

BCA FOUNDATION ARTIST GRANTS  
AGREEMENT FOR PRE-APPROVAL

THIS GRANT AGREEMENT is made and entered into this date by and between Burlington City Arts Foundation, a Vermont nonprofit corporation (“BCAF”) and \_\_\_\_\_ with an address located at \_\_\_\_\_ (“Grantee) (together, “the Parties”).

1. RECITALS

- 1.1. BCAF is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code. BCAF is dedicated to supporting the cultural community of the region and maintains a grant program.
- 1.2. Grantee has submitted a grant application requesting that BCAF support a Project through the Artist Grant Program Fund (“Project”). The application included a description of the Project (“Project Description”), which is attached as Exhibit A.
- 1.3. BCAF has determined that grant of the Project furthers its charitable mission and, to that end, BCAF agrees to serve as grantor to the Project. BCAF maintains a restricted fund (“Fund”) designated for arts grants, and will grant amounts deposited to the Fund, less any administrative charge as set forth below, to the Grantee, subject to the following terms and conditions:

2. TERM

2.1. Term

- 2.1.1. This Agreement will remain in effect for one year from the effective date, unless renewed under Section 2.2 or terminated earlier under Section 11.2.

2.2. Renewal

- 2.2.1. Grantee may renew this Agreement for successive one-year periods if: (a) Grantee notifies BCAF in writing of Grantee’s desire to renew at least 30 days prior to expiration of the current term; and (b) BCAF approves the renewal. If BCAF decides not to approve, BCAF will notify Grantee prior to the expiration of the current term.

3. FUND

3.1. Fundraising Generally

- 3.1.1. Grantee will be responsible for all fundraising and grant writing efforts on behalf of the Project. Grantee may solicit monetary or in-kind gifts, contributions, and grants for the Project. Grantee understands that projects may have no more than 3 total sources of funding.

3.2. Soliciting Funds

- 3.2.1. At least two weeks prior to approaching any funding sources, Grantee will provide to BCAF a list of all potential institutional funding sources and copies of Grantee’s proposed fundraising materials, including funding applications and reports to funders. Grantee may approach funders only after receiving BCAF’s preapproval in writing or by email.

### 3.3. Fundraising Documents

3.3.1. BCAAF will reasonably cooperate with Grantee to submit grant applications to funders; enter into grant agreements, pledges, and other agreements with funders; issue appropriate disclosures and acknowledgments to donors and other funders; and prepare and transmit reports to funders.

### 3.4. Holding Funds

3.4.1. BCAAF will deposit any monetary gifts, contributions, or grants received into the Fund and will acknowledge in-kind gifts on behalf of the Project

3.4.2. No interest will be accrued on behalf of the Project on any funds deposited.

### 3.5. Disbursing Funds

3.5.1. Upon meeting the Project's fundraising goal, BCAAF will disburse money from the Fund to Grantee in accordance with Section 3.6. To receive a disbursement, Grantee may request funds in advance through submission of an invoice of no more than 75% of the project budget or 75% of the funds deposited for the Project, whichever is less. Invoice must include the items in the project budget that will be covered by the funds disbursed. In making requests, Grantee will comply with applicable BCAAF internal policies and procedures then in effect. Receipt of the final 25% of the designated project budget amount deposited in the Fund allocable to the Project will be contingent upon receipt of a final report as described in Section 6.

### 3.6. Using Funds

3.6.1. Grantee will use disbursements from the Fund solely for the Project and according to the Project budget preapproved by BCAAF. Grantee will not use funds from the Fund in any manner inconsistent with Section 501(c)(3) of the Internal Revenue Code or any other applicable law. This includes, without limitation, attempts to: (a) influence legislation or to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; (b) induce or encourage violations of law or public policy; or (c) cause any private inurement or improper private benefit to occur.

## 4. FEES AND COSTS

### 4.1. Administrative Fee

4.1.1. To defray BCAAF's costs of administering the Fund and other activities under this Agreement, BCAAF will deduct from the Fund an administrative fee of 7% on all deposits, calculated based on total funds received for the Project.

4.1.2. BCAAF will deduct applicable fees upon each deposit into the Fund. At year end or Project end, whichever comes first, BCAAF will perform a reconciliation by calculating the administrative fee based on total funds and, if necessary, refund to Grantee any difference from the amount of fees actually deducted. No administrative fees will be deducted from in-kind contributions to the Project.

### 4.2. Additional Deductions from the Fund

4.2.1. BCAAF will deduct from the Fund any special or unusual costs, including banking fees, penalties, losses related to gifts of stock, late fees or stop-payment charges, or similar fees resulting from contributions. BCAAF will deduct from the Fund the cost of any reports or other compliance measures required by funding sources.

#### 4.3. Changes in Fees

- 4.3.1. BCAF may impose or adjust administrative or other fees for any subsequent term of this Agreement. BCAF will inform Grantee of any such changes no later than 60 days prior to the expiration of the then-current term. All new fees or adjustments in the fees will become effective following the expiration of the then-current term.

### 5. PROJECT ACTIVITIES

#### 5.1. Grantee Property

- 5.1.1. Any tangible or intangible property obtained or created by Grantee as part of or in connection with the Project will remain the property of Grantee.

#### 5.2. Grantee Responsibility

- 5.2.1. Grantee will have sole responsibility for planning and carrying out the Project. Grantee will be solely responsible for submitting Fund disbursement requests in accordance with Section 3.5 and for performance of any contracts with third parties, including venues, contractors, consultants and vendors. BCAF will not assume any liability for the performance of these third-party contracts. Grantee acknowledges that the conduct of Grantee and its personnel or agents, if any, and any other legal obligations of Grantee, are the sole responsibility of Grantee.

#### 5.3. Notification and Approval of Changes

- 5.3.1. Grantee shall use the grant solely for the Project described in the approved grant proposal attached as Exhibit A.
- 5.3.2. Any changes in the purposes for which grant funds are spent must be approved in writing by BCAF before implementation. If Grantee breaches this Agreement, or if Grantee's conduct of the Project jeopardizes BCAF's legal or tax status, BCAF retains the right to withhold, withdraw, or demand immediate return of grant funds to BCAF to spend such funds so as to accomplish the purposes of the Project in a manner as close as possible to the original intent, based on BCAF's sole judgment.
- 5.3.3. Grantee shall notify BCAF immediately of any change in (a) Grantee's legal or tax status or key personnel responsible for achieving the grant purposes.

### 6. REPORTS; MEETINGS

- 6.1. Upon BCAF's request or completion of the Project, Grantee will: (a) complete and submit to BCAF a Final Report that describes the charitable programs and events it conducted with the aid of the Fund and report on Grantee's compliance with this Agreement, (b) deliver to BCAF Project financial reports and supporting documentation, and (c) meet with BCAF staff to discuss Project activities as requested.

### 7. RECORDKEEPING; INSPECTION

- 7.1. Grantee will maintain its books and records in a manner that provides BCAF with sufficient detail to review expenditures related to the Project and make them available to BCAF upon request. BCAF may monitor the Project to ensure compliance with the Project Description, this Agreement, BCAF's exempt purposes, and applicable laws.

### 8. PUBLICITY AND CONFIDENTIALITY

#### 8.1. Project Branding and Materials

- 8.1.1. Grantee will ensure that all Project materials and external communications, including, without limitation, any website, letterhead, grant proposals, fundraising solicitations, donation acknowledgments, exhibition or event programs and

related materials, and contracts, indicate in a form acceptable to BCAF that the Project is a sponsored project of BCAF. Grantee will provide copies of all such materials to BCAF.

## 8.2. Use of Grantee's Work, Name, and Image

8.2.1. BCAF may use excerpts of Grantee's work in digital and print communications and promotional materials. BCAF will properly credit Grantee's work. BCAF may also use Grantee's name, sobriquet, likeness, image, voice, and biography in its digital and print communications, including identifying Grantee as a participant in BCAF's grant program. BCAF will own all right, title and interest, including copyright, in these materials. Grantee will not be entitled to inspect or approve use of these materials, receive notice of their use or publication, or receive payment for their usage.

## 8.3. Public Performances or Exhibitions

8.3.1. Grantee will notify BCAF in advance of any public appearances, performances, or exhibitions associated with the Project.

## 8.4. Media Inquiries

8.4.1. Grantee will advise BCAF promptly of any media inquiries received regarding Grantee's work associated with the Project.

## 8.5. Project Information and Documentation

8.5.1. BCAF may collect, analyze, or disseminate information about the Project to carry out communication promotional activities, evaluate the effectiveness of BCAF's programs, or comply with external reporting obligations. Grantee will cooperate with BCAF in these efforts by providing BCAF with such information as BCAF may reasonably request, including, without limitation, documentation of the completed Project.

## 8.6. Confidentiality

8.6.1. In working together on the Project, BCAF and Grantee may share "confidential information" with one another, including, without limitation, information about financial, funding, and other matters. BCAF and Grantee will each use the other party's confidential information only in connection with activities under this Agreement and will keep this information confidential. Confidential information does not include information that is subject to customary exceptions under a non-disclosure agreement, such as information generally available to the public, information already known by the receiving party before entering into this Agreement, or information independently developed. All confidential information furnished under this Agreement shall remain the property of the furnishing party.

# 9. RELATIONSHIP

## 9.1. Grantee Status

9.1.1. If Grantee is an organization, Grantee represents and warrants that it has provided BCAF with current and correct copies of its governing documents, a completed and filed IRS Form W9, or other documentation satisfactory to BCAF, showing Grantee's separate existence as an organization. If Grantee is an individual, Grantee personally assumes full legal, fiscal, and oversight responsibility for all aspects of this Agreement.

## 9.2. Project Contacts

9.2.1. BCAF and Grantee will each appoint an individual to act as the primary contact

and coordinator of the Project as described in this Section. BCAF and Grantee will reply to each other's communications within a reasonable time period.

Contact For BCAF:

Name Sara Katz

Phone 802-865-5356

Email [skatz@burlingtoncityarts.org](mailto:skatz@burlingtoncityarts.org)

Contact for Grantee:

Name

Phone

Email

### 9.3. Other BCAF Projects

9.3.1. Grantee acknowledges and agrees that BCAF may in the past, present, or future sponsor other projects whose interests may be adverse to the interests of this Project, including parties with whom the Project competes for funding or has a current or potential programming relationship.

### 9.4. No Financial Obligations for BCAF

9.4.1. Except for disbursements as contemplated by Section 3.5, BCAF has no obligation to provide any financial support to Grantee in any form, including, without limitation, making loans or additional grants, advancing cash, or covering direct expenses.

## 10. INDEMNIFICATION AND INSURANCE

### 10.1. Indemnification

10.1.1. Grantee shall defend, indemnify, and hold BCAF and its directors, officers, employees, agents, and assigns (collectively, "BCAF Parties"), harmless against all claims, liabilities, losses, damages, and expenses, including, without limitation, attorneys' fees that may arise directly or indirectly from: (a) Grantee's performance under or breach of this Agreement, or (b) any claims by third parties involving the Project, including any claims of infringement, misappropriation, or otherwise regarding the Project. Grantee will have no obligation to indemnify the BCAF Parties to the extent the liability is solely caused by a BCAF Party's gross negligence or willful misconduct.

### 10.2. Insurance

10.2.1. Grantee will be responsible for its own insurance coverage.

## 11. TERMINATION

### 11.1. Termination Rights

11.1.1. Either party may terminate this Agreement in the event that the other party fails to materially adhere to any of the terms and conditions of this Agreement ("Default" or "Event of Default"). An Event of Default shall also constitute Grantee's instituting or has instituted against it a proceeding for insolvency or bankruptcy, or other similar relief. In addition, Grantee or BCAF may terminate this Agreement upon a material breach by the other or if BCAF reasonably determines that Grantee's conduct or the Project could adversely affect BCAF's tax status. Such a termination will be effective immediately upon delivery of a written notice to that effect. In the event BCAF provides a notice of termination under this section due to Grantee's default, Grantee shall: (1) cease performing

work or services set for in section 1.1; (2) immediately cease the expenditure of any remaining grant funds, (3) return the balance of such grant funds to BCAF, and (4) issue a final report as required under section 6.1. BCA shall also be entitled to such other remedy or relief existing at law or in equity in the event of Grantee's default.

11.2. Fund Allocation after Termination

11.2.1. After termination, BCAF may, at its sole discretion, allocate any remaining balance in the Fund to projects that BCAF believes may accomplish goals substantially similar to the Project.

11.3. Effect of Termination

11.3.1. Upon termination of this Agreement under Section 11.1, BCAF and Grantee will promptly cease any use of any of the other's materials, names, logos, and other marks. Sections 5.1, 5.2, 5.5, 8.6, 10.1, 11.2, 11.3, and 12 will survive expiration or termination of this Agreement. BCAF and Grantee will cooperate in transition activities and will use reasonable efforts to minimize interruption and any adverse impacts of the termination.

12. GENERAL PROVISIONS

12.1. Independence

12.1.1. Nothing in this Agreement shall create any employment, partnership, joint venture, fiduciary, or similar relationship between BCAF or Grantee for any purpose. Grantee will not have the power or authority to create any obligation on behalf of BCAF, or to bind BCAF to another agreement.

12.2. Entire Agreement; Amendment

12.2.1. This Agreement, together with the Project Description attached in Exhibit A, expresses the final, complete, and exclusive agreement between Grantee and BCAF, and supersedes any and all prior or contemporaneous written and oral agreements or communications between Grantee and BCAF relating to its subject matter. This Agreement may be amended only as stated in and by a writing signed by both Grantee and BCAF which recites that it is an amendment to this Agreement. If there are any inconsistencies between the Project Description and this Agreement, this Agreement shall control.

12.3. Severability; Waiver

12.3.1. If any provision in this Agreement is held invalid or unenforceable, the other provisions will remain enforceable, and the invalid or unenforceable provision shall be considered modified so that it is valid and enforceable to the maximum extent permitted by law. Any waiver under this Agreement shall be in writing and signed by the party granting the waiver. Waiver of any breach or provision of this Agreement will not be considered a waiver of any later breach or of the right to enforce any provision of this Agreement.

12.4. Assignment; Third-Party Beneficiaries

12.4.1. Grantee may not assign his, her, or its rights or delegate duties under this Agreement to anyone else without the prior written consent of BCAF. This Agreement is for the exclusive benefit of Grantee and BCAF and not for the benefit of any third party, including, without limitation, any employee, affiliate, subcontractor, vendor of Contractor or BCAF, or other person involved with the

Project.

12.5. Governing Law

12.5.1. This Agreement will be governed by the laws of the State of Vermont.

12.6. Arbitration

12.6.1. All disputes or controversies that may arise between the parties with respect to the performance, obligations, or rights of the parties under this Agreement shall be settled by arbitration. The dispute shall be referred to a panel of three arbitrators, one to be selected by the Grantee, one to be selected by BCAF, and the third to be selected by the first two arbitrators. The decision and award of the arbitrators, or that of any two of them, shall be final and binding on the parties, and judgement may be entered upon it in any court having jurisdiction thereof.

12.7. Counterparts

12.7.1. This Agreement may be executed in one or more counterparts, each of which shall be taken together and deemed to be one instrument. Transmission by fax or PDF of executed counterparts shall constitute effective delivery.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the

\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Print Name and Title for BCAF

\_\_\_\_\_  
Signature for BCAF

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title for Grantee

\_\_\_\_\_  
Signature for Grantee

\_\_\_\_\_  
Date

Exhibit A: Project Description  
[NOTE: insert or attach description submitted with application]