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AGREEMENT BETWEEN THE CITY OF RAPID CITY AND THE ALLIED ARTS FUND

This Agreement is made by and between the **CITY OF RAPID CITY**, a municipal corporation, hereinafter referred to as the "City," of 300 Sixth Street, Rapid City, SD 57701, and the **ALLIED ARTS FUND**, a South Dakota non-profit corporation, hereinafter referred to as "AAF," of PO Box 4080, Rapid City, SD 57709.

WHEREAS, AAF has served as a united funding agency for the arts in Rapid City;

WHEREAS, the City is committed to funding the arts in Rapid City;

WHEREAS, AAF has the necessary expertise to help administer City funding for the arts;

WHEREAS, the City has appointed AAF to perform the services provided as detailed below; and

WHEREAS, the parties desire to reduce their mutual agreement to writing with this Agreement.

NOW THEREFORE, for and in consideration of the mutual promises and agreements contained herein, the parties hereby agree as follows:

1. Recitals. The recitals set forth above constitute an integral part of this Agreement and are incorporated herein by this reference as if fully set forth herein as agreements of the parties.
2. Purpose. The purpose of this Agreement is to set forth the terms and conditions under which AAF will help administer City arts funding.
3. City Payment. The City agrees to pay AAF the total amount of \$99,450, divided into quarterly installments, for the 2019 calendar year. In exchange for administering this City grant, AAF shall be allowed to keep sufficient funds to cover the administrative cost of administering the grant, not to exceed 10% of the total grant amount.
4. AAF Services. AAF will provide the following services to the City in exchange for the payment provided in Paragraph 3:
 - a. Use City grant money to fund both established arts agencies and emerging artists in Rapid City;
 - b. Accept and review applications from both member arts agencies and other artists and art agencies within the City;
 - c. Encourage public involvement in the arts and cultural community through promotion of the arts and art-oriented events;
 - d. Ensure that all City funds are used within the City limits;

5. Term. The term of this Agreement shall begin on the date of execution, and shall end on December 31, 2019. Either party wishing to renew this Agreement shall give written notice to the other no later than October 1, 2019. This Agreement may be cancelled by either party by delivering written notice to the other at least thirty (30) days prior to payment of the next quarterly installment. In the event of early termination, AAF shall still be bound by the terms of this Agreement in distributing any City funds already received.

6. Reporting Requirements. Prior to either the expiration or renewal of this Agreement, whichever occurs first, AAF shall provide an end-of year report detailing the disbursement of all City funds, including administrative costs. This report shall include sufficient assurance that all funds were used within City limits.

7. Notices. All notices given hereunder shall be made by hand delivery or certified mail, return receipt requested, to the parties at the following addresses:

City of Rapid City
Attn: Finance Officer
300 Sixth Street
Rapid City, SD 57701

Allied Arts Fund
Attn: Executive Director
PO Box 4080
Rapid City, SD 57709

8. Change of Contacts. AAF agrees to notify City of any changes in its point of contact or the address of business correspondence, within thirty (30) days after said change.

9. Relationship between the Parties. The relationship of the parties is that of independent contractors. The parties are not, by virtue of this Agreement or otherwise, in an employer-employee, principal-agent, joint venture or partnership relationship with each other, and each party agrees not to represent to any other person, or to assert in any form or forum to the contrary. Neither party is authorized to act as an agent for, or legal representative of, the other party and neither party shall have the authority to assume or create any obligation on behalf of, in the name of, or binding upon the other party.

10. Non-Discrimination. AAF shall not on the grounds of race, color, sex, creed, religion, ancestry, national origin or disability discriminate or permit discrimination against any person or group of persons, in any manner prohibited by local, state or federal laws. AAF further agrees to comply with any requirements made to enforce the foregoing which may be required of or by the City.

11. Waivers. The failure by one party to require performance of any provision herein shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

12. Integration. This Agreement and the agreements and documents referred to herein (including any exhibits and schedules incorporated herein) contain the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede all prior

agreements, negotiations, and understandings, whether written or oral, relating to the subject matter hereof.

13. Amendments. This Agreement may only be amended by a written document duly executed by all parties.

14. Counterparts. This Agreement may be executed in counterparts; each such counterpart shall be deemed an original and when taken together with other signed counterparts, shall constitute one Agreement.

15. Construction. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not strictly for nor against any party. The headings and numbering of the different paragraphs of this Agreement are inserted for convenience only and are not to control or affect the meaning, construction or effect of each provision. The parties agree that each party has reviewed this Agreement and has had the opportunity to have its counsel review the same. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

16. Severability. If any provision of this Agreement is held unenforceable by a court of competent jurisdiction, such holding shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

17. Jurisdiction and Venue. The parties hereto explicitly agree to submit to the personal jurisdiction of South Dakota state courts, and any dispute relating to or arising out of this Agreement, or the breach of the terms thereof, whether sounding in contract, tort or otherwise, shall be decided solely and exclusively by the Circuit Court located in Rapid City, South Dakota.

Dated this 5 day of March, 2019.

ATTEST

Pauline Sumption
Pauline Sumption, Finance Officer

CITY OF RAPID CITY

Steve Allender
Steve Allender, Mayor

(SEAL)

ALLIED ARTS FUND

By: Kristen Sumner

Its: Vice President