

## GRANT AGREEMENT

THIS AGREEMENT (the Agreement) is made as of January \_\_, 2007 by and between the GOLDEN URBAN RENEWAL AUTHORITY (GURA) and THE AMERICAN ALPINE CLUB, a Colorado non-profit corporation (AAC).

1. Eligible Improvements. GURA is carrying out the Golden Urban Renewal Plan a/k/a the Golden Downtown Redevelopment Plan (the Plan). The American Alpine Club is a Member of the American Mountaineering Center, LLC, a property described in Exhibit A, attached to and made a part hereof. Together with The Colorado Mountain Club (CMC), the AAC is building The Bradford Washburn American Mountaineering Museum (Museum), a local cultural institution that will be located in the American Mountaineering Center. The AAC and CMC have and will make certain improvements to the Property (the Eligible Improvements as described below and in Exhibit B), the reasonable and necessary costs of which are eligible for reimbursement by GURA pursuant to the Plan and the Colorado Urban Renewal Law (Law). In consideration of the covenant of the AAC herein, GURA agrees to grant funds to the AAC for the costs of the Eligible Improvements in accordance with this Agreement.

- a. The Eligible Improvements shall include:
  - i. High efficiency lighting for the museum space;
  - ii. Recycled carpet for the museum floor;
  - iii. Eight (8) interpretive panels relating to conservation permanently placed at the entrance to the Museum, each bearing acknowledgment to GURA for this grant.
- b. The AAC will provide GURA with evidence satisfactory to GURA that the actual reasonable and necessary costs paid by the AAC for the Eligible Improvements total \$60,000.00. Failure to provide such evidence shall make voidable GURA's continued performance under this Agreement.

2. Payment Schedule. GURA agrees to grant the AAC the amount of \$60,000 (the Reimbursement Obligation) as follows:

- a. \$5,000.00 by December 31, 2006;
- b. \$5,000.00 by January 31, 2007;
- c. \$15,000.00 by January 31, 2008;
- d. \$15,000.00 by January 31, 2009; and
- e. \$20,000.00 by January 31, 2010.

3. Term. In no event will the Reimbursement Obligation exceed \$60,000. Notwithstanding any language herein to the contrary, this Agreement shall terminate (the Term) on the first to occur of (a) payment in full of the Reimbursement Obligation, (b) December 31, 2010; or (c) if the improvements on the Property are destroyed or damaged and are not being used as intended for a period of sixty (60) days.

5. Conditions Subsequent.

a. Agreement is subordinate: This Agreement is made with the understanding by the parties that GURA's obligations under this Agreement are subordinate to its obligations under the Loan and Security Agreement between GURA and Colorado Business Bank dated November 22, 2005, and as such, GURA may be prevented from fully and/or partially fulfilling its obligations under this agreement. In such case, Museum hereby waives any remedies it may have against GURA.

b. Museum must be constructed: The parties also understand that this Agreement is made subject to continuing efforts by the AAC to raise additional funds to complete the construction of the Museum. If the AAC does not commence construction by July 31, 2007, GURA's obligations under this Agreement are terminated and Museum must return all funds received from GURA to GURA within sixty (days) therefrom. Further, if the Eligible Improvements are not constructed by January 31, 2008, GURA's obligations under this Agreement are terminated and AAC must return all funds received by GURA to GURA within sixty (60) days therefrom.

c. Immigration compliance: GURA shall not be required to perform under this Agreement unless and until the AAC executes and returns to GURA the Immigration Status Obligation document (Exhibit C) and the Lawful Presence Affidavit (Exhibit D).

6. Representations and Warranties by the AAC. The AAC represents, warrants and certifies to GURA as follows:

- a. There is no action or proceeding pending or, to the knowledge of the Museum, threatened against the AAC or the Property, before any court or administrative agency that might result in any material adverse change in the business or financial condition of the AAC;
- b. The AAC is not involved in any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation proceeding and, to the best knowledge of the AAC, no such proceeding is contemplated or threatened.
- d. The AAC knows of no bankruptcy or singular proceeding involving The American Alpine Club, the Colorado Mountain Club, or Outward Bound, and has not sent or is contemplating sending a notice of default under any real property contract.

7. Remedies. If any event of default by the Authority occurs and is continuing hereunder, the AAC may seek enforcement of the Reimbursement Obligation. In no event shall GURA be liable for special, consequential, or punitive damages. If any event of default by the AAC occurs and is continuing hereunder, GURA may seek any available remedy at law or in equity and terminate this Agreement. In addition the non-defaulting party may recover its reasonable costs and attorney fees.

8. Notices. Unless otherwise notified in writing by either party, all notices required or permitted by this Agreement shall be in writing and shall be sufficiently given if delivered in person, by prepaid overnight express mail or express courier to either party or by certified mail, with postage prepaid, return receipt requested and addressed:

In the case of GURA to:

Golden Urban Renewal Authority  
Attention: Executive Director  
922 Washington Avenue, Suite 100  
Golden, Colorado 80401

In the case of AAC to:

The American Alpine Club  
Attention: Executive Director  
710 Tenth Street, Suite 100  
Golden, CO 80401

9. Further Assurances: Estoppel Certificates. The parties and any assignee or successor in interest agree to execute such additional instruments or documents and take such other actions as shall be reasonably requested by the other party to implement this Agreement. The parties agree to execute such documents as the other party shall reasonably request to verify or confirm the status of this Agreement and of the performance of the obligations hereunder.

10. Covenant of Good Faith. Each party agrees to act reasonably and in good faith in performing or attempting to perform each and every condition, covenant, obligation or duty required by the Agreement, and any other agreement implementing this Agreement, and each party shall not unreasonably, arbitrarily or capriciously withhold any approval or action required by the Agreement.

11. GURA or City Not a Partner. Notwithstanding any language in this Agreement or any other agreement, representation or warranty to the contrary, neither GURA nor the City of Golden shall be deemed to be a partner or joint venturer of the AAC and neither GURA nor the City shall be responsible for any debt or liability of the AAC.

12. City Not a Party. The City is not a party to this Agreement, and GURA is not part of the City or a department or agency of the City and is not authorized to bind or represent the City or the position of the City in any manner whatsoever, nor is the City authorized to bind or represent GURA or the position of GURA in any manner whatsoever.

13. Binding Effect. The Agreement shall be binding upon and inure to the benefit of the parties, their personal representatives, successors and assigns.

14. Amendments. This Agreement is the entire Agreement of the parties as to the subject matter herein and supersedes and replaces all prior agreements with respect to the subject matter herein and may be amended only in writing fully subscribed by the parties or their successors or assigns.

15. Assignment. Except as may be otherwise provided herein and except for transfers made for estate planning purposes, this Agreement or any rights or interest in this Agreement may not be assigned or transferred by either party without the prior written approval of the other party. Such approval shall not be unreasonably withheld.

16. Minor Changes. This Agreement is approved in substantially the form submitted to the AAC and to the Board of Commissioners of GURA. The officers executing the Agreement are authorized to make such minor changes in the Agreement and the attachments as may be necessary, so long as such changes are consistent with the intent and understanding of the parties. The execution of the Agreement or any document regarding such minor changes shall constitute conclusive evidence of the approval of such changes by the respective parties.

17. Enforced Delay and Performance for Causes Beyond Control of Party. Neither party shall be considered in default of its obligations under this Agreement in the event of enforced delay due to causes beyond its control and without its fault or negligence, including, without limitation, acts of God, acts of the public enemy, acts of the federal, state or local government, acts of the other party, acts of third-parties, acts or orders of court, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather or delays of subcontractors or material men due to such causes. In the event of the occurrence of any enforced delay, the time or times for performance of the obligations of the party claiming delay shall be extended for the period of the enforced delay; provided, that the party seeking the benefit of the provisions of this section shall notify the other party, within fourteen (14) days after such party knows of any enforced delay, of the specific delay in writing and claim the right to an extension of the period of the enforced delay.

18. Authority. The persons executing this Agreement on behalf of parties represent and warrant that each is fully authorized to bind such party to all of the terms and conditions of this Agreement.

19. Incorporation by Reference. The exhibits to this Agreement are incorporated into and made a part of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

GOLDEN URBAN RENEWAL AUTHORITY

By:

\_\_\_\_\_  
Theodore A. Bickart, Chair

Attest:

\_\_\_\_\_  
Mark Heller  
Executive Director

The American Alpine Club, a Colorado non-profit corporation

By:

\_\_\_\_\_  
\_\_\_\_\_, Executive Director

EXHIBIT A  
LEGAL DESCRIPTION

710 10<sup>th</sup> Street, Colden CO 80401  
LTS 1 to 12 INCL, BLK 28 ON THE N SIDE OF CLEAR CREEK IN THE CITY OF  
GOLDEN, TOG W1 ANY VACATED STS & ALLEYS ADJ THERETO

EXHIBIT B  
ELIGIBLE EXPENDITURES



**Bradford Washburn American Mountaineering Museum**

**Projected Capital Budget**

**Addendum for "Green" and Sales Oriented Components**

*Estimates as of December 4, 2006*

| Budget Item:   | Amount          |
|--|-----------------|
| Green architectural elements:  |                 |
| Low Energy Lighting (increase in electrical from \$180,00 to \$235,000)  | 55,000          |
| Carpet (\$12 increase per yard x 411 yards)  | 4,933           |
| Lobby additions indicating conservation aspects of the museum with thanks to GURA (includes panels @ price per panel plus artifact case (8 small panels at \$750 each) | 6,000           |
| Build out for gift shop (framing, drywall, demolition)   | 24,000          |
| Hallway improvements (elevate and improve hallway to museum for ADA patrons; lighting, exhibition case, wall exhibits)   | 8,000           |
|  |                 |
| <b>TOTAL</b>   | <b>\$97,933</b> |

**EXHIBIT C**  
**IMMIGRATION STATUS OBLIGATIONS**

A) Contractor certifies, through signature of its authorized representative executing this Agreement, that it does not knowingly employ or contract with an illegal alien and that it has participated or attempted to participate in the United States Department of Homeland Security Basic Pilot Program in order to verify that it does not employ any illegal aliens.

B) Contractor shall not:

1) Knowingly employ or contract with an illegal alien to perform work under this Agreement; or

2) Enter into a contract with a subcontractor that fails to certify to the contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services.

C) Contractor has verified or attempted to verify through participation in the Basic Pilot Program that Contractor does not employ any illegal aliens and, if Contractor is not accepted into the Basic Pilot Program prior to entering into this Agreement that Contractor shall apply to participate in the Basic Pilot Program every three months until Contractor is accepted or the terms and conditions of this Agreement have been completed, whichever is earlier. The provision specified in this subparagraph shall not be required or effective if the Basic Pilot Program is discontinued.

D) Contractor is prohibited from using Basic Pilot Program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.

E) If Contractor obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, Contractor shall be required to:

1) Notify the subcontractor and GURA within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

2) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to sub-subparagraph (B)(2) the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

F) Contractor shall comply with any reasonable request by the State Department of

Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to its authority.

G) If Contractor violates any of the provisions set forth in this section, GURA may terminate the Agreement and Contractor shall be liable for all actual and consequential damages incurred by GURA.

**EXHIBIT D**  
**LAWFUL PRESENCE AFFIDAVIT**

I, \_\_\_\_\_, swear or affirm under penalty of perjury under the laws of the State of Colorado that (check one):

- I am a United States citizen; or
- I am a Permanent Resident of the United States; or
- I am lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date