



GRANTEE AGREEMENT TO PROVIDE FUNDING TO THE

2009-2010 Fiscal Year

Grant No. 2010- ###

THIS AGREEMENT (“Agreement”) is by and between the City of Elk Grove (“City”) and _____ (“Grantee”), collectively as the parties.

RECITALS

WHEREAS, the Grantee is a California non-profit corporation.

WHEREAS, the City desires to provide grant funding (“Grant”) to Grantee to assist the Grantee in providing to the City of Elk Grove the services described in Exhibit “A.”

WHEREAS, the City and Grantee agree that providing the services desired in Exhibit A in the Elk Grove area serves a valid public purpose.

AGREEMENT

1. The recitals and exhibits attached hereto are hereby incorporated by reference.
2. **Grantee Responsibilities.** The Grantee has full responsibility for the conduct of the project or activity supported under this grant and for adherence to the grant conditions.
 - a. Program. City may, in its discretion, provide up to _____ Dollars (\$_____) during fiscal year 2009-2010 (“grant period”) to Grantee to assist in providing the services described in Exhibit A. These dollars shall only be used for the purposes described in Exhibit A.
 - b. Communications.
 - (i) Grantee shall include, upon approval by the City, the City’s name and/or logo in all communications produced between July 1, 2009 and



June 30, 2010 in which Grantee identifies any person or entity as being a sponsor of, or donor or contributor to, Grantee. In instances where Grantee receives funding related to the arts, such communications shall also display the logo for the City of Elk Grove Committee for the Arts. The style of presentation (text and/or logo, font size, etc.) shall be determined by the City. It is generally expected that when another person or entity is identified in the communication as a sponsor, donor, or contributor, and that person's or entity's logo appears in the communication, the City's logo would also appear. When the style of presentation is based on the amount of financial support provided, the City's name and/or logo shall be treated equally with other supporters providing similar financial support, and shall be based on the total amount of City funds received and to be received pursuant to this Agreement by Grantee.

- (ii) In performing its obligations under subsection (i), Grantee must obtain the permission of the City before including the City's name or logo in any communication that is:
- required to include the name or logo pursuant to subsection (i), or
 - produced during the time period specified in subsection (i) if the communication identifies the City as a sponsor, donor, or contributor.

Permission may be granted by the Public Information Officer in the City Manager's Office. The Public Information Officer shall determine the style in which the City's name and logo are presented in such communications. If the City denies permission to place the City's name and logo in a particular communication, this subsection (b) shall not apply to that particular communication, and nothing in this section (b) shall prevent Grantee from sending that communication out.

3. **No-Cost Extensions.** The City may authorize a one-time extension of the expiration date of the award up to 6 months, if additional time beyond the established expiration date is required to assure adequate completion of the original scope of work within the funds already made available. A single extension, which shall not exceed 6 months, may be made for this purpose and must be made prior to the originally established expiration date. This one-time extension may not be exercised merely for the purpose of using any un-liquidated grant balances.

Grantee shall, in writing, notify the City providing supporting reasons for the extension, and the revised expiration date, at least ten days prior to the expiration date specified in the award.

4. **Deadline for Performance.** Grantee shall comply, by June 30, 2010, with all of the requirements imposed on it by this Agreement, unless granted a no cost extension. In any event all requirements of this Agreement shall be fulfilled.



5. **Conditions of the Grant.** The obligation of City to make the Grant is contingent upon the satisfaction of the following conditions:
- a. **Documentation Review.** Upon the request of City, Grantee shall provide City with any documents related to this Agreement or otherwise requested by the City including, but not limited to, financing information. City shall have the right to inspect, audit, and review all Grantee's financial documents relative to Grantee's use of the Grant funds.
 - b. **Program Reporting.** Grantee shall submit a mid-year report regarding progress of the program and progress toward program outcomes and performance measures related to the success of the program. The report should focus on those program goals and measures identified in the grantee's funding application and provide updated data through December, 2009. **This report shall be provided to the City of Elk Grove on or before February 15, 2010.** Failure to comply may be deemed a material breach of the Agreement, resulting in termination of the grant with no further funding.
 - c. **Financial Reporting.**
 - (i) The Grantee, at the Grantee's sole expense, shall account for all funds received from the City under this Agreement and all expenditures made from Grant Funds. The Grantee shall provide all information at such times and in such form and detail that the City may require, including but not limited to accounts, records, budget-to-actual statements, and other supporting documentation. Without limiting the preceding sentence, it is agreed that, if requested in writing by the City, the Grantee shall make all of that information available for inspection and audit by the City at any time during the workday. If the grant funding received is \$30,000 or more, the Grantee shall comply with section 5c(ii). If the grant funding received is less than \$30,000, the Grantee shall comply with either section 5c(ii) or 5c(iii).
 - (ii) Grantee, at Grantee's sole expense, shall obtain an audit of its financial statements. The audit shall be performed by a Certified Public Accountant or a Certified Public Accounting firm. This audit shall be conducted in accordance with generally accepted auditing standards, and the financial statements shall be prepared in conformity with generally accepted accounting principles. The Grantee shall see that the City's Budget Manager receives the audit report within six months after close of Grantee's fiscal year.
 - (iii) Grantee, at Grantee's sole expense, shall prepare a certified and sworn statement and a schedule of Grantee receipts and expenditures (cash basis) in a format prescribed by the City. The Grantee shall see that the City's Budget Manager receives the statement and schedule within six months after the close of the Grantee's fiscal year.



- d. Insurance. Grantee shall comply with all insurance requirements of this Agreement.
- e. Recordkeeping. Grantee shall retain financial and program records for a minimum period of three (3) years following the expiration or earlier termination of this Agreement.
- 6. **Term of Disbursement.** Unless terminated early as provided herein, the City shall make disbursements of Grant funds in four disbursements, all of which together equal no more than the total provided in section 2a. Until disbursement, as determined by the City, all Grant funds remain the property of the City.
- 7. **Method and Timing of Disbursements.** The first disbursement shall only be made following receipt by the City of an initial Grantee Cash Request and all applicable items under paragraph 6 of this agreement. The first disbursement shall be for the estimated expenditures for the first quarter of the grant period. All other disbursements shall not be made prior to the receipt of a quarterly financial status report and cash request from the Grantee accounting for the expenditure of monies in the fiscal year to date. The remaining disbursements will be made on a reimbursement basis not to exceed the full amount of the grant.
- 8. **Final Report Requirements.** To assure the City, in its sole satisfaction, the Grant funds were used only for the purposes authorized by this Agreement, Grantee shall, prior to August 31, 2010, provide the City with a closing statement relative to the use of Grant funds in providing the services authorized by this Agreement. In the event City determines that Grantee expended any of the Grant for purposes other than authorized herein, City may, at its option, require that Grantee reimburse City for the portion of the Grant used for the subsidizing of services not described in Exhibit A.
- 9. **Termination.**

The award may be terminated in whole or in part at any time during the year if any one of the following situations occurs:

- a. The City budgeted funds are no longer available;
- b. Grantee has materially failed to comply with any terms or conditions of the Agreement, including deadlines for submitting any accounting, audit, statement, information, record, documentation, or report. The City Manager shall have the authority to decide whether the Grantee has materially failed to comply with the terms or conditions of this Agreement, including the attachments. That determination shall include the authority to construe vague and/or ambiguous requirements, if any;
- c. When the City has other reasonable cause;
- d. By City and the Grantee by written mutual agreement.



No costs incurred after the effective date of termination will be allowable, except those costs which, in the opinion of the City, the Grantee could not reasonably avoid or eliminate.

Within 30 days of the termination date, the Grantee shall furnish a summary of progress under the grant and an itemized accounting of costs incurred prior to the termination date. Final allowable costs under a termination settlement shall be in accordance with the terms of the Agreement. In no event will the total of City payments under a terminated grant exceed the Grant fund amount.

10. **Assignment.** Neither this Agreement nor the right to receive Grant funds under the Grant shall be assignable by Grantee without the prior written consent of City, which consent the City may withhold for any reason.
11. **Information Meetings.** The City Manager, or the City Manager's designee may, in his or her discretion, schedule periodic meetings/workshops between the City Council and the Grantee. The purpose of these meetings shall be to:
 - a. Review the activities and long term plans of the Grantee;
 - b. Review the expenditures of these Grant funds;
 - c. Review funding and operation methods for the 2009-2010 fiscal year;
 - d. Identify collaborative opportunities to generate new revenue for the Grantee.
12. **Additional Funding.** Grantee shall continue to aggressively seek donations, contributions, grants and other revenue sources to generate additional income and to become financially independent of the City.
13. **Representations and Warranties.** Grantee represents and warrants as of the date of this Agreement and as of the date of each Grant disbursement the following:
 - a. That Grantee is a non-profit corporation duly formed and organized and validly exists in good standing under the laws of the State of California and has all necessary powers to enter into this Agreement.
 - b. The party executing this Agreement on behalf of Grantee is authorized to do so, and upon execution, this Agreement shall be binding upon Grantee.
 - c. All documents and written information provided or required to be provided by Grantee to City shall be true and correct copies, and contain true and correct information therein.



14. **Indemnification.**

Indemnification. Grantee shall protect, defend, indemnify, and hold harmless City, its elected or appointive boards, officers, agents and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorney's fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance under this Agreement, including failure to comply with or carry out any of the provisions of this Agreement, by Grantee, Grantee's agents, officers, employees, subcontractors, consultants, and independent contractors hired by Grantee. The only exception to Grantee's responsibility to protect, defend, indemnify and hold harmless the City, is due to the sole active negligence or willful misconduct of City. This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Grantee.

15. **Insurance Requirements.**

a. Disbursements. City shall not disburse Grant funds under this Agreement until Grantee has obtained insurance approved by the City. All insurance required by this Agreement shall be carried only by responsible insurance companies licensed to do business in California and shall name as additional insureds the City, its elected officials, officers, employees, agents and representative. All policies shall contain language to the effect that: (1) the insurer waives the right to subrogation against City and City's elected officials, officers, employees, agents and representatives (2) the Grantee's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers to the extent the City is an additional insured. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Grantee's insurance and shall not contribute with it. Upon request of the City, Grantee shall provide copies of all such policies, endorsements, and certificates in a form acceptable to the City.

b. Workers' Compensation and Employer's Liability Insurance. Grantee and all subcontractors shall maintain Workers' Compensation coverage as required by the State of California and Employer's Liability Insurance coverage of no less than one million (\$1,000,000) per accident or disease.

If an injury occurs to any employee of the Grantee for which the employee or his dependents, in the event of his death, may be entitled to compensation from the City under the provisions of the Acts, for which compensation is claimed from the City, there will be retained out of the sums due the Grantee under this Agreement, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to the Grantee.



- c. Commercial General Liability Insurance. Grantee shall maintain commercial general liability insurance coverage of no less than one million (\$1,000,000) per occurrence.
- d. Automobile Liability. Grantee shall maintain Automobile Liability Insurance coverage of no less than one million (\$1,000,000) per occurrence for bodily injury and property damage for coverage for “any auto.”
- e. City’s Standard Insurance Requirements. Grantee shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this Agreement the policies of insurance specified in this Section. Such insurance must have the approval of the City as to limit, form and amount, and shall be place with insurers with a current A.M. Best’s rating of no less than A:VII.
- f. Self-Insured. Any self-insured retention or deductible on a liability or property insurance policy in excess of \$50,000 must be declared to and approved by the City before the grant funds are disbursed.
- g. Subrogation. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by the Grantee.
- h. Endorsements. On all required insurance, the following endorsements must be part of each policy:
 - (i) The City of Elk Grove, its officers, consultants, independent contractors, employees, and agents are to be listed as additional insureds.
 - (ii) Policies shall provide that it shall not be canceled or materially changed except after thirty (30) days’ notice by the insurer to City by certified mail.
 - (iii) The Grantee’s insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers to the extent the City is an additional insured. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Grantee’s insurance and shall not contribute with it.

16. **Miscellaneous.**

- a. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of California. If any legal action is brought by either party relating to this Agreement, venue shall lie exclusively in a court of competent jurisdiction in Sacramento County.

Grantee Agreement to Provide Funding to the



- b. Successors. This Agreement shall inure to the benefit of and shall be binding upon the parties to this Agreement and their respective heirs, successors, and assigns.

- c. Entire Agreement. This Agreement and the documents referenced herein contain the entire agreement between the parties to this Agreement and shall not be modified in any manner except by an Instrument in writing executed by the parties or their respective successors in interest.

FOR THE CITY OF ELK GROVE
Dated: _____

By: _____
Mayor, City of Elk Grove

Approved as to form:

By: _____
City Attorney, City of Elk Grove

FOR _____
Dated: _____

By: _____
Title: _____

By: _____
Attorney for Grantee