

YADKIN COUNTY, NORTH CAROLINA
NON-PROFIT GRANT AGREEMENT FY2016-2017

This Grant Agreement is made as of the 1st day of July, 2016 between the COUNTY OF YADKIN, a political subdivision of the State of North Carolina ("GRANTOR"), and YADKIN ARTS COUNCIL, a North Carolina not-for-profit corporation ("GRANTEE").

WITNESSETH:

WHEREAS, The GRANTOR desires to provide funding to certain non-profit agencies for the provision of public services to Yadkin County residents; and

WHEREAS, GRANTEE has been chosen by the Yadkin County Board of County Commissioners to be a recipient of Yadkin County non-profit funding for fiscal year 2016-2017; and

NOW, THEREFORE, in consideration of the mutual recitals, promises, and covenants set forth herein, the parties hereto agree as follows:

1. Amount and Terms of Grant. The GRANTOR agrees, subject to the terms and conditions of this Agreement, to provide the GRANTEE the sum of Seventeen Thousand and Five Hundred Dollars (\$17,500) ("Grant Funds") to provide funding for the program as described in the GRANTEE's request for funding (hereinafter the "Grant Application"), which Application is hereby incorporated into this Agreement by reference and made an integral part hereof ("Program"). The GRANTOR does not make any warranty, either express or implied, that the proceeds of the Grant Funds will be sufficient to pay all or any particular portion of the cost of the Program.

The amount of the Grant Funds has been determined by the GRANTOR in reliance upon annual expenditures, revenues and projections of the GRANTEE with respect to the Program as set forth in the Grantee's Grant Application.

2. Unconditional Obligations. The obligations of the GRANTEE to perform and observe this Grant Agreement and any other agreements on its part contained herein shall be absolute and unconditional. Until such time as all obligations of the GRANTEE provided in this Grant Agreement are met, the GRANTEE (i) shall perform and observe all of its other agreements contained in this Grant Agreement and (ii) shall observe any obligation or covenant, whether expressed or implied, or any duty, liability, obligation or covenant arising out of or connected with this Grant Agreement.

3. Program Services. The parties hereto agree that the purpose of this Grant Agreement is to provide Grant Funds to the GRANTEE to enable it to perform a public service. The GRANTEE shall perform the services set forth in the GRANTEE's Grant Application and/or Exhibit A, which are hereby deemed to be public services. Should the services change, GRANTEE shall first seek approval from the Board of County Commissioners through the County Manager. None of the Grant Funds authorized hereby may be used for any purpose not specifically determined to be a public service, and in no circumstances may they be used except in accordance with the requirements of Paragraph 4, below. The GRANTEE shall provide the GRANTOR a monthly report of services delivered prior to receiving grant funding.

4. Use of Grant funds. The GRANTEE shall expend GRANTOR Grant Funds only for the performance of the services or functions as approved by the GRANTOR. For purposes of this Grant Agreement, allowable expenses shall NOT include the following:

- Bad debts
- Contingencies
- Contributions and donations
- Entertainment costs
- Fines and penalties
- Interest and other financial costs
- Legislative expenses

5. Term of Grant Agreement. The term of this Grant Agreement shall begin on the date first written above and, unless sooner terminated as provided herein, shall expire on June 30, 2017 or upon compliance with all of the provisions of this Grant Agreement, whichever shall occur last.

6. Payment. Unless otherwise first approved in writing by the GRANTOR's Finance Officer, GRANTOR shall make monthly payments to the GRANTEE, issuing a check within five (5) business days of the receipt of the report referenced in Item 3. Payments shall be the annual amount for the service in twelve (12) equal installments. The GRANTOR, in its sole discretion, may delay or cancel such payments for failure by the GRANTEE to comply with any of the provisions of this Grant Agreement.

7. Payments Do Not Constitute a Waiver. No payment of Grant Funds hereunder shall constitute a waiver of any of the conditions of the GRANTOR's obligation to make further payments nor, in the event the GRANTEE is unable to satisfy any condition required hereunder, shall any such payment have the effect of precluding the GRANTOR from thereafter declaring such inability to satisfy to be a breach of this Grant Agreement.

8. Financial Recordkeeping. The GRANTEE, at GRANTEE's sole expense, shall account to the satisfaction of the GRANTOR's Finance Officer for all Grant Funds received from the GRANTOR under this Grant Agreement and all expenditures made from Grant Funds.

Such accounting shall be in a form prescribed by the Finance Officer, and shall include a report on an audit of all Grant Funds (including the management letter, if issued) performed by a person or firm approved by the Finance Officer (except that any Certified Public Accountant or any Certified Public Accounting firm licensed to operate in North Carolina shall be deemed automatically approved by the Finance Officer). Grantee shall also provide the Finance Officer with semi-annual financial statements on or before August 15 and January 28. The GRANTEE shall provide such other information, records or documentation as the Finance Officer may require. Non-compliance with this section shall be deemed a material breach of this Grant Agreement.

GRANTEE shall submit the audit report, management letter and semi-annual financial statements to:

Yadkin County Finance Officer
PO Box 220
Yadkinville, NC 27055

Additionally, the GRANTEE shall allow the GRANTOR's Finance Officer or their designee

access to the records and information required hereunder and shall facilitate a review of the accounting and program operations as may be required. The GRANTOR shall have the right to do site visits within one (1) week of request to do so.

GRANTEE shall retain financial and program records for a minimum period of three (3) years following the expiration or earlier termination of this Grant Agreement.

9. Warranties of GRANTOR. GRANTOR warrants and represents that it is a political subdivision of the State of North Carolina and that it has duly authorized the execution and delivery of this Grant Agreement. The GRANTOR further warrants and covenants the GRANTOR will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions contained in this Grant Agreement and in all proceedings of the GRANTOR pertaining to this Grant Agreement.

10. Warranties of the GRANTEE: The GRANTEE hereby makes the following warranties and representations to induce the GRANTOR to enter into this Grant Agreement:

- a. GRANTEE is a North Carolina not-for-profit corporation duly organized and existing under and by virtue of the laws of the State of North Carolina ("State"); and
- b. GRANTEE is not in violation of any provision of its articles of incorporation or any laws of the State relevant to the transactions contemplated by this Grant Agreement; and
- c. GRANTEE has full power and authority to execute and deliver this Grant Agreement and to carry out the Programs and obligations provided for herein. The execution and delivery of this Grant Agreement has by proper action been duly authorized by the GRANTEE and all actions necessary have been taken to constitute this Grant Agreement when executed and delivered by the respective parties thereto, valid and binding obligations of the GRANTEE; and
- d. The execution, delivery and performance by the GRANTEE of this Grant Agreement and the consummation of the Programs and obligations contemplated hereby will not violate any provision of law or regulation applicable to the GRANTEE, or of any writ or decree of any court or governmental authority, or of the articles of incorporation and by-laws of the GRANTEE, or of any mortgage, indenture contract, agreement or other undertaking to which the GRANTEE is a party or which purports to be binding upon the GRANTEE or upon any of its assets; and
- e. GRANTEE shall do or cause to be done all things necessary to preserve, maintain and keep in full force and effect its legal existence and comply with all laws applicable to it so long as it remains obligated to the GRANTOR under this Grant Agreement; and
- f. All information in the GRANTEE's Grant Application or otherwise given by the GRANTEE to the GRANTOR, is and shall be true and correct. GRANTEE has not and shall not hereafter neglect to inform the GRANTOR of any material information pertaining to the Program described in GRANTEE's Grant Application; and
- g. GRANTEE at the GRANTEE's expense shall assist the GRANTOR in obtaining any information or documentation required to verify the statements and

comments made in this Grant Agreement. GRANTEE hereby consents to any inspection of the Program required for such verification and agrees to supply any information or documentation required for such verification within the GRANTEE's control as the GRANTOR may request.

11. Insurance Requirements. GRANTEE shall comply with the North Carolina Workers' Compensation Act and shall provide for the payment of workers' compensation to its employees in the manner and to the extent required by such Act during the performance of services.

GRANTEE shall maintain, at its expense, the minimum insurance coverage deemed necessary by the GRANTOR's Risk Manager. GRANTEE upon request by GRANTOR shall furnish a certificate of insurance from an insurance company licensed to do business by the North Carolina Department of Insurance verifying the existence of any insurance coverage required by GRANTOR. The certificate shall provide for sixty (60) days advance notice in the event of termination, reduction or cancellation of coverage.

12. Notices. When any notice or consent is required to be given under the terms of this Grant Agreement, such notice or consent shall be in writing and shall be effective only upon actual receipt by the party to whom notice is given. Such notice shall be delivered to the addresses below or to such other persons or addresses as the parties may, from time to time, establish in writing:

In case of the GRANTOR, to:

Yadkin County Manager
Post Office Box 220
Yadkinville, NC 27055

In case of the GRANTEE, to:

*John Willingham, President
Yadkin Arts Council
PO Box 667, Yadkinville, NC 27055 336-679-2941*

13. Applicable Laws. GRANTEE shall be responsible for compliance with all applicable federal, state and local laws, regulations and ordinances during the performance of the Programs, services and functions funded in whole or in part by this Grant Agreement including North Carolina bid laws and any state or federal tax reporting requirements.

14. Conflict of Interest. No officials or employees of the GRANTEE may obtain or receive, directly or indirectly, any personal or financial interest, benefit or gain from the Grant Funds other than salaries and normal benefits, either for themselves or those with whom they have family or business ties.

15. Repayment of Funds. GRANTEE shall repay to the GRANTOR the **full** amount of any Grant Funds lost, misapplied, or inadequately accounted for in violation of this Grant Agreement.

16. Indemnification. To the fullest extent permitted by laws and regulations, the GRANTEE shall indemnify and hold harmless the GRANTOR and its officials, agents and employees from and against all claims, damages, losses, and expenses, direct, indirect, or consequential (including, but not limited to fees and charges of attorneys and other professionals and costs related to court action or

arbitration) arising out of or resulting from the performance of this Grant Agreement or the actions of the GRANTEE or its officials, employees, or contractors under this Grant Agreement or under the contracts entered into by the GRANTEE in connection with this Grant Agreement. This indemnification shall survive the termination of this Grant Agreement.

17. Governing Law. This Grant Agreement shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this Grant Agreement shall be brought in the General Court of Justice in the County of Yadkin and the State of North Carolina.

18. Special Conditions. GRANTEE shall meet any special conditions, which are attached hereto and incorporated herein.

19. Equal Employment Opportunity. GRANTEE shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, national origin, or disability. GRANTEE shall take affirmative action to ensure that its employees are treated fairly and legally during employment with regard to their age, sex, race, creed, national origin, or disability. In the event GRANTEE is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Grant Agreement may be canceled, terminated or suspended in whole or in part by GRANTOR, and GRANTEE may be declared ineligible for further GRANTOR Grant Funds.

20. Termination. GRANTOR may terminate this Grant Agreement at any time by giving ten (10) days written notice of termination to the GRANTEE. If termination is for convenience and not due to a material breach of this Grant Agreement by the GRANTEE, then the GRANTOR shall pay to the GRANTEE a pro rata share of the Grant Funds for the authorized monthly expenditures incurred, if any, by the GRANTEE in accordance with this Grant Agreement prior to such termination. If termination is due to a material breach of this Grant Agreement by GRANTEE, then no pro rata share of Grant Funds shall be due.

Termination of this Grant Agreement, either with or without cause, shall not form the basis of any claim for loss of anticipated profits by either party.

21. Assignment. GRANTEE may not assign, transfer or delegate any of its duties, obligations or responsibilities under this Grant Agreement without the prior written consent of the GRANTOR.

22. Waiver. No action or failure to act by the GRANTOR or GRANTEE shall constitute an obligation or duty afforded them under this Grant Agreement, nor shall such action or failure to act constitute approval of or acquiescence in a breach hereunder, except as may be specifically agreed to in writing by the non-breaching party.

23. Exercise of Functions. Nothing contained in this Grant Agreement shall in any way stop, limit or impair the GRANTOR from exercising or performing any regulatory, policing or other governmental functions.

24. No Partnership. Nothing in this Grant Agreement is intended or shall be considered to create a joint venture or partnership between the GRANTOR and the GRANTEE not be interpreted to deem either the agent of the other or to make the GRANTOR in any way responsible for the duties, responsibilities, obligations, liabilities, debts, or losses of the GRANTEE.

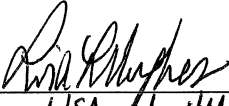
25. Whole Agreement. This Grant Agreement, including the GRANTEE'S Grant Application, shall be the whole agreement between the GRANTOR and the GRANTEE with respect to

the matters set forth herein and the Grant Funds.

27. Headings. All headings that appear after paragraph numbers in this Grant Agreement are included for convenience only and shall not affect the meaning or interpretation of any of the provisions of the Grant Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives, the day and year first above written.

YADKIN COUNTY, a body politic and
Corporate of the State of North Carolina

By: 
Name: LISA L. HUGHES
Title: COUNTY MANAGER

GRANTEE

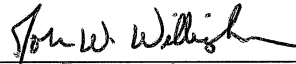
By: 
Name: John W. Willingham
Title: President

EXHIBIT A
Arts Council

The monthly report shall include program information for programs funded by the \$17,500 received from the County. Payments will be made in twelve equal payments of \$1,458.33 once the report has been received.

Name of Counterparty:

Yadkin Arts Council

**IRAN DIVESTMENT ACT CERTIFICATION
REQUIRED BY N.C.G.S. 143C-6A-5(a)**

As of the date listed below, the entity listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 143-6A-4.

The undersigned hereby certifies that he or she is authorized by the entity listed above to make the foregoing statement.

Signature

Printed Name

Date

Title

John W. Willingham
John W. Willingham

07/25/16

President