

RESOLUTION NUMBER _____

**RESOLUTION AUTHORIZING THE MAYOR TO SIGN A
COST-SHARE GRANT CONTRACT
WITH IOWA DEPARTMENT OF AGRICULTURE
AND LAND STEWARDSHIP**

WHEREAS, the City of Cresco has been awarded a grant in the amount of \$20,000 per Contract Number: Urban24WQUI-016 from Iowa Department of Agriculture and Land Stewardship to build a filtration basin at the Airport to aid in reducing nutrients in the state's watersheds; and

WHEREAS, the City of Cresco must agree to the terms in the agreement to accept the grant and complete the project by December 31, 2025.

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor is authorized and directed to sign the Cost-Share Grant Contract with Iowa Department of Agriculture and Land Stewardship and other required documents with Iowa Department of Agriculture and Land Stewardship.

Council Person _____ moved the adoption of the foregoing Resolution and Council Person _____ seconded said Motion. Following discussion, a roll call vote was requested by Mayor and said roll call resulted as follows:

Ayes: _____

Nays: _____

Absent: _____

Thereupon, the Mayor declared said Resolution duly passed and announced that the Cost-Share Grant Contract with Iowa Department of Agriculture and Land Stewardship is approved and that the Mayor is authorized to execute the agreement on behalf of the City of Cresco.

PASSED AND APPROVED THIS _____ DAY OF _____, 2024.

BY: _____
Mayor Alexander Fortune

ATTEST: _____
City Clerk Nicole Hill

SECTION 1. PROJECT

“*Project*” means the detailed description of the work, services, budget and other obligations to be performed or accomplished by the Grantee as described in its Water Quality Initiative Program Application, as approved by IDALS and incorporated as Exhibit A to this Contract.

SECTION 2. PROJECT COMPLETION DEADLINE

The Project must be completed no later than **December 31, 2025**. An extension may be granted by IDALS, through an amendment, if a written request showing demonstrable progress toward completion of the Project is submitted and IDALS determines such an extension is warranted. Any extension request submitted by the Grantee must be received by IDALS no later than 30 days prior to expiration of this contract.

SECTION 3. DURATION OF COST-SHARE GRANT CONTRACT

3.1 This Contract shall become effective on the Contract Effective Date and shall remain in effect as follows:

- a) *Through Project Period Completion Date.* Through the Project Period Completion Date and for the period of time after Project Completion Date during which IDALS, or its designee, conducts Project closeout procedures to verify that the Project has been completed in compliance with the Contract.
- b) *Until Repayment or Satisfaction of Outstanding Obligation.* Until all outstanding amounts due to IDALS, if any, are received by IDALS, or all outstanding obligations to IDALS are satisfied in full.
- c) *Through Contract End Date.* Until IDALS, or its designee, has completed Contract closeout procedures and provided Grantee with written Notice of Final Contract Closeout. This Contract shall terminate as of the date stated in the written Notice of Final Contract Closeout; such date shall be the Contract End Date.

3.2 SURVIVAL OF OBLIGATIONS. Section 3.1 shall not abrogate or otherwise effect the obligations, terms, and conditions that survive beyond the Contract End Date, including but not limited to the following sections of this Contract: Section 4.4 (Accounting Records), Section 4.5 (Documentation), and Section 4.6 (Conveyance of Project Property).

SECTION 4. TERMS OF CONTRACT

4.1 GRANT. IDALS shall provide a Grant to Grantee up to the Award Amount stated on page 1 of this Contract in order to assist in financing the Project, subject to Iowa Code chapter 466B, IDALS administrative rules (located at 27 Iowa Admin. Code chapter 16), and the terms and conditions of this Contract. A copy of Grantee's Application describing the Project is an integral part of this Contract and is marked as Exhibit A and hereby incorporated herein.

4.2 MAXIMUM PAYMENTS. It is expressly understood and agreed that the maximum amounts to be paid to the Grantee by IDALS for Project activities shall conform to the budget as presented in

Contract Exhibit B - Project Budget. It is further understood and agreed that the total of all payments to the Grantee by IDALS for Project activities shall not exceed the Award Amount unless modified by written amendment of this Contract.

4.3 USE OF FUNDS. The Grantee hereby agrees to construct and operate the Project as described in its Application Exhibit A, as approved by IDALS, and Exhibit B, Project Budget. Grantee shall maintain the Project in accordance with the representations in Exhibits A and B during the term of this Contract. Grantee shall allow IDALS, its internal or external auditors, the Auditor of the State of Iowa, the Treasurer of the State of Iowa, the Attorney General of the State of Iowa, and the Iowa Division of Criminal Investigation, to inspect the Project facilities at all reasonable times in order to monitor and evaluate performance with the terms of this Contract and Iowa law.

4.4 ACCOUNTING RECORDS. Grantee shall maintain its books, records and all other evidence pertaining to this Contract in accordance with generally accepted accounting principles and such other procedures as may be specified by IDALS. These records shall be available to IDALS, its internal or external auditors, the Auditor of the State of Iowa, the Treasurer of the State of Iowa, the Attorney General of the State of Iowa, and the Iowa Division of Criminal Investigation, at all times during the duration of this Contract and any extension thereof, and for three (3) full years following the Contract End Date.

4.5 DOCUMENTATION. Within 10 days of receipt of a written request from IDALS, Grantee shall deliver to IDALS: (i) copies of all contracts or documents relating to the Project; (ii) copies of all invoices, receipts, statements or vouchers relating to the Project; (iii) a list of all unpaid bills in connection with the Project; and, (iv) budgets and revisions showing estimated Project costs and funds required at any given time to complete and pay for the Project. Grantee shall be bound by this requirement from the Effective Date to a date three (3) full years following the Contract End Date.

4.6 CONVEYANCE OF PROJECT PROPERTY. Between the Effective Date and a date three (3) full years following the Contract End Date, Grantee shall not sell, transfer, convey, assign, encumber or otherwise dispose of any portion of the Project property as described in Exhibit A without express written permission of IDALS, which permission may be withheld in the sole discretion of IDALS.

4.7 INDEPENDENT CONTRACTOR. Grantee's status shall be that of an independent contractor. Neither the Grantee, its employees, agents, or any subcontractors performing work or services for the Grantee are, or shall be deemed to be, employees or agents of the State of Iowa, and shall not be considered employees of IDALS or the State of Iowa for federal or state tax purposes. IDALS shall not withhold taxes on behalf of the Grantee unless required to do so by law.

4.8 USE OF THIRD PARTIES. IDALS acknowledges that Grantee may contract with third parties for the performance of any of the Grantee's obligations under this Contract. All subcontracts shall be subject to prior approval by IDALS. Grantee may enter into such contracts to complete the Project provided that Grantee remains responsible for all services performed under this Contract. All restrictions, obligations and responsibilities of the Grantee under this Contract shall apply to any subcontractors retained by Grantee. IDALS shall have the right to request the removal of any subcontractor from the Project for good cause. Subcontracts shall be submitted to IDALS for approval before entry into force and effect.

4.9 AWARD AMOUNT, TYPE. This is a cost-share grant award in the amount of \$20,000.

4.10 USE OF LOGOS AND SIGNAGE. The Grantee will be required to include the CleanwaterIowa.org and the IDALS logo in any marketing and outreach materials developed in conjunction with the project and funded either with grant proceeds or with matching funds.

4.11 STANDARDS AND SPECIFICATIONS. The practices installed shall comply with Iowa Stormwater Management Manual (ISWMM) standards and specifications or with USDA Natural Resources Conservation Service (NRCS) Standards and Specifications, where available.

Practice plans and designs must be approved by an Urban Conservationist assigned by IDALS following the project review and implementation guidelines established in the Water Quality Initiative Milestone Checklist prior to proceeding with design finalization or any associated construction activities.

All practices installed with WQI funds will be subject to IDALS maintenance agreement requirements to ensure the respective practice(s) will be maintained through its anticipated lifespan. Agreement durations and requirements are practice specific and should be discussed with the Urban Conservationist assigned by IDALS.

4.12 PROJECT REPORTING AND TRAINING REQUIREMENTS. A representative of the Grantee will be required to attend any IDALS identified training events and/or meetings. IDALS will provide sufficient notification of required training sessions.

In addition, the Grantee is required to submit progress reports periodically during the project to document activities and progress in conformance with printed report guidance provided by IDALS.

Any failure by a grantee to meet established deadlines for submission of progress reports will result in immediate suspension of all disbursement of funds to the Grantee, including advance requests and all reimbursements. This suspension will continue until receipt by IDALS of all outstanding reports associated with this Contract.

Specifically, Grantee is required to:

- a) Provide IDALS with quarterly progress reports within fifteen (15) days after the end of each quarterly reporting period.
- b) Provide a comprehensive final report in conformance with the printed report guidance provided by IDALS, within 30 days of conclusion of the project.

SECTION 5. RELEASE AND DISBURSEMENT OF FUNDS

5.1 CONDITIONS FOR RELEASE OF FUNDS. No funds shall be released for disbursement until this Contract has been executed and the Grantee has properly completed each of the following items:

- a) Attendance by at least one representative of the applicant at program orientation offered by IDALS staff.
- b) Completion and submission of form "W-9, Request for Taxpayer Identification Number and Certification."

- c) Evidence, acceptable to IDALS or its designee, that acceptable accounting policies and procedures are in place within 90 days of contract execution by all parties.

5.2 REQUESTS FOR DISBURSEMENT. All disbursements of proceeds shall be subject to receipt by IDALS of requests for disbursement submitted by Grantee. Requests for disbursement shall be in a form and content acceptable to IDALS.

Grantee or its designee shall request disbursement by submitting to IDALS or its designee the request form provided by IDALS (as the same may be modified from time to time by IDALS), which request form shall itemize Grantee's total allowable expenses, if any. Expenses shall be documented in a manner acceptable to IDALS or its designee.

IDALS or its designee shall review the request and, if acceptable to IDALS or its designee, make the appropriate disbursement from the *Water Quality Infrastructure* Fund.

The disbursement authorized by IDALS or its designee will be limited to the expected allowable expenses for the relevant period. Major budget category Practice Costs may deviate by ten (10) percent by line item without prior approval of the Division, but total expenditures shall not exceed the total budget amount provided in the project contract.

5.3 SUSPENSION OF DISBURSEMENT. Upon the occurrence of an Event of Default (as defined in this Contract) by Grantee, IDALS or its designee may suspend payments to Grantee until such time as the default has been cured to IDALS' satisfaction. Notwithstanding anything to the contrary in this Contract, upon a termination of this Contract on account of an Event of Default by the Grantee, Grantee shall no longer have the right to receive any disbursements after the date of the Event of Default.

5.4 INVESTMENT OF GRANT FUNDS. In the event grant funds are not immediately utilized, temporarily idle grant funds held by Grantee may be invested, provided such investments shall be in accordance with State law, including but not limited to the provisions of Iowa Code chapter 12C concerning the deposit of public funds. Interest accrued on temporarily idle grant funds held by the Grantee shall be credited to and expended on the Project prior to the expenditure of other grant proceeds.

All proceeds remaining, including accrued interest, after all allowable Project costs have been paid or obligated shall be returned to IDALS within thirty (30) days following the Project Completion Date. Within ten (10) days of receipt of a written request from IDALS, Grantee shall inform IDALS in writing of the amount of unexpended grant funds in Grantee's possession or under the Grantee's control, whether in the form of cash on hand, investments, or otherwise.

5.5 USE OF GRANT FUNDS FOR EQUIPMENT AND NON-CONSUMABLE SUPPLIES. The use of grant funds through this contract is permitted for the purchase of equipment and non-consumable supplies, subject to all of the following conditions:

- a) All purchases for which reimbursement will be requested must be approved by IDALS prior to any expense being incurred by Grantee. Failure to adhere to this condition will result in forfeiture of all claims for reimbursement for the item(s) in question.
- b) In no instance will the reimbursement rate for an item purchased in this category exceed fifty percent (50%) of the documented cost of the item. Furthermore, no other source of state funding may be used to provide the non-IDALS share of expense for the item.

- c) If at any point prior to completion of the project, a piece of equipment or non-consumable supply item is sold, liquidated, or transferred for use outside of the project, full and immediate repayment of grant proceeds used to purchase the item by the Grantee to IDALS will be required.
- d) Recurring expenses associated with operation and maintenance of such equipment shall be the sole responsibility of the Grantee.

SECTION 6. REPRESENTATIONS AND WARRANTIES

Grantee represents and warrants to IDALS as follows:

6.1 Grantee is duly organized, validly existing and in good standing as a recognized legal entity under Iowa law. Grantee has full and adequate power to own its property and conduct its business as now conducted, and is duly licensed or qualified and in good standing in each jurisdiction in which the nature of the business conducted by it or the nature of the property owned or leased by it requires such licensing or qualifying.

6.2 Grantee has full right and authority to enter into this Contract and the person signing this Contract on behalf of Grantee has full authority to do so.

6.3 Grantee hereby agrees to use Award proceeds only for the Project and the activities described in the approved Water Quality Initiative Application.

6.4 The Application furnished to IDALS by Grantee does not contain any untrue statements of a material fact or omit a material fact.

6.5 Grantee has received all licenses, permits, and approvals of all Federal, state, local, and foreign governmental authorities, if any, necessary to conduct its businesses; no investigation or proceeding which, if adversely determined, could reasonably be expected to result in revocation or denial of any material license, permit, or approval is pending or, to the knowledge of the Grantee threatened.

6.6 Grantee shall complete the Project by the Project Completion Date.

6.7 All financial statements and related materials concerning the Grantee and the Project provided to IDALS are true and correct in all material respects and completely and accurately represent the subject matter thereof as of the Effective Date of the statements and related materials, and no material adverse change has occurred since that date.

SECTION 7. DEFAULT

7.1 EVENTS OF DEFAULT. The occurrence of any one or more of the following events shall constitute cause for IDALS to declare Grantee in default of its obligations under this Contract: (i) a failure of Grantee to complete the Project by the Project Completion Date; (ii) a breach of any other term of this Contract.

7.2 NOTICE OF DEFAULT, REMEDIES. When IDALS determines that an Event of Default has occurred and is continuing, IDALS may, by written notice to Grantee: (i) terminate this Grant Contract and all obligations of IDALS under the Contract as of the date stated in such notice, and (ii) declare the full amount of Award funds, disbursed, immediately due and payable. Grantee agrees to pay to IDALS all expenses reasonably incurred or paid by IDALS, including reasonable attorneys'

fees and court costs, in connection with the enforcement of any of the terms of this Grant Contract.

7.3 REPAYMENT OR PENALTY. Upon the happening of any Event of Default, IDALS reserves the right to terminate this Contract and to require immediate repayment of the full amount of funds disbursed to Grantee under this Contract.

SECTION 8. TERMINATION

8.1 TERMINATION UPON NOTICE. Following ten (10) days' written notice, IDALS may terminate this contract in whole or in part without payment of any penalty or the incurring of any further obligation to the Grantee. Following termination upon notice, Grantee shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under this Contract to IDALS up to and including the date of termination.

8.2 NON-APPROPRIATION. Notwithstanding anything in this contract to the contrary, and subject to the limitations, conditions and procedures set forth below, IDALS shall have the right to terminate this contract without penalty by giving thirty (30) days written notice to the Grantee as a result of any of the following: (1) the legislature or governor fail to appropriate funds sufficient to allow IDALS to operate as required and to fulfill its obligations under this contract; (2) if funds are de-appropriated or not allocated; (3) if IDALS' authorization to operate is withdrawn or there is a material alteration in the programs administered by IDALS; and (4) if IDALS' duties are substantially modified. In the event of termination of this Contract due to non-appropriation, the exclusive, sole, and complete remedy of the Grantee shall be payment for services completed prior to termination.

8.3 REMEDIES OF THE GRANTEE IN EVENT OF TERMINATION BY IDALS. In the event of termination of this Contract for any reason by IDALS, IDALS shall pay only those amounts, if any, due and owing to the Grantee for services actually rendered up to and including the date of termination of the Contract and for which IDALS is obligated to pay pursuant to this Contract. Payment will be made only upon submission of invoices and proper proof of the Grantee's claim. This provision in no way limits the remedies available to IDALS under this Contract in the event of termination.

8.4 THE GRANTEE'S TERMINATION DUTIES. The Grantee, upon receipt of notice of termination or upon request of IDALS, shall:

8.4.1 Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, any other matters IDALS may require.

8.4.2 Comply with the IDALS's instructions for the timely transfer of any active files and work product produced by the Grantee under this Contract.

8.4.3 Immediately return to IDALS any payments made by IDALS for services that were not rendered by Grantee.

SECTION 9. CONFLICT OF INTEREST

Grantee represents, warrants, and covenants that no relationship exists or will exist during the

Contract period between IDALS and Grantee that is a conflict of interest. No employee, officer or agent of Grantee shall participate in the selection or the award or administration of a subcontract if a conflict of interest, real or apparent, exists. The provisions of Iowa Code Ch. 68B shall apply to this Contract. If a conflict of interest is proven to IDALS, IDALS may terminate this Contract, and Grantee shall be liable for any excess costs to IDALS as a result of the conflict of interest. Grantee shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties. Grantee shall report any potential, real, or apparent conflict of interest to IDALS.

SECTION 10. INDEMNIFICATION

Grantee shall jointly and severally defend, indemnify and hold IDALS, its successors and assigns, harmless from and against any liability, loss, damage or expense, including reasonable counsel fees, which IDALS may incur or sustain by reason of: (a) the failure of Grantee to fully perform and comply with the terms and obligations of this Contract; (b) Grantee's performance or attempted performance of this Contract; (c) Grantee's activities with subgrantees and third parties.

SECTION 11. CONTRACT ADMINISTRATION

11.1 NONASSIGNMENT. This Contract may not be assigned without prior written consent of IDALS.

11.2 COMPLIANCE WITH THE LAW; NONDISCRIMINATION IN EMPLOYMENT. The Grantee, its employees, agents, and subcontractors shall not engage in discriminatory employment practices which are forbidden by federal or state law, executive orders, and rules of the Iowa Department of Administrative Services. The Grantee, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment (e.g., Iowa Code chapter 216 and section 19B.7) and the use of targeted small businesses as subcontractors and suppliers. Upon the State's written request, the Grantee shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and accessibility plans and policies as required under Iowa Administrative Code chapter 11—121.

The Grantee, its employees, agents and subcontractors shall also comply with all federal, state, and local laws, including any permitting and licensure requirements, in carrying out the work performed under this Contract.

In the event Grantee contracts with third parties for the performance of any of the Grantee obligations under this Contract as set forth in section 4.8, Grantee shall take such steps as necessary to ensure such third parties are bound by the terms and conditions contained in this section.

Notwithstanding anything in this Contract to the contrary, Grantee failure to fulfill any requirement set forth in this section shall be regarded as a material breach of this Contract and the State may cancel, terminate, or suspend, in whole or in part, this Contract. The State may further declare Grantee ineligible for future state contracts in accordance with authorized procedures or the Grantee may be subject to other sanctions as provided by law or rule.

If all or a portion of the funding used to pay for the Deliverables is being provided through a grant from the Federal Government, Grantee acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars and bulletins, the awarding agency of the Federal Government reserves certain rights including, without limitation a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes, the Deliverables developed under this Contract and the copyright in and to such Deliverables.

11.3 AMENDMENTS. No change, modification, or termination of any of the terms, provisions or conditions of this Grant Contract shall be effective unless made in writing and signed by both parties.

11.4 COMPLIANCE WITH LAWS AND REGULATIONS. Grantee shall comply with all applicable State and federal laws, rules, ordinances, regulations and orders, including those governing procurement. Grantee declares that it has complied with all federal, state, and local laws regarding business permits and licenses that may be required to carry out the work to be performed under this Contract.

11.5 ACCESS TO RECORDS. Grantee shall permit IDALS or its representatives and the State Auditor to access and examine, audit, excerpt and transcribe any pertinent books, documents, papers and records of Grantee relating to orders, invoices, or payments, or any other documentation or materials pertaining to this Contract. All records of Grantee relating to this Contract shall be retained for a period of three (3) years following the date of final payment or completion of any required audit, whichever is later.

11.6 AUDITS. IDALS reserves the right to require an audit of the Grantee's approved project and related activities at any time, during or after completion of the project. Any expenses pertaining to the project as a result of the audit will be an allowable expense under this Contract and will follow normal disbursement procedures.

11.7 UNALLOWABLE COSTS. If IDALS determines at any time, whether through monitoring, audit, closeout procedures or other means that Grantee has received Grant funds or requested disbursement for costs which are unallowable under the terms of this Contract, Grantee shall immediately repay to IDALS any and all unallowable costs.

11.8 SURVIVAL OF CONTRACT. If any portion of this Contract is held to be invalid or unenforceable, the remainder shall be valid and enforceable.

11.9 GOVERNING LAW. This Contract shall be interpreted in accordance with the law of the State of Iowa, and any action relating to the Contract shall only be commenced in the Iowa District Court for Polk County or the United States District Court for the Southern District of Iowa.

11.10 INTEGRATION. This Contract contains the entire understanding between Grantee and IDALS relating to this Project and any representations that may have been made before or after the signing of this Contract, which are not contained herein, are nonbinding, void and of no effect. Neither of the parties has relied on any such prior representation in entering into this Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the latest date stated below.

FOR GRANTEE:

City of Cresco, Iowa

Signature

Print Name/Title

_____/_____/_____
Date

FOR IDALS:

Grant Menke, Deputy Secretary of Agriculture

_____/_____/_____
Date