

AGREEMENT BETWEEN COUNTY OF INYO
AND _____
FOR COMMUNITY PROJECT SPONSORSHIP GRANT AWARD

INTRODUCTION

This Agreement is entered into this _____ day of _____, by and between the County of Inyo, hereinafter referred to as "County", and _____, hereinafter referred to as "Applicant". This Agreement, upon execution by both the County and Applicant, is a Grant Award.

WHEREAS, County desires to sponsor and support specific events or projects undertaken by non-profit organizations in Inyo County communities that enhance in-county and/or out-of-county visitation to the community, or otherwise provide for the cultural or recreational enrichment of the citizens of Inyo County and;

WHEREAS, Applicant has requested County funding to provide such specific events or projects as described in the Grant Application attached hereto as Attachment **A** and by reference incorporated herein;

WHEREAS, said specific events or projects will be provided as is described in Attachment **A**, thereby serving a public purpose;

NOW, THEREFORE, County and Applicant, in consideration of the mutual benefits, promises, covenants, terms, and conditions hereinafter contained, do agree as follows:

TERMS AND CONDITIONS

1. SPECIFIC EVENTS OR PROJECTS.

The Applicant will furnish, provide, and conduct the specific events and/or projects (herein after collectively referred to as "Project") which are described in Attachment **A**.

The Applicant will furnish, provide, and conduct such Project in the manner and by the means set forth in Attachment **A**, and in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, resolutions, and the terms and conditions of this Agreement . Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement, including any Attachments thereto.

Applicant agrees to diligently and promptly pursue the completion of the Project, and to complete the Project within the fiscal year ending June 30, _____.

2. FUNDING AND FUNDING LIMITATIONS.

A. Funding Process. Each year, as part of the County budget process, the Board of Supervisors will appropriate the amount of funding available for the Community Project Sponsorship Program. However, to provide an opportunity to sponsor events that will take place during July, August, September or October, the months when the County budget is usually being prepared, adopted and initially implemented, up to 35% of the prior fiscal year's board-approved budget for the Community Project Sponsorship Program will be included in the County's Preliminary Budget for the coming fiscal year.

B. One-Time Funding. The Community Project Sponsorship Program is intended to provide funding, in the form of County sponsorship, for a specific project or event. Accordingly, it is one-time funding. Annual events or reoccurring projects are eligible to submit Community Project Sponsorship Program applications in consecutive years, but there is no assurance of receiving on-going funding.

C. Maximum Award. The maximum amount of any single Grant Award made through the Community Project Sponsorship Program is \$10,000.00.

D. Use of Funds.

1. Grant funds shall only be used as described, and to carry out the specific project or event identified, in the Grant Application (Attachment **A**) as approved by the Inyo County Board of Supervisors.
2. Grant funds may be used to pay for regularly paid staff time, exclusive of overtime and benefits, providing that the amount of staff time paid for with grants funds does not exceed staff time allocated to the specific project or event in the Grant Application (Attachment **A**) as approved by the Board of Supervisors.
3. Grant funds cannot be used to pay for expenses associated with the Applicant's day-to-day operating costs (e.g., office rent, office utilities, general office supplies, general travel expense, general insurance, per diem, etc.).

E. Pre-Award Funding Grant funding must be awarded by the Board of Supervisors in advance of the event or project (or component thereof) for which financial assistance is sought. Grant Funding is not to be used to pay for costs that have been incurred by the Applicant before the Grant is awarded by the Board of Supervisors.

F. Prepaid Expenses. Prepaid expenses are not eligible for Grant funding until the goods or services are actually received, unless prepaid costs are specifically identified in the Grant Application (Attachment **A**) as approved by the Board of Supervisors. Expenses which are authorized to be prepaid cannot be prepaid before the Grant Award (see Section E. above.)

G. Prohibition against Lobbying and Campaigning. None of the funds provided by the County to Applicant under this Agreement may be used, directly or indirectly, by Applicant, any of its agents, officers, or employees to lobby any Federal officer or employee, member of Congress, State officer or employee, member of the State Legislature, any officer, employee or member of any governing or advisory body of any county, city, or special district within the State of California or any other state on any issue whatsoever. Further, none of the funds provided by the County to Applicant under this Agreement may be used, directly or indirectly, by Applicant, any of its agents, officers or employees to campaign for or against any candidate for any federal, state, or local office, or to campaign for or against any measure appearing on any state or local ballot.

3. APPLICANT'S NON-PROFIT STATUS.

Applicant shall be, at the time of submitting the Grant Application (Attachment A), a non-profit organization certified by the IRS as meeting the requirements of Section 501(c)(3), 501(c)(4), 501(c)(6), or 501(c)(7) of the Internal Revenue Code, and shall continue to maintain such status during the term of this Agreement. Applicant shall attach to this Agreement as part of the Grant Application (Attachment **A**) a copy of its IRS certification which certification shall not be more than two years old at the time the Grant Application (Attachment **A**) is submitted.

4. APPLICANT'S "IN-COUNTY" STATUS.

Applicant shall, at the time of submitting the Grant Application (Attachment **A**) and continuing during the term of this Agreement, have its principle offices, primary place of operations, and business address located within Inyo County.

5. SPECIAL REQUIREMENTS.

A. Recognition of County Sponsorship. The County of Inyo must be prominently listed as an event or project sponsor on all advertisements, promotional items, or other collateral materials (including brochures, web sites, etc.) associated with the project or event. This includes featuring a logo, web site and/or telephone number if so specified by the County. The applicant will be required to demonstrate compliance with this requirement prior to receiving the last 25% of its Grant award.

B. Pre-Approval of Advertising/Promotional Items. If there is a circumstance which makes it impractical, physically improbable, or graphically and technically inappropriate to include the mandated credit or sponsorship information noted above, the County must be notified and then approve, in advance in writing or e-mail, any advertisement or promotional item that does not include listing or crediting the County as an event sponsor or contributor. The County and the Applicant will, at that time, agree on alternative ways (press releases, Web page announcements, other material related to the event) to give the County the appropriate credit for co-sponsoring or co-funding the event.

C. Copyright/Licensing Compliance. Applicant is responsible to insure that all content and photos, information, logos, etc. used in advertisements and promotional items are appropriately licensed.

6. TERM.

The term of this Agreement shall be from _____, to _____, unless sooner terminated as provided below.

7. PAYMENT TO APPLICANT.

A. Compensation. County agrees to pay, as set forth below, a sum not to exceed \$ _____, (Grant Award) to Applicant for the purpose of funding the aforesaid Project, which will be a public benefit.

B. No Additional Consideration. Except as expressly provided in this Agreement, Applicant shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Applicant shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

C. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Applicant under this Agreement shall not exceed \$ _____ (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Applicant which is in excess of the contract limit.

D. Payment.

1. Upon the County and Applicant executing Inyo County Standard Contract Number 159, the Applicant will within 30 calendar days receive 50% of the amount of their Grant Award, excluding paid staff costs.
2. The County will advance to Applicant an additional 25% of their total Grant Award, excluding paid staff costs, within 30 calendar days of County's receipt of satisfactory documentation demonstrating that the Applicant has expended the initial Grant funding consistent with the terms of their application and this Agreement.
3. The County will pay the Applicant the final 25% of the Grant Award, and all eligible paid staff expenses within 30 calendar days after:
 - Completion of the project or event; and
 - Receipt and approval of a Final Reimbursement Request including appropriate documentation of expenses; and
 - Submit a final written report to the County that includes an overview of the event or project, a statistical overview of the event or project, number of participants, etc., or other relevant details about the project event. If the final written report is deemed satisfactory, County staff can present the final written report and other supplemental information about the event or project and provide an oral report to the Board of Supervisors; and
 - If there are questions or concerns expressed by County staff about the expenditure of the grant money as outlined in the final written report, or if the Board of Supervisors has additional questions and determines it needs more information than in the written final report, the grant receipt will appear in front of the Board to present a final, oral and written report.
4. Applicant shall indemnify and hold County harmless from any liability or damage resulting from any failure to make, withholding of, or delay in making payments.
5. Applicant agrees to abide by all laws, regulations and requirements applicable to the expenditure of County Funds, including, but not limited to, the audit of the expenditure of these funds for compliance with such laws, regulations, and requirements, including compliance with all labor laws and regulations pertinent to public funds, and further, to assure compliance with the anti-discrimination provisions of the law, including County Ordinances.

E. Federal and State Taxes.

1. Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Applicant under the terms and conditions of this Agreement.
2. County will withhold California State income taxes from payments made under this Agreement to a non-California resident Applicant when it is anticipated that total annual payments to Applicant under this Agreement will exceed one thousand four hundred ninety-nine dollars (\$1,499.00).
3. Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Applicant under this Agreement. Payment of all taxes and other

assessments on such sums is the sole responsibility of Applicant. County has no responsibility or liability for payment of Applicant's taxes or assessments.

4. The total amounts paid by County to Applicant, and taxes withheld from payments to a non-California resident, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Applicant shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9, upon executing this Agreement.

8. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Applicant to conduct the Project described in this Agreement must be procured by Applicant and be valid at the time Applicant enters into this Agreement. Further, during the term of this Agreement, Applicant must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's license, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Applicant at no expense to the County. Applicant will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to conduct the Project identified in the Grant Application (Attachment **A**). Where there is a dispute between Applicant and County as to what licenses, certificates, and permits are required to conduct the Project identified in the Grant Application (Attachment **A**), County reserves the right to make such determinations for purposes of this Agreement.

B. Applicant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Applicant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: <http://www.epls.gov>.

9. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Applicant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Applicant to conduct the Project identified in the Grant Application (Attachment **A**) to this Agreement. Unless expressly provided for the Grant Application (Attachment **A**), County is not obligated to reimburse or pay Applicant for any expense or cost incurred by Applicant in procuring or maintaining such items. Unless expressly provided in the Grant Application (Attachment **A**), responsibility for the costs and expenses incurred by Applicant in providing and maintaining such items is the sole responsibility and obligation of Applicant. Any supplies, equipment, vehicles, materials, etc., paid for by County under this Agreement are the personal property of County.

10. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Applicant by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Applicant will use reasonable care to protect, safeguard and maintain such items while they are in Applicant's possession. Applicant will be financially responsible for any loss or damage to such items, partial or total, which is the result of Applicant's negligence.

B. Products of Applicant's Work and Services. County retains a non-exclusive right to use any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Applicant's services or work under this Agreement.

11. INSURANCE.

For the duration of this Agreement Applicant shall procure and maintain insurance of the scope and amount specified in Attachment **C** and with the provisions specified in that attachment.

12. STATUS OF APPLICANT.

All acts of Applicant, its agents, officers, employees, and volunteers, relating to the performance of this Agreement, shall be performed as independent Applicants, and not as agents, officers, or employees of County.

Applicant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment **A**, Applicant has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the County is to be considered an employee of Applicant. It is understood by both Applicant and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent Contractor:

A. Applicant shall determine the method, details, and means of conducting the Project described in Attachment **A**.

B. Applicant shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Applicant in fulfillment of this Agreement.

C. Applicant, its agents, officers, employees, and volunteers are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent Applicants, and not as employees of County.

13. DEFENSE AND INDEMNIFICATION.

Applicant shall defend, indemnify, and hold harmless County, its agents, officers, and employees, from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the performance of this Agreement by Applicant, or Applicant's agents, officers, employees, or volunteers. Applicant's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Applicant's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs which is caused in whole or in part by any act or omission of the Applicant, its agents, employees, volunteers, suppliers, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Applicant's obligation to defend, indemnify, and hold the County, its agents, officers and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Applicant to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Applicant, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

14. RECORDS AND AUDIT.

A. Records. Applicant shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Applicant shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Applicant may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Applicant, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Applicant. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement and further, to submit to the County Administrative Officer a written report upon completion of the Project detailing the record of expenditures under this Agreement.

15. NONDISCRIMINATION.

During the performance of this Agreement, Applicant, its agents, officers, employees and volunteers shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Applicant and its agents, officers, employees, and volunteers shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Applicant shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

16. ASSIGNMENT.

This is an agreement for the services of Applicant. County has relied upon the skills, knowledge, experience, and training of Applicant as an inducement to enter into this Agreement. Applicant shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Applicant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

17. DEFAULT.

If the Applicant abandons the Project, or fails to proceed with the Project in a timely manner, or fails in any way as required to conduct the Project as required, County may declare the Applicant in default and terminate this Agreement upon five (5) days written notice to Applicant. Upon such termination, County will pay Applicant all sums owed it for services and work authorized in the Grant Application (Attachment A) which were satisfactorily performed before the date of termination.

18. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph Twenty-Five (25) below.

19. CONFIDENTIALITY.

Applicant agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Applicant in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Applicant agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Applicant only with the express written consent of the County.

20. CONFLICTS.

Applicant agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its performance of the Project as described in this Agreement.

21. POST AGREEMENT COVENANT.

Applicant agrees not to use any confidential, protected, or privileged information which is gained from the County under this Agreement, for any personal benefit, gain, or enhancement. Further, Applicant agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, and concerning such, Applicant by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

22. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

23. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Applicant of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph Twenty-Five (25) (Amendment).

24. ATTORNEY'S FEES.

If either of the parties hereto brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare the cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable attorney's fees and costs incurred in connection therewith.

25. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

26. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Applicant or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo:	
<u>County Administrative Officer</u>	Department
<u>P.O. Drawer N</u>	Address
<u>Independence, CA 93526</u>	City and State

Applicant:	
_____	Name
_____	Address
_____	City and State

27. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

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AGREEMENT BETWEEN COUNTY OF INYO
AND _____
FOR COMMUNITY PROJECT SPONSORSHIP GRANT AWARD

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS
_____ DAY OF _____, _____.

COUNTY OF INYO

APPLICANT

By: _____

By: _____
Signature

Dated: _____

Type or Print Name

Dated: _____

APPROVED AS TO FORM AND LEGALITY:

County Counsel

APPROVED AS TO ACCOUNTING FORM:

County Auditor

APPROVED AS TO INSURANCE REQUIREMENTS:

County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO

AND _____
FOR COMMUNITY PROJECT SPONSORSHIP GRANT AWARD

TERM:

FROM: _____ TO: _____

GRANT APPLICATION:

Any grant application and or Board order attached hereto is/are incorporated by reference, but terms contained in these attachments, if any, which are inconsistent with provisions of this contract will not be binding over terms of this contract as otherwise set forth. Any budget contained in the attachment is merely an estimate of costs, and informational. All expenses that the grant recipient can show relate directly to the completion of the program, project, or events are eligible for reimbursement for the exact costs incurred, based on the appropriate invoice or other documentation of those costs, as determined by staff review. Payment of all grant amounts is expressly contingent upon the Applicant having fully paid all of Applicant's property taxes due and owing in the County of Inyo.

ATTACHMENT B

AND _____
AGREEMENT BETWEEN COUNTY OF INYO
FOR COMMUNITY PROJECT SPONSORSHIP GRANT AWARD

TERM:

FROM: _____ **TO:** _____

FORM W-9

Request for Taxpayer
Identification Number and Certification
(Please submit W-9 form with Contract, available on-line or by County)

ATTACHMENT C

AND _____
AGREEMENT BETWEEN COUNTY OF INYO
FOR COMMUNITY PROJECT SPONSORSHIP GRANT AWARD

TERM:

FROM: _____ **TO:** _____

SEE ATTACHED INSURANCE PROVISIONS