

GRANT AGREEMENT

THIS GRANT AGREEMENT is made and entered into this ____ day of November, 2017, by and between the Park and Recreation Department of the City of St. Paul, a Minnesota municipal corporation ("Grantee") with offices at 1100 Hamline Ave. North, Suite 90, St. Paul, Minnesota 55108, to induce the R.R.W. and Florence Berglund Family Foundation, a Minnesota charitable trust, with offices at 665 No. Snelling Ave., St. Paul, Minnesota 55104 (individually referred to as the "Berglund Foundation") and the Cedarwoods Foundation, a Delaware corporation with mailing address of P.O. Box 581967, Minneapolis, Minnesota 55458 (individually referred to as "Cedarwoods Foundation") (collectively both foundations shall be referred to as "Grantor," "Grantors," or "Foundations") to jointly make a grant in the sum of FORTY THOUSAND and 40/100 Dollars (\$40,000.00) to Grantee to be used to cover part or all of the cost of restoring the following:

Schiffman Fountain: The cast iron mermaid sculpture donated in 1897 to the City of St. Paul and currently located in the fountain pool inside the driving circle situated west of Lake Como and south of the Pavilion in St. Paul's city park called "Como Park." The Sculpture shall be removed and restored per recommendations set forth in the Condition Assessment & Treatment Proposal dated October 26, 2017 prepared by Kristin Cheronis Inc. ("KCI") which is attached hereto as Exhibit "A" (the "Proposal").

(The above cast iron mermaid sculpture described above shall be referred to as the "Sculpture" and the pool of water in which it is currently located shall be called the "Fountain pool").

The funds being given to Grantee by the Foundations shall be

collectively referred to as the "Grant" or "Grants." Grantee acknowledges that the Foundations are subject to certain requirements and restrictions imposed by the Internal Revenue Code (the "Code") on private foundations and that the Foundations require, as conditions for making the grant, the following terms and conditions:

1. Use of Funds. Grantee shall use the grant received from the Foundations and any income thereon, only for the purposes and in the manner permitted in this Grant Agreement, and if requested the Grantee shall repay to the Foundations any amounts of the grant not used for the purposes described herein. Specifically, the grant shall be used to cover the cost of restoration of the Sculpture per the Proposal submitted by KCI. The Foundations and Grantee acknowledge that since the restoration work has to be performed in a controlled environment and off site from the current location of the Fountain pool that the Sculpture will have to be removed by Grantee and delivered to KCI's facility in Minneapolis. Grantee agrees to cover the cost to remove the Sculpture from the Fountain pool, the cost of transportation to deliver and pick up the Sculpture from the KCI's facilities, and the cost to reinstall the sculpture in the Fountain pool from funds other than the Grant.

Grantee agrees to segregate the Grant and to keep it separate from its general operating funds. The funds shall be disbursed only after written authorization from the Foundations. The Foundations agree to respond to Grantee's request for authorization to disburse the Grant funds within Ten (10) business days of receipt of the

request for a proposed disbursement together with supporting documentation as to said disbursements. Any excess funds not used by Grantee for restoration of the Sculpture shall be used for such purposes as approved by the respective Foundations in writing or if requested by one or both Foundations to return Fifty percent (50%) of the excess grant to the Foundation requesting return of its share of the excess grant funds.

Furthermore, Grantee agrees that the grant and any income earned thereon shall not be used for any of the following activities:

- (a) to carry on propaganda, or otherwise to attempt to influence legislation (within the meaning of Section 4945(d)(1) of the Code, or
- (b) to influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive (within the meaning of Section 4945(d)(2) of the code), or
- (c) to make any grant that does not comply with the requirements of Section 4945(d)(3) or (4) of the Code, or
- (d) to undertake any activity for any purpose other than one specified in Section 170(c)(2)(B) of the Code.

2. Annual Reports. Grantee annually during the restoration of the Sculpture shall submit a full and complete annual report to each Grantor together with a more detailed report relative to the use of the grant funds that will provide Grantor with an accounting for Grantee's use of the grant including any income thereon. Such reports shall be made as of the end of each of Grantee's annual accounting periods within which the grant is received and all such subsequent periods until all of such funds have been fully expended

by Grantee. Such reports shall be furnished to each of the Foundations within a reasonable period of time after the close of the accounting periods to which they relate but within Ninety (90) days of the end of such period. Such reports shall be prepared in accordance with generally accepted accounting principles and a certification by Grantee of compliance with the terms of this Grant Agreement. If Grantee has received more than one grant in a calendar year from both of the foundations, Grantee may combine all grants into a single report for said reporting period.

3. Books and Records. Grantee shall maintain complete records of receipt of the Grant funds, the income received and invoices paid shall be kept for at least four (4) years after completion of the use of all grant funds and income. Grantee's books and records related to this Grant shall be available to the Foundations and their respective representatives for inspection and copying at all reasonable times.

4. Agreement to Return Excess Funds. The Grantee agrees that the grant is to be used only for the purpose and within the term as provided in this agreement. Funds not expended as agreed to within the term set forth in this Grant Agreement shall be returned in equal shares to each of the Foundations unless (a) a Foundation agrees in writing to allow its share of the funds to be used for an alternate purpose or purposes; or (b) the Foundations agree in writing to an extension of time for the use of the funds; or (c) a Foundation directs Grantee in writing to make payment of said excess

funds to another qualified charitable organization that is an IRC 501(c)(3) organization and the Grantee makes said payment.

5. Placement of Plaque Acknowledging the Foundations Names at the site of Fountain. Grantee agrees to have a plaque made and promptly displayed adjacent to the Fountain pool acknowledging the grant and listing the names of each of the Foundations regarding their involvement in the restoration of the Sculpture and acknowledging the original donor, Dr. Rudolph Schiffman. The wording of the plaque shall be subject to the joint approval by the Foundations.

6. Possible Additional Grant Restoration of Fountain Pool and Lighting. Grantor upon receipt of further information as to the cost to restore the Fountain pool including the water jet located within the Sculpture and the additional water jets located around the circumference of the Fountain pool, the pool itself and the lighting agree to review and consider possibly making an additional grant to Grantee to complete the repair of the Fountain pool, water jets and the lighting or replacement thereof. Grantee acknowledges that any further grants will be at the sole discretion of the governing board of each of the Foundations and that the grant could either (1) be an outright grant to restore the Fountain pool and repair the lighting from one or both Foundations or (2) a matching grant whereby Grantee's right to receive the additional grant up to a maximum amount from one or both of the Foundations that is conditioned upon

Grantee or any of its supporting groups raising matching dollars to help with the projected repair costs.

7. Time to Complete Restoration of Sculpture. Grantee shall have until December 31, 2018 ("term") from the date of this Grant Agreement to complete restoration of the Sculpture and installation of the Sculpture back in the Fountain pool in Como Park.

8. Payment of Grant Monies. Each of the Foundations shall pay to Grantee within Five (5) days of execution of this document by all parties the sum of TWENTY THOUSAND AND NO/100 Dollars (\$20,000.00) for a total of \$40,000.00 which shall be deposited by Grantee into a segregated fund and held as restricted funds for the specific purpose for which the money has been granted. Grantee agrees to send an acknowledgment of receipt of the funds to each of the Foundations upon receipt of payment.

9. Remedies. In the event of a default by Grantee in the terms and conditions of this Grant Agreement, one or both of the Foundations may seek and enforce any provision of this Grant Agreement including equitable relief. In addition to any other remedies that the Foundation may have, Grantee agrees that the Foundation may withhold grants and/or refuse to authorize use of the funds and income thereon and/or terminate any other grant commitment that the Foundation may have made to Grantee if Grantee fails to comply with the terms of this Grant Agreement.

10. Tax Exempt Status. Grantee shall continue to maintain its tax exempt status as a municipal corporation under Internal Revenue

Code during all times that the proposed Grant will be paid and used.

11. Location of Sculpture Upon Completion of Restoration.

Grantee agrees that the Sculpture shall be returned to Como Park and reinstalled back in the Fountain pool. Furthermore, Grantee agrees that the Sculpture shall remain in Como Park and always be situated in the Fountain pool for the rest of its useful life.

12. Amendments. The terms and conditions of this Grant may be modified by the parties only by an agreement in writing signed by both the Foundation and Grantee.

13. Capacity to Sign. All parties represent and warrant that they have the appropriate legal authority to sign this document

IN WITNESS WHEREOF, Grantee has caused this Grant Agreement to be signed as of the day and year first written above.

Grantee:

City of St. Paul

Dated: November __, 2017

By _____

(Print name of person signing)

Its _____

Grantors:

Cedarwoods Foundation

R.R.W. and Florence Berglund Cedarwoods Foundation

by _____
James Gerlich,
(Print name of person signing)

Its President/CEO
Dated: November __, 2017

By _____
Stephen L. Nelson
(Print name of person signing)

Its Trustee
Dated: November __, 2017

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