

**City of Naperville, Illinois
Special Events & Cultural Amenities Grant Fund
Award Agreement**

**Calendar Year 20 (CY20)
January 1, 2020 – December 31, 2020**

THIS AGREEMENT is entered into this _____ day of _____, 2020 by and between the City of Naperville (hereinafter, the “City”), an Illinois municipal corporation, 400 S. Eagle Street, Naperville, Illinois, and **NAPERVILLE SUNRISE ROTARY FOUNDATION** (hereinafter, “Grantee”), an individual or organization, **PO BOX 60567, NAPERVILLE, ILLINOIS 60567**; and

RECITALS

WHEREAS, the City has implemented a Special Events & Cultural Amenities Grant Fund for an event/project supported by the City; and

WHEREAS, Grantee has submitted an application for a **CY20** Special Events & Cultural Amenities Grant Fund; and

WHEREAS, Grantee was approved by the Naperville City Council to conduct **NAPER LIGHTS**; and

NOW, THEREFORE, the City and Grantee, in consideration of the mutual covenants set forth below, hereby agree as follows, having first found the foregoing recitals as fact:

AGREEMENT

ARTICLE 1: SCOPE/COMPENSATION/TERM

- A. **Scope/Compensation.** The City agrees to make a reimbursement based grant in the amount not to exceed **\$18,000** to Grantee for **NAPER LIGHTS** described in Grantee’s approved **CY20** Special Events & Cultural Amenities Grant Fund application, subject to compliance with the terms and conditions contained herein:

B. **Term of Agreement.** All monies subject to reimbursement or advanced for this event/project will be expended by Grantee between **January 1, 2020** and **December 31, 2020**. The funds shall be expended, and the project or service completed by **December 31, 2020**. If additional time is needed for the project, the request for a time extension must be made in writing to the Special Events Coordinator before the closing date of the project or by **November 1, 2020**, whichever is earlier. If no extension is requested, recipients will forfeit reimbursement of all grant monies and shall be required to return all advanced funds.

ARTICLE 2: PROJECT COSTS, FINANCIAL RECORDS AND REPORTING REQUIREMENTS

A. **Use of Grant Funds.** Grantee agrees that all funds advanced for this event/project will be expended only for the event/project as described in the attached approved application. In the event Grantee changes the event/project without the prior consent of the City, all grant funds will be forfeited and returned to the City. Grantee further agrees that it shall only seek reimbursement for funds spent on approved projects.

A **CY20** Special Events & Cultural Amenities Grant Fund award was approved for the following event/project:

Project/Event	SECA Request	Total Award
New Display Items	\$12,000	\$8,000
Operations Support	\$20,500	\$10,000
Total	\$32,500	\$18,000

B. **Limitations on the Use of Grant Funds.** Grantee agrees that no monies from this grant will be used for the payment of any previous year’s deficit, activities outside of the Naperville community, subsidy for an individual’s academic study, travel related expenses, or food and beverage purchases. Grant monies shall be used only as described in the attached approved application.

C. **Payment for City Services.** Grantee agrees that if the EVENT/PROJECT qualifies as a Special Event under the City’s Municipal Code, and City services are required at the EVENT/PROJECT, then the City shall withhold sufficient Grant funds to pay for the services. Grant funds used to pay City services shall not be distributed to Grantee, but held by the City.

D. **Payments.** The City shall make disbursements to the Grantee as either reimbursement for payments made by the Grantee or as advances for specific case requirements of the Grantee for the event/project. No funds will be paid to Grantee until the City has received the signed Grant Agreement. All claims of the Grantee, whether for reimbursement or advancement, shall comply with the following requirements:

1. The Grantee shall submit a listing of all disbursements of grant funds, including all billings, vouchers, and other documents representing any

accounts payable, in such timely and reasonable manner as both parties shall determine.

2. Any claim for advancement of grant funds shall be limited to an amount necessary for the Grantee to meet specific cash requirements for the event or project and shall be disbursed by the Grantee within five (5) working days of receipt by the Grantee.
3. Any request for reimbursement or advancement pertaining to work under subcontracts shall include the Grantee's certification as follows:
 - i. For interim payments to the subcontractor: that the work for which payment is requested has been performed and is in place, and that to the best of the Grantee's knowledge, information and belief, the quality of such work conforms to the specifications of the subcontract, subject to any evaluation of such work as a functioning project upon substantial completion, the results of any subsequent tests permitted by the subcontract, and any defect or deficiencies not readily apparent upon inspection of the work; and
 - ii. For final payment: that the work has been performed in a satisfactory manner and in conformance with the subcontract.
4. The City shall begin processing such claim immediately upon submission of a claim for grant funds.

E. **Financial Records.** Grantee agrees, upon request by the City, to make available to the City the financial records for the year in which the grant was received and to allow access promptly upon request to financial documents that pertain to information stated in the previously approved application for funding. Access to such records will be limited to information to assist in determining compliance with this Agreement.

F. **Reporting.** Grantee agrees to submit a Final Program and Financial Report to the City, on forms provided, **within thirty (30) days after completion of the event/project. Final reimbursement of grant funds will not be distributed until the Final Financial Report is received by the Special Events Coordinator.**

ARTICLE 3: COMPLIANCE REQUIREMENTS AND CERTIFICATIONS/ ASSURANCES

A. **Grant Acknowledgement/Recognition.** Grantee agrees that credit will be given to the City on all public notices, publicity, printed projects, etc. Grantees may not use the City of Naperville logo without express permission from City Council. Grantees may use the City's Special Events & Cultural Amenities Grant Fund logo on promotional materials.

B. **Non-Sponsorship.** Grantee agrees that the City, in making this grant, does not in any way act as sponsor of the event/project as outlined in Paragraph 1 except if so agreed upon in writing in advance by both the Grantee and the Naperville City Council.

Grantee shall not make any oral or written representations that the event is sponsored by the City.

- C. **Non-Discrimination.** Grantee agrees that no person shall on the grounds of race, color, religion, national origin, sex, disability, sexual orientation, or age, while otherwise qualified, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any project or activity including employment supported in whole or in part by funds provided under this grant.

ARTICLE 4: INSURANCE AND INDEMNIFICATION

- A. **Hold Harmless, Defense and Indemnification.** Grantee hereby assumes liability for and agrees to protect, hold harmless, defend and indemnify the City and its elected officials, assigns, officers, directors, employees, agents and servants from and against any and all liabilities, obligations, losses, damages, penalties, judgments, settlements, claims, actions, suits, proceedings, costs, expenses and disbursements, including legal fees and expenses, of whatever kind and nature, imposed on, incurred by or asserted against the City, its successors, assigns, officers, directors, employees, agents and servants, in any way relating to or arising out of a claim made by a third party with respect to any of the following:

1. The use or application of Grant proceeds;
2. The violation by Grantee of any of its covenants or agreements under the Agreement;
3. Any action or failure to act in connection with the performance or operation of the Event/Project;
4. Any act or failure to act of any officer, employee, agent or servant of Grantee; and
5. Any injury to any person, loss of life, or loss or destruction of property in any way arising out of or relating to the performance or operation of the Project.

The foregoing paragraph shall not apply to any general legal challenge made as to the validity of the Special Events Cultural Amenities Fund Grant program or as to the tax imposed by the City to provide funding for this program.

The City agrees to notify Grantee in writing of any claim or liability in which the City believes to be covered under this paragraph. The City shall tender, and Grantee shall promptly accept tender of defense in connection with any such claim or liability. The counsel retained by Grantee to defend the City shall be reasonably satisfactory to the City, and the City shall be kept fully informed in writing of the status of the proceeding.

Notwithstanding anything in this Agreement to the contrary, the obligations contained in this paragraph shall survive the termination of the Agreement.

ARTICLE 5: PROJECT TERMINATION

- A. **Termination.** The City may terminate this Agreement as provided in the Paragraph D below. Grantee may terminate this Agreement at any time prior to receipt of grant monies or the commencement of the herein referenced project by written notification to the City. After project commencement, this Agreement may be amended by mutual agreement among the parties. An event/ project shall be deemed commenced when Grantee makes any expenditure or incurs any approved obligation after execution of this Agreement in furtherance of this project.
- B. **Discontinuation of Work/Outstanding Obligations.** In the event of termination by the City, Grantee shall halt all work under this Agreement and cancel all outstanding obligations if so directed by the City and the City shall pay for its share based on the percentage of eligible project costs incurred up to the date of termination, provided, however, that if termination is for material breach, the City shall provide no such payment. For purposes of this paragraph, a material breach may occur when any of the terms and conditions herein are violated by Grantee.
- C. **Terms for Termination.** Failure by Grantee to comply with any of the above cited Agreement terms shall be cause for the suspension or termination of all grant assistance obligations thereunder, unless, in the judgment of the City, such failure was not due to the fault, responsibility or control of Grantee.
- D. **Terms for Cure.** The parties agree that in the event of a breach of this Agreement by Grantee and notification from the City, Grantee shall have thirty (30) days to cure or correct the breach, except that in the event of failure to observe all applicable insurance requirements, the City may terminate this Agreement upon two days' written notice. The City may, but is not obligated to, give a period of two days to cure, which it may renew with conditions, including, but not limited to, suspension of the project. If the breach is not cured or corrected, the City shall thereafter have full right and authority to terminate this Agreement, to take such actions as deemed necessary to enforce the provisions of this Agreement, to prevent the continued breach or violation thereof by Grantee, to seek any other remedy that may be available by law. The City reserves the right to demand return of any funds awarded under this Agreement. If the City prevails in any litigation, Grantee shall be required to pay the City's costs, including but not limited to reasonable attorneys' fees.
- E. In the event the event/project is not completed as provided for herein by the due date and any extensions thereof, Grantee shall upon written demand by the City, promptly return all grant funds.

ARTICLE 6: GRANTEE'S RESPONSIBILITY FOR CITY SERVICES

- A. Grantee is aware that the project or event requires the use of City services and use of those City services will be at the expense of the Grantee. Any expenses for City services that exceed the total amount of the Grant shall be paid for by the Grantee.
- B. City services are defined as "the use of City staff for any work related to the event, including work performed before and during the event and attendance at the event.

City services include the rental or use of city equipment for the event, but not the cost of utilities.”

- C. Grantee is responsible for having a pre-event meeting with the Special Events Coordinator to discuss the amount and type of City Services that will be necessary for the event.
- D. If Grantee does not provide the number of volunteers set forth in Section 1.3, City staff will be used in place of the volunteers and Grantee will be responsible for paying the additional cost of City staff.

ARTICLE 7: CITY’S RESPONSIBILITY FOR CITY SERVICES

- A. The City shall timely schedule meetings with the Grantee and its volunteers to discuss the event and the number of City staff and volunteers required during the event.
- B. The City will provide an estimation of the costs of City services that will be incurred by the Grantee under the Grantee proposed event plan.
- C. City shall send the Grantee a bill for City services within sixty (60) days of the event.

ARTICLE 8: GRANTEE’S PAYMENT OF CITY SERVICES

- A. Grantee shall remit to the City payment for City services within 14 days of receipt. Grantee understands however, that if Grant funds have been held back from disbursement or specifically awarded for payment of City Services, the City will utilize these funds to pay for City services. Grantee further understands that there will NOT be refund of Special Events & Cultural Amenities Grant Fund award for City services if the amount of City Services is less than estimated.
- B. The Grantee shall be billed for the actual amount of City service provided. The amount billed for City Services may vary from the amount estimated by the City.
- C. Grantee is responsible for City Services over and above the amount estimated by the City if the Grantee requested additional services or made any changes to the event after the City completed its estimation.
- D. Failure to timely pay for City Services will be considered by the Grantor is reviewing any subsequent applications made by the Grantee.

ARTICLE 9: PROMOTION OF CITY AMENITIES

- A. Recognizing the importance of incorporating and promoting positive local economic impact as part of the Special Events & Cultural Amenities Grant Fund, recipients are encouraged to contact and work with the Naperville Convention and

Visitors Bureau in a good faith manner in order to facilitate overnight accommodations and use of other community amenities within the City.

ARTICLE 10: NOTICES

- A. All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon delivery, if delivered personally, or on the fifth (5th) day after mailing if sent by registered or certified mail, return receipt requested, first-class postage prepaid, as set forth below. Faxed communications are a convenience to the parties, and not a substitute for personal or mailed delivery.
1. If the City, to:
Dawn Portner
portnerd@naperville.il.us
Special Events Coordinator
City of Naperville
400 S. Eagle Street
Naperville, Illinois 60540
 2. If Grantee, at the address first above written with a copy to (attorney): or otherwise by notice served in accordance with this Article.

ARTICLE 11: MISCELLANEOUS

- A. **Applicable Law.** The laws of Illinois, including its conflicts of law provisions, shall apply to interpretation and enforcement of this Agreement. The venue shall be the Eighteenth Judicial Circuit, DuPage County, Illinois.
- B. **Severability.** In the event, any provision(s) of this Agreement are found by a court of competent jurisdiction to be in violation of applicable law, provision(s) unaffected thereby shall remain in effect.
- C. **Entire Agreement.** This document represents the entire Agreement between the City and Grantee. Any and all prior agreements, undertakings written and oral, are hereby superseded.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above. The governing body of the grantee has duly authorized the signature for the grantee below.

CITY OF NAPERVILLE:

Signature
Doug Krieger
City Manager

ATTEST:

Signature
Pam Gallahue, PhD
Director - City Clerk's Office

GRANTEE:

Signature
Name: **JEFFREY ROEHL**
Title: **NAPER LIGHTS**

ATTEST:

Signature
Name: **SCOTT AMUNDSEN**
Title: **CO-CHAIR NAPERLIGHTS**