



## NEIGHBORHOOD INCENTIVE MATCHING GRANT PROGRAM TERMS AND CONDITIONS

The Grantee and the City agree to the following terms and conditions:

### **1. APPLICATION INCORPORATED BY REFERENCE**

The Grantee's application for Neighborhood Incentive Matching Grant Program assistance is incorporated into this *Grant Agreement* by this reference and the representations made in the application are binding upon the Grantee.

### **2. ACCEPTANCE OF NEIGHBORHOOD INCENTIVE MATCHING GRANT REQUIREMENTS**

The Grantee will comply with all requirements established by the City; applicable State and federal laws, regulations, administrative directives and procedures; and local ordinances and resolutions.

The Grantee agrees that all contracts/agreements entered into by it for the completion of the activities described in Section 5 of this *Grant Agreement* will contain special provisions requiring contractors to comply with all applicable state and federal laws, regulations, administrative directives and procedures; and local ordinances and resolutions.

**The Grantee expressly agrees to repay to the City any funds advanced to the Grantee under this *Grant Agreement* which the Grantee, its subcontractors or sub-recipient entities, or any public or private agent or agency to which it delegates authority to carry out portions of this *Grant Agreement*, expends in violation of the terms of this Agreement or the local, state and/or federal statutes and regulations governing the Neighborhood Incentive Matching Grant Program.**

### **3. EFFECTIVE DATE AND TIME OF PERFORMANCE**

This *Grant Agreement* takes effect upon execution by the parties and will terminate upon completion of the final project closeout by the City. The activities to be performed by the Grantee will be completed according to the Project Schedule section of the Grant Application which by this reference is made a part of this Agreement.

### **4. SCOPE OF ACTIVITIES/PROJECT SCHEDULE**

The Grantee will engage in the activities set forth in the Grantee's application for Neighborhood Incentive Matching Grant Program assistance.

### **5. BUDGET**

(a) The total amount of this *Grant Agreement* will not exceed \$\_\_\_\_\_, unless a budget adjustment is duly authorized by the City.

(b) The approved budget of the Grantee (as signed by an authorized official of the City of Portsmouth) is incorporated by reference as part of the *Grant Agreement*, with such authorized changes as may be allowed or required through budget amendments.

(c) Budget adjustments must be approved in writing in advance by the City. The Grantee must send the City a letter describing the rationale for a budget adjustment.

(d) If the application review process indicates that a revised budget may be required, the grant period may not begin until said revised budget has been received, reviewed, and approved by the City. No grant activity may occur before the beginning of the grant period.

## 6. AMOUNT OF GRANT AND METHOD OF PAYMENT

(a) The City will pay to the Grantee funds available under this *Grant Agreement* when approved by the City. The City may agree to make advance payments to the Grantee for activities set forth in Section 4. SCOPE OF ACTIVITIES/PROJECT SCHEDULE upon satisfactory demonstration of need by the Grantee. In expending funds advanced by the City, the Grantee agrees to limit expenditures to those items included in the Request for Payment and expressly approved by the City.

(b) The City will reimburse the Grantee for approved, eligible and necessary expenses according to the documentation submitted by the Grantee to support the expenditures. **The City will not reimburse the Grantee for any expenses not included in the approved budget** and not clearly and accurately supported by the Grantee's records. Any authorized funds not expended under this grant will revert to the City of Portsmouth upon project completion.

(c) The reimbursement of eligible costs incurred is contingent upon the Grantee's completion of Section 14. SPECIAL PROJECT START UP CONDITIONS. **In the event the Grantee is unable to comply with the terms and the conditions of this *Grant Agreement*, any costs incurred will be the Grantee's sole responsibility.**

(d) If the actual total cost of completing the project is less than has been projected by the Grantee in the budget (Attachment B), the City may, at its discretion, reduce the amount to be provided under this *Grant Agreement* to the actual cost of the project.

(e) If the City determines that the Grantee has failed to satisfactorily and timely carry out its responsibilities under this Agreement, the City may revoke the Grantee's authority to draw against the amount described in this *Grant Agreement*, until and if the City and the Grantee can agree on a plan to remedy the deficiency.

(f) The City reserves the right to withdraw a commitment for any Neighborhood Project funds which remain unexpended on June 26, 2020.

## 7. LIAISON

\_\_\_\_\_ is the City's liaison with the Grantee regarding all administrative and technical matters concerning this *Grant Agreement*. \_\_\_\_\_ is the Grantee's liaison with the City for administrative and technical matters and provides the following contact information:

## 8. OWNERSHIP AND PUBLICATION OF MATERIALS

All reports, information, data, and other materials prepared by any contractor or subcontractor pursuant to this Agreement are to be the property of the Grantee and the City which have exclusive and unrestricted authority to release, publish or otherwise use, in whole or in part, information relating thereto. No material produced in whole or part under this Agreement may be copyrighted or patented in the United States or in any other country without the City's prior written approval.

## 9. ACCESS TO RECORDS AND PROJECT MONITORING

(a) The Grantee will maintain records of its performance under this Contract and will allow the City access to these records and provide copies if requested at any time during normal business

hours. These records will be kept by the contact person for the Grantee for at least three years past the date of completion for the final project.

(b) The City or its agents may monitor and inspect all phases and aspects of the Grantee's performance to determine compliance with the Scope of Work, and other technical and administrative requirements, including the adequacy of the Grantee's records and accounts. The City will advise the Grantee of any specific areas of concern and provide the Grantee opportunity to propose corrective actions acceptable to the City.

#### **10. PROJECT PROGRESS REPORTING**

(a) During the term of this Grant Agreement, the Grantee will submit two Project Reports. The first report must be submitted within 90 days of the project start date. A Final Report to the City must be submitted within 30 days of project completion. These reports must provide an overview of accomplishments, summary of all activities completed during this reporting period, verification of program completion, photos or images, costs incurred, funds remaining if any, project completion date. The report must also describe any significant problems encountered.

(b) The City reserves the right to withhold payment of any and all claims associated with the project until the required reports have been submitted to and approved by the City.

#### **11. AVAILABILITY OF CITY FUNDS**

(a) For awards under \$5,000, funds may be made available upon receipt and approval by City of the signed Agreement from Grantee and upon set up of relevant budget lines by the City.

(b) For awards over \$5,000, funds may be disbursed to the relevant budget line for drawdown in two installments. The first half of the award amount may be made available upon receipt and approval of the signed award agreement by the City. The second half of the award may be disbursed to the budget line set up for Neighborhood Incentive Matching Grant Funds upon receipt and approval of the first Project Report. (See Section 10 Above)

(c) In all instances, the City reserves the right to distribute funds based upon its consideration of the available funding and project requirements.

(d) Grantees must submit requests for payments utilizing the Neighborhood Matching Fund Program Expenditure and Payment Invoice. (See Section 19 (a) Below)

(e) Funds must be used for purposes of the particular project specified. The City is not obligated to provide any additional funding once a project has been completed.

#### **12. NONDISCRIMINATION**

The Grantee will not discriminate against any person or organization on the basis of race, color, religion, creed, sex, age, disability, faith based organization or national origin. In the event that a discriminatory policy or practice is discovered, this Agreement shall be cancelled without further recourse to the Grantee.

#### **13. MODIFICATION AND ASSIGNABILITY**

This *Grant Agreement* contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in or authorized by this written Agreement, are valid or binding. This Agreement may not be enlarged, modified, or altered except upon written agreement, and does not imply any continuing commitment by the City of Portsmouth beyond the project termination date. The Grantee accepts responsibility for the adherence to the terms of this Agreement by subcontractor or sub-recipient

entities and by public or private agents or agencies to which it delegates authority to carry out portions of this Agreement.

#### **14. SPECIAL PROJECT START UP CONDITIONS AND GRANTEE FUNDING OBLIGATIONS**

The Grantee will not obligate or utilize funds for any activities provided for by this *Grant Agreement* until:

(a) The Grantee submits to the City written evidence of the firm commitment of the other resources necessary for the completion of the project as defined in Section 5 of this Agreement and the Grant Application.

**The Grantee must have completed all necessary arrangements to assure that those resources are available for commitment to and participation in the project in order to guarantee timely project completion.** Unless the Grantee can demonstrate the existence of unusual or extenuating circumstances that justify an extension of time, the City will withdraw the tentative award and reallocate the funds.

The City will not release any Neighborhood Incentive Matching Grant Program funds to the Grantee until the Grantee has obtained firm commitments from all non-Neighborhood Incentive Matching Grant Program funding resources to be involved in the project. The Grantee may not expend or obligate any Neighborhood Incentive Matching Grant Program funding until the City determines that this condition has been satisfied.

#### **15. CONSTRUCTION AND VENUE**

This *Grant Agreement* will be construed under and governed by the ordinances of the City of Portsmouth and the laws of the Commonwealth of Virginia. In the event of litigation, the parties agree that venue shall be in the General District Court of the Third Judicial District in and for the City of Portsmouth, Virginia.

#### **16. HOLD HARMLESS AND INDEMNIFICATION**

(a) The Grantee waives any and all claims and recourse against the City including the right of contribution, for loss or damage to persons or property arising from, growing out of, or in any way connected with or incidental to the Grantee's or any sub-recipient's performance under this *Grant Agreement*.

(b) Further, the Grantee will indemnify, hold harmless, and defend the City against any and all claims, demands, damages, costs, expenses, or liability arising out of the Grantee's or any sub-recipient's performance under this *Grant Agreement*. In the event that the City is named as a party in any action relating to activities to be performed by the Grantee or a sub-recipient under this *Grant Agreement*, the Grantee will notify the City of the action and agrees to provide legal representation and to pay any judgment rendered against the City in the action unless the City undertakes to represent itself.

(c) Grantee shall obtain any necessary insurance. If construction or demolition is to be undertaken, the insurance certificate must name the City as an additional insured.

#### **17. GRANT AGREEMENT AMENDMENT**

(a) The Grantee may request that this *Grant Agreement* be amended. However, the City will allow an amendment only if the Grantee clearly demonstrates that the modification is justified and will enhance the overall impact of the original project. The City will consider each request to determine whether the modification is substantial enough to necessitate reevaluating the project's

original ranking. If warranted, the City will analyze the impact of the proposed modification on the scores assigned the Grantee's application in the original grant competition.

(b) The City will not approve amendments to the scope of activities or the budget that will affect high priority activities or improvements that would materially alter the circumstances under which the grant was originally ranked.

## **18. GENERAL TERMS AND CONDITIONS**

By signing the face sheet of this *Grant Agreement*, the Grantee is agreeing to the following:

(a) Regulations and Agreement Reports and Procedures. Grantee agrees to comply with all local, state, and federal laws and regulations. In addition, Grantee agrees to comply with all applicable Grant Reporting and Payment procedures and all other provisions of this Agreement.

(b) Modifications. Any alterations, additions, or deletions to this *Grant Agreement* that are required by changes in local, state or federal laws, regulations and ordinances are automatically incorporated on the date designated by law, regulation or ordinances. The City shall have the right to make unilateral *Grant Agreement* amendments in writing, with notice to the Grantee, to conform to local, state, or federal laws, regulations, and ordinances, and availability of funds. No other waiver or modification of the terms of this *Grant Agreement* (including the Grantee's application/proposed services) shall be valid unless in writing and duly executed by the parties to be bound thereby.

## **19. PAYMENT REQUESTS**

Invoices. Grantees must submit request for payments utilizing the Neighborhood Incentive Matching Grant Program Expenditure and Payment Invoice. Payments will generally be dispersed in one payment however this decision is at the discretion of the Committee and/or the City's Department of Finance.

## **20. COUNCIL APPROVAL**

The City is awarding this grant to support neighborhood projects by community organizations that provide a public benefit to the residents of Portsmouth. The awarding of these funds are subject to City Council approval. Should Council fail to appropriate the funds, this Agreement shall be terminated without recourse for the Grantee.

## **21. ASSURANCES AND CERTIFICATIONS**

By signing the face sheet of this *Grant Agreement*, the Grantee is making the following assurances and certifications:

(a.) Signature Authorized. The Grantee's authorized approving official, by signing the face sheet acknowledges that there is legal authority to apply for city assistance and that Grantee has the institutional, managerial, and financial capability to ensure the proper planning, management, and completion of the project described in the Grant Application.

(b.) Record Retention. Grantee will retain all records related to this grant for three years after receiving final payment and all other pending matters are closed on all completed invoices from these grant funds and the receipt of the Grantee's final progress report.

(c) Access to Records. Any representative of the City shall have access to and the right to examine any books, documents, papers and records (including computer records) of the Grantee that are related to this *Grant Agreement*, in order to conduct audits and examinations and to make excerpts, transcripts, and photocopies. This right also includes timely and reasonable access to the Grantee's personnel and program participants for the purpose of interviews and

discussions related to such documents. This right of access is not limited to the required three-year retention period, but shall last as long as the records are retained.

(d.) Publicity and Lobbying. No funds provided under this grant shall be used for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, and television or film presentation designed to support or defeat legislation pending before the Congress or General Assembly itself. Nor shall grant funds be used to pay the salary or expenses of any grant or agreement, Grantee or agent acting for such Grantee, related to any activity designed to influence legislation or appropriations pending before Congress or the Virginia General Assembly.

(e.) Public Announcements. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing project or programs funded in whole or in part with city money, including this grant, the Grantee shall clearly state (1) the percentage of the total cost of the program or project which will be financed with city money, and (2) the dollar amount of city funds for the project or program. The City has the right to make public announcements regarding this program as well.

(f.) Conflict of Interest. The Grantee will establish and observe safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.

(g.) Debarment and Suspension. The Grantee certifies to the best of its knowledge and belief, that it and its authorized approving officials and its fiscal agent:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any local, state, or federal department or agency;
2. Have not within a three-year period preceding the Grantee's signature of this *Grant Agreement* been convicted or had a civil judgments against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
4. Have not within a three-year period preceding the Grantee signature on the date of this *Grant Agreement* had one or more public transactions (federal, state, or local) terminated for cause or default.

## **22. TERMINATION OF AGREEMENT**

This Agreement may be terminated as follows:

(a) Termination and Modification Due to Loss of Funding. If, for any reason, the resources required by the City to fund the Grantee's project are withdrawn from the City, the City may unilaterally terminate or modify the terms of this Agreement to reflect the loss of funding. The City will give the Grantee written notice of the effective date of the modification or termination and, if a reduction in funding is required, will provide the Grantee with a modified project budget.

(b) Termination Due to Noncompliance. If the City determines that the Grantee has failed to comply with the general terms and conditions of this Agreement, the project schedule, or any special conditions, and if upon notification of the defect the Grantee does not remedy the deficiency within a reasonable period to be specified in the notice, the City may terminate this Agreement in whole or in part at any time before the date of completion. The City will promptly notify the Grantee in writing of the decision to terminate.

(c) Termination Due to Adverse Environmental Impact. This Agreement will terminate if the Grantee or the City determines that the project would have an adverse impact on the quality of the human environment and that this impact cannot be avoided or sufficiently mitigated by reasonable, cost-effective means.

(d) Effect of Termination. In the event of termination due to the Grantee's failure to comply with the terms of this Agreement or the project's adverse environmental impact, any costs incurred will be the responsibility of the Grantee. However, at its discretion, the City may approve requests by the Grantee for reimbursement of expenses incurred. The City's decision to authorize payment of these costs or to recover expended Neighborhood Incentive Matching Grant project funds will be based on a consideration of the extent to which the expenditure of those funds represented a good faith effort of the Grantee to comply with the terms and on whether any failure to comply with the terms of this Agreement was the result of circumstances beyond the Grantee's control.

THE GRANTEE'S AUTHORIZED REPRESENTATIVE BY SIGNING BELOW ACKNOWLEDGES THAT THE GRANTEE HAS READ THESE TERMS AND CONDITIONS AND AGREES TO ABIDE BY SAME.

\_\_\_\_\_  
Signature of Grantee's Authorized Representative

\_\_\_\_\_  
Date