

**COUNCIL ACTION FORM**

**SUBJECT:**           **PROPOSED ARTS CAPITAL GRANT AWARDS**

**BACKGROUND:**

On September 28, 2021, the City Council approved criteria for the one-time Arts Capital Grant Program. This program is open to individuals, non-profits, or businesses that propose projects that create, renovate, or improve a space for arts or artists (e.g., performance space, exhibition space, classrooms, demonstration space, studio space, etc.). The City Council included \$200,000 of General Fund savings in the Adjusted FY 2020/21 City Budget for this program, which was carried over into the current fiscal year.

**EVALUATION CRITERIA AND CONTRACT PROCESS:**

The adopted program criteria indicated that any number of individual awards could be made, up to the total of \$200,000 in available funding. No minimum award amount was established.

The application requested information regarding how the applicant determined the need for the project, whether there are alternative facilities already in Ames that offer what is proposing to be funded/created, how the project will benefit Ames and/or contribute to making Ames a fun and vibrant community, and the number of people positively impacted by the project. Applicants were also asked to describe the readiness of their project in terms of property acquisition and other financing secured for the project. A project budget was required with the application.

Grant funds are to be paid on a reimbursement basis based on receipts or contracts presented by the awardee during the project. However, to provide some flexibility for awardees to begin their projects, up to 10% of their total award could be paid out immediately. A project retainage will be withheld until the completion of the overall project has been verified.

Similar to the Human Services Agency Capital Grant program the City Council implemented several years ago, the Arts Capital Grant Program includes provisions to ensure the grantee continues to use the premises improved by the grant for at least five years after completion. If the awardee voluntarily ceases to operate, repayment of some or all of the grant award is required (100% repaid if cased in year 1, 80% in year 2, 60% in year 3, etc.). After five years, the grantee is free to continue or dispose of the improvements as it wishes.

## **APPLICATIONS RECEIVED AND RECOMMENDED AWARDS:**

Applications were made available from September 29 through December 3. The grant opportunity was promoted on the Public Art Commission (PAC) and Commission on the Arts (COTA) webpages, via press release, and via email to COTA agencies. A team of representatives from COTA and PAC volunteered to evaluate the applications and make recommendations.

**A total of 11 applications were received, with a total of \$426,000 in funding requested. Upon review, the evaluation team recommended awards to seven proposals:**

**1. Digital Creation Lab – ABP Galatic, LLC**

Request: \$21,247

Recommended Award: \$5,000

Brief Description: This project is to furnish and equip a dedicated digital media workstation at a digital creation lab at 4626 Reliable Street. The digital media workstation will consist of a computer with specifications suitable for CPU- and GPU-intensive tasks such as 3D modeling, animating, and rendering, 4k video editing, 2D animation, video game development, programming, digital audio production, and real-time video processing. The workstation will include software ordinary to the arts of photo and video editing, 3D modeling, animation, audio production, projection mapping, and related software. A digital drawing tablet will be obtained and provided as part of the lab equipment. The digital creation lab will be accessible to the public (for fees as set by the Provider) and will host workshops from time to time.

**2. Writing Gathering Space – Ames Writers Collective**

Request: \$20,000

Recommended Award: \$5,590

Brief Description: This funding will be used to purchase moveable tables and chairs, bookshelves, modular couches, and equipment for Ames Writers Collective at 409 Douglas Avenue. These furnishings will create a warm and inviting space for Ames Writers Collective to bring together writers and readers of diverse ages and cultural backgrounds, and talented writers and authors to teach and empower people of all skill levels to bring their stories to life.

**3. Door Replacement – Creative Artists’ Studios of Ames**

Request: \$7,802

Recommended Award: \$7,082

Brief Description: This project is to replace three doors and frames in the Creative Artists’ Studios of Ames at 130 S. Sheldon Avenue. The doors to be replaced include:

- 1) The door that provides access to the lower (107) level, which shall be made handicap accessible

- 2) The kiln room door to be replaced with a wider door (or doors) to facilitate movement of equipment, and which shall be handicap accessible
- 3) The access door located on the south side of the building, which shall not be required to be handicap accessible.

4. **Studio C – KHOI – FM Community Radio**

Request: \$3,314

Recommended Award: \$3,314

Brief Description: The funds in this grant will be used to purchase chairs, speakers, microphones, a portable whiteboard, and related furnishings and equipment to outfit one studio space as a performance and teaching space at 622 Douglas Avenue.

5. **Octagon Third Floor – The Octagon Center for the Arts**

Request: \$175,000

Recommended Award: \$170,000

Brief Description: The funds in this grant will be used to repurpose underutilized space on the third floor of The Octagon Center for the Arts, located at 427 Douglas Avenue. The space will be converted into a space for 1) co-working, 2) smaller private studios, and 3) artist residency spaces where artists work, connect, collaborate, exhibit, and grow their businesses. The finished space will include a kitchen, a meeting room, spaces for product photography, mat cutting, recording (for podcasting or virtual teaching), WIFI, a printer, lockers for storage, and use of specialized studios (clay studio, print studio). One studio will be dedicated to an artist-in-residence.

6. **Dance Studio Improvements – Reliable Street, Inc.**

Request: \$4,725

Recommended Award: \$4,725

Brief Description: This grant is to improve the Reliable Street Dance Studio, located at 4625 Reliable Street, as follows:

- 1) Purchase and install wall-length mirrors (one short wall, one long wall) in the dance studio
- 2) Purchase a floor covering to go over the Marley floor when not in use to facilitate non-dance activities within the dance studio space

7. **Chairs for the Black Box – Story Theater Company**

Request: \$4,289

Recommended Award: \$4,289

Brief Description: This grant is to purchase stackable, cushioned chairs and related accessories for the black box theater located at 615 S. Dayton Avenue, Suite 133.

## Arts Capital Grant Recommendations

Applicant	Project	Total Project Value	Request	Proposed Award
ABP Galatic, Inc.	Digital Creation Lab	\$ 29,247	\$ 21,247	\$ 5,000
ACTORS	LED Stage Lights	88,791	55,343	--
Ames Writer's Collective	Writing Gathering Space	25,000	20,000	5,590
Creative Artists' Studios of Ames	Door Replacement	14,165	7,082	7,082
Elks Lodge	SOUND ON. Noise Off.	25,000	18,750	--
ISU Research Park	Artist In Residency Program	75,000	56,250	--
KHOI-FM Community Radio	Studio C	4,419	3,314	3,314
The Octagon Center for the Arts	Octagon Third Floor	247,550	175,000	170,000
Reliable Street, Inc.	Reliable Street Dance Studio	6,601	4,725	4,725
Story Theater Company	Chairs for the Black Box	5,719	4,289	4,289
VenuWorks	NEWS on 5th	815,000	60,000	--
<b>Total</b>		<b>\$1,336,492</b>	<b>\$426,000</b>	<b>\$ 200,000</b>

City staff has prepared contracts with the seven proposed awardees. Each awardee has received, signed, and returned copies of the contracts. The contracts are now being presented for City Council approval. If approved, the projects are to be completed before June 30, 2023. Staff will return to the City Council as the projects are completed to obtain Council approval to release the retainage and close out each grant.

**The City Council may recall a memo delivered on January 20, 2022 from the City Attorney regarding City funds being used for the capital project being undertaken by the Ames History Museum. That memo indicated that certain issues existed with funding for the Ames History Museum capital project being construed as a "donation." Following that analysis, the City Attorney reviewed the Arts Capital Grant contract language to determine if the same issues existed, which would prevent the City from providing funding through this program.**

**The final versions of the Arts Capital Grant contracts have therefore been drafted with specific components intended to ensure compliance with state law. The contracts reflect the guidance from the State Auditor dated November 2, 2021, regarding public funds being used to support outside entities. These requirements, and the way they are addressed in the contract, are outlined in Attachment 1.**

A blank copy of the contract form is included as Attachment 2 for reference.

**ALTERNATIVES:**

1. Approve seven contracts for Arts Capital Grants as presented, in accordance with the recommendations provided by the review committee.
2. Refer this item back to the review committee for further information.

**CITY MANAGER'S RECOMMENDED ACTION:**

The seven projects recommended for funding by the Arts Capital Grant review committee fulfill the City Council's vision for this initiative. Each project provides for purchasing equipment or constructing projects that could not otherwise be accomplished through COTA or PAC funding opportunities. Each project caters to different groups of artists and the public, and all the projects will create the opportunity for improved participation in the arts by the Ames community.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 as described above.

Attachment 1: State Auditor Guidance Compared to Contract Language

State Auditor Guidance	Discussion/Relevant Contract Provision
<p><b>Public funds may be provided to a non-profit when the payment is for economic development purposes, if the governing body considers any or all of the following:</b></p>	
<p>i. Businesses that add diversity to or generate new opportunities for the Iowa economy should be favored over those that do not.</p>	<p>“The City of Ames has determined, by its City Council acting in open and regular session, that a prosperous local arts community improves the welfare, comfort, and convenience of Ames’ citizens, promotes economic development and tourism, and enhances the community identity.</p> <p>It has been further determined that the existence of quality facilities and equipment is necessary for artists and arts organizations to thrive, to offer programs, services, and expertise to the community, and to create and retain arts-related jobs; and that such facilities and equipment do not yet exist in the community to the extent necessary to achieve these objectives.”</p>
<p>ii. Development policies in the dispensing of the funds should attract, retain, or expand businesses that produce exports or import substitutes, or which generate tourism-related activities.</p>	<p>“The City of Ames has determined, by its City Council acting in open and regular session, that a prosperous local arts community improves the welfare, comfort, and convenience of Ames’ citizens, promotes economic development and tourism, and enhances the community identity.”</p>
<p>iii. Development policies in the dispensing or use of the funds should be targeted toward businesses that generate public gains and benefits, which gains, and benefits are warranted in comparison to the amount of the funds dispensed.</p>	<p>“The City of Ames has undertaken an open and competitive process to solicit and evaluate proposals for arts activities and has determined that the activities outlined in this Agreement represent the highest value to the citizens of Ames in exchange for the funds provided.”</p>
<p>iv. Development policies in dispensing the funds should not be used to attract a business presently located within the state to relocate to another portion of the state...</p>	<p><i>This is not an issue with the arts capital grant process.</i></p>
<p><b>Public funds may be provided to a non-profit, if the following requirements are met:</b></p>	
<p>a. Agreements should be reduced to a written contract.</p>	<p><i>A written contract has been prepared for each recipient.</i></p>
<p>b. The terms and conditions of each party to the contract should be plain, detailed, and unambiguous.</p>	<p><i>The contract describes the terms and conditions in a detailed and organized fashion.</i></p>

<p>c. There should be clear language as to how much the government is paying, the schedule of payments, and what the government (or the public) is receiving from the non-profit in return. Overall, consideration should be balanced for each party and the government should seek the highest value possible for taxpayers.</p>	<p><i>The contracts include specific payment amounts and provisions for which payment may be received. Each contract includes a scope of services describing what each recipient must complete in exchange for funding.</i></p> <p>“The City of Ames has undertaken an open and competitive process to solicit and evaluate proposals for arts activities and has determined that the activities outlined in this Agreement represent the highest value to the citizens of Ames in exchange for the funds provided.”</p>
<p>d. When a government contracts with a non-profit and the non-profit is providing a service to the public, the public benefit will be the “consideration” the government receives under the contract. This consideration, how the public (as a whole) is benefitting, should be made clear in the contract.</p>	<p>“Therefore, the purpose of this Agreement is to procure for the City of Ames and its citizens certain arts-related capital resources as hereinafter described and set out; to ensure these arts-related capital resources facilitate increased arts programming accessible to the Ames community...”</p>
<p>e. The total cost of the contract and required supporting invoices and/or documentation should be clearly defined. The government should ensure it is not overpaying for the product or services received.</p>	<p><i>Each contract includes a specific funding amount and requires supporting documentation and invoices.</i></p>
<p>f. All contracts should include a requirement for the non-profit to account to the government for the public funds and how they are spent to meet the state public purpose requirement. The form and frequency of that accounting should be clear in the contract.</p>	<p>“All payments made to the Provider by the City of Ames shall be made in accordance with procedures established by the City and on such forms as the City may prescribe. The City will reimburse the Provider only for allowable costs the Provider incurs in performing the work under this Agreement in the manner described in Section III. The City will not reimburse the Provider for any cost that is contrary to this Agreement, is categorically disallowed from purchase under the City’s Purchasing Policies and Procedures (e.g., alcoholic beverages, items for personal use, etc.), or violates local, state, or federal law.”</p> <p>“At such time and in such form as the City may require, there shall be furnished to the City such statements, records, reports, data, and information including any such reports or information as the Provider is required to complete to receive State or Federal funds. These records shall be made available to qualified City personnel for the purpose of conducting management or financial audits or program evaluations.”</p>
<p>g. The contract should be signed by a representative of the government and a representative of the non-profit.</p>	<p><i>The contracts include signature sections.</i></p>

**ATTACHMENT 2**

**ART CAPITAL GRANT  
CONTRACT FOR FUNDING**

THIS AGREEMENT, made and entered into February 1, 2022, through June 30, 2023, by and between the **CITY OF AMES, IOWA**, a municipal corporation organized and existing pursuant to the laws of the State of Iowa (hereinafter sometimes called "City" or "City of Ames") and \_\_\_\_\_ (hereinafter called "Provider"); for funding of said Provider up to and including \$\_\_\_\_.

WITNESSETHS THAT:

WHEREAS, the City of Ames has, by its City Council acting in open and regular session, determined that the Provider has met the criteria established by the City for arts capital funding and shall receive funds in accordance with the written agreement as hereinafter set out;

NOW, THEREFORE, the parties hereto have agreed and do agree as follows:

**I: PUBLIC PURPOSE**

The City of Ames has determined, by its City Council acting in open and regular session, that a prosperous local arts community improves the welfare, comfort, and convenience of Ames' citizens, promotes economic development and tourism, and enhances the community identity.

It has been further determined that the existence of quality facilities and equipment is necessary for artists and arts organizations to thrive, to offer programs, services, and expertise to the community, and to create and retain arts-related jobs; and that such facilities and equipment do not yet exist in the community to the extent necessary to achieve these objectives.

The City of Ames has undertaken an open and competitive process to solicit and evaluate proposals for arts activities and has determined that the activities outlined in this Agreement represent the highest value to the citizens of Ames in exchange for the funds provided.

Therefore, the purpose of this Agreement is to procure for the City of Ames and its citizens certain arts-related capital resources as hereinafter described and set out; to ensure these arts-related capital resources facilitate increased arts programming accessible to the Ames community; to establish the conditions governing payment by the City of Ames for such capital resources; and, to establish other duties, responsibilities, terms, and conditions mutually undertaken and agreed to by the parties hereto in consideration of the activities to be performed and monies paid.



The activities financed through this Agreement are initiatives to be completed solely at the direction of the Provider; the Provider shall have complete control regarding the development of specifications, selection of architects, engineers, and contractors, and the methods of fulfilling the scope of services as herein described. Nothing in this Agreement shall be construed as a joint enterprise with the City of Ames or shall confer an ownership interest to the City of Ames for the project constructed or premises improved.

## II: INCORPORATION OF DOCUMENTS

This contract incorporates the following documents:

1. City of Ames Arts Capital Grant Program Criteria
2. Arts Capital Grant Program Application (as submitted by Provider, including any attachments thereto)

## III: SCOPE OF SERVICES

The provider shall use the funds received under this Agreement as follows:

## IV: METHOD OF PAYMENT

All payments made to the Provider by the City of Ames shall be made in accordance with procedures established by the City and on such forms as the City may prescribe. The City will reimburse the Provider only for allowable costs the Provider incurs in performing the work under this Agreement in the manner described in Section III. The City will not reimburse the Provider for any cost that is contrary to this Agreement, is categorically disallowed from purchase under the City's Purchasing Policies and Procedures (e.g., alcoholic beverages, items for personal use, etc.), or violates local, state, or federal law.

The Provider may invoice the City for payment under this Agreement as follows:

**Option for Startup Payment (10%):** Within 30 days of the execution of this Agreement by the Parties, the Provider may request issuance of payment for an amount not to exceed 10% of

the total contract amount. This payment request is not required to be accompanied by documentation indicating expenses actually incurred. **If such a startup payment is requested and issued, the amount of the retainage to be withheld until the completion of the project shall be increased by the amount of the startup payment.** If no request for a startup payment is made within 30 days of the execution of this Agreement, the Provider is considered to have forfeited the option to such payment, and all payments under this Agreement will be made in accordance with the “Standard Payments” and “Retainage” paragraphs as outlined below.

**Standard Payments: Except any optional Startup Payment and the Payment of Retainage, standard payments under this Agreement shall be issued only:**

- 1. On the basis of reimbursement for actual expenses incurred** in accomplishing the project as outlined in Section III of this Agreement, supported by properly executed invoices, receipts, vouchers, or other documentation evidencing in proper detail the nature and propriety of the charges, **OR**
- 2. Upon presenting a contract between the Provider and a third party obligating the Provider to pay for goods/services related to the project.**

**Retainage (10% minimum):** Until the completion of the Scope of Services as described in this Agreement, **the City shall hold as retainage an amount equal to 10% of the total contract amount, plus the amount of any startup payment issued.** Payment of the retainage amount to the Provider shall only occur after the following has been completed:

1. Provider submits a request for final payment containing an invoice, documentation of expenses incurred, and a statement furnished by Provider’s contractor(s) indicating the project has been completed and is free from all liens (if determined applicable by City).
2. City staff inspects the project to verify completeness (City staff may waive this requirement at their own discretion)
3. City Council approves completion of the project and release of remaining funds. The date of City Council approval shall be considered the date of completion of the project.

## **V: REPAYMENT REQUIREMENT**

Provider shall occupy the premises improved with these funds for a period of at least five years from the date the improvements are completed, except that if the funds provided under this Agreement are exclusively for the purchase of moveable capital equipment, the Provider may relocate such moveable capital equipment, provided that the moveable capital equipment remains in use by Provider in the City of Ames.

The Provider is required to repay any grant funds received in the event of any of the following during that five-year period:

1. Any portion of the improved property is sold, transferred, leased, or sub-leased to another party, unless the other party continues the operation funded by the grant (this requirement does not apply to a Provider that uses grant funds solely for the purchase of moveable capital equipment, provided the moveable capital equipment remains in use by Provider in the City of Ames).
2. Occupancy of the property by the Provider ceases for any reason, except for instances in which the property is destroyed or otherwise rendered uninhabitable due to fire, flood, wind, or other disaster.
3. Any default under or breach of the promises, terms, and conditions stated in the program requirements or this Agreement.

Any funds required to be repaid will be repaid in accordance with the following schedule:

100% of funds received shall be repaid if a demand to repay is issued during the 1st year after completion of the project

80% of funds received shall be repaid if a demand to repay is issued during the 2nd year after completion of the project

60% of funds received shall be repaid if a demand to repay is issued during the 3rd year after completion of the project

40% of funds received shall be repaid if a demand to repay is issued during the 4th year after completion of the project

20% of funds received shall be repaid if a demand to repay is issued during the 5th year after completion of the project

## **VI: SPECIAL CONDITIONS**

The City shall have access to all records relating to the expenditure of funds provided under this Agreement.

All records shall be maintained in accordance with procedures and requirements established by the City Finance Director, and the City Finance Director may, prior to any disbursement under this Agreement, conduct a pre-audit of recordkeeping and financial accounting procedures of the

Provider. All records and documents required by this Agreement shall be maintained for a period of five (5) years following final disbursement by the City.

At such time and in such form as the City may require, there shall be furnished to the City such statements, records, reports, data, and information including any such reports or information as the Provider is required to complete to receive State or Federal funds. These records shall be made available to qualified City personnel for the purpose of conducting management or financial audits or program evaluations.

The contribution of funds provided by the City of Ames should be acknowledged by the Provider where practical for the project (e.g., signage, ribbon-cutting events, sponsor walls, etc.).

The Provider is responsible for compliance with any state or federal tax obligations associated with the receipt of funding under this Agreement.

The Provider shall ensure that any improvements completed using funds provided by this Agreement are in compliance with all applicable state and local development and building codes. It is understood and agreed that the receipt of funding through this Agreement does not imply or confer approval to Provider for any permit or license required to complete the project.

#### **VII: DISCRIMINATION PROHIBITED**

In accordance with Chapter 14 of the Municipal Code, no person shall, on the grounds of race, color, creed, religion, national origin, disability, sexual orientation, gender identity, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Agreement.

#### **VIII: ASSIGNMENT OR TRANSFER**

Neither party to this Agreement may assign any of its rights or obligations hereunder to any other person or entity, nor may either party transfer or sell the same, without the prior written consent of the other party hereto.

#### **IX: DURATION**

This Agreement shall be in full force and effect from and after February 1, 2022, through June 30, 2023, or, until terminated by resolution of the City Council of the City of Ames, Iowa. The City Council may terminate this Agreement prior to June 30, 2023, by giving written notice to the Provider at least sixty (60) days before the effective date of such termination. From and after the effective date of termination, no further disbursement under this Agreement shall be made

by the City. Any money disbursed to the Provider and unencumbered or unspent as of the effective date of termination, shall be repaid to the City.

The repayment provisions contained in Section V of this Agreement shall survive the termination of this Agreement.

IN WITNESS WHEREOF the parties hereto have, by their authorized representatives, set their hand and seal as of the date first above written.

**CITY OF AMES, IOWA**

ATTEST:

BY \_\_\_\_\_  
John Haila, Mayor

\_\_\_\_\_  
Diane Voss, City Clerk

**PROVIDER**

Recipient Address (please print):

BY \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Phone Number:

\_\_\_\_\_