

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

**Neighborhood Matching Grant
Program Agreement**

THIS NEIGHBORHOOD MATCHING GRANT PROGRAM AGREEMENT (hereafter "Agreement") is made and entered into on this _____ day of _____, 2016, by and between **(NAME OF ASSOCIATION)** (hereinafter "GRANTEE"), **(NAME OF FISCAL AGENT)** (hereinafter "FISCAL AGENT") and the **CITY OF ARLINGTON, TEXAS** (hereinafter "CITY").

W I T N E S S E T H:

WHEREAS, the Neighborhood Matching Grant Program is designed to encourage participation from citizens who want to contribute to their neighborhood and the quality of life in the greater Arlington community; and

WHEREAS, the Neighborhood Matching Grant Program is funded through the General Gas Lease Fund; and

WHEREAS, the goals of the Neighborhood Matching Grant Program are to build stronger neighborhoods, leverage CITY funds, stimulate resident-driven solutions to neighborhood needs, and build collaborative efforts between the CITY and its neighborhoods to serve a public purpose; and

WHEREAS, CITY has developed the 2016 Neighborhood Matching Grant Guidebook to effectively administer the Neighborhood Matching Grant Program and by which City staff reviews applications forwarded by potential grant recipients and then makes recommendations to the Arlington City Council for final approval; and

WHEREAS, the FISCAL AGENT has agreed to participate with the GRANTEE by handling, tracking, and administering these grant funds; and

WHEREAS, the GRANTEE has filed a grant application which meets the goals of the Neighborhood Matching Grants Program and complies with the Neighborhood Matching Grant Guidebook; NOW THEREFORE,

IN CONSIDERATION of the mutual covenants, promises and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, CITY, FISCAL AGENT and GRANTEE do hereby agree as follows:

I.
Term of Agreement

This Agreement shall commence on the _____ day of _____, 2016 and terminate on the _____ day of _____, 2016.

II.
Scope and Objectives of the Project

In exchange for the consideration hereinafter expressed, GRANTEE shall (**DESCRIPTION OF PROJECT**) (hereafter referred to as the "Project"). The Project shall be performed and completed in accordance with the following:

1. This Agreement;
2. The Neighborhood Matching Grant Program Policies and Procedures, incorporated herein by reference as if written word for word; and
3. GRANTEE's Grant Application, which is attached hereto at Exhibit "A" and incorporated herein by reference as if written word for word

In the case of conflict between this Agreement and any of the documents listed above, priority of interpretation shall be in the order listed above.

In addition, GRANTEE will prominently include in any printed program and in all promotion, publicity and advertising, (accomplished after this Agreement is executed) whether written or verbal, the following: "This project made possible in part through a grant from the City of Arlington."

As further consideration, GRANTEE will be required to equally match the grant funds provided by the CITY either by private funds, donated funds, labor and/or in-kind contributions. GRANTEE and FISCAL AGENT agree that any matching cash funds will be utilized and expended prior to expenditure of CITY grant funds.

III.
Consideration Furnished by CITY

In consideration for performance of the Project, CITY shall pay an amount not to exceed **\$X,XXX**. Payment shall be made to the FISCAL AGENT upon execution of this Agreement. FISCAL AGENT is financially responsible and accountable for the management, use and disbursement of all grant funds paid

under this Agreement and will serve as depository for such funds. FISCAL AGENT shall be designated as an organization tax exempt under section of the Internal Revenue Code at the time of execution of this Agreement and shall maintain such status throughout the term of this Agreement. The FISCAL AGENT and the GRANTEE shall have all the responsibility and liability for any payments for any contracts the GRANTEE enters into regarding the PROJECT.

GRANTEE shall establish, maintain and submit to CITY documentation concerning Project expenditures in a form acceptable to CITY's staff. All Project costs must be reasonable and consistent with policies and procedures of the City of Arlington, GRANTEE, and the FISCAL AGENT. The costs must be accorded consistent treatment, and must be determined to be in accordance with generally accepted accounting principles. CITY reserves the right to audit all budgets, work schedules and accounts.

IV. Monitoring

The CITY's staff will monitor and evaluate GRANTEE's progress on Project performance periodically. Site visits may be conducted by CITY staff at the CITY's sole discretion. GRANTEE shall establish and maintain appropriate documentation to verify stated performance objectives and shall submit such documentation to CITY's staff in accordance with the Neighborhood Matching Grants Guidebook on forms acceptable to or approved by CITY staff. **Further, the GRANTEE agrees not to permit or make changes to the PROJECT without prior written consent of the CITY.**

V. Depository and Recordkeeping

GRANTEE and FISCAL AGENT will submit documentation relative to the project to CITY as required in the Neighborhood Matching Grants Program Policies and Procedures on forms acceptable to or approved by CITY staff.

Disbursed funds must be deposited in a depository having federal depository insurance. CITY staff or any of their duly authorized representatives shall have access to any books, documents, papers and records of GRANTEE and/or FISCAL AGENT that relate to this Agreement, for the purpose of making audit examinations, excerpts and transcriptions.

CITY reserves the right to conduct financial and compliance audits of the funds received and performances

rendered under this Agreement. GRANTEE AND FISCAL AGENT agree to permit CITY or its authorized representative to audit GRANTEE'S and/or FISCAL AGENT'S records and to obtain any documents, materials or information necessary to facilitate such audit.

GRANTEE and FISCAL AGENT shall be jointly and severally liable to CITY for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Agreement. Reimbursement to CITY of such disallowed costs shall be paid by GRANTEE and/or FISCAL AGENT from funds which were not provided or otherwise made available to GRANTEE and/or FISCAL AGENT pursuant to this Agreement.

Upon expiration of this Agreement, GRANTEE and/or FISCAL AGENT shall transfer to CITY any unexpended or remaining grant funds on hand.

VI.

Ownership and Maintenance of Improvements

Any improvements to CITY property, shall become the sole property of the CITY upon completion of the project and acceptance by CITY. Improvements upon private property shall remain the property and responsibility of the GRANTEE, and GRANTEE will maintain the improvements accordingly.

VII.

Default

If at any time during the term of this Agreement GRANTEE and/or FISCAL AGENT shall fail to commence the Project in accordance with the provisions of this Agreement or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Agreement, or fail to use an adequate number or quality of personnel or equipment to complete the work or fail to perform any of its obligations under this Agreement, then CITY shall have the right, if GRANTEE or FISCAL AGENT shall not cure any such default after written notice thereof and a reasonable time to cure, to terminate this Agreement and complete the work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY. After exercising any such remedy, GRANTEE and FISCAL AGENT shall be jointly and severally liable for and shall reimburse CITY for such expense.

VIII.

Indemnification

GRANTEE and FISCAL AGENT does hereby agree to waive all claims, release, indemnify, defend and hold harmless CITY and all of its officials, officers, agents and employees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action which may arise by reason of injury to property or persons occasioned by error, omission, or negligent act of GRANTEE and FISCAL AGENT, its officers, agents, employees, invitees or other persons, arising out of or in connection with this Agreement or any and all activity or use pursuant to this Agreement, at its own cost and expense, defend and protect CITY from any and all such claims and demands. Also, GRANTEE and FISCAL AGENT agrees to and shall indemnify, defend and hold harmless CITY and all of its officials, officers, agents and employees, from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorney fees for injury to or death of any person or for damage to any property arising out of or in connection with this Agreement or any and all activity or use pursuant to this Agreement on or about the Premises. Such indemnity shall apply whether the claims, losses, damages, causes of action, suits or liability arise in whole or in part from the negligence of the CITY, its officers, officials, agents or employees. It is the express intention of the parties hereto that the indemnity provided for in this paragraph is indemnity by GRANTEE and FISCAL AGENT to indemnify and protect CITY from the consequences of CITY's own negligence, whether that negligence is a sole or concurring cause of the injury, death or damage.

GRANTEE shall require any volunteers working or assisting with the project to execute a Neighborhood Matching Grant Program Release and Hold Harmless Agreement.

IX. INSURANCE

GRANTEE shall, at its own expense purchase, maintain and keep in force during the term of this agreement Non-Profit Organization Liability insurance with a minimum limit of \$1,000,000 per claim and \$1,000,000 aggregate.

FISCAL AGENT shall, at its own expense purchase, maintain and keep in force during the term of this agreement Fiduciary Liability insurance with a minimum limit of \$1,000,000 per claim and aggregate.

X.
Equal Opportunity

GRANTEE and FISCAL AGENT shall not discriminate against any employee or applicant for employment of GRANTEE, FISCAL AGENT, or of the City of Arlington because of race, age, color, religion, sex, national origin, ancestry, disability, or place of birth. GRANTEE and FISCAL AGENT shall take action to ensure that all persons are employed and/or treated without regard to their race, age, color, religion, sex, national origin, ancestry, disability, or place of birth. This action shall include, but not be limited to the following: employment, promotion, demotion, transfer, working conditions, recruitment, layoff, termination, rates of pay or other forms of compensation, and training opportunities.

XI.
Independent Contractor

GRANTEE and FISCAL AGENT covenant and agree that each is an independent contractor and not an officer, agent, servant or employee of CITY; that GRANTEE and FISCAL AGENT shall have exclusive control of and exclusive right to control the details of the Project as defined in this Agreement and all persons performing same, and shall be responsible for the acts and omissions of their officers, agents, employees, volunteers, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between CITY, GRANTEE and FISCAL AGENT, their officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between CITY, GRANTEE, and/or FISCAL AGENT.

XII.
Procurement of Goods and Services
From Arlington Businesses and/or
Historically Underutilized Businesses

In performing this Agreement, GRANTEE and FISCAL AGENT each agrees to use diligent efforts to purchase all goods and services from Arlington businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to CITY projects and procurements, CITY also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor or supplier is vested in racial or

ethnic minorities or women. In the selection of subcontractors, suppliers or other persons in organizations proposed for work on this Agreement, GRANTEE AND FISCAL AGENT agree to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this Agreement.

XIII.
Notices

All notices or communications required under this Agreement or desired to be given by the parties hereto shall be sent in writing, and shall be deemed sufficiently given when same is hand delivered or deposited in the United States mail, sufficient postage prepaid, regular mail, addressed to the recipient at the address set forth below:

To CITY:

City Manager's Office
City of Arlington
Post Office Box 90231
Arlington, Texas 76004-3231

To GRANTEE:

FIRST LAST NAMES, TITLE
NAME OF ORGANIZATION
STREET ADDRESS
Arlington, Texas ZIP

To FISCAL AGENT:

FIRST LAST NAMES, TITLE
NAME OF ORGANIZATION
STREET ADDRESS
Arlington, TX ZIP

XIV.
Applicable Law

This Agreement is entered into subject to the charter and ordinances of CITY as they may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable federal and state laws.

Furthermore, GRANTEE agrees to obtain from all governmental authorities having jurisdiction, all licenses, certificates and permits necessary for the performance of the Project and to keep them current.

XV.
Assignment

No assignment or delegation of duties under this Agreement shall be effective without the written consent of CITY.

XVI.
Venue

The parties to this Agreement agree and covenant that this Agreement will be enforceable in Arlington, Texas, and that if legal action is necessary to enforce this Agreement, exclusive venue will lie in Tarrant County, Texas.

XVII.
Severability

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Agreement are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XVIII.
Remedies

No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy herein by law or equity provided or permitted, but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Agreement.

XIX.
Entire Agreement

This Agreement embodies the complete agreement of the parties hereto superseding all oral or written previous and contemporary agreements between the parties relating to matters herein and, except as otherwise provided herein, cannot be modified without the written agreement of the parties.

XX.
Survival Clause

Sections V and VIII shall survive termination of this Agreement

SAMPLE

IN WITNESS WHEREOF, the parties have hereunto set their hands by the representatives thereunto duly authorized on the date first stated above.

GRANTEE
NAME OF ORGANIZATION

BY _____

FISCAL AGENT
NAME OF ORGANIZATION

BY _____

CITY OF ARLINGTON, TEXAS

BY _____
JAMES F. PARAJON
Deputy City Manager

ATTEST:

MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
TERIS SOLIS, City Attorney

BY _____

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GRANTEE ACKNOWLEDGEMENT

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me (or proved to me on the oath of _____ or through _____ (description of identity card or other document)) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **NAME OF ORGANIZATION**, and as _____ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this, the _____ day of _____, 2016.

Notary Public in and for
The State of Texas

My Commission Expires

Notary's Printed Name

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FISCAL AGENT ACKNOWLEDGEMENT

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me (or proved to me on the oath of _____ or through _____ (description of identity card or other document)) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **NAME OF ORGANIZATION**, and as _____ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this, the _____ day of _____, 2016.

Notary Public in and for
The State of Texas

My Commission Expires

Notary's Printed Name

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CITY ACKNOWLEDGEMENT

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **JAMES F. PARAJON**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of the **City of Arlington, Texas**, a municipal corporation of Tarrant County, Texas, and as a **Deputy City Manager** thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this, the _____ day of _____, 2016.

Notary Public in and for
The State of Texas

My Commission Expires

Notary's Printed Name

