

# Consent Agenda

<b>Agenda Item #</b>	6A
<b>Meeting Date</b>	March 11, 2013
<b>Prepared By</b>	Jessie Carpenter City Clerk
<b>Reviewed By</b>	Suzanne Ludlow Acting City Manager

<b>Discussion Item</b>	Resolution Authorizing the Acting City Manager to Execute a Grant Agreement with the Takoma Park Independence Day Committee
<b>Background</b>	The City has historically provided financial support for the Takoma Park Independence Day Committee's fireworks and parade. The FY 2013 budget includes \$13,500 for this purpose. The attached resolution authorizes the Acting City Manager to enter into an agreement with the Independence Day Committee for the disbursement of funds in an amount up to \$13,500.
<b>Policy</b>	The City Council determines how City funds are expended and the services to be provided by the City government or others on its behalf.
<b>Fiscal Impact</b>	\$13,500 is included in the FY 2013 budget for the Takoma Park Independence Day Committee
<b>Attachments</b>	<ul style="list-style-type: none"><li>• Resolution</li><li>• Grant Agreement</li></ul>
<b>Recommendation</b>	Adopt the resolution as part of the consent agenda.
<b>Special Consideration</b>	

Introduced by:

**CITY OF TAKOMA PARK, MARYLAND**

**RESOLUTION 2013-**

**AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT WITH  
THE TAKOMA PARK INDEPENDENCE DAY COMMITTEE, INC.**

WHEREAS, the City Council recognizes the value of maintaining the tradition of an annual Independence Day parade and fireworks display; and

WHEREAS, funding in the amount of \$13,500 is included in the FY 2013 budget to assist the Independence Day Committee with the July 4, 2013 activities.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT the Acting City Manager is authorized to execute a grant agreement with the Takoma Park Independence Day Committee, Inc. for disbursement of up to \$13,500 to support the July 4, 2013 fireworks display.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

ATTEST:

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Jessie Carpenter, CMC  
City Clerk

## **CITY OF TAKOMA PARK, MARYLAND**

### **TAKOMA PARK INDEPENDENCE DAY COMMITTEE ACTIVITIES 2013 GRANT AGREEMENT**

**THIS GRANT AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Takoma Park, Maryland, a municipal corporation, 7500 Maple Avenue, Takoma Park, MD 20912 (hereinafter referred to as "City") and the Takoma Park Independence Day Committee, Inc., a Maryland non-profit corporation, 511 New York Avenue, Takoma Park, MD 20912 (hereinafter referred to as "Grantee").

**NOW, THEREFORE**, in consideration of the mutual promises and covenants of the parties, the City and the Grantee agree as follows:

#### **ARTICLE 1 - PURPOSE.**

The Grantee organizes annual Independence Day Events, including a parade, concert, and fireworks display, for the Takoma Park community. The City provides substantial in-kind support for the Independence Day Events and has traditionally provided some direct financial assistance. The City's adopted FY 2013 Budget authorizes an amount up to \$13,500.00 as a grant to support the 2013 Independence Day fireworks display.

#### **ARTICLE 2 - TERM OF AGREEMENT.**

This Agreement becomes effective as of the date of execution by both parties. The agreement will terminate on July 30, 2013, unless terminated earlier in accordance with Articles 6 or 7.

#### **ARTICLE 3 - DISBURSEMENT OF FUNDS.**

A. The Grant Funds shall be disbursed to the Grantee in a lump sum within 15 days of the effective date of the Agreement.

B. On or before July 30, 2013, Grantee shall provide the City with copies of invoices, cancelled checks, and other records showing the expenditure of the Grant Funds for the 2013 Independence Day fireworks.

#### **ARTICLE 4 – INSURANCE.**

A. The Grantee must obtain at its own cost and expense, and keep in force and effect during all 2013 Independence Day Events, the insurance specified below, with an insurance company licensed or qualified to do business in the State of Maryland. The Grantee shall provide the City with a Certificate of Insurance on or before forty-five (45) days prior to July 4, 2013. The Certificate must name the City of Takoma Park as an additional insured and provide for a minimum of thirty (30) days written notice to the City of cancellation or material change in

any of the policies is required. This insurance must remain in force through completion of the 2013 Independence Day Events.

B. Required Coverages and Limits.

General Liability Insurance:

Each occurrence -- \$1,000,000.00  
General aggregate -- \$2,000,000.00  
Damages to rented premises (each occurrence) -- \$300,000.00  
Medical expenses (any one person) -- \$5,000.00  
Personal and advertising injury -- \$1,000,000.00  
Products – completed operations aggregate -- \$2,000,000.00

Certificate Holder:

City of Takoma Park, Maryland  
7500 Maple Avenue  
Takoma Park, MD 20912  
Attn: Suzanne Ludlow, Acting City Manager

Grantee also shall require insurance coverage from the provider-operator of the 2013 Independence Day fireworks display at Takoma Park Middle School.

C. **ARTICLE 5 - INDEMNIFICATION.**

The Grantee is responsible for any loss, personal injury, death, and any other damage (including incidental and consequential) that may be done or suffered by reason of the Grantee's negligence or failure to perform any of Grantee's obligations under this Grant Agreement. The Grantee shall indemnify and save harmless the City of Takoma Park, its employees, officials, and agents, from and against all losses, liabilities, claims demands, damages, costs and expenses of any kind, including attorney's fees and litigation expenses, suffered or incurred due to the Grantee's negligence, tortuous act or omission, or failure to perform any of Grantee's obligations under this Grant Agreement.

**ARTICLE 6 – TERMINATION OF AGREEMENT.**

A. Either the City or the Grantee may terminate this Agreement upon written notice to the other party prior to disbursement of the funds.

B. In the event of any of the circumstances set forth below (hereinafter referred to as "default"), the City may immediately terminate this Agreement, in whole or in part, and from time to time. Notice of termination must be in writing, state the reason or reasons for the termination, and specify the effective date of the termination.

1. Any fraudulent representation in a financial statement, invoice or other verification required to obtain payment under this Agreement or other dishonesty on a material matter relating to the performance of services under this Agreement.
2. Nonperformance or inability to implement the 2013 Independence Day fireworks.
3. Any officer, director, or principal of Grantee being criminally charged with an offense involving fraud, dishonesty or moral turpitude.
4. Failure to adhere to the terms of applicable City, County, State or Federal laws, regulations, or stated public policy.

C. In the event of default by the Grantee, the City may elect to terminate this Agreement, in whole or in part, and from time to time, or it may grant the Grantee an opportunity to cure the default without termination of this Agreement, and upon such terms and conditions as the City in its sole discretion may deem advisable.

D. Any termination of this Agreement for default that is later deemed to be unjustified shall be deemed a termination for convenience under Article 7.

#### **ARTICLE 7 - TERMINATION FOR CONVENIENCE.**

For the convenience of the City, the Grantee's performance of the Independence Day fireworks display at Takoma Middle School- pursuant to this Agreement may be terminated in whole or in part whenever the City Manager, or his or her designee, determines that termination of the Agreement is in the best interests of the City. Any termination under this provision shall be effective on the date stated in the notice or, if the notice does not specify an effective date, then five (5) days after notice of termination is given by the City. The Grant Funds under this Agreement shall only be used by Grantee for services satisfactorily performed or expenses incurred prior to the effective date of the termination, as determined by the City in its sole discretion.

#### **ARTICLE 8 - REPAYMENT TO THE CITY.**

A. If this Agreement is terminated for any reason prior to the expenditure of all City Grant Funds, then any remaining funds that have been disbursed to the Grantee shall be returned to the City, free and clear of any claim or interest of the Grantee.

B. In the event that Grantee does not provide satisfactory evidence of expenditure of City Grant Funds for 2013 Independence Day fireworks, as stated in Article 3.B, or in the event that the City determines that Grant Funds were not used for the fireworks display, then the funds shall be returned or refunded by Grantee to the City within thirty (30) days after demand;

otherwise the funds shall bear interest at the rate of 6% per annum until repayment is made in full.

## **ARTICLE 9 - WARRANTIES AND REPRESENTATIONS.**

Grantee warrants and represents: that it is the sole entity, directly or indirectly, interested in compensation for the delivery of the services to be performed under this Agreement; that any proposal upon which this was based was made without any connection or common interest in the profits with any undisclosed persons or entity making any quotation or proposal for the said work; that this Agreement is, in all respects fair and without collusion or fraud; that Grantee, in the performance of this Agreement will not violate any laws applicable in the State of Maryland; that Grantee will not engage in or participate in any form of illegal discrimination; and that Grantee is not now, and will not so long as this Agreement remains in effect, engage in the development, research, testing, evaluation, production, maintenance, storage, transportation, and/or disposal of nuclear weapons or its components, or the sale of merchandise produced by companies so involved.

## **ARTICLE 10. NOTICES.**

Any required notices or other communications under this Agreement shall be in writing and personally delivered, mailed by first-class mail, sent by courier or overnight delivery service, faxed, or e-mailed, as appropriate, as follows:

If to the Grantee:                      Takoma Park Independence Day Committee, Inc.  
Attn: Eugene Herman, President  
511 New York Avenue  
Takoma Park, MD 20912  
Phone: 301-585-5832  
E-mail: gene511@aol.com

If to the City:                         City of Takoma Park  
Attn: Suzanne Ludlow, Acting City Manager  
7500 Maple Avenue  
Takoma Park, MD 20912  
Phone: 301-891-7268; Fax: (301) 270-8794  
E-mail: suzannel@takomagov.org

Any party may change the person, address, phone, fax, or e-mail for notices to the other party by a notice in writing to the other. Any notices under this Agreement shall be deemed given when it is received by the other party or, for notices given by mail, three days after the notice is deposited, properly addressed and postage prepaid, in the United States mail.

**ARTICLE 11 - MISCELLANEOUS.**

This Agreement contains the final and entire understanding of the parties with respect to the subject matter of this Agreement. There are no representations, terms, conditions, statements, warranties, promises, or understandings other than those expressly set forth or mentioned herein. All modifications and amendments to this Agreement shall be in writing. This Agreement shall be binding upon the parties, their heirs, successors, and assigns. This Agreement shall be interpreted in accordance with the laws and regulations of the State of Maryland and the City of Takoma Park.

**IN WITNESS WHEREOF**, the Takoma Park Independence Day Committee, Inc. and the City of Takoma Park, Maryland have signed this Agreement as of the date first above written.

Attest:

**TAKOMA PARK INDEPENDENCE DAY  
COMMITTEE, INC.**

\_\_\_\_\_

By: \_\_\_\_\_  
Eugene Herman, President

Date signed: \_\_\_\_\_

Attest:

**CITY OF TAKOMA PARK, MARYLAND**

\_\_\_\_\_

By: \_\_\_\_\_  
Suzanne Ludlow, Acting City Manager

Date signed: \_\_\_\_\_