

**AN AGREEMENT FOR
«GRANT_TYPE»
BETWEEN THE CITY OF THOUSAND OAKS AND
«APPLICANT»**

THIS AGREEMENT is made and entered into this # day of MONTH YEAR by and between the **CITY OF THOUSAND OAKS**, a municipal corporation (herein referred to as "City"), and «APPLICANT», (herein referred to as "Grantee"). Pursuant to City Council action on MONTH DAY, YEAR, City awarded Grantee a «Grant_Type» («Grant_Type_Acronym») totaling «award» for «Program».

This Agreement, therefore, sets forth the terms and conditions for this «Grant_Type» Award effective MONTH DAY, YEAR and ending MONTH DAY, YEAR. Grantee will be responsible for administering the following agreement terms in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. By signing this document, City and Grantee agree as follows:

1. DESCRIPTION OF SERVICE

The service to be performed by Grantee is as follows: «Eligible_Expenses». Grantee warrants that funds granted by this Agreement shall be used solely for «Program» and as generally described in "Section B Organization and Project Information" of Grantee's application attached as Exhibit "A." If the Project/Program/Event that is to be funded under this Agreement is canceled or substantially altered, Grantee agrees to notify the City and to be subject to the City's request to refund the grant amount in full or in part.

- (a) Grantee warrants that funding is for a program of community benefit within the City of Thousand Oaks.
- (b) Grantee agrees to follow all guidelines established in Application Criteria included as Exhibit "A". Grantee shall also provide matching funds in an amount equal to the grant award.
- (c) Grantee agrees to complete and submit the Performance Report attached as Exhibit "B" and detailed in Section 5 below.

2. GRANT PAYMENT

- (a) The total amount payable to Grantee or Fiscal Sponsor by City for services under this Agreement SHALL NOT exceed the sum of «award» (herein "Not to Exceed Amount"), as part of the City of Thousand Oaks Community Grant Program.

- (b) The Project/Program/Event funded under the term of this Agreement shall occur between **MONTH DAY, YEAR** and **MONTH DAY, YEAR**. If the project/program/event is not completed within said term, Grantee shall return the full grant award to the City unless the parties have extended the term or amended the program through written amendment to this Agreement.

Following execution of this Agreement, City will issue a check in the amount of **«award»** payable to the following Grantee or Fiscal Sponsor, as listed on the submitted W-9 approved with the application:

«Payee_Name»

«Payee_Address_1»

«Payee_Address_2»

3. PERMITS AND LICENSES

Grantee, at its sole expense, will obtain and maintain during the term of this Agreement, all appropriate permits, licenses and certificates that may be required in connection with the performance of the services under this Agreement.

4. HOLD HARMLESS AND INDEMNITY

- (a) **Hold Harmless for Grantee's Damages.** Grantee holds the City, its elected officials, officers, agents and employees, harmless from all Grantee's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to Grantee, to Grantee's employees, to Grantee's volunteers, contractors or subcontractors, whether damages, losses, injuries or liability occur during the work required under this Agreement, or occur while Grantee is on City property, or which are connected, directly or indirectly, with the Grantee's performance of any activity or work required under this Agreement.
- (b) **Defense and Indemnity of Third-Party Claims/Liability.** Grantee shall investigate, defend, and indemnify the City, its elected officials, officers agents and employees, from any claims, lawsuits, demands, judgments, and all liability including, but not limited to, monetary or property damage, lost profit, personal injury, wrongful death, general liability, automobile, infringement of copyright/patent/trademark, or professional errors and omissions arising out of, directly or indirectly, an error, negligence, or omission of the Grantee or Grantee's volunteers, contractors, subcontractors, or the willful misconduct of Grantee or Grantee's volunteers, contractors, subcontractors, in performing the services described in, or normally associated with,

this type of contracted work. The duty to defend shall include any suits or actions in law or equity concerning any activity, product or work required under this Agreement, and also include the payment of all court costs, attorney fees, expert witness costs, investigation costs, claims adjusting costs and any other costs required for and related to such litigation.

- (c) **No Waiver.** City does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by the City, or the deposit with the City, of any insurance certificates or policies described in Section 13.

5. PERFORMANCE REPORTS

Grantee agrees to submit a performance report on the use of grant funds to support the Program using the form attached hereto (Exhibit "B"). This report shall be completed and submitted within 30 days of expending grant funds, or the end date of the Program/project/event, whichever is later. If the performance report is not submitted, City may request reimbursement of all or part of the grant funds and Grantee will not be eligible to apply for future Community Grant funding.

6. GRANT MONITORING

City's representative may visit Grantee's offices or program site to evaluate service. Pursuant to the terms of Section 10 below, Grantee will allow City's representative to inspect and audit records demonstrating that funds were expended for approved costs to deliver the service(s) described in Section 1 above.

7. UNEXPENDED FUNDS

These «Grant_Type» funds are provided for the program described in Section 1 above. If the program ceases before all funding is expended, if the funds are not used for the authorized purpose, or if the funds are not properly expended within the term required, and no amendment has been made to the Agreement, the remaining funds shall be returned or reimbursed to the City.

8. RELATION OF THE PARTIES/CONFLICT OF INTEREST

- (a) The relationship of the parties to this Agreement shall be that of independent contractors and that in no event shall Grantee be considered an officer, agent, servant or employee of City. Grantee shall be solely responsible for any workers' compensation insurance, withholding taxes, unemployment insurance, and any other employer

obligations associated with the described work.

- (b) Grantee shall be responsible for understanding and complying with the requirements of CA Government Code section 84308, which prohibits parties to a contract as well as their agents from contributing more than \$250 in aggregate to an elected official or officer of the City for the 12 months prior to award of the contract, and 12 months following the award. Where applicable, Grantee shall disclose any post award contributions prior to seeking an amendment to this Agreement.

9. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by Grantee of the payment and acceptance by the City of a final report prepared by Grantee made under this Agreement shall operate as and be a release of the City from all claims and liabilities for compensation to for anything done, furnished, or relating to such Grantee's work or services. Approval or payment by the City shall not constitute, nor be deemed, a release of the responsibility and liability of Grantee, its volunteers, employees, subcontractors, agents and for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the City for and defect or error in the work prepared by Grantee, its volunteers, employees, subcontractors, or agents.

10. AUDIT OF RECORDS

At any time during normal business hours and as often as it may deem necessary, the Grantee shall make available to a representative of the City for examination of all its records with respect to all matters covered by this Agreement and will permit City to audit, examine and/or reproduce such records. Grantee will retain such financial records, time sheets, work progress reports, invoices, bills and program records for at least two years after termination or final payment under this Agreement.

11. WAIVER; REMEDIES CUMULATIVE

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach or

cover any other period, other than any default or breach and/or period of time specified. All the remedies permitted or available to a party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

12. CONSTRUCTION OF LANGUAGE OF AGREEMENT

The provisions of this Agreement shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

13. INSURANCE

- (a) Grantee shall, at Grantee's sole cost and expense and throughout the term of this Agreement and any extensions thereof, carry workers' compensation statutory benefits when applicable, as required by law. Grantee shall also, at Grantee's sole cost and expense and throughout the term of this Agreement and any extensions thereof, carry: General Personal Injury/Property Damage Liability insurance and Automobile Liability insurance with liability limits of not less than \$1,000,000 each claimant, and \$2,000,000 each occurrence for the injury or death of a person or persons, and property damage (which policy may have an aggregate annual limit, but in an amount of no less than \$1,000,000).
- (b) All insurance policies shall be issued by a financially responsible company or companies authorized to do business in the State of California. City, its elected officials, officers and employees, shall be named as an additional insured. Grantee shall provide City with copies of certificates (on certificate form or an Accord form, as modified per City direction) for all policies, with the appropriate named additional insured coverage, and an endorsement that they are not subject to cancellation without 30 days prior written notice to City.
- (c) Grantee shall require and verify that all contractors and subcontractors maintain, at a minimum, insurance meeting all the requirements stated herein.

14. TERMINATION BY CITY

City may terminate without cause by notifying Grantee in writing upon 30 calendar days' notice, any portion of or all services agreed to be performed under this Agreement. In the event termination is for cause, no notice period need be given. In such event, Grantee shall be paid only to the extent required by law.

15. AUTHORIZATION

Each party has expressly authorized the execution of this Agreement on its behalf to bind each party, and its respective administrators, officers, directors, districts, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint ventures, insurance carriers, and any others who may claim through it, to this Agreement.

16. MODIFICATIONS

Any amendment, modification, or variation of the terms of this Agreement or the use of the funds granted hereby shall be in writing and shall be effective only upon the mutual written approval of the City Manager, or his or her designee, and Grantee.

17. PARTIAL INVALIDITY

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

18. NON-APPROPRIATION OF FUNDS

Payments due and payable to Grantee for current services are within the current budget and within an available, unexhausted and unencumbered appropriation of City funds. In the event City has not appropriated sufficient funds for payment of Grantee services beyond the current fiscal year, this Agreement shall cover only those costs incurred up to the conclusion of the current fiscal year.

19. MITIGATION OF DAMAGES

In all situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

20. GOVERNING LAW

This Agreement, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. Should

litigation occur, venue shall be in the Superior Court of Ventura County.

21. NONDISCRIMINATION

The Grantee shall comply with the federal Americans with Disability Act, Public Law 101-336, and observe the disability discrimination prohibitions of such laws in the performance of the work required under this Agreement.

22. CAPTIONS

The captions or headings in this Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement.

23. ENTIRE AGREEMENT BETWEEN PARTIES

Except for Grantee's proposals and submitted representations for obtaining this Agreement, this Agreement supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services and contains all of the covenants and agreements between the parties with respect to said services. Any modifications to this Agreement will be effective only upon written amendment signed by both parties.

24. NOTICES

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO CITY: City Manager's Office, Sarah Mailes
 City of Thousand Oaks
 2100 Thousand Oaks Boulevard
 Thousand Oaks, CA 91362

TO GRANTEE: «Grantee_Name»
 «Contact»
 «Address1»
 «Address2»

TO PAYEE: «Payee_Name»
 «Payee_Address_1»
 «Payee_Address_2»

25. SIGNATURES

- (a) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument.
- (b) **Scanned Signatures.** In the event that any signature is delivered by facsimile transmission or submitted electronically as a scanned image (i.e. files with .pdf, .tiff or .jpeg extensions), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or scanned signature page were an original thereof.
- (c) **Digital/Electronic Signatures.** This Agreement may be executed through the use of digital or electronic signatures provided they meet the requirements of the Electronic Signatures in Global and National Commerce (ESIGN) Act and the California Uniform Electronic Transactions Act (UETA) and are produced using a City-approved method. The presence of an electronic signature on this document shall be construed as the parties' consent to do business electronically.

In concurrence and witness whereof, this Agreement has been executed by the parties effective on the date and year first above written.

GRANTEE:

CITY OF THOUSAND OAKS

«Grantee Signer_1», «1_Title», «Org_1»

Andrew P. Powers, City Manager

GRANTEE:

ATTEST:

«Grantee Signer2», «2_Title», «Org_2»

Laura B. Maguire, City Clerk

APPROVED AS TO FORM
Office of the City Attorney

Tracy Friedl, Assistant City Attorney

Attachments: Exhibit "A" – Application Criteria and Grantee's Application
 Exhibit "B" – Performance Report Form

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