

2/1/12

**Fiscal Agent Agreement
Between
The City of Hollywood, Florida
And
The Hollywood Art and Culture Center**

This Agreement is made and entered into this 16 day of July, 2012 between the City of Hollywood, a municipal corporation of the State of Florida (hereinafter "Service Provider"), and the Hollywood Art And Culture Center, a Florida corporation authorized to do business in the State of Florida (hereinafter "Fiscal Agent").

WITNESSETH:

WHEREAS, the City of Hollywood's Department of Parks, Recreation and Cultural Arts has applied for and received grant funding from the Children's Service Council of Broward County ("CSC") for the past nine years; and

WHEREAS, funding has enabled the Service Provider to provide a Youth Summer Camp program as well as an after school program at various community centers for the past five years; and

WHEREAS, pursuant to Resolution No. 2011- 329, the Service Provider applied for the CSC 2012 Maximizing Out of School Time Grant in the approximate amount of \$630,000 to fund Year Round Programs at Kay Gaither Community Centers as well as a summer only camp at Dr. Martin Luther King Jr., Washington Park Community and McNicol Community Centers for the 2012-2013 school years; and

WHEREAS, in reviewing the Service Provider's grant application, CSC has required that the Service Provider partner with a Fiscal Agent in order to acquire the full funding request;

WHEREAS, the Fiscal Agent has indicated that they would be willing to act as Service Provider's Fiscal Agent and has been approved by the CSC; and

WHEREAS, in addition to the Tri-Party Agreement among the CSC, Service Provider and Fiscal Agent being executed, the Service Provider and Fiscal Agent desire to enter into this Agreement in order to set forth their respective responsibilities;

NOW, THEREFORE, NOW, THEREFORE, IN CONSIDERATION of the mutual promises herein, the parties do hereby agree as follows:

1. Fiscal Agent's Responsibilities. The Fiscal Agent agrees as follows:

- a. To jointly complete with Service Provider all grant applications to the CSC.
- b. To submit to CSC as part of the grant application all fiscal and administrative documents, including but not limited to financial statements.
- c. To execute the Tri-Party Agreement among the Fiscal Agent, CSC and Service Provider.
- d. To implement, adhere to and comply with all requirements of the Tri-Party Agreement, including but not limited to developing a timeline with Service Provider of all critical dates, submission requirements and reporting requirement timelines.
- e. To provide all necessary documentation to CSC in accordance with the Tri-Party Agreement in order to receive the grant funding reimbursement and accept the grant funds from the CSC. Said Tri-Party Agreement is attached hereto and incorporated herein by reference.
- f. To disburse the grant funds to the Service Provider in accordance with the Tri-Party Agreement.
- g. To verify that the Service Provider has all required and current licenses and certifications to carry out the services.
- h. To maintain the required insurance as set forth in the Tri-Party Agreement.
- i. To verify and confirm that all payroll and related tax obligations are being met by Service Provider.
- j. To maintain all financial records relating to the CSC funded grant program according to generally acceptable accounting principles.

- k. To allow Service Provider upon written request the right to inspect all documents and fiscal information relating to the CSC grant.
- l. To copy Service Provider on any and all written communications between Fiscal Agent and CSC relating to the CSC grant and provide Service Provider with any and all written communications between CSC and the Fiscal Agent.
- m. Fiscal Agent shall at all times hereafter, indemnify, hold harmless, Service Provider's officers, agents, and employees from and against any and all claims, actions, losses, liabilities, and expenditures of any kind, including attorney fees (including all levels of appeal), court costs and expenses caused by the gross negligence of the Fiscal Agent, its officials, employees or agents, resulting from, or related to the subject matter of this Agreement and the Tri-Party Agreement, including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property caused by the gross negligence of the Fiscal Agent. This provision shall survive the expiration or earlier termination of this Agreement and the Tri-Party Agreement. Nothing in this Agreement shall be construed to affect in any way the waiver the Service Provider's rights. Nothing in this Fiscal Agent Agreement shall be construed to affect in any way the City's rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in Section 768.28, Florida Statutes

2. Service Provider's Responsibilities. The Service Provider agrees as follows:

- a. To jointly complete with Service Provider all grant applications to the CSC.
- b. To submit to CSC as part of the grant application all fiscal and administrative documents, including but not limited to financial statements, monitoring/reporting requirements and deadlines; reports, surveys and other items mandated by the CSC.
- c. To execute the Tri-Party Agreement among the Fiscal Agent, CSC and Service Provider.

- d. To implement, adhere to and comply with all requirements of the Tri-Party Agreement, including but not limited to developing a timeline with Service Provider of all critical dates, submission requirements and reporting requirement timelines.
- e. To provide the services outlined in the grant application and Tri-Party Agreement.
- f. To provide Fiscal Agent with a copy of all required licenses and certifications to carry-out the programs.
- g. To ensure that all employees hired meet the minimum requirements set forth in the Tri-Party Agreement (i.e. — educational requirements and certifications). Upon request from Fiscal Agent, Service Provider shall provide Fiscal Agent with such documentation.
- h. To maintain all employee personnel files in accordance with City of Hollywood procedures.
- i. To maintain all financial records and prepare monthly invoices and supporting materials relating to the CSC funded principles and provide Fiscal Agent with any and all documentation required by the Tri-Party Agreement in order for the Fiscal Agent to receive the funding from the CSC and distribute same to the Service Provider. This would include providing digital/scanned copies of these materials.
- j. To acknowledge the Hollywood Art and Culture Center on all publicity connected with the grant project.
- k. To inform Fiscal Agent of any changes in the project being funded by the CSC.
- l. To the extent permitted by law, Service Provider agrees to indemnify, defend, and hold harmless the Fiscal Agent, including its officers, agents and employees, from and against any and all claims, demands and causes of action of every kind and character arising out of, or because of the grant project provided by Service Provider, or because of, any error, omission, or negligent act in the performance of its duties and obligations under this Agreement and the Tri-Party Agreement. Nothing in the Agreement shall be construed to affect in any way Service Provider's rights, privileges, and immunities as set forth in Section 768.28, Florida Statutes.

- m. Notwithstanding the foregoing, the Service Provider shall also be obligated and agree to provide the Fiscal Agent with all of the necessary and required documentation, including certifications, financials, payroll and related tax obligations, Insurance coverage – all documents and agreements the Fiscal Agent is otherwise required to review and/or submit at any time to CSC. In this regard, Service Provider agrees any and all such documents as set forth above promptly upon verbal and written demand by the Fiscal Agent.

3. Miscellaneous Provision

- a. In consideration for Fiscal Agent's Services, Service Provider shall pay Fiscal Agent an amount not to exceed 1% of the actual CSC awarded grant funds allocated to Service Provider. The Fiscal Agent's fee will be paid by Service Provider quarterly with the first payment due when the term of the grant begins. In the event that the Tri-Party Agreement is terminated by CSC, Service Provider shall pay Fiscal Agent its pro-rata portion of the fee for all services rendered up to the date of termination. Further, if the Tri-Party Agreement is terminated, then this Agreement shall automatically terminate.
- b. **TERM OF AGREEMENT.** This Agreement shall commence upon Service Provider being awarded the CSC grant and the execution of Tri-Party Agreement and shall expire on September 30, 2013, unless the Tri-Party Agreement is renewed by the CSC, Service Provider and Fiscal Agent. In the event that Tri-Party is renewed by the parties, then this Agreement will be renewed with such changes as may be necessary and mutually agreed upon by the parties.
- c. **REMEDIES.** This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Broward County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

- d. **SEVERABILITY** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
- e. **ENTIRETY OF CONTRACTUAL AGREEMENT.** The CITY and Fiscal Agent agree that this Agreement together with any Exhibits hereto and the Tri-Party Agreement, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.
- f. **NOTICE.** All notices required shall be sent by certified mail, return receipt requested, and if sent to the CITY shall be mailed to:

Chuck Ellis
Director of Parks, Recreation and Cultural Arts
1405 South 28th Avenue
Hollywood, Florida 33020

With a copy to: Jeffrey P. Sheffel, City Attorney
2600 Hollywood Boulevard
Room 407
Hollywood, Florida 33020

As to Fiscal Agent: Joy Satterlee
Executive Director
Hollywood Art and Culture Center, Inc.
1650 Harrison Street
Hollywood, FL 33020

With a copy to Board Legal Counsel:

Alan Koslow, Esq.
Becker & Poliakoff
3111 Stirling Road
Hollywood, FL 33312

- .g. **THIRD PARTY RIGHTS.** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than Service Provider and Fiscal Agent.

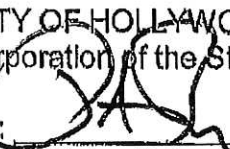
IN WITNESS WHEREOF, the parties hereto have set their hands and official seals the day and year first above written.

ATTEST:


PATRICIA A. CERNY, MMC
CITY CLERK

CITY OF HOLLYWOOD, a municipal corporation of the State of Florida

By:


Peter Bober, Mayor

Approved By:


Matt Lalla, Director of
Financial Services

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the City of
Hollywood, Florida only


JEFFREY P. SHEFFEL, CITY ATTORNEY DR

ATTEST:

HOLLYWOOD ART AND CULTURE CENTER


Carmen Hotchkiss
Corporate Secretary

BY:


Joy Satterlee, Executive Director

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the Hollywood
Art and Culture Center, only.


ALAN KOSLOW, BOARD COUNSEL