

SPONSORSHIP/LOCAL MATCH AGREEMENT

This SPONSORSHIP AGREEMENT RELATED TO THE MAYOR'S SYMPOSIUM ON CITY DESIGN AND ALLOCATION OF FUNDS TO ASSIST IN THIS INITIATIVE ("Agreement"), effective July 14, 2010 ("Effective Date") is between **THE CITY OF PORTLAND, OREGON**, a municipal corporation ("CITY"), and **THE CENTER FOR ARCHITECTURE** ("CFA").

RECITALS

- A. The City and CFA are authorized to enter into a sponsorship agreement.
- B. The City and CFA are jointly working on a Design Excellence Initiative.
- C. The Design Excellence Initiative seeks to integrate quality architecture, the public realm, and expressive works of art across a broad city geography
- D. The City Council appropriated funds for this purpose in the Spring BuMP 2009-10 process.

NOW, THEREFORE, in consideration of the promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows.

AGREED:**1. ACTIONS TO BE TAKEN BY THE CENTER**

In consideration of the grant funds provided by CITY, CFA agrees to perform the following actions and/or spend grant funds in the following way:

- A. Funding is the City's contribution to the Design Excellence initiative. The City and CFA are currently seeking a \$200,000 National Endowment for the Arts grant. This contribution, the City's match for the NEA grant, covers expenses related to two Mayor's Symposiums on Design Excellence, one of which took place on April 23. The second symposium is planned for early this fall. The symposiums bring together design professionals and community leaders to define what design excellence means for Portland, and what tools we can implement to help design excellence flourish in both the public and private realm

2. SPECIFIC CONDITIONS OF THE AGREEMENT

- 2.1 **Publicity:** CFA will mention the City of Portland and/or use the City's logo in all materials related to the Mayor's Symposium, and all materials related to the city-specific portion of the larger Design Excellence initiative.
- 2.2 **Records:** CFA will provide a memorandum to the CITY confirming the work has been performed as per this Agreement prior to the termination date of this Agreement. CFA will maintain all records for the program. All records regarding the program, as well as general organizational and administrative information, will be made available to the Sponsorship

Agreement Manager, or other designated persons, upon request.

- 2.3 **Sponsorship Agreement Manager:** The Sponsorship Agreement Manager for this Agreement is Amy Ruiz.
- 2.4 **Amendment.** The Sponsorship Agreement Manager is authorized to amend the terms and conditions of the grant provided such changes do not increase the City's financial risk. If approved, such changes shall be incorporated into a formal Agreement amendment and signed by the CFA and the Sponsorship Agreement Manager before such changes are effective. Any change to the amount of the Agreement must be approved by the City Council unless the City Council delegated authority to amend the amount of the Agreement to a specific individual in the ordinance authorizing the Agreement.
- 2.5 **Billings/invoices/Payment:** The CITY Sponsorship Agreement Manager is authorized to approve work and billings and invoices submitted pursuant to this Agreement and to carry out all other CITY actions referred to herein in accordance with this Sponsorship Agreement.
- 2.6 **Reports:** CFA will submit a memorandum to the Sponsorship Agreement Manager confirming the work has been performed as per this Agreement prior to the termination date of this Agreement. The memorandum serves as the CITY's receipt that services were provided as described in the Agreement.

3. PAYMENTS

- 3.1 CITY agrees to SEVEN THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$7,500.00) in CITY funds to CFA. No invoice is required to make this payment.
- 3.2 If for any reason CFA receives an Agreement payment under this Sponsorship Agreement and does not use Agreement funds, provide required services or take any actions required by the Sponsorship Agreement the CITY may, at its option terminate, reduce or suspend any Agreement funds that have not been paid and may, at its option, require CFA to immediately refund to the CITY the amount improperly expended or received by CFA.
- 3.3 Agreement payments under this Sponsorship Agreement may be used only to provide the services or take the actions listed previously in this Sponsorship Agreement and shall not be used for any other purpose.
- 3.4 [If applicable] CFA will keep vendor receipts and evidence of payment for materials and services and time records and evidence of payment for program wages, salaries, and benefits, and CFA services. All such receipts and evidence of payments will promptly be made available to the Sponsorship Agreement Manager or other designated persons, upon request. At a minimum, such records shall be made available and will be reviewed as part of the annual monitoring process.
- 3.5 If, for any reason, CFA's anticipated services or actions are terminated, discontinued or interrupted, the CITY's payment of funds under this

Sponsorship Agreement may be terminated, suspended or reduced.

IV. GENERAL AGREEMENT PROVISIONS

A. **TERMINATION FOR CAUSE.** If, through any cause, CFA shall fail to fulfill in timely and proper manner his/her obligations under this Sponsorship Agreement, or if CFA shall violate any of the covenants, agreements, or stipulations of this Sponsorship Agreement, the CITY shall have the right to terminate this Sponsorship Agreement by giving written notice to CFA of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination.

1. During the 30 day period CITY is under no obligation to continue providing Agreement Funds and CFA is not authorized to perform services or take actions that would require the City to pay additional grant funds to Grantee.

2. During the 30 day period, CFA shall not spend unused Agreement funds.

3. In the event of a termination for cause, all finished or unfinished documents, data, studies, and reports prepared by CFA under this Sponsorship Agreement shall, at the option of the CITY, become the property of the CITY and CFA shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents up until the time of notice of termination.

B. **TERMINATION BY AGREEMENT OR FOR CONVENIENCE.** The CITY and CFA may terminate this Sponsorship Agreement at any time by mutual written agreement. Alternatively, the CITY may, upon thirty (30) days written notice, terminate this Sponsorship Agreement for any reason deemed appropriate in its sole discretion. If the Sponsorship Agreement is terminated as provided in this paragraph CFA shall return any Agreement funds that would have been used to provide services after the effective date of termination.

C. **CHANGES.** The CITY may request changes in the scope of the services or terms and conditions hereunder. Such changes, including any increase or decrease in the amount of CFA's award, shall be incorporated in written amendments to this Sponsorship Agreement before they become effective.

D. **NON-DISCRIMINATION.** In carrying out activities under this Sponsorship Agreement, CFA shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, familial status, sexual orientation or national origin. CFA shall take actions to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, handicap, familial status, sexual orientation or national origin. Such action 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. CFA shall post in conspicuous places, available to employees and applicants for employment, all required notices of nondiscrimination. CFA shall state that all qualified

applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin. CFA shall incorporate the foregoing requirements of this paragraph in all of its Grant and Sponsorship Agreements for work funded under this Sponsorship Agreement, except Grant or Sponsorship Agreements governed by Section 104 of Executive Order 11246.

- E. ACCESS TO RECORDS.** CFA shall provide the CITY, or its duly authorized representatives, prompt access to any and all books, general organizational and administrative information, documents, papers, and records of CFA that are related to this Sponsorship Agreement or CFA's performance of services, for the purpose of making audit examination, copies, excerpts, and transcriptions. All required records must be maintained by CFA for four years after the CITY makes final payment and all other pending matters are closed.
- F. MAINTENANCE OF RECORDS.** CFA shall maintain records on a current basis to support any billings or invoices submitted by CFA to CITY. The CITY, or its authorized representative, shall have the authority to inspect, audit, and copy on reasonable notice, and from time to time may examine any records of CFA regarding its billings or its work hereunder. CFA shall retain these records for inspection, audit, and copying for four years from the date of completion or termination of this Sponsorship Agreement.
- G. AUDIT.** The CITY, either directly or through a designated representative, may audit the records of CFA at any time during the four year period established by Section F above. If an audit discloses that payments to CFA were in excess of the amount to which CFA was entitled, then CFA shall repay the amount of the excess to the CITY.
- H. INDEMNIFICATION.** CFA shall hold harmless, defend, and indemnify the CITY and the CITY's officers, agents, and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from CFA's work or any of CFA's contractors work under this Sponsorship Agreement.
- I. THE CENTER FOR ARCHITECTURE'S CONTRACTORS AND ASSIGNMENT.** If CFA utilizes contractors to complete its work under this Sponsorship Agreement, in whole or in part, CFA shall require any of its contractors to agree, as to the portion contracted, to fulfill all obligations of the Sponsorship Agreement as specified in this Sponsorship Agreement. However, CFA shall remain obligated for full performance hereunder, and the CITY shall incur no obligation other than its obligations to CFA hereunder. CFA agrees that if CFA's contractors are employed in the performance of this Sponsorship Agreement, CFA and its contractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation. CFA shall not assign this Sponsorship Agreement in whole or in part or any right or obligation hereunder, without prior written approval of the CITY. CFA's contractors shall be responsible for adhering to all local, state and federal laws and regulations.
- J. INDEPENDENT STATUS OF THE CENTER FOR ARCHITECTURE.** CFA is independent of the CITY and CFA and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. CFA and its contractors and employees are not employees of the CITY and are not

eligible for any benefits through the CITY, including without limitation, federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.

- K. CONFLICTS OF INTEREST.** No CITY officer or employee, during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Sponsorship Agreement or the proceeds thereof. No CITY officer or employees who participated in the award of this Sponsorship Agreement shall be employed by CFA during the period of the Sponsorship Agreement.
- L. OREGON LAWS AND FORUM.** This Sponsorship Agreement shall be construed according to the laws of the State of Oregon, without regard to its provisions regarding conflict of laws. Any litigation between the CITY and CFA arising under this Sponsorship Agreement or out of work performed under this Sponsorship Agreement shall occur, if in the state courts, in the Multnomah County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- M. COMPLIANCE WITH LAWS.** In connection with its activities under this Sponsorship Agreement, CFA shall comply with all applicable federal, state, and local laws and regulations. CFA shall be EEO certified by the City of Portland in order to be eligible to receive Agreement funds.
- N. INDEPENDENT FINANCIAL AUDITS/REVIEWS.** Any Grantee receiving \$300,000 or more in CITY funding, in any program year, is required to obtain an independent audit of the CITY-funded program(s). Any Grantee receiving between \$25,000 and \$300,000 in CITY funds, in any program year, is required to obtain an independent financial review. Two copies of all required financial audits or reviews shall be submitted to the Sponsorship Agreement Manager within thirty days of their completion.
- O. SEVERABILITY.** If any provision of this agreement is found to be illegal or unenforceable, this agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- P. INTEGRATION.** This agreement contains the entire agreement between the CITY and CFA and supersedes all prior written or oral discussions or agreements. There are no oral or written understandings that vary or supplement the conditions of this Sponsorship Agreement that are not contained herein.
- Q. PROGRAM AND FISCAL MONITORING.** The CITY shall monitor on an as needed basis to assure Sponsorship Agreement compliance. Such monitoring may include, but are not limited to, on site visits, telephone interviews, and review of required reports and will cover both programmatic and fiscal aspects of the Sponsorship Agreement. The frequency and level of monitoring will be determined by the Program Manager. Notwithstanding such monitoring or lack thereof, CFA remains fully responsible for performing the services required by this Sponsorship Agreement in accordance with its terms and conditions.
- T. THIRD PARTY BENEFICIARIES:** There are no third party beneficiaries to this Sponsorship Agreement. The agreement may only be enforced by the parties.

U. ASSIGNMENT: This agreement cannot be assigned or transferred by CFA without the prior written permission of CITY.

V. ELECTRONIC MEANS: The parties agree the City and Contractor may conduct this transaction, including any contract amendments, by electronic means, including the use of electronic signatures.

V. TERM OF SPONSORSHIP AGREEMENT

The terms of this Sponsorship Agreement shall be effective when an ordinance is passed by City Council and the Sponsorship Agreement is executed by all the parties, as shown by their signatures below, and shall remain in effect during any period for which CFA has received CITY funds. Work by CFA shall terminate as of July 31, 2011.

Dated this 14th day of July, 2010.

CITY OF PORTLAND

The Center for Architecture

Name:

Name:

Title:

Title:

APPROVED AS TO FORM:

Linda Meng, City Attorney