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COMMUNITY ENHANCEMENT PROGRAM
GRANT AGREEMENT BETWEEN
THE COUNTY OF SAN DIEGO
AND City of National City

This Grant Agreement is entered into between the County of San Diego, a political subdivision of the State of California (County), and **City of National City**, a Non-Profit Corporation (Grantee) on December 13, 2022 with an effective date of 11/15/2022.

WHEREAS during the 1982-83 fiscal year, the San Diego County Board of Supervisors established the Community Enhancement program; and

WHEREAS, pursuant to Board of Supervisors Policy B-58, the purpose of this Program is to provide funds to nonprofit and/or tax exempt organizations that stimulate tourism, promote the economy, create jobs, and improve the quality of life throughout San Diego County; and

WHEREAS, the County funds this program primarily with the County’s Transient Occupancy Tax;

WHEREAS, on 11/15/2022 (15), the Board of Supervisors allocated the grant funding set forth in this Agreement for the purpose described in this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. **Amount of Grant.** The County agrees to pay Grantee the amount of **\$35,000.00**. Under no circumstances is County obligated to pay Grantee more than this amount. County shall pay Grantee after County receives a signed copy of this Agreement from Grantee.
2. **Purpose of Grant.** Grantee shall use the grant funds provided by County under this Agreement solely for the following purpose: **To provide support for National City's Kimball Holiday by funding holiday lights and a pine tree next to City Hall, securing a Ferris wheel, an LED-light up dance floor, Santa's chair, as well as hiring Santa, Mrs. Clause, and Grinch actors.**
3. **Term of Agreement.** The term of this Agreement shall be for 13 months starting on the effective date as specified above.
4. **Time Period for Use of Grant Funds and Documentation of Expenditures.**
 - (a) **Grantee shall spend all grant funds provided by the County for the purposes specified in Paragraph 2 within 12 months of the effective date of this Agreement as specified above.**
 - (b) Grantee shall complete the Documentation of Grant Expenditures form provided by the County’s administrator, setting forth Grantee’s total actual expenditures of the grant funds provided under this Agreement. Grantee shall submit this completed form and the related documentation including, but not limited to, invoices/receipts, credit card statements, check stubs, check copies, copy of canceled checks, copy of bank statements, etc. to the County’s administrator promptly after spending the grant funds, but in no event after the end of the Term of Agreement specified above. If the parties agree to extend the Term of Agreement, Grantee shall submit this expenditure documentation by the end of the extended Term. If County’s administrator requests additional information regarding Grantee’s expenditure of the grant funds, Grantee shall promptly submit the requested information to County’s administrator.
 - (c) Grantee shall retain copies of all receipts, invoices, cash register tapes and other direct evidence of the expenditure of funds for which grant funds are used for the duration of the audit period specified in Paragraph 8.

- (d) If after reviewing Grantee's expenditure documentation, the County's administrator:
 - (i) determines that the Grantee failed to spend all of the grant funds
 - (ii) disallows any expenditure by Grantee;
 - (iii) determines that the grant funds provided exceed Grantee's total actual expenditures authorized under this Agreement; or
 - (iv) grant funds were used in a manner contrary to Paragraphs 2 or 5

Grantee shall refund to the County the amount specified by the County's administrator. Grantee shall make this refund within seven (7) County business days after receiving a written request for refund from the County's administrator. In its sole discretion, the County may offset the refund amount from any payment due to or to become due to Grantee under this Agreement or any other agreement with the County.

- (e) **If Grantee fails to provide the required documentation of expenditures as required in Subparagraph (b) and (c) above, the County's administrator may request Grantee to refund to the County all or any portion of the grant funds provided under this Agreement.** Within seven (7) County business days of receipt of a written request for a refund, Grantee shall refund to the County the amount specified by the County's administrator.
- (f) If Grantee incurs expenses before the County pays the grant under this Agreement, the County will reimburse Grantee in an amount not to exceed the amount specified in Paragraph 1 upon submission of documentation to County's administrator setting forth Grantee's actual expenditures for the purpose specified in Paragraph 2 and approval of the documentation by County's administrator.

5. Restrictions on use of grant funds.

- (a) Grant funds shall not be used for any purpose prohibited by laws governing the use of public funds including, but not limited to, religious purposes, political campaigning, or purely private purposes or activities.
- (b) If Grantee provides or participates in any activity for which public funds may not be used, such as religious activities, Grantee shall inform the County of this activity before accepting any grant funds. Grantee shall ensure that no grant funds awarded pursuant to the Agreement are used to support in any manner said activity.
- (c) Grantee shall not donate any grant funds to a third party.
- (d) Grantee may not include in its Documentation of Grant Expenditures report under this Agreement any expenditures for which Grantee has received or is or will be claiming funding from any other source.
- (e) Grantee shall not assign or transfer any interest in this Agreement (whether by assignment or novation), without the prior written consent of the County.
- (f) Grantee shall comply with Board Policy B-58.
- (g) Grantee's failure to comply with any provision in Paragraph 5 shall constitute a material breach of this Agreement.

- 6. **Administrator of Agreement.** The Office of Economic Development and Government Affairs in the Chief Financial Officer's Office shall administer this Agreement on behalf of the County, and **Joyce Ryan** at **(619) 470-5882** shall administer it on behalf of Grantee. County and Grantee may from time to time designate a different administrator by providing notice in the manner required by Paragraph 7.

7. **Notice.** All communications from Grantee to the County shall be sent to the Office of Economic Development and Government Affairs as listed below. Any notice or notices or other documentation required or permitted to be given pursuant to this Agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, postage prepaid, return receipt requested, to the following addresses.

County: Deputy Chief Administrative Officer/Chief Financial Officer
Office of Economic Development and Government Affairs
County of San Diego
1600 Pacific Highway Room 152
San Diego, CA 92101

Grantee: City of National City
City of National City National City branch
1243 National City Blvd
National City, CA 91950

Notices that are personally served shall be deemed delivered on the date served. Notices sent by certified mail shall be deemed delivered 5 County business days after mailing. County and Grantee may from time to time designate a new address for providing notice by providing notice of the new address in accordance with this Paragraph.

8. **Audit and Inspection of Records.** At any time during normal business hours and as often as the County may deem necessary, the Grantee shall make available, within 5 County business days of the receipt of a request, to the County for examination all of its records with respect to all matters covered by this Agreement and will permit the County to audit, examine and make excerpts or transcripts from such records, and make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this Agreement. Unless otherwise specified by the County, said records shall be made available for examination within San Diego County, California. Grantee shall maintain such records in an accessible location and condition to the later of a period of four (4) years after the termination of this Agreement unless County agrees in writing to an earlier disposition. The State of California or any Federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon County by this Agreement.
9. **Termination of Agreement for Cause.** If Grantee fails to perform its obligations according to this Agreement, the County may send Grantee a written notice of default that specifies the nature of the default. Grantee shall cure the default within 3 County business days following receipt of the notice of default. If Grantee fails to cure the default within that time, the County may terminate this Agreement by giving Grantee written notice of immediate termination. Upon termination, Grantee shall promptly provide County's administrator with Documentation of Grant Expenditures setting forth Grantee's total actual expenditures for the purpose of the grant as of the effective date of termination. Grantee shall promptly refund to County all funds County paid to Grantee under this Agreement that exceed Grantee's total actual expenditures for the purpose of the grant, as determined by County's administrator, as of the effective date of termination. The County may also seek any and all legal and equitable remedies against Grantee for breaching this Agreement.
10. **Termination for Convenience of County.** County may terminate this Agreement at any time by giving written notice to Grantee of such termination and specifying the effective date thereof at least 30 County business days before the effective date of such termination. On or before the date of termination, Grantee shall provide County's administrator with Documentation of Grant Expenditures setting forth Grantee's total actual expenditures for the purpose of the grant as of the effective date of termination. Grantee shall promptly refund to County all funds County paid to Grantee under this Agreement that exceed Grantee's total actual expenditures for the purpose of the grant, as determined by County's administrator, as of the effective date of termination.
11. **Termination for Convenience of Grantee.** Grantee may terminate this Agreement at any time by giving written notice to County's administrator of such termination and specifying the effective date

thereof at least 60 County business days before the effective date of such termination. On or before the date of termination, Grantee shall provide County's administrator with Documentation of Grant Expenditures setting forth Grantee's total actual expenditures for the purpose of the grant as of the effective date of termination. Grantee shall promptly refund to County all funds County paid to Grantee under this Agreement that exceed Grantee's total actual expenditure for the purpose of the grant, as determined by County's administrator, as of the effective date of termination.

12. **Interest of Grantee.** Grantee covenants that Grantee presently has no interest, including, but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with Grantee's completing the purpose of the grant as specified in Paragraph 2. Grantee further covenants that in the performance of this Agreement, no person having any such interest shall be employed or retained by Grantee.
13. **Publication, Reproduction and Use of Material.** No material produced, in whole or in part, under this Agreement shall be subject to copyright in the United States or in any other Country. The County shall have unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.
14. **Insurance.** Grantee shall maintain insurance against claims or injuries to person or damages to property that may arise from or in connection with the use of the grant funds by Grantee, its agents, representatives, employees, volunteers or subcontractors. The cost of such insurance shall be borne by Grantee and coverage limits shall be a minimum of \$1,000,000 General Liability per occurrence/\$1,000,000 aggregate for operations, products and completed operations for bodily injury, personal injury and property damage; \$500,000 Automobile Liability per accident for bodily injury and property damage; and Workers' Compensation and Employers Liability Insurance as required by the California Labor Code. County shall retain the right at any time to review the coverage and amount of insurance required.
15. **Independent Capacity.** In the performance of this Agreement, Grantee and its agents, employees and volunteers shall act in an independent capacity and not as officers, employees, agents or volunteers of the County. This Agreement does not create an employment relationship between Grantee and the County.
16. **Equal Opportunity.** Grantee will not discriminate against any employee, or against any applicant for such employment because of age, race, color, religion, physical handicap, ancestry, sex, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
17. **Defense and Indemnity.** To the fullest extent permitted by law, County shall not be liable for, and Grantee shall defend and indemnify County and its officers, agents, employees and volunteers (collectively, "County Parties") against any and all claims, deductibles, self-insured retention's, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (collectively, "Claims"), which arise out of or are in any way connected to County's provision of grant funds and/or Grantee's use of grant funds under this Agreement arising either directly or indirectly from any act, error, omission or negligence of Grantee or its officers, employees, volunteers, agents, contractors, licensees or servants, including without limitation, Claims caused by the sole passive negligent act or the concurrent negligent act, error or omission, whether active or passive, of County Parties. Grantee shall have no obligation, however, to defend or indemnify County Parties from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole active negligent act or willful misconduct of County Parties.
18. **Governing Law.** This Agreement shall be construed and interpreted according to the laws of the State of California.
19. **Complete Agreement.** This Agreement constitutes the entire agreement between Grantee and County regarding the subject matter contained herein. All other representations, oral or written, are superseded

by this Agreement. Neither party is relying on any representation outside of this Agreement. This Agreement may be changed only by written amendment signed by both parties.

20. **Waiver.** The failure of either party to enforce any term, covenant or condition of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce this, or any other term, covenant or condition of this Agreement. No waiver shall be deemed effective unless the waiver is expressly stated in writing and signed by the party waiving the right or benefit.
21. **Consultation with Counsel.** Each party has had the opportunity to consult with independent legal counsel of its own choosing before executing this Agreement and has executed this Agreement without fraud, duress, or undue influence of any kind.
22. **Interpretation.** The provisions of this Agreement shall be liberally construed to effectuate its purpose. The language of all parts of this Agreement shall be construed simply according to its plain meaning and shall not be construed for or against either party.
23. **Corporation Qualified to Do Business in California.** If Grantee is a corporation, Grantee warrants that it is a corporation in good standing and is currently authorized to do business in California.
24. **Terms and Conditions Survive Expiration of Term of Agreement.** Unless otherwise specified herein, all terms and conditions of this Agreement shall survive the expiration of the Term of Agreement specified in Paragraph 3 above.
25. **Remedies.** Unless otherwise expressly provided herein, the rights and remedies in this Agreement are in addition to, and not a limitation on, other rights and remedies under this Agreement, at law or in equity, and exercise of one right or remedy shall not be deemed a waiver of any other right or remedy.
26. **Prevailing Wage.** Unless exempted by applicable law (e.g., Labor Code § 1720.4), projects using over \$1,000 of grant funds for construction, alteration, demolition, installation, repair, refuse and ready mix concrete hauling, maintenance work, or any other work for which prevailing wages must be paid by Labor Code § 1720 et seq. shall be deemed a "public work" for State prevailing wage purposes. It is not the intent of this Agreement to impose an obligation to pay prevailing wages on work otherwise exempt from applicable prevailing wage laws. Grantee shall be solely responsible for ensuring prevailing wages are paid when owed.

Projects subject to the payment of State prevailing wages are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Grantee shall be responsible for ensuring all required job site postings and all certified payroll and other reporting applicable to it as an awarding body are completed in accordance with the State's prevailing wage regulations. Information regarding the State's prevailing wage requirements can be obtained from the Director, Department of Industrial Relations at www.dir.ca.gov, Labor Code § 1720, et seq., and 8 Cal. Code of Regs. § 16000, et seq.

27. **Counterparts and Electronic Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed using electronic or digital signatures in accordance with California law, which signatures shall be deemed an original.

WHEREFORE, the parties execute this Agreement on the date first written above.

COUNTY OF SAN DIEGO

GRANTEE

By: _____
Deputy Chief Administrative Officer/Chief
Financial Officer
or Designated Representative

Caroline Smith, Director
Office of Economic Development
and Government Affairs

By: _____ Date _____

Authorized signatory

Brad Raulston, City Manager

Print name and title

[Note: Person signing on behalf of Grantee must be authorized by Grantee's Board of Directors to sign this Agreement and must be same person Grantee listed in its funding application as being authorized to sign.]

Return This Agreement

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