

## GRANT AGREEMENT

THIS AGREEMENT is entered into on the date of the last signatory noted below (the "Effective Date"), between the City of Columbia, Missouri, a municipal corporation (hereinafter "City" or "Grantor") and \_\_\_\_\_, a \_\_\_\_\_ (hereinafter "Grantee"). Grantor and Grantee are each individually referred to herein as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the City of Columbia has received a notice of award from the National Endowment for the Arts for federal American Rescue Plan funding to support the nonprofit arts sector in response to and recovery from the COVID-19 pandemic; and

WHEREAS, Grantee is an eligible organization that has suffered as a result of the COVID-19 Pandemic and Grantee is in need of funds to respond to and recover from the COVID-19 pandemic.

NOW, THEREFORE, the Parties hereto, for good and sufficient consideration, the receipt of which is hereby acknowledged, intending to be legally bound, do hereby agree as follows.

1. Amount of Grant and Payment Schedule.
  - a. Contingent upon federal funding and subject to the terms and conditions of that funding and those set forth herein, the Grantor hereby agrees to provide Grantee funding in the amount of \_\_\_\_\_ dollars (\$----).
  - b. Contingent upon Grantee's compliance with the terms set forth herein and with Grantee's expenditures consistent with the Approved Budget, the funds shall be disbursed according to the disbursement schedule contained in Exhibit C. Any expenditures of grant funds in violation of the approved program budget or any term of this Agreement shall be a material breach of this Agreement.
2. Period of Performance and Budget. The period of performance and budget period is from ----- ("Start Date") to -----, \_\_\_\_ ("End Date"). Under no circumstances shall the period of performance and budget extend beyond May 31, 2023.
3. Grantee's Responsibilities.
  - a. Approved Budget. Grantee agrees that the grant funds shall be spent as set forth in the approved program budget (Exhibit B). Any substantive changes in the approved program budget shall be subject to the written consent of the City prior to the expenditure of funds by Grantee. Until City approves the change in writing, Grantee shall only use the grant funds as outlined in the approved program budget. Any expenditures of grant funds

in violation of the approved program budget is a material breach of this Agreement.

- b. All costs must be allocable and allowable. Allowable costs are limited to salary support, full or partial for one or more staff positions; fees/stipends for artists and /or contractual personnel to support the services they provide for specific activities in support of the organizations day to day operations; facilities costs such as rent and utilities; costs associated with health and safety supplies for staff and/or visitors/audiences such as personal protective equipment, cleaning supplies, hand sanitizers, etc); and marketing and promotion costs. Costs must be spent as specified in the approved program budget.
- c. All allocable and allowable expense must be adequately documented in compliance with 2 CFR 200. Grantee shall maintain records that accurately reflect the work performed by any employee whose salary is charged, in whole or in part, to the grant funds. Personnel expenses must be documented using personnel activity reports, time and effort reports, or other records that comply with grantee's organization's internal controls and established accounting policies. Written and signed contracts must be maintained if the grant supports contracts with artists or contractual personnel.

- d. Financial and Performance Reporting requirements. Grantee shall submit to the City's Office of Cultural Affairs the following financial and performance reports on the schedule set forth herein:

<u>Description of Report</u>	<u>Due Date</u>
Progress Report	120 days after Start Date
Final Report	45 days after End Date

The Final Report shall include a report of actual allocable and allowable expenditures, the geographic location and number of individuals benefited, performance and required financial reports. Grantee shall submit their required final reports to City no later than the due date set forth above or 90 days from the end of the period of performance, whichever date is earlier.

- e. Grantee agrees that it is responsible for all funds made available to Grantee by this Agreement and further agrees that it will reimburse to the City any and all funds expended in violation of City, State or Federal law, the grant requirements, or in violation of this Agreement. Should Grantee draw down ARP funds and not use them, or use the funds for unauthorized/unallowable costs or activities, Grantee shall return those funds to the City. These requirements survive termination of the Agreement.
- f. Close-Out Requirements. The grant must be closed out (including submission and approval of all subrecipient final reports and disbursement of all funds) prior to closing out the City's federal award (2 CFR 200.332(a)(6) and .344(a)).
- g. Record Retention Requirements. Grantee shall permit City and its financial auditors access to Grantee's records and financial statements as necessary for the City to ensure compliance with the federal award requirements (2

CFR 200.332 (a)(5), .334 and .337). Grantee shall comply with the additional close out requirements applicable to Grantee as set forth in 2 CFR 200.344 and shall provide City with information and documentation needed for City's compliance with the close out requirements set forth in 2 CFR 200.344. Grantee shall retain financial records and other supporting documents related to the grant for a period of three (3) years from the date they submit their final expenditure report to City(2 CFR 200.334).

- h. Grantee shall comply with all other Terms and Conditions for the NEA award. Failure to comply with these requirements may result in suspension or termination of the award and the City's recovery of funds. In addition, the United States has the right to seek judicial enforcement of these obligations.
  - i. Grantee agrees that the City of Columbia Office of Cultural Affairs shall be recognized as a financial sponsor in all its promotional materials and advertising and the City of Columbia Office of Cultural Affairs logo will be used whenever possible.
  - j. National Endowment for the Arts acknowledgement. Grantee shall comply with National Endowment for the Arts acknowledgement and recognition requirements.
4. Grantee's Representations and Warranties.
- a. Grantee certifies that Grantee has completed the "Financial Assistance General Certifications and Representations," including attestation to the accuracy of the certification and acknowledging that Grantee may be subjected to criminal prosecution under Section 1001, Title 18 USC, or civil liability under the False Claims Act if Grantee have misrepresented the information.
  - b. Grantee represents and warrants that Grantee is in compliance with federal statutes, regulations and the terms and conditions of the grant and the specific grant conditions contained herein and in 2 CFR 200.332(b), (c), and (e).
  - c. Grantee represents and warrants that grantee is not and has not been debarred, suspended, or otherwise excluded by federal agencies as those terms are defined in Subpart C of 2 CFR 180, as adopted by the NEA in 2 CFR 32.3254, and that Grantee is not subject to any other exclusions of disqualifications. Grantee verifies that Grantee is not excluded or disqualified from doing business with the federal government. Grantee further represents and warrants that Grantee has not been declared ineligible under any other statutory or regulatory authority.
  - d. Grantee represents and warrants that Grantee shall not use the funds for:
    - i. Artist's relief programs where the funding is intended to alleviate financial hardship (i.e., rent or food assistance to individuals) and does not require the artist to undertake work;
    - ii. Alcoholic beverages;
    - iii. Commercial (for-profit) enterprises or activities, including concessions, food, clothing, artwork, or other items for resale. This includes online or virtual sales/shops;

- iv. Construction, purchase, or renovation of facilities;
- v. General fundraising;
- vi. General miscellaneous or contingency costs;
- vii. Land Purchase Costs;
- viii. Lobbying, including activities intended to influence the outcome of elections or influence government officials regarding pending legislation, either directly or through specific lobbying appeals to the public;
- ix. Mortgage interest, fines and penalties, bad debt costs, or deficit reduction;
- x. Rental costs for home office workspace owned by individuals or entities affiliated with the applicant organization;
- xi. Social activities such as receptions, parties, or galas;
- xii. To replace lost revenue;
- xiii. Travel costs;
- xiv. Vehicle purchases;
- xv. Visa costs paid to the U.S. government;
- xvi. Voter registration drives and related activities;
- xvii. Costs supported by any other federal funding. This includes federal funding received either directly from a federal agency or indirectly from a pass-through organization such as a state arts agency, regional arts organization, or a grant made to another entity;
- xviii. Expenditures related to compensation to foreign nationals when those expenditures are not in compliance with regulations issued by the U.S. Treasury Department Office of Foreign Assets Control;
- xix. All other costs that are unallowable per 2 CFR 200 and other laws;
- xx. The purchase of telecommunications and video surveillance services or equipment;
- xxi. Awards to individuals or organizations to honor or recognize achievement;
- xxii. Cash reserves and endowments;
- xxiii. Costs to bring a project into compliance with Federal award Requirements;
- xxiv. Subgranting or regranting; or
- xxv. Indirect Costs.

5. Terms and Conditions for the American Rescue Plan Grants to Local Arts Agencies.

- a. Grantee shall ensure that its use of funds is in full accordance with the U.S. Constitution, federal Law, and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination (2 CFR 200.300).
- b. As a condition of receipt of Federal financial assistance, Grantee acknowledges and agree to execute Grantee's project, and require any

contractors, successors, transferees, and assignees to comply with applicable provisions of national laws and policies prohibiting discrimination, including but not limited to:

- i. Title VI of the Civil Rights Act of 1964, as amended, and implemented by the National Endowment for the Arts at 45 USC 1110, provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. Title VI also extends protection to persons with limited English proficiency (42 USC 2000d et seq.)
- ii. As clarified by Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, Grantee must take reasonable steps to ensure that LEP persons have meaningful access to Grantee's programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Grantee is encouraged to consider the need for language services for LEP persons in conducting Grantee's programs and activities. For assistance and information go to [www.arts.gov/foia/reading-room/nea-limited-english-proficiency-policy-guidance](http://www.arts.gov/foia/reading-room/nea-limited-english-proficiency-policy-guidance).
- iii. Title IX of the Education Amendments of 1972, as amended, provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance (20 USC 1681 et seq.)
- iv. The Age Discrimination Act of 1975, as amended, provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance (42 USC 6101 et seq.)
- v. The Americans with Disabilities Act of 1990 (ADA), as amended, prohibits discrimination on the basis of disability in employment (Title I); State and local government services (Title II); and places of public accommodation and commercial facilities (Title III) (42 USC 12101-12213).
- vi. Section 504 of the Rehabilitation Act of 1973, as amended, provides that no otherwise qualified individual with a disability in the United States shall, solely by reason of his/her disability, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance (29 USC 794). Access should be integrated into all facets and activities of an organization, from day to day

operations to long range goals and objectives. Access accommodations and services should be given a high priority and funds should be available for these services. All organizations are legally required to provide reasonable and necessary accommodations for staff and visitors with disabilities.

#### Section 504 - Self-Evaluation and Additional Resources

A Section 504 self-evaluation must be on file at Grantee's organization. To help Grantee's organization evaluate its programs, activities, and facilities with regard to Section 504 accessibility requirements, the Civil Rights Office has a Section 504 Self Evaluation Workbook available on its website.

Grantee should designate a staff member to serve as a 504 Coordinator. The completed workbook or similar compliance and supporting documentation should be kept on file for a period of three (3) years from the date the Federal Financial Report (FFR) is filed, and made available to the public and the National Endowment for the Arts upon request. The National Endowment for the Arts may request the 504 Workbook or compliance documents for various potential scenarios including an Inspector General audit and/or civil rights investigation.

Design for Accessibility: A Cultural Administrator's Handbook provides guidance on making access an integral part of an organization's staffing, mission, budget, and programs. This Handbook and other resources may be downloaded from the National Endowment for the Arts website. If you have questions, contact the Office of Accessibility at [accessibility@arts.gov](mailto:accessibility@arts.gov); (202) 682-5532; fax (202)682-5715; or TTY (202) 682-5496.

- c. Grantee shall comply and shall require its contractors, successors, transferees, and assignees to comply with applicable provisions of national laws and policies related to the environment, including but not limited to:
  - i. The National Environmental Policy Act of 1969, as amended, applies to any Federal funds that would support an activity that may have environmental implications. The Grantor may ask Grantee to respond to specific questions or provide additional information in accordance with the Act. If there are environmental implications, NEA will determine whether a categorical exclusion may apply; to undertake an environmental assessment; or to issue a "finding of no significant impact," pursuant to applicable regulations and 42 USC Sec. 4332.

- ii. The National Historic Preservation Act of 1966, as amended, applies to any Federal funds that support activities that have the potential to impact any structure eligible for or on the National Register of Historic Places, adjacent to a structure that is eligible for or on the National Register of Historic Places, or located in a historic district, in accordance with Section 106. This also applies to planning activities that may affect historic properties or districts. NEA will conduct a review of Grantee's project activities, as appropriate, to determine the impact of Grantee's project activities on the structure or any affected properties. Agency review must be completed prior to any agency funds being released. Grantee may be asked to provide additional information on its project to ensure compliance with the Act at any time during Grantee's award period (16 USC 470).
- d. Debarment and Suspension. Grantee must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR Part 180, as adopted by the National Endowment for the Arts in 2 CFR 3254.10. There are circumstances under which NEA or Grantor may receive information concerning Grantee's fitness to carry out a project and administer Federal funds, such as:
  - Conviction of, or a civil judgment for, the commission of fraud, embezzlement, theft, forgery, or making false statements;
  - Any other offense indicating a lack of business integrity or business honesty that seriously and directly affects Grantee's present responsibility;
  - Any other cause of so serious or compelling a nature that it affects an organization's present responsibility.In these circumstances, NEA or Grantor may need to act quickly to protect the interest of the government by suspending Grantee's funding while NEA or Grantor undertake an investigation of the specific facts. NEA or Grantor may coordinate its suspension actions with other Federal agencies that have an interest in its findings. A suspension may result in Grantee's debarment from receiving Federal funding government-wide for up to three (3) years.
- e. The Drug Free Workplace Act requires Grantee to publish a statement about its drug-free workplace program. Grantee must give a copy of this statement to each employee (including consultants and temporary personnel) who will be involved in award-supported activities at any site where these activities will be carried out. Grantee must maintain on file the place(s) where work is being performed under this award (i.e., street address, city, state, and zip code). Grantee must notify the Grantor and

the National Endowment for the Arts Office of Grants Management of any employee convicted of a violation of a criminal drug statute that occurs in the workplace (41 USC 701 et seq. and 2 CFR Part 3256).

- f. Lobbying. Grantee may not conduct political lobbying, as defined in the statutes and regulations listed below, within Grantee's Federally-supported project. In addition, Grantee may not use Federal funds for lobbying specifically to obtain awards. For definitions and other information on these restrictions, refer to the following. No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at its request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities (18 USC 1913). Lobbying (2 CFR 200.450) describes the cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans as an unallowable project cost. The regulation generally defines lobbying as conduct intended to influence the outcome of elections or to influence elected officials regarding pending legislation, either directly or through specific lobbying appeals to the public. Certification Regarding Lobbying to Obtain Awards. Section 319 of Public Law 101-121, codified at 31 USC 1352, prohibits the use of Federal funds in lobbying members and employees of Congress, as well as employees of Federal agencies, with respect to the award or amendment of any Federal grant, cooperative agreement, contract, or loan. While non-Federal funds may be used for such activities, they may not be included in Grantee's project budget, and their use must be disclosed to the awarding Federal agency and to the City. Disclosure of lobbying activities by long-term employees (employed or expected to be employed for more than 130 days) is, however, not required. In addition, the law exempts from definition of lobbying certain professional and technical services by applicants and awardees.
- g. Davis-Bacon and Related Acts (DBRA), as amended, requires that each



contract over \$2,000 to which the United States is a party for the construction, alteration, or repair of public buildings or public works (these activities include, but are not limited to, painting, decorating, altering, remodeling, installing pieces fabricated off-site, and furnishing supplies or equipment for a work-site) must contain a clause setting forth the minimum wages to be paid to laborers and mechanics employed under the contract. Under the provisions of DBRA, contractors or their subcontractors must pay workers who qualify under DBRA no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. Information about the laborers and projects that fall under DBRA can be found in the U.S. Department of Labor's Compliance Guide at <https://www.dol.gov/agencies/whd/government-contracts/construction>. DBRA wage determinations are to be used in accordance with the provisions of Regulations, 29 CFR Part 1, Part 3, and Part 5, and with DOL's Compliance Guide. The provisions of DBRA apply within the 50 states, territories, protectorates, and Native American nations (if the labor is completed by non-tribal laborers).

- h. The Native American Graves Protection and Repatriation Act of 1990 applies to any organization that controls or possesses Native American human remains and associated funerary objects and receives Federal funding, even for a purpose unrelated to the Act (25 USC 3001 et seq.).
  - i. U.S. Constitution Education Program. Educational institutions (including but not limited to "local educational agencies" and "institutions of higher education") receiving Federal funds from any agency are required to provide an educational program on the U.S. Constitution on September 17 (P.L. 108-447, Division J, Sec. 111(b)). For more information on how to implement this requirement and suggested resources, see [www2.ed.gov/policy/fund/guid/constitutionday](http://www2.ed.gov/policy/fund/guid/constitutionday) and <https://www.loc.gov/extranet/cld/constitution.html>.
  - j. Prohibition on use of funds to ACORN or its subsidiaries. None of the federal or matching funds expended for Grantee's awarded project may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries (P.L. 111-88 Sec. 427).
6. General Terms and Conditions applicable to the Award. Should there be a conflict between the General Terms and Conditions and the ARP Specific Terms and Conditions, the ARP specific terms and conditions shall prevail.
- a. Grantee shall notify City of any violations of Federal criminal law involving fraud, bribery, or gratuity violations that potentially affect the Federal award, as noted in §200.113 and Appendix XII to Part 200.
  - b. Grantee's financial management systems must meet standards described in §200.302(b)(1) through (b)(7), including: (i) Accurate identification of

Federal award data, financial results, and the ability to provide source documentation upon request; (ii) Written procedures for determining the allowability of costs and for managing payments; (iii) Grantee must establish and maintain effective internal controls over the award and provide reasonable assurance that Grantee is managing the award in compliance with Federal statutes, regulations, and the terms and conditions of the award. See recommended compliance documentation at §200.303(a).

- c. Domestic Preferences for Procurements. Should Grantee use grant funds to purchase, acquire, or use goods, products, or materials, Grantee should, as appropriate and to the extent consistent with law, provide a preference for goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- d. Supplies. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value, Grantee may retain them without further obligation to the City or the federal government, provided that they will be used for activities similar to those approved by the City and the federal government.
- e. Intangible property.
  - i. Grantee may copyright any material that is subject to copyright and was developed, or for which ownership was acquired, under the National Endowment for the Arts award during the period of performance.
  - ii. The City and the National Endowment for the Arts reserve a royalty-free, non-exclusive, and irrevocable right to reproduce, publish, or otherwise use work, as well as data, produced under a Federal award for Federal and local government purposes. The City and the National Endowment for the Arts also have the right to authorize others to do the same (§200.315 (b), (d), and (e)).
- f. Noncompliance.
  - i. Remedies. If Grantee fails to comply with Federal statutes, regulations, or the terms and conditions of the award, Grantor may impose additional conditions, as described in §200.208. If Grantor determines that noncompliance cannot be remedied by imposing additional conditions, Grantor may take one or more of the following actions, as appropriate in the circumstances: (a) Temporarily withhold cash payments pending correction of the deficiency, or more severe enforcement action; (b) Disallow the use of National Endowment for the Arts funds for the unallowable costs or activities; (c) Wholly or partly suspend or terminate the National Endowment for the Arts award; (d) Initiate suspension or debarment proceedings; (e) Withhold further awards; or (f) Take other remedies that may be legally available.
  - ii. Termination. The award may be terminated in whole or in part as follows: (a) By the City, if Grantee fails to comply with the terms and

conditions of this agreement and/or the federal award; (b) By the City, to the greatest extent authorized by law, if the grant or federal award no longer meets the program goals or addresses agency or City priorities; (c) By the City, with Grantee's consent, in which case the parties will agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated; or (d) By the Grantee, upon sending the City written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if City determines that the reduced or modified portion of the award will not accomplish the purposes or which it was made, the City may terminate the award in its entirety; or (e) By City, when the Grantee is determined to be in violation of the requirement in paragraph (g) of Section 106 of the Trafficking Victims Protection Act of 2000 (TVPA) as amended (22 U.S.C. §7104(g)). Termination may occur as described in 2 CFR Part 175, Award Term for Trafficking in Persons.

- iii. Termination Provisions. City reserves the right to take additional actions such as, (a) Requiring Grantee to return a portion or all of the award funds; (b) Requesting that Grantee remove acknowledgement of National Endowment for the Arts and /or City support; (c) Recommending government-wide suspension, or (d) Taking other legally available remedies. Grantee will be notified of such actions and be given an opportunity to provide information and come into compliance (200.340(c) and (200.341).
- iv. If Grantee's award is terminated due to Grantee's material failure to comply with the Federal award terms and conditions (see 18.2.a) during the period of performance, the City may notify the National Arts Endowment and the National Arts Endowment may be required to report the termination to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS) per §200.340(c). If reported by the National Arts Endowment, the information will be available in the system for 5 years from the date of termination.
- v. Government-wide suspension and debarment will follow a process in conjunction with National Arts Endowment's Office of Inspector General (see also 2 CFR Part 180).
- vi. The City reserves the right to pursue other enforcement actions and remedies.
- g. If Grantee needs to return National Endowment for the Arts funds that Grantee is not using, or Grantee is not going to draw down all of the Arts Endowment award funds, Grantee shall promptly notify the City's Manager of Cultural Affairs.
- h. The closeout of the award does not affect any of the following:
  - i. The City's right to disallow costs and recover funds on the basis of a

- ii. later audit or other review within the record retention period;
  - ii. Grantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions.
  - iii. City's ability to make financial adjustments to a previously closed award.
  - iv. Audit requirements
  - v. Property management and disposition requirements.
  - vi. Records Retention requirements.
7. Cost Share. This award is being made on a nonmatching basis.
8. Term. The "Term" of this Agreement shall commence on the Effective Date and shall continue until December 31, 2023, unless terminated or extended pursuant to the terms set forth herein.
9. Termination for Cause. Failure of Grantee to fulfill Grantee's obligations under this Agreement in a timely and satisfactory manner in accordance with the terms of this Agreement shall constitute a breach of this Agreement, and City shall thereupon have the right to immediately terminate this Agreement. City shall give seven (7) days written notice of termination to Grantee by one of three different means: Facsimile Transmission ("FAX") if Grantee has a FAX number; U.S. Postal Service Mails; or by hand delivering a copy of the same to Grantee; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to Grantee or given by FAX, or the third day following mailing of the notice of termination, whichever first occurs. In the event of termination for breach, City, at its sole option, may utilize any and all finished or unfinished documents, data, studies, and reports or other materials prepared by Grantee under this Agreement prior to the date of termination. Grantee shall not be relieved of liability to City for damages sustained by City by virtue of any such breach of this Agreement by Grantee.
10. Termination for Convenience. City shall have the right at any time by written notice to Grantee to terminate and cancel this Agreement, without cause, for the convenience of City, and Grantee shall immediately stop using the grant funds. In such event, City shall not be liable to Grantee except for payment for funds for expended by Grantee prior to such notice. Anticipatory profits and consequential damages shall not be recoverable by Grantee.
11. No Assignment. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party.
12. No Third Party Beneficiary. No provision of the Agreement is intended to nor shall it in any way inure to the benefit of any other third party, so as to constitute any

such Person a third-party beneficiary under the Agreement.

13. Amendment.

- a. No amendment, addition to, or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any provision or any remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties.
- b. The following types of amendments require approval by the City and may require approval by the NEA Office of Grants Management:
  - i. Period of performance changes, which may include a new start date and/or an end date extension;
  - ii. Final report filing extension;
  - iii. Project scope changes, which may include changes to approved project activities, focus of content, significant changes in targeted participants, and changes in the breadth or impact of projects; and
  - iv. Budget Revisions.

14. Governing Law and Venue. This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this contract document, shall be in Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri. The Parties agree to waive any defense of forum non conveniens.

15. General Laws. Grantee shall comply with all federal, state, and local laws, rules, regulations, and ordinances.

16. Grantee shall make the services, programs and activities governed by this Agreement accessible to people with disabilities to the extent required by the provisions of the Americans with Disabilities Act.

17. Employment of Unauthorized Aliens Prohibited. Grantee shall comply with Missouri State Statute Section 285.530 in that Grantee shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. As a condition for the award of this Agreement, Grantee shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program. Grantee shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien.

18. Nature of City's Obligations. All obligations of the City under this Agreement, which require the expenditure of funds, are conditional upon the availability of funds

budgeted and appropriated for that purpose.

19. No Waiver of Immunities. In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitutions or laws.
20. HOLD HARMLESS AGREEMENT. To the fullest extent not prohibited by law, Grantee shall defend, indemnify and hold harmless the City, its officers, agents and employees from any and all claim of damages, suits, costs, liabilities, actions or proceedings of any nature whatsoever in any way resulting from or arising out of, directly or indirectly, Grantee's activities under this Agreement, including acts of commission or omission of employees, representatives or agents of Grantee.
21. Electronic Signature. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Faxed signatures, or scanned and electronically transmitted signatures, on this Agreement or any notice delivered pursuant to this Agreement, shall be deemed to have the same legal effect as original signatures on this Agreement.
22. Notice. Any notice, demand, request, or communication required or authorized by the Agreement shall be delivered either by hand, facsimile, overnight courier or mailed by certified mail, return receipt requested, with postage prepaid, to:

If to City:  
City of Columbia  
Office of Cultural Affairs  
P.O. Box 6015  
Columbia, MO 65205-6015  
ATTN: Manager

If to Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The designation and titles of the person to be notified or the address of such person may be changed at any time by written notice. Any such notice, demand, request, or communication shall be deemed delivered on receipt if delivered by hand or facsimile and on deposit by the sending party if delivered by courier or U.S. mail.

23. Audit and Access to Records.

- a. Grantee agrees to a reasonable audit and review of this program by City, if the City so requests, which shall include the program's administration and management pursuant to this Agreement. Grantee must maintain an acceptable cost accounting system. During the period of performance and the subsequent retention period, the National Endowment for the Arts Inspector General, the Comptroller General of the United States, the U.S. Treasury, the City of Columbia, or any of their authorized representatives have the right of access to any documents, papers, or other records which are pertinent to the Federal award, the use of grant funds, or this contract, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to Grantee's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but last as long as records are retained (§200.337).
- b. Grantee shall maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made, three years from the submission of the final Federal Financial Report, and all pending matters are closed, whichever is later.
- c. Standards for Documentation of Personnel Expenses. Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. The records shall comply with Grantee's internal controls and established accounting policies. City and the National Endowment for the Arts may require personnel activity reports or equivalent documentation if necessary (§200.430(i)(8)).
- d. Records for equipment must be retained for three (3) years after final disposition (§200.334(c)).
- e. Federal award-related information should be collected and stored in open and machine-readable formats whenever practicable (§200.336). In addition, restrictions on public access are generally limited to protected personally identifiable information (PII) and FOIA and other applicable exemptions (§200.338).
- f. This section shall survive termination of the agreement.

24. Contract Documents. This Agreement includes the following exhibits, which are incorporated herein by reference:

Exhibit	Description
A	Proposal Description
B	Approved Budget
C	Disbursement Schedule

In the event of a conflict between the terms of an exhibit and the terms of this Agreement, the terms of this Agreement controls. In the event of a conflict between Exhibits A and B, the terms of Exhibit B controls.

IN WITNESS WHEREOF, the Parties have hereunto executed this Agreement the day and the year of the last signatory noted below.

[Signature page follows.]



CITY OF COLUMBIA, MISSOURI

By: \_\_\_\_\_  
De'Carlton Seewood, City Manager  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Sheela Amin, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Nancy Thompson, City Counselor/rw

CERTIFICATION: I, hereby certify that this contract is within the purpose of the appropriation to which it is to be charged, Account Number \_\_\_\_\_ and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefor.

By: \_\_\_\_\_  
Matthew Lue, Finance Director

Grantee  
\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A  
PROPOSAL DESCRIPTION**

**EXHIBIT B  
APPROVED BUDGET**

**EXHIBIT C  
DISBURSEMENT SCHEDULE**