract for services any official, officer or employee of the City or any other person which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter provisions 1.2.9 and 1.2.12.

22. Miscellaneous Provisions.

A. *Good Faith.* Both parties have an obligation of good faith, including the obligation to make timely communication of information that may reasonably be believed to be of interest to the other party.

B. *Assignment.* Grantee may not assign its rights or delegate its obligations under this Agreement without the express written consent of the Executive Director, who has the sole discretion to withhold consent to assign.

C. *Applicable Law.* Colorado law applies to the interpretation and enforcement of this Agreement.

D. *Status of Grantee.* The parties acknowledge that GOCO lacks the power and right to direct the actions of Grantee. Grantee acts in its separate capacity and not as an officer, employee or agent of GOCO or the State of Colorado.

E. *Time is of the Essence.* Time is of the essence in this Agreement.

F. *Survival.* The terms and conditions of this Agreement, including but not limited to Grantee's obligations, shall survive the funding of the Grant and the Project.

G. *Fax and Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which when taken together shall constitute one agreement. In addition, the parties agree to recognize signatures to this Agreement made electronically and transmitted electronically or by facsimile as if they were original signatures.

H. *Notice.* Any notice, demand, request, consent, approval or communication that either party desires or is required to give the other shall be in writing and either served personally or sent by first class mail, postage prepaid, to the addresses shown on Page 1 of this Agreement.

I. *Construction; Severability.* Each party has reviewed and revised (or requested revisions of) this Agreement, and therefore any rules of construction requiring that ambiguities be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement. If any provision in this Agreement is found to be ambiguous, an interpretation consistent with the purpose of this Agreement that would render the provision valid shall be favored over any interpretation that would render it invalid. If any provision of this Agreement is declared void or unenforceable, it shall be deemed severed from this Agreement, and the balance of this Agreement shall otherwise remain in full force and effect.

J. *Entire Agreement.* Except as expressly provided, this Agreement constitutes the entire agreement of the parties. No oral understanding or agreement not incorporated in this Agreement shall be binding upon the parties. No changes in this Agreement shall be valid unless made in writing and signed by the parties to this Agreement.

K. *Termination of the Board.* If Article XXVII of the Colorado Constitution, which established GOCO, is amended or repealed to terminate GOCO or merge GOCO into another entity, the rights and obligations of GOCO under this Agreement shall be assigned to and assumed by such other entity as provided by law, but in the absence of such direction, by the Colorado Department of Natural Resources or its successor.



IN WITNESS WHEREOF, the parties execute this Agreement effective as of

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STATE BOARD OF THE GREAT  
OUTDOORS COLORADO TRUST FUND

GRANTEE:  
CITY AND COUNTY OF DENVER

By:

By: [signature page follows]

Chris Castilian  
Executive Director

Title